

~~EXISTING~~PROPOSED SMOKING REGULATIONS

4.116.010 ~~Definitions.~~ Scope.

The provisions of this chapter, along with the separate provisions in Title 12 (prohibiting smoking in parks, at the beach, on the Strand, and on the Valley Ardmere Greenbelt), are intended to establish a comprehensive citywide ban on smoking, with the limited exceptions set forth in this chapter. This chapter shall be interpreted in a manner supplementary to and consistent with California Labor Code Section 6404.5 and California Health and Safety Code Sections 104495 and 118875, et seq., as amended, and in all cases of conflict between this chapter and any state law, the applicable state law provision shall prevail.

4.116.020 – Definitions.

~~For purposes~~The following definitions shall govern construction of this chapter, unless the context clearly requires otherwise:

~~A. "Bar" means an area which is devoted to the serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages. Incidental shall be defined to mean the serving of hors d'oeuvres and snacks, but not including meals.~~

~~B. "City" means the City of Manhattan Beach.~~

A. C. "Employee" means any person who is employed by an employer in consideration for direct or indirect monetary wages or profit, or retained as an independent contractor by, any Employer, or any person who volunteers his or her services for a business or Employer.

B. D. "Employer" means any person, partnership, corporation, including municipal corporation or public entity, who employs the services of more than three (3) persons. "Employer" means any person, partnership, corporation, association, nonprofit or other entity who or which employs or retains the service of one or more Employees.

C. E. "Enclosed" means closed in by a roof and walls with appropriate openings for ingress and egress and is not intended to mean areas commonly described as public lobbies.

D. F. "Place of employment" means any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to work areas, employee lounges, conference rooms, and employee cafeterias. A private residence is not a place of employment.

E. G. "Restaurant" means any publicly or privately owned coffee shop, cafeteria, short order cafe, luncheonette, soda fountain, restaurant, or other indoor eating establishment which serves food to the general public.

F. ~~H. "Smoke" or "smoking" shall include carrying or holding of a lighted pipe, cigar, or cigarette of any kind or any other lighted smoking equipment or the lighting or emitting or exhaling the smoke, cigar, or cigarette of any kind.~~

G.

H. ~~4.116.020 Prohibition—Unlawful smoking.~~

I. ~~A. Smoking is prohibited in the following places:~~

J. ~~1. The Manhattan Beach City Hall and any enclosed City of Manhattan Beach facility, including, but not limited to, any room, chamber, place of meeting, or public assembly or in any City of Manhattan Beach vehicle.~~

K. ~~2. Those enclosed portions of any building, structure, or other facility open to the general public for the primary purpose of exhibiting any motion picture, stage production, musical recital, or similar performance, but not an area which serves as a lobby.~~

L. ~~3. Those areas within the buildings or structures of any health care facility which are open to visitors to the premises except that in such areas there may be enclosed areas designated and set aside on each floor where smoking may be allowed.~~

M. ~~4. Any retail food marketing establishments, including grocery stores and supermarkets, except those areas of such establishments designated for the serving of food and drink, restrooms and offices and areas thereof not open to the public, which may otherwise be regulated by other sections of this ordinance.~~

N. ~~B. Restaurants with a seating capacity of twenty (20) or more persons shall adopt a non-smoking policy for seating of nonsmokers and must post signs indicating availability of nonsmoking areas. The size and scope of areas designated as nonsmoking shall be determined at the discretion of the establishment, provided, however, the owner, manager, or operator of a restaurant is not required to incur any expense to make structural or physical modifications in satisfying these demands.~~

O. "Place of Employment" means any area under the legal or de facto control of an Employer that an Employee or the general public may enter in the normal course of operations, but regardless of the hours of operation, including, for example, indoor and outdoor work areas, construction sites, vehicles used in employment or for business purposes, taxis, employee lounges, conference and banquet rooms, bingo and gaming facilities, long-term health facilities, warehouses, and any private residences subject to state licensing requirements that are used as child-care or health-care facilities.

P. "Public Place" means any public place, or any private place open to the general public regardless of any fee or age requirement, including, for example, streets, sidewalks, plazas, bars, restaurants, clubs, stores, stadiums, farmers' markets, bus shelters, ATM or ticket lines, theaters, parking lots, parks, playgrounds, taxis, and buses. This also shall include outdoor dining areas open to the general public.

Q. "Smoke" means the gases, particles, 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 combusting 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.

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

~~4.116.030 Regulation of smoking in places of employment.~~ Prohibition of Smoking.

~~The places subject to regulation pursuant to Section 4.116.020 shall not be deemed places of employment for purposes of this section. The following regulations apply to places of employment:~~

~~A. Within ninety (90) days of the effective date of this chapter, each employer shall adopt, implement and maintain a written smoking policy which shall contain, at a minimum, provisions related to the following:~~

~~1. It shall be the responsibility of employers to provide smoke-free work areas for non-smokers to the maximum extent possible but employers are not required to incur any expense to make structural or other physical modifications in providing these areas. Any employer who makes reasonable efforts to develop and promulgate a policy regarding smoking and nonsmoking in the work place shall be deemed to be in compliance with this paragraph, provided that a policy which designates an entire work place as a smoking area shall not be deemed in compliance with this paragraph.~~

~~2. It shall be the responsibility of employers to provide smoke-free areas in cafeterias, lunchrooms, and employee lounges and to post signs indicating availability of said non-smoking areas. The size and scope of areas designated as nonsmoking shall be determined at the discretion of the employer, provided, however, the employer is not required to incur any expense to make structural or physical modifications in providing these areas.~~

~~3. In any dispute arising under the smoking policy, the health concerns of the non-smoker shall be given precedence.~~

~~4. An employer shall post "No Smoking" signs in any area designated as a non-smoking area.~~

~~5. The smoking policy shall be communicated to all current employees within three (3) weeks of the date of adoption, and to all future employees at the time of their entry into employment.~~

A. Except as otherwise provided by this chapter or by state or federal law, Smoking is prohibited in the following locations:

1. Public Places:

2. Places of Employment, including those regulated by California Labor Code Section 6404.5:

3. Any area within 20 feet of any door, window, opening, or vent, into a Public Place, except for such areas on private residential property.

