

**AGENDA
CITY OF PATTERSON**



CITY COUNCIL SPECIAL MEETING

**Wednesday, February 26, 2014
6:00 p.m.**

**City Council Chambers
1 Plaza
Patterson, California**

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk at (209) 895-8014. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.102-35.104 ADA Title II]

- 1. Call to Order**
- 2. Pledge of Allegiance**
- 3. Statements of Conflict**
- 4. Items from the Public**

Any member of the audience desiring to address the Council regarding a matter on the agenda, please raise your hand or step to the podium at the time the item is announced by the Mayor. The public wishing to address the Council on items that do not appear on the agenda may do so; however, Council will take no action other than referring the item to staff for study and analysis and shall place item on a future agenda (Resolution 92-25)

In order that all interested parties have an opportunity to speak, any person addressing the Council will be limited to a maximum of five (5) minutes unless the Mayor grants a longer period of time (Resolution 92-25)

- 5. Introductions**

6. **Discussion – An Ordinance of the City Council of the City of Patterson, Adding a Chapter 6.53 to the Patterson Municipal Code Entitled Regulating Smoking and Tobacco Products Use in Recreational Areas. Title 6 Health and Safety; Definitions, Smoking and Tobacco Products Use Prohibited, Other Requirements and Prohibitions, Penalties and Enforcement, Statutory Construction and Severability.**
7. **Comments from the Public**
8. **Adjournment**

TOWN HALL MEETING

Hosted by the City of Patterson City Council



City Hall, 1 Plaza, Patterson

Wednesday, February 26, 2014

City Hall

City Council Chambers

1 Plaza, Patterson

6:00 p.m.

AGENDA

1. Introductions
2. Discussion - An Ordinance of the City Council of the City of Patterson, Adding a Chapter 6.53 to the Patterson Municipal Code Entitled Regulating Smoking and Tobacco Products Use in Recreational Areas. Title 6 Health and Safety; Definitions, Smoking and Tobacco Products Use Prohibited, Other Requirements and Prohibitions, Penalties and Enforcement, Statutory Construction and Severability.
3. Comments from the Public
4. Adjournment

Refreshments will be provided.

NOTICE IS HEREBY GIVEN that this document along with the full/complete copy of the Ordinance to be discussed is available for public review at the City of Patterson City Hall, City Clerk's Office, 2nd Floor, during normal business hours and/or available On-Line on the City of Patterson Web Site www.ci.patterson.ca.us listed under the Documents & Forms Library, Folder Name - City Council Current Agenda Packet. City Hall is located at 1 Plaza in the City of Patterson. All interested persons are invited to review the document prior to the February 26, 2014 Town Hall Meeting.

ALL INTERESTED PERSONS are invited to attend the Town Hall Meeting and express opinions or submit evidence for or against the discussed Ordinance as described above. At the above noted time and place, testimony from interested persons will be heard by the City Council and duly considered prior to taking any action on the above discussed Ordinance. Any material submitted to the City Council for consideration (photographs, petitions, letters, etc.) will be retained by the City and cannot be returned.

FURTHER INFORMATION on the above discussed Ordinance may be obtained at the City of Patterson City Hall, City Clerk's Office, 2nd Floor or by calling (209) 895-8014 or emailing the City Clerk at cityclerk@ci.patterson.ca.us

ORDINANCE NO. 740

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PATTERSON,
ADDING A CHAPTER 6.53 TO THE PATTERSON MUNICIPAL CODE
ENTITLED REGULATING SMOKING AND TOBACCO PRODUCT USE IN
RECREATIONAL AREAS**

The City Council of the City of Patterson Does Ordain As Follows:

Title 6 Health and Safety

Chapter 6.53 Regulating Smoking and Tobacco Product Use in Recreational Areas

6.53.010 Definitions

The following words and phrases, whenever used in this chapter, shall have the meanings defined in this section unless the context clearly requires otherwise:

(a) "Parking Area" means a parking lot or any other area designated or primarily used for parking vehicles of Persons accessing a Recreational Area.

