

Ordinance No. 1604(14)

**An Ordinance of the City Council of the City of Lompoc,
County of Santa Barbara, State of California,
Amending Chapter 8.16 to the Lompoc Municipal Code
Relating to Prohibiting Smoking in Recreational Facilities**

WHEREAS, secondhand smoke has been repeatedly identified as a health hazard, as evidenced by the following:

- The U.S. Surgeon General concluded that there is no risk-free level of exposure to secondhand smoke; and
- The California Air Resources Board placed secondhand smoke in the same category as the most toxic automotive and industrial air pollutants, by categorizing it as a toxic air contaminant for which there is no safe level of exposure; and
- The California Environmental Protection Agency included secondhand smoke on the Proposition 65 list of chemicals known to the state of California to cause cancer, birth defects, and other reproductive harm; and

WHEREAS, exposure to secondhand smoke causes death and disease, as evidenced by the following:

- Secondhand smoke is responsible for as many as 3,000 deaths from lung cancer and 46,000 deaths from heart disease among nonsmokers each year in the United States; and
- Exposure to secondhand smoke increases the risk of coronary heart disease by approximately 30%; and
- Secondhand smoke exposure causes lower respiratory tract infections, such as pneumonia and bronchitis in as many as 300,000 children in the United States under the age of 18 months each year; and exacerbates childhood asthma; and

WHEREAS, tobacco use and exposure to secondhand smoke impose great social and economic costs, as evidenced by the following:

- The total annual economic burden of smoking in the United States is \$193 billion; and
- From 2001–2004, the average annual health care expenditures attributable to smoking were approximately \$96 billion; and

- The medical and other costs to nonsmokers due to exposure to secondhand smoke were estimated at over \$10 billion per year in the United States in 2005; and
- California's Tobacco Control Program saved the state and its residents \$86 billion in health care expenditures between the year of its inception, 1989, and 2004, with savings growing yearly; and

WHEREAS, exposure to secondhand smoke anywhere has negative health impacts, and exposure to secondhand smoke does occur at significant levels outdoors, as evidenced by the following:

- Levels of secondhand smoke exposure outdoors can reach levels attained indoors depending on direction and amount of wind and number and proximity of smokers; and
- Irritation from secondhand smoke begins at levels as low as 4 micrograms per cubic meter, and in some outdoor situations this level can be found as far away as 13 feet from the burning cigarette; and
- Smoking cigarettes near building entryways can increase air pollution levels by more than two times as compared to background levels, with maximum levels reaching the "hazardous" range on the US EPA's Air Quality Index; and
- To be completely free from exposure to secondhand smoke in outdoor places, a person may have to move nearly 25 feet away from the source of the smoke, about the width of a two-lane road; and
- Studies on a cruise ship have found that even while cruising at 20 knots and with unlimited air volume, outdoor smoking areas contained carcinogens in nearly the same amounts as inside the ship's casino where smoking was allowed; and

WHEREAS, cigarette butts pose a health threat to young children, as evidenced by the following:

- In 2009, American poison control centers received nearly 8,000 reports of children poisoned by the ingestion of cigarettes, cigarette butts, and other tobacco products; and
- Children who ingest cigarette butts can experience vomiting, nausea, lethargy, and gagging; and

WHEREAS, cigarette butts are a major and persistent source of litter, as evidenced by the following:

- An estimated 4.95 trillion cigarette butts are disposed of in our environment annually worldwide; and
- Cigarette butts leach toxins when wet; and
- Litter clean-up costs the U.S. over \$11 billion annually, cigarette butts represent an estimated 32% of that litter; and
- Cigarette butts are composed of cellulose acetate, a non-biodegradable plastic, which can take up to 25 years to decompose; and
- Littered cigarette butts pose a significant fire threat; and

WHEREAS, prohibiting smoking in areas open to the general public helps protect the health of the approximately 87% of Californians who are nonsmokers; and

WHEREAS, state law prohibits smoking within 25 feet of playgrounds and tot lots but expressly authorizes local communities to enact additional restrictions (Health and Safety Code Section 104495); and

WHEREAS, state law expressly declares its intent to not preempt the field of regulation of smoking (Health and Safety Code Section 118910); and

WHEREAS, marijuana smoke has been found by the American Lung Association to contain more carcinogens than cigarette smoke; and

WHEREAS, the Compassionate Use Act (Health and Safety Code Section 11362.5) provides that the prohibition on the possession or cultivation of marijuana does not apply to those people that use or cultivate marijuana for personal medical purposes under the approval of a physician; and

WHEREAS, Health and Safety Code Section 11362.79 expressly provides that nothing in the Compassionate Use Act or the Medical Marijuana Program Act (Health and Safety Code Sections 11362.7 to 11362.9) authorizes a person with a medical marijuana identification card to smoke in any place where smoking is prohibited by law. (Health and Safety Code Section 11362.79.)

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LOMPOC DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Section 8.16.010 to the Lompoc Municipal Code is amended to read, in its entirety, as follows:

8.16.010 Purpose.

The City Council finds all of the following:

- A. Tobacco use is one of the leading causes of preventable death in this country; and
- B. Studies have shown that secondhand smoke is a significant public health hazard, including the cause of death and disease, and has been shown to cause approximately 46,000 deaths a year in the United States; and
- C. Tobacco use and exposure to secondhand smoke imposes great social and economic costs; and
- D. Levels of secondhand smoke exposure outdoors can reach levels attained indoors depending on direction and amount of wind and number and proximity of smokers; and
- E. Cigarette butts pose a health threat to young children and are a persistent source of litter; and
- F. According to the American Lung Association, children are particularly vulnerable to secondhand smoke and children that breathe secondhand smoke are more likely to develop asthma, have more asthma attacks, suffer pneumonia and have more ear infections; and
- G. The purpose of this Chapter is to provide for the public health, safety and welfare by protecting the public from exposure to secondhand smoke in those places that are held open to the public or made available to the public.

SECTION 2. Section 8.16.020 to the Lompoc Municipal Code is amended to read, in its entirety, as follows:

8.16.020 Definitions.

The following words and phrases, whenever used in this Chapter, shall be construed as hereafter set out, unless it shall be apparent from the context that they have a different meaning.

“Bar” means any area which is devoted to serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such

beverages. When a bar is operated within a building in conjunction with another use, such as a restaurant, only the area utilized primarily for the consumption of alcoholic beverages shall constitute the bar. The dining area of a restaurant utilized primarily for the serving and consumption of food shall not constitute a bar, even though alcoholic beverages may be served therein.

“Employee” means any person who is employed by any employer in consideration for direct or indirect monetary wages or profit.

“Employer” means any person, partnership, corporation, including municipal corporation, who employs the services of more than three persons.

“Enclosed” means closed-in by roof and four walls with appropriate openings for ingress and egress.

“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 unless it is used as a child care or a health care facility. The dining area of a restaurant is not a place of employment.

“Recreational Area” means any area that is publicly-owned or controlled and open to the general public for recreational purposes, regardless of any fee or age requirement. The term “Recreational Area” includes but is not limited to parks, including special use parks (such as: dog parks, motorsports parks, and bike skills parks), picnic areas, playgrounds, sports fields, golf courses, walking paths, gardens, hiking trails, bike paths, riding trails, swimming pools, roller- and ice-skating rinks, skateboard parks, and amusement parks.

“Restaurant” means any coffee shop, cafeteria, luncheonette, soda fountain, fast food service or other eating establishment where cooked or otherwise prepared food is sold to members of the general public for consumption on the premises.

“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, a lighted hookah pipe, an operating

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.

“Sports activity facility” means gymnasium, health spa, swimming pool, bowling alley, and other similar place where members of the public assemble to engage in physical exercise, participate in athletic competition or witness sports events.

