

AN ORDINANCE OF THE CITY OF CHULA VISTA AMENDING  
CHAPTER 8.22 OF THE CHULA VISTA MUNICIPAL CODE  
RELATING TO REGULATION OF SMOKING IN PUBLIC PLACES  
AND PLACES OF EMPLOYMENT

The City Council of the City of Chula Vista does ordain  
as follows:

SECTION I: That Chapter 8.22 of the Chula Vista Municipal Code be, and the same is hereby amended to read as follows:

CHAPTER 8.22           REGULATION OF SMOKING IN PUBLIC  
PLACES AND PLACES OF EMPLOYMENT.

Sec. 8.22.010       Purpose.

Because smoking of tobacco, or any other weed or plant, is a positive danger to health and a material annoyance, inconvenience, discomfort and a health hazard to those who are present in confined spaces, and in order to serve public health, safety and welfare, the declared purpose of this Chapter is to prohibit the smoking of tobacco, or any weed or plant, in public places and places of employment except in designated smoking areas.

Sec. 8.22.020       Definitions.

"Smoke" or "smoking" as defined in this Chapter means and includes the carrying of a lighted pipe, or lighted cigar, or lighted cigarette of any kind, or the lighting of a pipe, cigar, or cigarette of any kind.

"Public Place" means any enclosed area to which the public is invited or in which the public is permitted, including, but not limited to, retail stores, retail service establishments, retail food production and marketing establishments, restaurants, theatres, waiting rooms, reception areas, educational facilities, health facilities and public transportation facilities. A private residence is not a "public place".

"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".

Sec. 8.22.030 Prohibitions.

No person shall smoke in a public place or place of employment except in designated smoking areas.

Sec. 8.22.040 Designation of Smoking Areas.

- A. Smoking areas may be designated in public places and places of employment by proprietors or other persons in charge except in retail stores, retail service establishments, food markets, public conveyances, theatres, auditoriums, public assembly rooms, meeting rooms, rest rooms, elevators, pharmacies, libraries, museums or galleries which are open to the public or any other place where smoking is prohibited by the Fire Marshal or by other law, ordinance or regulation. Where smoking areas are designated, existing physical barriers and ventilation systems shall be used to minimize the toxic effect of smoke in adjacent nonsmoking areas. It shall be the responsibility of employers to provide smoke-free areas for nonsmokers within existing facilities 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. An employer who in good faith develops and promulgates a policy regarding smoking and nonsmoking in the work place shall be deemed to be in compliance with this section provided that a policy which designates an entire work place as a smoking area shall not be deemed a good faith policy.

Restaurants covered by the provisions of this chapter shall designate an adequate amount of seating capacity to sufficiently meet the demands and shall inform all patrons that a no-smoking section is provided. No public place other than the ones enumerated in Section 8.22.070 shall be designated as a smoking area in its entirety.

- B. Notwithstanding any other provision of this Chapter, any facility or area may be designated in its entirety as a no-smoking area by the owner or manager thereof.

Sec. 8.22.050 Posting of Signs.

Signs which designate smoking or no-smoking areas established by this Chapter shall be clearly, sufficiently, and conspicuously posted in every room, building,

or other place so covered by this Chapter. No-smoking signs shall be specifically placed in retail food production and marketing establishments, including grocery stores and supermarkets open to the public, so that they are clearly visible to persons upon entering the store, clearly visible to persons in checkout lines, and clearly visible to persons at meat and produce counters. The manner of such posting including the wording, size, color, design, and place of posting whether on the walls, doors, tables, counters, stands or elsewhere 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 this Chapter.

Sec. 8.22.060 Governmental Agency Cooperation.

The City Manager shall annually request such governmental and educational agencies involved with their specific business within the City of Chula Vista to establish local operating procedures to cooperate and comply with this ordinance. In federal, state, county and special school districts within the City of Chula Vista, the City Manager shall urge enforcement of their existing no-smoking prohibitions and request cooperation with this ordinance.

Sec. 8.22.070 Exceptions.

