Atascadero City Council
Staff Report – Police Department and City Attorney

Ordinance to Amend City’s Smoking Ordinance
to Include Prohibition of Smoking at Atascadero State Hospital

RECOMMENDATION:

Council adopt on second reading by title only, the Draft Ordinance adding Section 8 to Title 6, Chapter 6 of the Atascadero Municipal Code providing for the prohibition of smoking at the Atascadero State Hospital.

DISCUSSION:

In a letter dated March 14, 2008 (Attachment A), the Atascadero State Hospital Executive Director requested that the City modify its smoking ordinance to include the State Hospital property. On May 13, 2008, the City Council directed Staff to prepare an ordinance responding to the request. The draft ordinance is attached hereto as Attachment B.

Atascadero State Hospital is an all male patient, maximum security forensic facility, designated as a psychiatric hospital. The hospital is asking for the modification at the behest of the California Department of Mental Health. It is the Department of Mental Health’s intent to ban smoking in and out of doors at all of its State hospitals. Currently, California Assembly Bill No 846, approved September 8, 2003, prohibits smoking in public buildings that are state-owned, occupied, or leased. Included are passenger vehicles owned by the State. Smoking is prohibited within 20 feet of main exits, entrances, or operable windows of a public building.

Atascadero State Hospital had started the implementation process of a comprehensive ban, but was informed by the State Department of Public Health that the Hospital could not go forward with a ban that is more comprehensive than AB 846. However, the Department of Mental Health has been successful in restricting smoking in the City of San Jose where a local ordinance passed in 2007 provides for a ban in State facilities. The Department is requesting that Atascadero adopt a similar ordinance.
On May 13, 2008, the City Council considered the hospital’s request and directed Staff to prepare the required amendment to the Municipal Code to respond to the request. The amendment would add a new Section 6-6.08 to the Municipal Code, allowing the Executive Director to prohibit smoking at the hospital:

*The Executive Director of the Atascadero State Hospital may declare the entire hospital, including indoor and outdoor areas, to be a nonsmoking establishment, provided such declaration is consistent with any applicable Federal and State laws and regulations. The Executive Director or his or her designee shall have the primary responsibility for enforcement of this Section at the hospital.*

If implemented, Atascadero State Hospital Police under the control of the Executive Director would be the primary agency for enforcement of the ordinance on hospital grounds. The amendment specifically states that the prohibition on smoking at the hospital is subject to State and Federal laws and regulations.

**FISCAL IMPACT:**

None

**ALTERNATIVES:**

Take no action.

**ATTACHMENTS:**

Attachment A  Letter dated March 14, 2008 to Chief Mulhall from Atascadero State Hospital Executive Director Jon De Morales

Attachment B  Draft Ordinance