SECTION 3. Section 8.16.030 to the Lompoc Municipal Code is amended to read, in its entirety, as follows:

8.16.030 Prohibition of Smoking in Designated Enclosed Places.

Smoking shall be prohibited in the following enclosed places within the City:

- A. All enclosed areas available to and customarily used by the general public and all businesses patronized by the public, including, but not limited to, retail stores, hotels and motels, pharmacies, banks, attorneys’ offices and other offices.
- B. Restaurants. Smoking is prohibited and is unlawful in every publicly- or privately-owned restaurant with a dining capacity of 20 or more persons, excluding from that calculation of capacity any portion of such facility which is located outdoors and any portion of such facility which is utilized for bar purposes; provided, however, this prohibition shall not apply to any such establishment maintaining a contiguous no-smoking area of not less than 25 percent of both the seating capacity and the floor space in which customers are being served, excluding from such calculation any portion of such facility which is located outdoors and any portion of such facility which is utilized for bar purposes; further provided, however, this prohibition shall not apply to any rooms which are being used for eating establishment purposes for private functions, but only while any such room is used for such private function. All patrons shall be informed that a no-smoking section is provided and, at the request of a patron, the patron shall be seated in a no-smoking area, if available. No-smoking areas established in accordance with this Section shall be equivalent in decor and amenities as that provided to other patrons.
- C. Waiting rooms, hallways, wards, and semi-private rooms of health facilities, including, but not limited to, hospitals, clinics, physical therapy facilities, doctors’ and dentists’ offices, except that health facilities shall also be subject to the provisions of Section 8.16.040 regulating smoking in places of employment.

- D. All buildings occupied by City staff, owned or leased by the City, or otherwise operated by the City, where designated by the City Administrator.

The City Administrator may declare a smoking area within designated nonsmoking facilities only if the area involved:

1. Is not regularly open to the public; and
2. Does not require major room or building modifications; and
3. Is not regularly occupied by non-smokers.

In any dispute arising under the smoking area declarations made by the City Administrator under this Chapter, the rights of the non-smoker shall be given precedence.

- E. Elevators, public restrooms, indoor service lines, buses, taxicabs and other means of public transit under the authority of the City, while within the boundaries of the County, and in ticket, boarding, and waiting areas of public transit, (1) establishing separate waiting areas for smokers and nonsmokers, or (2) establishing at least 50 percent of a given waiting area as a nonsmoking area.
- F. In public areas of museums and galleries.
- G. Enclosed theaters, auditoriums, and halls which are used for motion pictures, stage dramas, and musical performances, ballets, or other exhibitions, except when smoking is part of any such production.
- H. Retail food marketing establishments, including grocery stores and supermarkets, except those areas of such establishments set aside for the purpose of serving food and drink, restrooms and offices, and areas thereof not open to the public, which may be otherwise regulated by this Chapter.
- I. Public schools and other public facilities under the control of another public agency, which are available to and are customarily used by the general public, to the extent that the same are subject to the jurisdiction of the City.
- J. Sports Activity facilities and convention halls, except in designated smoking areas.
- K. Notwithstanding any other provision of this Section, any owner, operator, manager or other person who controls any establishment described in this

Section may declare that entire establishment as a nonsmoking establishment.

SECTION 4. Section 8.16.055 is added to the Lompoc Municipal Code to read, in its entirety, as follows:

8.16.055 Prohibition of Smoking in Recreational Areas.

- A. Smoking is prohibited in any Recreational Area in the City.
- B. Nothing in this section prohibits any person or entity with legal control over any property from prohibiting smoking on any part of such property, even if smoking is not otherwise prohibited in that area.
- C. No Person shall dispose of used smoking waste in Recreational Areas.

SECTION 5. Section 8.16.080 to the Lompoc Municipal Code is amended to read, in its entirety, as follows:

8.16.080 Violations to be Infractions.

Any person who violates any provision of this Chapter is guilty of an infraction.

SECTION 6. This ordinance shall take effect 30 days after its adoption. The City Clerk, or her duly appointed deputy, shall attest to the adoption of this ordinance and shall cause this ordinance to be posted in the manner required by law.

This Ordinance was introduced on May 6, 2014, and duly adopted by the City Council of the City of Lompoc at its duly noticed regular meeting on _____, 2014, by the following electronic vote:

PASSED AND ADOPTED this ___th day of ___ 2014, by the following electronic vote:

AYES: Councilmember(s):
NOES: Councilmember(s):
ABSENT: Councilmember (s):

PASSED, APPROVED and ADOPTED this ___ day of ___ 20134.

John H. Linn, Mayor
City of Lompoc

Attest:

Stacey Alvarez, City Clerk
City of Lompoc