- A. No-smoking areas are not required in individual private offices, hotel and motel meeting and assembly rooms rented to guests, areas and rooms while in use for private social functions, private hospital rooms, psychiatric facilities, jails, bars, stores that deal exclusively in tobacco products and accessories and restaurants or eating establishments with a seating capacity of less than 20 persons.
- B. Restaurants or eating establishments with a seating capacity of less than 20 persons shall have the option of designating a no-smoking section or allowing or prohibiting smoking throughout the establishment.
- C. Any owner or manager of a business or other establishment subject to this Chapter may apply to the City Council for an exemption or modification of the provisions of this Chapter due to unique or unusual circumstances or conditions.

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Sec. 8.22.080 Enforcement and Appeal.

- A. The City Manager shall be responsible for compliance with this Chapter when facilities which are owned, operated or leased by the City of Chula Vista are involved. The City Manager shall provide business license applicants with copies of this Chapter.
- B. The owner, operator or manager of any facility, business or agency shall post or cause to be posted all "No Smoking" signs required by this Chapter. Owners, operators, managers or employees of same shall be required to orally inform persons violating this Chapter of the provisions thereof. The duty to inform such violator shall arise when such owner, operator, manager or employee of same becomes aware of such violation.
- C. It shall be the responsibility of employers to disseminate information covering the provisions of this Chapter to employees.

Sec. 8.22.090 Violations and Penalties.

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, or by a knowing failure to inform any person who violates the provisions of this Chapter, when such duty to inform arises as set forth in Section 8.22.080, Subsection B above, is guilty of an infraction.

Sec. 8.22.100 Education for No-Smoking Program.

The City Manager shall engage in a continuing program to inform and clarify the purposes of this Chapter to citizens affected by it, and to guide owners, operators and managers in their compliance.

The City shall leave the responsibility of conducting a public education campaign, regarding the health-degrading aspects of smoking, to other governmental and health agencies equipped with the needed expertise to conduct such campaign.

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Sec. 8.22.110 Severability.

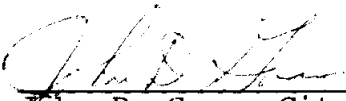
If any provision, clause, sentence or paragraph of this Chapter or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of the provisions of this Chapter which can be given effect without the invalid provision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

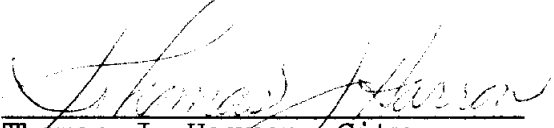
SECTION II: This ordinance shall take effect and be in full force on the thirty-first day from and after its adoption in all public places.

SECTION III: This ordinance shall take effect on January 1, 1985 in all places of employment.

Presented by

Approved as to form by

  
\_\_\_\_\_  
John D. Goss, City  
Manager

  
\_\_\_\_\_  
Thomas J. Harron, City  
Attorney

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FIRST READ AT A REGULAR MEETING OF THE CITY COUNCIL OF THE  
CITY OF CHULA VISTA, CALIFORNIA, HELD September 25, 19 84, AND  
FINALLY PASSED AND ADOPTED AT A REGULAR MEETING THEREOF HELD October 2,  
19 84, BY THE FOLLOWING VOTE, TO-WIT:

AYES: Councilmen : McCandliss, Moore, Cox, Malcolm  
NAYES: Councilmen : None  
ABSTAIN: Councilmen : None  
ABSENT: Councilmen : Scott

Jerry R. Cox  
Mayor of the City of Chula Vista

ATTEST Jennie M. Fulasz  
City Clerk

STATE OF CALIFORNIA )  
COUNTY OF SAN DIEGO ) ss.  
CITY OF CHULA VISTA )

I, JENNIE M. FULASZ, CMC, CITY CLERK of the City of Chula Vista, California,  
DO HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of  
ORDINANCE NO. \_\_\_\_\_, and that the same has not been amended or repealed.

DATED \_\_\_\_\_

(seal)

\_\_\_\_\_  
City Clerk