(b) "Person" means any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity except the City of Patterson.

(c) "Recreational Area" means any outdoor area, including streets and sidewalks, that is publicly owned or operated by the City of Patterson and open to the general public for recreational purpose, regardless of any fee or age requirement. The term "Recreational Area" includes, but is not limited to parks, picnic areas, playgrounds, sports fields, golf courses, walking paths, gardens, hiking trails, bike paths, swimming pools, and skateboard parks.

(d) "Smoke" means the gases, partials, or vapors released into the air as a result of combustion, electrical ignition or vaporization, when the apparent or usual purpose of the combustion, electrical ignition or vaporization, is human inhalation of the byproducts, except when the combustion or vaporizing material contains no tobacco or nicotine and the purpose of inhalation is solely olfactory, such as, for example, smoke from incense. The term "Smoke" includes, but is not limited to, tobacco smoke, electronic cigarette vapors, and marijuana smoke.

(e) "Smoking" means engaging in a act that generates smoke, such as for example: possessing a lighted pipe, lighted hookah pipe, an operating electronic cigarette, a lighted cigar, or a lighted cigarette of any kind; or; or lighting or igniting of a pipe, cigar, hookah pipe, or cigarette of any kind.

(f) "Tobacco Product" means any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, snus, bidis, or any other preparation of tobacco; and any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered

introduction into the human body, but does not include any cessation product specifically approved by the United States Food and Drug Administration for the use of treating nicotine or tobacco dependence.

6.53.020 Smoking and Tobacco Product Use Prohibited

- (a) Smoking or use of tobacco products is prohibited anywhere in a Recreational Area or in any Parking Area except in a designated Smoking area.
- (b) Nothing in this chapter shall be construed to prohibit Smoking or Tobacco Product use in any area in which smoking or tobacco product use is already prohibited by state or federal law unless the applicable state or federal law does not preempt additional local regulation.

6.53.030 Other Requirements and Prohibitions

- (a) No ash tray, or other smoking waste receptacle shall be placed in any area in which smoking is prohibited by this chapter.
- (b) No person shall knowingly permit smoking or the use of tobacco products in an area under the person's legal or de facto control in which smoking or the use of tobacco products is prohibited in this chapter or other provisions of this code, unless otherwise required by state or federal law.
- (c) No person shall dispose of used smoking or tobacco product waste within the boundaries of an area in which smoking or tobacco product use is prohibited by this chapter.
- (d) "No Use of Tobacco Product" signs shall be posted in a quantity and manner reasonably likely to inform individuals occupying the Recreational Area and Parking Area that smoking or tobacco product use is prohibited within the area. The sign shall have no less than one inch in height and shall include the international "No Smoking" symbol. Symbol consisting of a pictorial representation of a burning cigarette enclosed in a red circle crossed by a red bar. At least one sign with the city phone number where complaints can be directed must be conspicuously posted in each place in which tobacco use is prohibited.
- (e) The presence of Smoking waste receptacles in violation of subsection (a) above and the absence of signs required by subsection (d) above shall not be a defense to a violation of any provision of this chapter.
- (f) No person shall intimidate, threaten any reprisal, or effect any reprisal, for the purpose of retaliating against another person who seeks to attain compliance with this chapter.

- (g) Each instance of smoking or tobacco product use in violation of this chapter shall constitute a separate violation.