B. Smoking is permitted in the following locations within the City, unless otherwise provided by state or federal law:

1. Private residential property, other than those used as a child-care or health-care facility subject to State licensing requirements.

2. In up to twenty percent of guest rooms in any hotel or motel, if the hotel or motel permanently designates at least 80 percent of its guest rooms as nonsmoking rooms, appropriately signs non-smoking rooms and permanently removes ashtrays and matches from them. Smoking rooms shall be segregated from non-smoking rooms on separate floors, wings, or portions of either; smoking and non-smoking rooms shall not be interspersed. Nothing in this ordinance shall require a hotel or motel to provide Smoking rooms and the owner or operator of a hotel or motel may choose to prohibit Smoking throughout the property.

3. Within a moving vehicle.

C. No person shall dispose of any Smoking waste, including but not limited to any part of a cigarette, cigar, pipe, or tobacco product, in an area in which Smoking is prohibited by this chapter or other law, except in specific receptacles designated by the City for Smoking waste.

4.116.040 ~~Posting of signs.~~ Allowing, Aiding or Abetting Illegal Smoking.

~~A. The person having the authority to manage the control in any area designated as a non-smoking area shall post or cause to be posted and prominently displayed, and shall maintain "No Smoking" signs in conspicuous locations within said areas. All such signs shall clearly and conspicuously recite the phrase "NO SMOKING" and/or use the international no-smoking symbol.~~

~~B. Every restaurant subject to this chapter shall have at its entrance a sign clearly stating that a non-smoking section is available.~~

A. No person shall knowingly permit Smoking in an area under his, her, or its legal or de facto control where Smoking is prohibited by this chapter or other law.

B. No person shall allow the placement or maintenance of a receptacle for Smoking waste in an area under his, her, or its legal or de facto control in which Smoking is prohibited by this chapter or other law.

C. The person who has legal or de facto control of any Public Place or Place of Employment shall post a "No Smoking" or "Smoke Free" sign, with letters of no

less than one inch in height or the international “No Smoking” symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it), at the primary entrance to each Public Place or Place of Employment in which Smoking is prohibited by this chapter. Notwithstanding this provision, the presence or absence of signs shall not be a defense to the violation of any other provision of this chapter.

4.116.050 ~~Exceptions~~ Penalties and Enforcement.

~~Notwithstanding any other provisions of this chapter to the contrary, the following areas shall not be subject to the smoking restrictions of this chapter:~~

~~A. Private residences, except when used as a child care or health care facility.~~

~~B. Bars.~~

~~C. Restaurant, hotel and motel conference and meeting rooms, and public and private assembly rooms while these places are being used for private functions open only to invitees or members of the organization and their guests.~~

~~D. A private enclosed office workplace occupied exclusively by smokers, even though such an office workplace may be visited by non-smokers.~~

~~Notwithstanding any other provision of this chapter, any owner, operator, manager, or other person who controls any establishment described in this chapter may prohibit smoking in all areas of the establishment.~~

4.116.060 ~~Penalties~~.

~~A. It shall be unlawful to wilfully mutilate, destroy or remove any signs required by this chapter.~~

~~B. It shall be unlawful to smoke in any area where smoking is prohibited by the provisions of this chapter.~~

~~C. It shall be unlawful for an employer to discharge or in any manner discriminate against any employee who exercises his or her rights provided by this chapter if the dominant interest of the employer is retaliation against the employee for exercising those rights. Violation of this provision shall be a misdemeanor.~~

A. ~~D. Any person who violates any provision~~ Each separate violation of this chapter shall be guilty of is an infraction, ~~except as otherwise provided by this chapter, punishable by:~~ in accordance with Chapter 1.04 of this code.

B. ~~1. A fine not to exceed fifty (\$50.00) dollars for the first violation.~~

C. ~~2. A fine not to exceed one hundred (\$100.00) dollars for a second violation of the same provision within one year.~~

D. ~~3. A fine not to exceed two hundred fifty (\$250.00) dollars for each additional violation of the same provision within one year.~~

12.08.320 Smoking prohibited on beaches.

~~"Smoke/smoking" means the carrying or holding of a lighted pipe, cigar or cigarette of any kind, or any other lighted smoking product or equipment used to burn any tobacco products, weed, plant, or any other combustible substance. Smoking shall include the emitting or exhaling the fumes of any of the foregoing.~~

"Smoke" means the gases, particles, 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 combusting 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.

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

12.12.010 Definitions.

~~"Smoke" and "smoking" mean the carrying or holding of a lighted pipe, cigar or cigarette of any kind, or any other lighted smoking product or equipment used to burn any tobacco products, weed, plant, or any other combustible substance. Smoking shall include the emitting or exhaling the fumes of any of the foregoing.~~

"Smoke" means the gases, particles, 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 combusting 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.

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

12.48.056 Smoking prohibited in parks.

~~"Smoke/smoking" means the carrying or holding of a lighted pipe, cigar or cigarette of any kind, or any other lighted smoking product or equipment used to burn any tobacco products, weed, plant, or any other combustible substance. Smoking shall include the emitting or exhaling the fumes of any of the foregoing.~~

"Smoke" means the gases, particles, 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 combusting 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.

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