SUBJECT: ADOPT ORDINANCE NO. 20-1119 (2ND READING) “AN ORDINANCE OF THE CITY OF WEST HOLLYWOOD PROHIBITING SMOKING IN PUBLIC PARKS AND PARKLETS BY AMENDING CHAPTERS 11.12 (PARK RULES AND REGULATIONS) AND 11.29 (PARKLETS) OF TITLE 11 (Streets, Sidewalks, Public Places and Infrastructure) OF THE WEST HOLLYWOOD MUNICIPAL CODE and AMENDING CHAPTER 1.08 (GENERAL PENALTY PROVISIONS) TO MAKE VIOLATIONS OF SECTION 11.12.050 AND CHAPTER 11.29 SUBJECT TO THE ADMINISTRATIVE PENALTY PROCEDURES.”

INITIATED BY: ADMINISTRATIVE SERVICES DEPARTMENT
Yvonne Quarker, City Clerk’s Division, City Clerk
Melissa Crowder, City Clerk’s Division, Assistant City Clerk

STATEMENT ON THE SUBJECT:
The City Council will waive further reading and adopt Ordinance No. 20-1119, “an Ordinance of the City of West Hollywood prohibiting smoking in public parks and parklets by amending Chapters 11.12 (Park Rules and Regulations) and 11.29 (Parklets) of Title 11 (Streets, Sidewalks, Public Places and Infrastructure) of the West Hollywood Municipal Code and amending Chapter 1.08 (General Penalty Provisions) to make violations of Section 11.12.050 and Chapter 11.29 subject to the administrative penalty procedures.”

RECOMMENDATION:
Waive further reading and adopt Ordinance 20-1119, “ADOPT ORDINANCE NO. 20-1119 (2ND READING) “AN ORDINANCE OF THE CITY OF WEST HOLLYWOOD PROHIBITING SMOKING IN PUBLIC PARKS AND PARKLETS BY AMENDING CHAPTERS 11.12 (PARK RULES AND REGULATIONS) AND 11.29 (PARKLETS) OF TITLE 11 (Streets, Sidewalks, Public Places and Infrastructure) OF THE WEST HOLLYWOOD MUNICIPAL CODE and AMENDING CHAPTER 1.08 (GENERAL PENALTY PROVISIONS) TO MAKE VIOLATIONS OF SECTION 11.12.050 AND CHAPTER 11.29 SUBJECT TO THE ADMINISTRATIVE PENALTY PROCEDURES.”

BACKGROUND / ANALYSIS:
On August 17, 2020, the City Council introduced on first reading, Ordinance No. 20-1119.

Ayes: Councilmember D’Amico, Councilmember Duran, Councilmember Meister, Mayor Pro Tempore Heilman, and Mayor Horvath.

Noes: None.
Abstain: None.
Absent: None.

CONFORMANCE WITH VISION 2020 AND THE GOALS OF THE WEST HOLLYWOOD GENERAL PLAN:
This item is consistent with the Primary Strategic Goal(s) (PSG) and/or Ongoing Strategic Program(s) (OSP) of:

- OSP-2: Institutional Integrity.

In addition, this item is compliant with the following goal(s) of the West Hollywood General Plan:

- G-2: Maintain transparency and integrity in West Hollywood’s decision-making process.

EVALUATION PROCESSES:
N/A

ENVIRONMENTAL SUSTAINABILITY AND HEALTH:
N/A

COMMUNITY ENGAGEMENT:
N/A

OFFICE OF PRIMARY RESPONSIBILITY:
ADMINISTRATIVE SERVICES DEPARTMENT / CITY CLERK DIVISION

FISCAL IMPACT:
None.

ATTACHMENT:
Attachment A: Ordinance No. 20-1119
ORDINANCE NO. 20-1119

AN ORDINANCE OF THE CITY OF WEST HOLLYWOOD PROHIBITING SMOKING IN PUBLIC PARKS AND PARKLETS BY AMENDING CHAPTERS 11.12 (PARK RULES AND REGULATIONS) AND 11.29 (PARKLETS) OF TITLE 11 (STREETS, SIDEWALKS, PUBLIC PLACES AND INFRASTRUCTURE) OF THE WEST HOLLYWOOD MUNICIPAL CODE AND AMENDING CHAPTER 1.08 (GENERAL PENALTY PROVISIONS) TO MAKE VIOLATIONS OF SECTION 11.12.050 AND CHAPTER 11.29 SUBJECT TO THE ADMINISTRATIVE PENALTY PROCEDURES.

THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Chapter 11.12, entitled "Park Rules and Regulations" of Title 11 of the West Hollywood Municipal Code (the "Code") is hereby amended to read as follows:

Chapter 11.12 Park Rules and Regulations

11.12.010 Adoption By Resolution.

The City Council may establish by resolution rules and regulations governing use and operation of City parks.


