

CHAPTER 58

ISSUE 01

Date 03/01/2017

SUBJECT: TOBACCO-FREE AND SMOKE FREE WORKPLACE POLICY

I. PURPOSE

The City of Lompoc (“City”), recognizing the health consequences of tobacco smoke and life-threatening diseases linked to the use of any tobacco products and the State statutes limiting smoking in the workplace and on public property, hereby establishes a Tobacco-Free and Smoke-Free Workplace Policy (“Policy”) that applies to City employees. This Policy is intended to prohibit tobacco use and smoking by City employees in outdoor areas, vehicles, and equipment that are owned and/or operated by the City. This Policy is intended to be consistent with Chapter 8.16 of the Lompoc Municipal Code, which generally prohibits smoking within all enclosed public places within the City, including all facilities owned, operated and/or controlled by the City. (Lompoc Municipal Code §8.16.030(C).).

II. DISCUSSION

California Labor Code § 6404.5 prohibits employers from permitting smoking and prohibits employees from smoking in enclosed places of employment. “Enclosed space” includes lobbies, lounges, waiting areas, elevators, stairwells, and restrooms that are a structural part of the building. Further, California Government Code §§ 7596-7598 prohibit employees or members of the public from smoking any tobacco product inside a public building, or in an outdoor area within 20 feet of a main exit, entrance, or operable window of a public building. “Inside a public building” includes all indoor areas of the building, except for covered parking lots and residential space. “Inside a public building” also includes any indoor space leased to the state, county, or city, except for covered parking lots and residential space. Neither Labor Code § 6404.5 nor Government Code §§ 7597-7598 prohibit an employer or local agency from adopting a tobacco-free and smoke-free workplace policy that applies to outdoor locations on public property.

In order to preserve the health, safety and welfare of its employees and the general public, the City through this Policy extends the ban on smoking to the outdoors areas of public places as well, and also limits the use of all tobacco products and electronic cigarettes..

III. POLICY

A. Definitions

City Buildings and Facilities – Buildings and enclosed facilities and outdoor areas owned, leased, or operated by the City, including City airports, fueling areas, parks, public use facilities, public works yards and parking lots.

1. *City Equipment* – Any equipment owned, leased, or operated by the City, including: (1) loaders, backhoes, or other equipment powered by fossil fuels, which include gasoline, diesel, propane and natural gas, and (2) electric equipment, including carts and other devices such as golf carts, parking enforcement vehicles or carts used by the Park and Recreation Department or other Departments.
2. *City Personnel* – All City employees, volunteers, and contractors, who either are paid by or perform services for the City.
3. *City Vehicle* – Any motorized vehicle, including a car, van, truck, dump truck, street sweeper, refuse packer, bucket truck or fire engine owned, leased, or operated by the City.
4. *Electronic Cigarette* – An electronic device that delivers vapor for inhalation, including hookah pens, vape pipes, and electronic hookahs. *Electronic Cigarette* does not include any product approved by the United States Food and Drug Administration for sale as a drug or medical device.
5. *Smoke or Smoking* – The carrying of a lighted pipe, lighted cigar, or lighted cigarette of any kind, or the lighting of a pipe, cigar, or cigarette of any kind.
6. *Smokeless Tobacco* – Either (i) a loose or flat, compressed cake form of tobacco that may be chewed or held in the mouth, or (ii) a shredded, powdered, or pulverized form of tobacco that may be inhaled through the nostrils, chewed, or held in the mouth, consistent with the definition set forth in California Health and Safety Code § 118950.
7. *Tobacco Products* – All substances containing tobacco leaf or derived from tobacco, including cigarettes, cigars, pipe tobacco, snuff, *Smokeless Tobacco*, chewing tobacco, dipping tobacco, bidis, kreteks, or any other preparation of tobacco.
8. *Tobacco Use* – Includes *Smoking* and the intentional inhalation of or use of any *Tobacco Products*, including the use of *Smokeless Tobacco* products.
9. *Vape or Vaping* – Using an *Electronic Cigarette* in the following ways: (1) through inhalation or exhalation of vapor from an *Electronic Cigarette*; or (2) by holding or otherwise activating an *Electronic Cigarette* such that any vapor is being emitted from it.

B. Applicability

This Policy/ Administrative Regulation applies to all *City Personnel*, as defined in Section A above.

C. *Tobacco Use* and *Vaping* Prohibited

City Personnel are prohibited from *Tobacco Use* and *Vaping* at all times in *City Buildings and Facilities*, and in or around *City Vehicles* and *City Equipment*. This includes any outdoor or open spaces owned, leased, or operated by the City.

D. Additionally, *City Personnel* are prohibited from *Tobacco Use* and *Vaping* at all times within twenty feet of a main exit, entrance, or operable window of *City Buildings and Facilities*. Scope of Policy

This Policy shall not be construed to prohibit *City Personnel* from *Tobacco Use* or *Vaping* during non-work hours away from *City Buildings and Facilities*, in accordance with the requirements of this Policy. Additionally, this Policy shall not be construed to prohibit *City Personnel* from using *Tobacco Products* or *Vaping* on property not owned or leased by the City during a regularly scheduled break for work with the City, if *Tobacco Use* or *Vaping* is otherwise allowed on that property. Finally, this Policy shall not be construed to prohibit *Tobacco Use* and *Vaping* in private vehicles parked on a City-owned parking lot.

E. Penalty

City Personnel who violate this Policy may be subject to discipline in accordance with Chapter 26 of the City's Personnel Procedures Manual (entitled "Disciplinary Action") up to and including dismissal. For disciplinary purposes, violations of this Policy shall be treated as a MINOR offense under Chapter 26 of the City's Personnel Procedures Manual.

Authorized:

City Manager

Effective Date

Exhibit A

**EMPLOYEE ACKNOWLEDGEMENT OF TOBACCO-FREE AND SMOKE-FREE
POLICY**

By signing this acknowledgment, I certify the following:

1. I have received a copy of the Tobacco-Free and Smoke-Free Workplace Policy.
2. I have read the Tobacco-Free and Smoke-Free Workplace Policy.
3. If I have any questions regarding the Tobacco-Free and Smoke-Free Workplace Policy, then I can ask my supervisor or Human Resources to explain the terms of the Tobacco-Free and Smoke-Free Workplace Policy.
4. I understand the terms of the Tobacco-Free and Smoke-Free Workplace Policy and agree to abide by them.

Employee Name (Printed): _____

Employee Signature:

Date:
