

ORDINANCE NO. 3058

ORDINANCE OF THE CITY OF CHULA VISTA AMENDING
CHULA VISTA MUNICIPAL CODE TO PROHIBIT SMOKING
WITHIN FIFTY (50) FEET OF THE ENTRANCE TO ANY
EATING ESTABLISHMENT, AND TO MAKE OTHER
REVISIONS AS NECESSARY TO MAKE THE CHAPTER
PROVISIONS CONSISTENT

WHEREAS, The Chula Vista Municipal Code, Chapter 8.22 regulates smoking in public places and places of employment; and

WHEREAS, the regulations include, but are not limited to, retail stores, retail service establishments, theatres, educational facilities, and restaurants; and

WHEREAS, in June 2006, Council adopted Ordinance Number 3034, which extended the prohibition on smoking in the indoor areas of restaurants to include the outdoor seating areas of restaurants; and

WHEREAS, in October 2006, Council adopted Ordinance Number 3046, which added a provision prohibiting smoking in City parks; and

WHEREAS, during discussions at these meetings, Councilmember Castenada requested that the City Attorney bring forward an additional amendment to the Chapter that would prohibit smoking within fifty (50) feet of any entrance to an eating establishment; and

WHEREAS, as a result of the amendments, a number of clerical changes need to be made; and

WHEREAS, Section 8.22.030 has been renumbered to accommodate the additional prohibitions; and

WHEREAS, the changes have also made some of the existing language obsolete or redundant so it has been removed; and

WHEREAS, because state law has addressed some issues not addressed by the City's ordinance, changes have been made to conform with state law.

NOW THEREFORE, 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 is hereby amended to read as follows:

Chapter 8.22

REGULATION OF SMOKING IN PUBLIC PLACES AND PLACES OF EMPLOYMENT

8.22.010 Purpose.

NO CHANGES.

8.22.020 Definitions.

NO CHANGES.

8.22.030 Prohibitions.

A. No person shall smoke in a public place or place of employment, except in designated smoking areas. (Ord. 2086 § 1, 1984).

B. No person shall smoke in the dining area of any restaurant or establishment where people eat, including outdoor patios, outdoor bars that serve food, or any covered eating area. (Ord. 3035, 2006).

C. No person shall smoke within fifty (50) feet of any entrance to any restaurant or establishment where people eat.

D. No person shall smoke in any portion of Friendship Park.

E. No person shall smoke in any portion of Independence Park and Rancho del Rey Park.

F. No person shall smoke in any portion of Memorial Park and Discovery Park.

G. No person shall smoke in any portion of all City parks except Friendship Park, Independence Park, Rancho del Rey Park, Memorial Park, and Discovery Park.

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, theaters, 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.

No public place other than the ones enumerated in CVMC 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. (Ord. 2086 § 1, 1984).

8.22.050 Posting of signs.

NO CHANGES.

8.22.060 Governmental agency cooperation.

The City Manager shall annually request that governmental and educational agencies who conduct their specific business within the City of Chula Vista establish local operating procedures to cooperate and comply with this chapter. 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 chapter. (Ord. 2086 § 1, 1984; Ord. 1642 § 1, 1975).

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, psychiatric facilities, jails, stores that deal exclusively in tobacco products and accessories, and smoking lounges as that term is defined in Government Code section 7596.

B. 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. (Ord. 2086 § 1, 1984; Ord. 1642 § 1, 1975).

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 covered entities shall be required to orally inform persons violating this chapter of the provisions of the chapter. The duty to inform such violator shall arise when such owner, operator, manager or employee becomes aware of the violation.

C. It shall be the responsibility of employers to disseminate information covering the provisions of this chapter to employees. (Ord. 2086 § 1, 1984; Ord. 1642 § 1, 1975).

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 CVMC 8.22.080(B), is guilty of an infraction. (Ord. 2086 § 1, 1984; Ord. 1642 § 1, 1975).

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. (Ord. 1642 § 1, 1975).

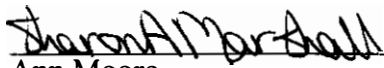
8.22.110 Severability.

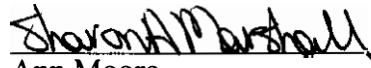
If any provision, clause, sentence or paragraph of this chapter, or the application of this chapter to any person or circumstance, shall be held invalid, such invalidity shall not affect the other provisions or application of the provisions of this chapter which can be given effect without the invalid provision or application, and to this end, the provisions of this chapter are hereby declared to be severable. (Ord. 2086 § 1, 1984; Ord. 1642 § 1, 1975).

SECTION II: This ordinance shall take effect and be in full force and effect thirty days after its second reading and adoption.

Presented by

Approved as to form by


Ann Moore
City Attorney


Ann Moore
City Attorney

PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 16th day of January 2007, by the following vote:

AYES: Councilmembers: Castaneda, McCann, Ramirez, Rindone, and Cox

NAYS: Councilmembers: None

ABSENT: Councilmembers: None


Cheryl Cox, Mayor

ATTEST:


Susan Bigelow, MMC, City Clerk

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

I, Susan Bigelow, City Clerk of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 3058 had its first reading at a regular meeting held on the 9th day of January, 2007 and its second reading and adoption at a regular meeting of said City Council held on the 16th day of January 2007.

Executed this 16th day of January 2007.


Susan Bigelow, MMC, City Clerk