6.53.040 Penalties and Enforcement

- (a) The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.
- (b) Each incident of smoking or tobacco product use in violation of this chapter is a infraction subject to a one hundred dollar (\$100) fine or otherwise punishable pursuant to section (c) of this code. Other violations of this of this chapter may, in the discretion of the city prosecutor be prosecuted as infractions or misdemeanors when interests of justice require. Any peace officer or code enforcement official may enforce this chapter.
- (c) Subsequent violations of this chapter are subject to a civil action brought by the city of Paterson, punishable by a civil fine not less than two hundred and fifty dollars (\$250) and not exceeding one thousand dollars (\$1,000) per violation.
- (d) Causing, permitting, aiding, abetting, or concealing a violation of any provision of this chapter shall constitute a violation of this chapter.
- (e) Any violation of this chapter is hereby declared a nuisance.
- (f) In addition to other remedies provided by this chapter or by other law, any violation of this chapter may be remedied by a civil action brought by the city attorney, including, but not limiting to, administrative or judicial abatement proceeding, civil or criminal code enforcement proceedings, and suits for injunctive relief.
- (g) Except as otherwise provided, enforcement of this chapter is at the sole discretion of the city. Nothing in this chapter shall create a right of action in any person against the city or its agents to compel public enforcement of this chapter against private parties.
- (h) Any person acting for the interests of itself, its members, or the general public may bring up a civil action to enjoin a violation of this chapter by a business or to enjoin repeat violations of this chapter by an individual.

6.53.050 Statutory Construction & Severability

It is the intent of the city council of the City of Patterson to supplement applicable state and federal law and not to duplicate or contradict such law and this ordinance shall be construed consistently with that intention. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, is for any reason held to be held invalid or unenforceable, such as invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases in this ordinance, or its application to any other person

or circumstance. The city council of the City of Paterson hereby declares that it would have adopted each section, subsections, subdivisions, paragraphs, sentences, clauses, or phrases hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases hereof be declared invalid or unenforceable.

Introduced at a regular meeting of the City Council of the City of Patterson, held on the ____ day of ____, 2013, and given its first reading and introduction at said meeting. Said Ordinance was given a second reading and adopted at a meeting of the City Council held on the ____ day of ____, 2011, and after such reading, Councilmember , who moved its adoption, seconded by Councilmember , and said ordinance was thereupon adopted by the following vote:

AYES:

NOES:

EXCUSED:

APPROVED:

Luis I. Molina
Mayor of the City of Patterson

ATTEST:

Maricela Vela
City Clerk of the City of Patterson

Subject:

FW: Smoking Ordinance preparation

Rod,

Here are my comments for the Smoking Ordinance for February 26, 2014. Besides the fact that I think this time could be spent on important items for our city such as a small business development strategy, community security strategy or even a housing strategy.

The two main areas that are problematic are the sheer reach of the ordinance and the sheer number of people defined who can enforce it. Even without a budget for the signs and staff, this ordinance is ripe for abuse.

Dennis McCord

(c) "Recreational Area" means any outdoor area, including streets and sidewalks, that is publicly owned or operated by the City of Patterson and open to the general public for recreational purpose, regardless of any fee or age requirement. The term "Recreational Area" includes, but is not limited to parks, picnic areas, playgrounds, sports fields, golf courses, walking paths, gardens, hiking trails, bike paths, swimming pools, and skateboard parks.

6.53.010 section C. Can you provide a Highlighted map of the areas affected for the meeting and an estimated linear mileage for paths, sidewalks streets, hiking trails? A large map of the city and then a map of the downtown.

(d) "No Use of Tobacco Product" signs shall be posted in a quantity and manner reasonably likely to inform individuals occupying the Recreational Area and Parking Area that smoking or tobacco product use is prohibited within the area. The sign shall have no less than one inch in height and shall include the international "No Smoking" symbol. Symbol consisting of a pictorial representation of a burning cigarette enclosed in a red circle crossed by a red bar. At least one sign with the city phone number where complaints can be directed must be conspicuously posted in each place in which tobacco use is prohibited.

6.53.030 Section D. How many languages should be on the sign? A majority of Patterson is Spanish. Reasonably inform is subjective. The more activity in an area (ex. Apricot Fiesta) the more signs that will be required. This is important to spell out because of the sheer number of people who can 'enforce' this.