For purposes of this section, the following definitions shall apply:

"Park" shall mean any park, playground, or public open space as these terms are defined elsewhere in this Code. This term includes pocket parks, neighborhood parks, and community parks.

"Smoke" or "smoking" shall mean and include the carrying of a lighted pipe, or lighted cigar, or lighted cigarette of any kind, or the lighting, burning, inhaling or exhaling of the smoke of a pipe, cigar, or cigarette of any kind. "Smoking" includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking. This definition includes the smoking of cannabis or cannabis products as these terms are defined in Chapter 1 of Division 10 of the California Health and Safety Code.
11.12.030 Use of City Parks Restricted.
This Section is to protect our parks and prevent construction of a Civic Center in West Hollywood Park. In the City of West Hollywood any existing or deeded parkland, specifically, but not limited to, what is commonly known as West Hollywood Park, Plummer Park and William S. Hart Park, can be used only for recreational purposes including ordinary and customary sports and recreational facilities, playgrounds and picnic areas and any current uses and existing facilities (including facilities to be rehabilitated at future dates). No West Hollywood park may be, or shall ever be, used for the housing of City, County or State offices other than for management of park and recreational activities. This Section shall not be changed or repealed except by a vote of the people.

Pursuant to California Health and Safety Code Section 11380.5, all present and future parks in the City, including, but not limited to, Hart Park, Plummer Park, West Hollywood Park and King’s Road Park, are hereby designated as drug-free zones.

11.12.050 Smoking Prohibited in City Parks
a. In addition to locations identified in Section 104495 of the California Health and Safety Code, no person shall smoke in any public park, as defined in this section. This section shall not apply to any paved public sidewalk immediately abutting the boundary of the park.

b. No person shall dispose of any cigarette, cigar, electronic cigarette or other tobacco product or any part of a cigarette, cigar or electronic cigarette in a public park, including cigarette or cigar butts or ashes or substances used with an electronic cigarette or used matches, in any place where smoking is prohibited in this section, except in a designated waste disposal container.

11.12.060 Violations and Penalty.
Violation of rules and regulations governing the use and operation of City parks, except park hours, shall, in addition to any other remedies contained in this code, constitute an infraction and shall be punishable as set forth in subsection (b) of Section 1.08.010 of this code. Violation of park hours shall constitute a misdemeanor and shall be punishable as set forth in subsection (a) of Section 1.08.010 of this code. Any person violating any of the rules and regulations adopted by the City Council shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of the park rules and regulations is committed, continued, or permitted.

Violations of Section 11.12.050 may be punished as a misdemeanor or infraction at the discretion of the City attorney or City prosecutor. Violations of Section 11.12.050 are also subject to administrative penalty procedure provisions as set forth in Chapter 1.08 of this code.
SECTION 2: Section 11.29.03 of Chapter 11.29 of Title 11 of the West Hollywood Municipal Code is hereby amended to read as follows:

11.29.030 Definitions. As used in this Chapter:

“Parklet” shall mean a small public gathering space, utilizing one or more on-street parking spaces and may include adjacent sidewalk space, that combines elements such as seating, landscaping, shade, bike parking and/or lighting.

“Smoke” or “smoking” shall mean and include the carrying of a lighted pipe, or lighted cigar, or lighted cigarette of any kind, or the lighting, burning, inhaling or exhaling of the smoke of a pipe, cigar, or cigarette of any kind. “Smoking” includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking. This definition includes the smoking of cannabis or cannabis products as these terms are defined in Chapter 1 of Division 10 of the California Health and Safety Code.

SECTION 3. New subsections (j) and (k) are added to Section 11.29.090 of Chapter 11.29 of Title 11 of the West Hollywood Municipal Code to read as follows:

j. Smoking shall not be permitted within five (5) feet of any parklet, except while actively passing by on the way to another destination. Permittee shall be required to orally inform persons violating this chapter of the provisions thereof. The duty to inform such violator shall arise when such permittee or employee of permittee becomes aware of such violation.

k. No parklet permittee shall maintain or make ashtrays, matchbooks, or receptacles for smoking waste available in a parklet or within a distance of five feet from a parklet.

SECTION 4: The list in Section 1.08.010(d) of Municipal Code Chapters and Sections that are subject to the Administrative Penalty Procedures in Section 1.08.030 through 1.08.070 in Section 1.08.010 in Chapter 1.08 of Title 1 of the West Hollywood Municipal Code is amended to add “Section 11.12.050 Smoking Prohibited in City Parks” and “Chapter 11.29 Parklets” to the list in numeric order and the remainder of the list is to remain unchanged.

SECTION 5: Effective Date. This ordinance shall take effect thirty days after its passage and adoption pursuant to California Government Code section 36937.