City of Biggs

Agenda Item Staff Report
for the Regular City Council Meeting:
February 09, 2016

TO: Honorable Mayor and Members of the City Council
FROM: Mark Sorensen, City Administrator
Subject: Amending Chapter 9.30 PARK RULES AND REGULATIONS.

Council is asked to review and conduct a second reading and adoption of ordinance #406 amending section of Biggs Municipal Code section 9.30 PARK RULES AND REGULATIONS.

Background:
The attached ordinance removes the word "owned" from the definition of a park, example being Rio Bonito Park which is leased. Further the ordinance includes changes which add electronic smoking devices to the prohibition in parks.

Recommendation: Second reading and adoption of Ordinance #406:

AN ORDINANCE OF THE CITY OF BIGGS

AMENDING SECTIONS 9.30.020 (DEFINITIONS) AND 9.30.300 (SMOKING)

OF CHAPTER 9.30 OF THE BIGGS MUNICIPAL CODE

(PARK RULES AND REGULATIONS)

REGARDING SMOKING PROHIBITION IN CITY PARKS

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Mark Sorensen, City Administrator

ORDINANCE NO. 406

AN ORDINANCE OF THE CITY OF BIGGS AMENDING SECTIONS 9.30.020 (DEFINITIONS) AND 9.30.300 (SMOKING) OF CHAPTER 9.30 OF THE BIGGS MUNICIPAL CODE (PARK RULES AND REGULATIONS) REGARDING SMOKING PROHIBITION IN CITY PARKS

WHEREAS, the City Council of the City of Biggs finds that in order to serve public health, safety and welfare, to reduce unwanted and unwelcome exposure to secondhand smoke, to assure a cleaner and more hygienic environment for the city, its residents, and visitors, to strike a reasonable balance between the needs of persons who smoke and the needs of nonsmokers, including children and persons with existing respiratory conditions, the City Council of the City of Biggs intends to and does prohibit all forms of smoking in city parks; and,

WHEREAS, the City Council finds and determines that the enactment of this Ordinance is exempt from environmental review pursuant to California Environmental Quality Act Guidelines Section 15061(b)(3) in that there is nothing in this Ordinance or its implementation that could have a foreseeable significant effect on the environment.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BIGGS DOES ORDAIN AS FOLLOWS:

Section 1. The above-listed findings and statements of intent are true and correct.

Section 2. Section 9.30.020 of the Biggs Municipal Code is amended as follows:

(2) Park. Those parks ~~owned,~~ operated ~~and~~ or maintained by the city. The term "park" shall include the term "playground."

(3) "Smoking" means engaging in an act that generates smoke, such as possessing a lighted pipe, a lighted hookah pipe, a lighted cigar, a lighted cigarette of any kind, operating an "Electronic Smoking Device", or operating an "Electronic Cigarette" or "E-Cigarette."

(4) "Electronic Smoking Device" means any electronic or battery-operated device that delivers vapors for inhalation. This term includes every variation and type of such devices whether they are manufactured, distributed, marketed or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor. Electronic Smoking Device does not include any product specifically approved by the

United States Food and Drug Administration for use in the mitigation, treatment or prevention of disease.

(5) "Electronic Cigarette" or "E-Cigarette" means the following: any device that can provide an inhalable dose of nicotine by delivering a vaporized solution, as defined in California Health and Safety Code section 119405(b), as that section may be amended from time to time.

Section 3. Section 9.30.030 of the Biggs Municipal Code is amended as follows:

9.30.030 Designation of parks.

The following constitute the city's parks:

(1) Family Park;
(2) Rio ~~Bonita~~ Bonito Park;
(3) Downtown Park;
(4) Such other parks as may be established and operated by the city in the future.

Section 4. Section 9.30.105 of the Biggs Municipal Code is amended as follows:

9.30.105 Violations.

A violation of ~~these~~ the rules and regulations of this Chapter shall constitute an infraction punishable by a fine. The fine(s) shall be established by resolution adopted by resolution of the city council and shall be available for review in the city clerk's office

Section 5. Section 9.30.300 of the Biggs Municipal Code is amended as follows:

9.30.300 Smoking prohibited.

Smoking, as defined in BMC Section 9.30.020, is prohibited ~~No person shall smoke cigars, pipes, cigarettes or any other lighted flammable material or instrument or carry any such items~~ in, upon or across ~~a~~ all city parks.

Section 6. Severability.

If any section, subsection, phrase or clause of this Ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

Section 7. This Ordinance shall take effect thirty (30) days after passage and approval by the City Council.

Section 8. The City Clerk is directed to prepare and have published a summary of this Ordinance no less than five days prior to the consideration of its adoption and again within 15 days following adoption indicating votes cast.

I HEREBY CERTIFY that the above and foregoing Ordinance was duly and regularly introduced and read at a regular meeting held on the 12th day of January, 2016, and was passed and adopted by the City Council of the City of Biggs at a meeting thereof duly held on the 9th day of February, 2016, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

_____
Roger Frith, Mayor

ATTEST:

APPROVED AS TO FORM:

_____
Roben Dewsnup, City Clerk

_____
Gregory Einhorn,
City Attorney