(c) Subsequent violations of this chapter are subject to a civil action brought by the city of Paterson, punishable by a civil fine not less than two hundred and fifty dollars (\$250) and not exceeding one thousand dollars (\$1,000) per violation.

6.53.040 Section C. Patterson is misspelled.

(b) Each incident of smoking or tobacco product use in violation of this chapter is a infraction subject to a one hundred dollar (\$100) fine or otherwise punishable pursuant to section (c) of this code. Other violations of this of this chapter may, in the discretion of the city prosecutor be prosecuted as infractions or misdemeanors when interests of justice require. Any peace officer or code enforcement official may enforce this chapter.

6.53.040 Section B. The police department has already stated they don't enforce the no smoking law in parks. They don't intend to be smoking police. City Prosecutor? (New position) Peace Officer(see list). How much time is to be allocated to smoking patrol. Budget item for Parks and recreation, code enforcement, school police, fire staff, park rangers, community college and university police, BART peace officers, security officers for utility or county water districts, housing authority security, California National Guard, railroad security etc ...

PENAL CODE

SECTION 830-832.17

Any member of the Department of the California Highway Patrol
A member of the University of California Police Department
Any member of the Office of Correctional Safety of the Department of Corrections and Rehabilitation
Any member of the Office of Internal Affairs of the Department of Corrections and Rehabilitation,
Employees of the Department of Fish and Game designated by the Director
Employees of the Department of Parks and Recreation
The Director of Forestry and Fire Protection and employees
Persons employed by the Department of Alcoholic Beverage Control for the enforcement of Division 9.
Marshals and police appointed by the Board of Directors of the California Exposition and State Fair
Persons employed by the Division of Investigation of the Department of Consumer Affairs and investigators of the Medical Board of California and the Board of Dental Examiners, who are designated by the Director of Consumer Affairs.
Employees of the Department of Motor Vehicles
Investigators of the California Horse Racing Board designated by the board
The State Fire Marshal and assistant or deputy state fire marshals
Inspectors of the food and drug section designated by the chief
All investigators of the Division of Labor Standards Enforcement designated by the Labor Commissioner
All investigators of the State Departments of Health Care Services, Public Health, Social Services, Mental Health, and Alcohol and Drug Programs, the Department of Toxic Substances Control, the Office of Statewide Health Planning and Development, and the Public Employees' Retirement System
The Chief of the Bureau of Fraudulent Claims of the Department of Insurance and those investigators
Employees of the Department of Housing and Community Development
Investigators of the office of the Controller
Investigators of the Department of Business Oversight designated by the Commissioner of Business Oversight
Persons employed by the Contractors State License Board designated by the Director of Consumer Affairs
The Chief and coordinators of the Law Enforcement Branch of the Office of Emergency Services.
Investigators of the office of the Secretary of State
The Deputy Director for Security designated by Section 8880.38 of the Government Code, and all lottery security personnel assigned to the California State Lottery and designated by the director,
Investigators employed by the Investigation Division of the Employment Development Department designated by the director of the department,
The chief and assistant chief of museum security and safety of the California Science Center
Employees of the Franchise Tax Board
Investigators of the Department of Managed Health Care
The Chief, Deputy Chief, supervising investigators, and investigators of the Office of Protective Services of the State Department of Developmental Services,
A police officer of the County of Los Angeles
A person designated by a local agency as a park ranger.
A peace officer of the Department of General Services of the City of Los Angeles who was transferred to the Los Angeles Police Department and designated by the Chief of Police of the Los Angeles Police Department, or his or her designee
A housing authority patrol officer employed by the housing authority of a city, district, county, or city and county or employed by the police department of a city and county
Members of a California Community College police department
Persons employed as members of a police department of a school district
Any peace officer employed by a K-12 public school district or California Community College district
A member of the San Francisco Bay Area Rapid Transit District Police Department.
Harbor or port police
Transit police officers or peace officers of a county, city, transit development board, or district,
Any person regularly employed as an airport law enforcement officer by a city, county, or district operating the airport
Any railroad police officer commissioned by the Governor
Persons designated as a security officer by a municipal utility district pursuant
Persons designated as a security officer by a county water district
The security director of the public utilities commission of a city and county
Persons employed as a park ranger by a municipal water District.
A welfare fraud investigator or inspector
A child support investigator or inspector
The coroner and deputy coroners
The Sergeant-at-Arms of each house of the Legislature
Marshals of the Supreme Court and bailiffs of the courts of appeal
Court service officer in a county of the second class and third class
Members of an arson-investigating unit

