

AN ORDINANCE AMENDING TITLE 8, CHAPTER 8.22 (NO-SMOKING AREAS ESTABLISHED IN CERTAIN PUBLIC PLACES) OF THE SAN LUIS OBISPO COUNTY CODE

The Board of Supervisors of the County of San Luis Obispo, State of California, ordains as follows:

SECTION 1: Chapter 8.22 of the San Luis Obispo County Code is amended to read as follows:

Chapter 8.22

NO-SMOKING AREAS ESTABLISHED IN CERTAIN PUBLIC PLACES
NO SMOKING ON COUNTY PROPERTY

Sections:

- 8.22.010 - Purpose.**
- 8.22.020 - Definitions.**
- 8.22.030 - Prohibition in certain public places.**
- ~~8.22.040 - Posting of signs.~~**
- 8.22.050 - Enforcement.**
- 8.22.060 - Violation—Penalty.**
- 8.22.070 - Severability.**

SECTION 2: Chapter 8.22, Section 8.22.010 is amended to read as follows:

8.22.010 - Purpose.

Because smoking of tobacco or any other weed or plant is a positive danger to health and a cause of material discomfort and a health hazard to those who are present in confined places, and in order to serve public health, safety and welfare, the declared purpose of this chapter is to establish areas **County property as a smoke free environment** where persons will be free from inhaling smoke by ~~requiring that areas be reserved for nonsmokers in certain public places and~~ by prohibiting the smoking of tobacco or any other weed or plant ~~in~~ **on** certain ~~other areas which are used by or open to the public~~ **County properties**.

SECTION 3: Chapter 8.22, Section 8.22.020 is amended to read as follows:

8.22.020 - Definitions.

~~"Smoke" or "smoking" as defined in this chapter means and includes the carrying of a pipe, cigar, or cigarette of any kind which is burning, or the igniting of a pipe, cigar, or cigarette of any kind.~~

~~"Service line" shall be defined as an indoor line or area where persons await service of any kind, regardless of whether or not such service involves the exchange of money. Such service shall include, but is not limited to, sales; giving of information, directions, or advice; and transfers of money or goods.~~

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) "County" means County of San Luis Obispo.

(b) "County Property", for purposes of this Chapter 8.22, means a building or structure owned, leased or otherwise operated by the County of San Luis Obispo to conduct County business, and land appurtenant to that building or structure. "County Property" additionally includes certain County Parks and parklands.

(c) "Smoke" or "smoking", as defined in this chapter, means and includes the carrying of a pipe, cigar, or cigarette of any kind which is burning, or the igniting of a pipe, cigar, or cigarette of any kind.

SECTION 4: Chapter 8.22, Section 8.22.030 is amended to read as follows:

8.22.030 - Prohibition in certain public places on County Property.

~~Smoking shall be prohibited in the following places within the unincorporated area of the county:~~

- ~~1. Elevators, museums, galleries, public transportation facilities open to the public, and service lines of establishments doing business with the general public;~~
- ~~2. Waiting rooms and public hallways of every private or public health care facility, including but not limited to hospitals; provided further that this prohibition shall not prevent the establishment of a separate waiting room in which smoking is permitted, as long as there also exists a waiting room in the same facility in which smoking is prohibited;~~
- ~~3. Waiting rooms, meeting rooms, public assembly rooms, libraries, and restrooms located in all buildings owned or leased by the county, except in zones designated for smoking by the county administrator. Such smoking zones shall not exceed twenty percent of the seating capacity of each room or area;~~
- ~~4. Within any building not open to the sky which is primarily used for or designed for the purpose of exhibiting any motion picture, stage drama, lecture, musical recital, or other similar performance whenever open to the public, except smoking which is a part of a stage performance, including all restrooms, except that smoking will be allowed in an area commonly referred to as a lobby if such lobby is physically separated from the spectator area;~~
- ~~5. Within all public areas in every retail food market, as defined in this title;~~

6. ~~All restrooms open for public use;~~

7. ~~Within every restaurant, as defined in this title, having an occupied capacity of fifty or more persons; provided that this prohibition shall not apply where a part of the dining area sufficient to satisfy all public requests for seating in a nonsmoking area is posted and maintained as such an area.~~

Smoking shall be prohibited in the following places within the unincorporated areas of the county:

(a) Buildings or structures owned, leased or otherwise operated by the County of San Luis Obispo to conduct County business, and land appurtenant to that building or structure including but not limited to parking lots, landscapes, walkways and patios.

(b) All areas of Mini, Neighborhood and Community Parks, Plazas and Special Places as listed in the Park and Recreation Element of the County General Plan.

