



Community Health Commission

ACTION CALENDAR

July 8, 2014

To: Honorable Mayor and Members of the City Council
 From: Community Health Commission
 Submitted by: Linda Franklin, Chairperson, Community Health Commission
 Subject: Regulation of Electronic Cigarettes

RECOMMENDATION

Establish City Policy to regulate the sale and use of electronic cigarettes in the City of Berkeley.

1. Recommend State and Federal legislation to apply current tobacco cigarette regulations for the sale and purchase of electronic cigarettes
2. Amend Berkeley Municipal Codes on Smoking Control to include smoking of electronic cigarettes.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

The recent rise of consumption of electronic cigarettes (or e-cigarettes) across the nation has given rise to major public health concerns. Some examples include unregulated contents and manufacturer advertising directed towards younger populations. The CDC reports that e-cigarette use has more than doubled in middle school and high school populations, and instances of e-cigarette poisoning has risen 215 per month in February 2014 from only one per month in September 2010. Currently, there are no policies or federal regulations that apply to e-cigarette consumption or sale within Berkeley.

In light of the recent attention on e-cigarettes, a wave of new legislation has swept throughout the nation. Other municipalities have passed bans regulating the use and sale of e-cigarettes. In early March, Los Angeles City Council unanimously passed a ban on the use of e-cigarettes in public areas. The FDA has announced that they intend to pass stricter regulation as well. In the spirit of promoting public health, protecting our children and the younger generation, and regulating and mitigating potential risks from an unregulated product, the Health Commission recommends the adaptation of a policy that regulates the consumption and distribution of electronic cigarettes.

BACKGROUND

In September 2013, the City Council referred to the Community Health Commission the issue of electronic cigarette use in the city and asked that the Commission give a recommendation as to how these emerging products should be regulated. In response to that referral, the Community Health Commission established the E-Cigarette Subcommittee that has since examined regional best practices, as well as the relevant literature on the subject. At the regularly scheduled Community Health Commission meeting on May 8, 2014, the following motion was approved.

M/S/C (*McClure /Stein*) Motion to recommend approval to establish City policy to regulate the sale and use of electronic cigarettes in the City of Berkeley.

1. Recommend State and Federal legislation to apply current tobacco cigarette regulations for the sale and purchase of electronic cigarettes.
2. Amend Berkeley Municipal Codes on Smoking Control to include smoking of electronic cigarettes.

Ayes: Commissioners Kwanele, McClure, Stein, Tempelis , A. Wong and M. Wong
Noes: Commissioners Franklin, Neuhauser
Abstain: Commissioners Shaw, Speich
Absent from vote: Commissioner Kong
Excused: Commissioners Barry, Collins, Gibson, Lee, Mecklai, Namkung, Rosales

ENVIRONMENTAL SUSTAINABILITY

The recommendation does not set forth any waste disposal protocols but if the regulation of e-cigarette use leads to a reduction in the sale of e-cigarettes, it would follow that the resulting waste stream would diminish. There are no other significant environmental implications of this recommendation.

RATIONALE FOR RECOMMENDATION

The subcommittee has investigated health effects, cessation outcomes, and user surveys in the published academic literature surrounding the subject. Having done this, the subcommittee has decided that, while there are no significant detrimental health effects to date, the unknown long-term outcomes, combined with the fact that the e-cigarette does not constitute a substantially more effective cessation tool than other, FDA approved mechanisms (gum, patch, etc), that the products should be regulated more strictly.

Additionally, there are no significant demonstrated second-hand characteristics of electronic cigarettes, but the subcommittee recommends against use in public spaces and occupational areas because this may serve to increase visibility of smoking habits, making e-cigarettes a potential gateway for younger, more vulnerable populations. In light of the lack of second-hand characteristics, we do not suggest restricting use in private spaces, including multi-unit housing complexes.

ALTERNATIVE ACTIONS CONSIDERED

The Commission chose its recommendation as being the most efficient and effective, but recognizes that alternative or additional actions may be considered by the City Council. Toward that end, we discussed the following:

1. The City of Berkeley would allow the use of e-cigarettes in private spaces including multi-unit housing complexes.
2. The City of Berkeley would allow housing complexes and/or businesses to decide for themselves if e-cigarettes would be allowed on their premises.
3. The City of Berkeley would launch a marketing campaign for the public to reduce the potential of electronic cigarettes becoming a gateway for regular, more hazardous cigarettes.
4. The City of Berkeley would ban the use of e - cigarettes altogether.
5. The City of Berkeley would continue to allow the sale of e-cigarettes unregulated.

CITY MANAGER

The City Manager has prepared a companion report.

CONTACT PERSON

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