Firefighter/security guards by the Military Department
The officers of a state hospital under the jurisdiction of the State Department of State Hospitals or the State Department of
Developmental Services appointed pursuant to Section 4313 or 4493 of the Welfare and Institutions Code
Members of the California National Guard

And Many More...

(c) Subsequent violations of this chapter are subject to a civil action brought by the city of Paterson, punishable by a civil fine not less than two hundred and fifty dollars (\$250) and not exceeding one thousand dollars (\$1,000) per violation.

6.53.050 Patterson is misspelled.

General: All public parks or areas where the public can congregate should allow smoking unless specifically designated otherwise.

Who is going to pay for and maintain all the signs required? Budget?

City of Patterson

Recreation & Community Services

JULIENE FLANDERS

(209) 895-8080 phone 895-8059 fax

jflanders@ci.patterson.ca.us



DATE: February 20, 2014

TO: ROD BUTLER, City Manager

FROM: JULIENE FLANDERS, Recreation & Community Services Director

RE: STAFF REPORT – Smokefree Recreational Areas Ordinance

This report is provided to you on the request by City Council, for staff to review the Smokefree Recreational Areas Ordinance and provide recommendations. Staff from both the Recreation & Community Services Department and Public Works met to review and discuss the presented Ordinance and develop options that would assist City Council in creating a useable document.

With the City of Patterson’s adoption of the (HEAL) Healthy Eating Active Living City Resolution, on the 21st day of February 2012, the City of Patterson: “Supports the City in embracing policies that facilitate activities to promote healthier lifestyles and communities, including healthy diet and nutrition and adoption of city design and planning principles that enable citizens of all ages and abilities to undertake exercise.”

The City of Patterson’s city owned Recreational Facilities provide vital parks and facilities for community members, families, and children to experience a healthy recreational environment. Sports fields, recreational aquatic facilities, open grass areas and playgrounds are open to the community to encourage healthy recreational activities. The Recreation and Community Services Department provides programs within city owned parks and facilities and encourages a smokefree environment.

With slight changes in the proposed ordinance, we can provide a smokefree healthy environment in City owned recreation areas and also provide a designated smoking area option for those community members who do smoke. (See attached Ordinance with changes)

We recommend that the Smokefree areas be designated as City Owned Recreational Facilities only, and that the area designated for Smoking to be adjacent facility parking lots or the perimeter of the park area, if no parking lot is adjacent.

As parking lots and perimeter park areas are not considered Play Areas for children, this would allow specific locations for those who choose to smoke, while addressing the Healthy Play Area Designation. Parking lots and park perimeters are easily identified location. This will also allow recreation staffs who are providing community programs to encourage those who smoke to move to a designated smoking location.

In the area of Enforcement, if a scheduled recreation activity is in process, staff supports the current verbiage that is located in the Skate Park Ordinance which states:

We Create Community Through People, Parks and Programs – LIVE ACTIVE

Enforcement

The director or his designee shall have the authority to eject or expel from the Recreational Activity any person who is in violation of this park rule. Any person failing to comply with the provisions of this chapter shall be subject to removal from attending additional scheduled recreation activities scheduled at this location.