(c) In Regional Parks within thirty feet (30) of any building, playground, tot lot or group picnic area.

(d) Notwithstanding the prohibition as set forth in this Chapter, smoking may be allowed in designated smoking areas as authorized by the County Public Health Director.

SECTION 5: Chapter 8.22, Section 8.22.040 is deleted.

8.22.040 – Posting of signs.

~~Signs which designate smoking or no-smoking areas established by the ordinance codified in this chapter shall be conspicuously posted in every room, building, or other place so covered by this chapter. The manner of such posting shall be at the discretion of the owner, operator, manager, or other person having control of such room, building, or other place so long as clarity, sufficiency, and conspicuousness are apparent in communicating the intent of the ordinance codified in this chapter. Establishments described in Section 8.22.020(5) shall have a no-smoking sign posted at meat and produce counters and checkout lines.~~

SECTION 6: Chapter 8.22, Section 8.22.050 is amended to read as follows:

8.22.050 - Enforcement.

~~(a) The county administrator shall be responsible for compliance with this chapter as to facilities which are owned, operated, or leased by the county. The county treasurer shall provide each business license applicant with a copy of this chapter.~~

~~(b) The owner, operator, or manager of any facility, business, or agency within the purview of this chapter shall comply herewith. Such owner, operator, or manager shall post or cause to be~~

~~posted all no-smoking signs required by this chapter and shall call such signs to the attention of any person who violates this chapter by smoking in a posted no-smoking area.~~

~~(e) The health officer of the county and his duly appointed representatives and the ordinance enforcement officer designated pursuant to Section 22.96.021 of this code shall have authority to enforce the provisions of this chapter.~~

Employees or visitors who are smoking on County Property where smoking is prohibited will be asked to extinguish their smoking materials. Employees or visitors unwilling to comply, or repeatedly in noncompliance may be cited under County Code Section 8.22.060.

SECTION 7: Chapter 8.22, Section 8.22.060 is amended to read as follows:

8.22.060 – Violation—Penalty.

~~Any person who violates any provision of this chapter by smoking in a posted no-smoking area or by failing to post or cause to be posted a no-smoking sign required by this chapter is guilty of an infraction and upon conviction thereof shall be punished by a fine of ten dollars.~~

Any person who violates any provision of this chapter by smoking in an area where smoking is prohibited is guilty of an infraction pursuant to Chapter 1.04 and is subject to the fines set forth therein.

SECTION 8: Chapter 8.22.070 remains unchanged:

8.22.070 - Severability.

If any provision, clause, sentence, or paragraph of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions or application of the provisions of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

SECTION 9: The Board of Supervisors has considered the amendments to Chapter 8.22 that are proposed with respect to the matter described above. The Board of Supervisors has, as a result of its consideration, the evidence presented at the hearings on said matter, and all comments that were received during the public hearing process, determined that this activity is exempt from review pursuant to CEQA Guidelines section 15061(b)(3) which provides that an activity is not subject to CEQA review where it can be seen with certainty that there is no possibility that it may have a "significant effect on the environment." The Board of Supervisors finds that it can be seen with certainty that there is no possibility that the adoption of the amendments to Chapter 8.22 as stated above may have a significant effect on the environment because there is no substantial evidence that the adoption of this ordinance will have a significant effect on the environment. The Board of Supervisors hereby approves this adoption of the above amendment to Chapter 8.22 in accordance with the California Environmental Quality Act (CEQA) and the County's regulations implementing said Act.

SECTION 10: If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 11: This ordinance shall take effect and be in full force on and after 30 days from the date of its passage hereof. Before the expiration of 15 days after the adoption of this ordinance, the ordinance shall be published once in a newspaper of general circulation published in the County of San Luis Obispo, State of California, together with the names of the members of the Board of Supervisors voting for and against the ordinance and the Clerk shall post in the office of the Clerk of the Board of Supervisors a certified copy of the full text of the adopted ordinance along with the names of those Supervisors voting for and against the ordinance.

INTRODUCED at a regular meeting of the Board of Supervisors held on the _____ day of _____, 20____, and PASSED AND ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the _____ day of _____, 20____, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

Chairperson of the Board of Supervisors,
County of San Luis Obispo, State of California

ATTEST:

County Clerk and Ex-Officio Clerk
of the Board of Supervisors
County of San Luis Obispo, State of California

[SEAL]

ORDINANCE CODE PROVISIONS APPROVED
AS TO FORM AND CODIFICATION:

WARREN R. JENSEN
County Counsel

By: 
Rita L. Neal
Assistant County Counsel

Dated: June 14, 2012

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