Additional verbiage could be stated on the signage: “Please support the Smoke Free Recreation Area Rules and move to a designated Smoking Area for the Health of our Community and the Children of Patterson”.

We support the Smokefree Recreation Area Ordinance and continued education and advocacy to encourage a healthier Patterson.

Julienne Flanders
Director of Recreation & Community Services
City of Patterson
1033 W Las Palmas Avenue
Patterson CA 95363

We Create Community Through People, Parks and Programs – LIVE ACTIVE

ORDINANCE NO. 740

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PATTERSON, ADDING A CHAPTER 6.53 TO THE PATTERSON MUNICIPAL CODE ENTITLED REGULATING SMOKING AND TOBACCO PRODUCT USE IN RECREATIONAL AREAS

The City Council of the City of Patterson Does Ordain As Follows:

Title 6 Health and Safety

Chapter 6.53 Regulating Smoking and Tobacco Product Use in City Owned Recreational Areas

6.53.010 Definitions

The following words and phrases, whenever used in this chapter, shall have the meanings defined in this section unless the context clearly requires otherwise:

(a) "Parking Area" means a parking lot or any other area designated or primarily used for parking vehicles of Persons accessing a **Recreational Area**.

(b) "Person" means any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity except the City of Patterson.

(c) "Recreational Area" means any outdoor area, **including streets and sidewalks**, that is publicly owned or operated by the City of Patterson and open to the general public for recreational purpose, regardless of any fee or age requirement. The term "Recreational Area" includes, but is not limited to **City Owned** parks, picnic areas, playgrounds, sports fields, golf courses, walking paths, gardens, hiking trails, bike paths, swimming pools, and skateboard parks.

(d) "Smoke" means the gases, partials, or vapors released into the air as a result of combustion, electrical ignition or vaporization, when the apparent or usual purpose of the combustion, electrical ignition or vaporization, is human inhalation of the byproducts, except when the combustion or vaporizing material contains no tobacco or nicotine and the purpose of inhalation is solely olfactory, such as, for example, smoke from incense. The term "Smoke" includes, but is not limited to, tobacco smoke, electronic cigarette vapors, and marijuana smoke.

(e) "Smoking" means engaging in a act that generates smoke, such as for example: possessing a lighted pipe, lighted hookah pipe, an operating electronic cigarette, a lighted cigar, or a lighted cigarette of any kind; or; or lighting or igniting of a pipe, cigar, hookah pipe, or cigarette of any kind.

(f) "Tobacco Product" means any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, snus, bidis, or any other preparation of tobacco; and any product or formulation of

matter containing biologically active amounts of nicotine that is manufactured, sold, offered introduction into the human body, but does not include any cessation product specifically approved by the United States Food and Drug Administration for the use of treating nicotine or tobacco dependence.

6.53.020 Smoking and Tobacco Product Use Prohibited

- (a) Smoking or use of tobacco products is prohibited anywhere in a City Owned Recreational Area ~~or in any Parking Area~~ adjacent parking lot or park perimeter, except in a designated Smoking area.
- (b) Nothing in this chapter shall be construed to prohibit Smoking or Tobacco Product use in any area in which smoking or tobacco product use is already prohibited by state or federal law unless the applicable state or federal law does not preempt additional local regulation.

6.53.030 Other Requirements and Prohibitions

- (a) No ash tray, or other smoking waste receptacle shall be placed in any area in which smoking is prohibited by this chapter.
- (b) No person shall knowingly permit smoking or the use of tobacco products in an area under the person's legal or de facto control in which smoking or the use of tobacco products is prohibited in this chapter or other provisions of this code, unless otherwise required by state or federal law.
- (c) No person shall dispose of used smoking or tobacco product waste within the boundaries of an area in which smoking or tobacco product use is prohibited by this chapter.
- (d) "No Use of Tobacco Product" signs shall be posted in a quantity and manner reasonably likely to inform individuals occupying the Recreational Area ~~and Parking Area~~ that smoking or tobacco product use is prohibited within the area. ~~And~~ designated smoking area identified on the sign. The sign shall have no less than one inch in height and shall include the international "No Smoking" symbol. Symbol consisting of a pictorial representation of a burning cigarette enclosed in a red circle crossed by a red bar. At least one sign with the city phone number where complaints can be directed must be conspicuously posted in each place in which tobacco use is prohibited.
- (e) The presence of Smoking waste receptacles in violation of subsection (a) above and the absence of signs required by subsection (d) above shall not be a defense to a violation of any provision of this chapter.

- (f) No person shall intimidate, threaten any reprisal, or effect any reprisal, for the purpose of retaliating against another person who seeks to attain compliance with this chapter.
- (g) Each instance of smoking or tobacco product use in violation of this chapter shall constitute a separate violation.

6.53.040 Penalties and Enforcement

The director or his designee shall have the authority to eject or expel from the Recreational Activity any person who is in violation of this park rule. Any person failing to comply with the provisions of this chapter shall be subject to removal from attending additional scheduled recreation activities scheduled at this location.

Additional verbiage could be stated on the signage: "Please support the Smoke fee Recreation Area Rules and move to a designated Smoking Area for the Health of our Community and the Children of Patterson".

~~(a) The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.~~

~~(b) Each incident of smoking or tobacco product use in violation of this chapter is a infraction subject to a one hundred dollar (\$100) fine or otherwise punishable pursuant to section (c) of this code. Other violations of this of this chapter may, in the discretion of the city prosecutor be prosecuted as infractions or misdemeanors when interests of justice require. Any peace officer or code enforcement official may enforce this chapter.~~

~~(c) Subsequent violations of this chapter are subject to a civil action brought by the city of Paterson, punishable by a civil fine not less than two hundred and fifty dollars (\$250) and not exceeding one thousand dollars (\$1,000) per violation.~~

~~(d) Causing, permitting, aiding, abetting, or concealing a violation of any provision of this chapter shall constitute a violation of this chapter.~~

~~(e) Any violation of this chapter is hereby declared a nuisance.~~

~~(f) In addition to other remedies provided by this chapter or by other law, any violation of this chapter may be remedied by a civil action brought by the city attorney, including, but not limiting to, administrative or judicial abatement proceeding, civil or criminal code enforcement proceedings, and suits for injunctive relief.~~

(g) Except as otherwise provided, enforcement of this chapter is at the sole discretion of the city. Nothing in this chapter shall create a right of action in any person against the city or its agents to compel public enforcement of this chapter against private parties.

(h) Any person acting for the interests of itself, its members, or the general public may bring up a civil action to enjoin a violation of this chapter by a business or to enjoin repeat violations of this chapter by an individual.

6.53.050 Statutory Construction & Severability

It is the intent of the city council of the City of Patterson to supplement applicable state and federal law and not to duplicate or contradict such law and this ordinance shall be construed consistently with that intention. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, is for any reason held to be held invalid or unenforceable, such as invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases in this ordinance, or its application to any other person or circumstance. The city council of the City of Paterson hereby declares that it would have adopted each section, subsections, subdivisions, paragraphs, sentences, clauses, or phrases hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases hereof be declared invalid or unenforceable.

Introduced at a regular meeting of the City Council of the City of Patterson, held on the 20th day of August, 2013, given its first reading and introduction at said meeting. Said Ordinance was given a second reading and adopted at a meeting of the City Council held on the 3rd day of September, 2013, and after such reading, Councilmember _____, who moved its adoption, seconded by Councilmember _____, and said ordinance was thereupon adopted by the following vote:

AYES:
NOES:
EXCUSED:

APPROVED:

Luis I. Molina
Mayor of the City of Patterson

ATTEST:

Maricela Vela
City Clerk of the City of Patterson