

Chapter 8.12

Smoking in Public Places

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Section 8.12.010 Purpose

Because smoking of tobacco, or any other weed or plant, is a positive danger to health and a cause of material annoyance, inconvenience, discomfort and a health hazard to those who are present in confined places, 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 other weed or plant, in public places, places of employment, and controlled locations in accordance with this Chapter. (Prior Code 14-31; Ord. No. 89-49, Enacted 1/8/90; Ord. No. 92-6, Amended 05/26/92; Ord. No. 2013-17, Amended 8/13/13; Ord. No. 2022-12, Amended 06/28/22)

Section 8.12.020 Definitions

For the purpose of this chapter, the following words and phrases shall apply:

A. **“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, whether the combustible material is tobacco or another substance.

B. **“Place of Employment”**: any area which is a place of employment for purposes of Section 6405.5 of the Labor Code.

C. **“Public Place”**:

1. Any enclosed area, other than a place of employment and those locations subject to the section 8.12.040, to which the public is invited or in which the public is permitted, including, but not limited to, restaurants, retail stores, retail service establishments, restrooms, theatres, waiting rooms, reception areas, educational facilities, health facilities and public transportation facilities.

2. Any unenclosed dining area of an Eating Establishment plus a Reasonable Distance from said Unenclosed Dining Area.

3. Any area within the boundary of the City Hall Complex, Wave Water Park, the Public Library or an immediately adjacent parking lot owned by the City and serving those facilities, except within a designated smoking area. For the purpose of this section, the term “boundary” shall mean the interior edge of the public sidewalk, but not including the sidewalk adjacent to the public or private street surrounding the City Hall Complex, Wave Water Park, or Public Library or an immediately adjacent parking lot owned by the City and serving those facilities. For those areas of the City Hall Complex, Wave Water Park, Public Library, or an immediately adjacent parking lot owned by the City where no public or private street abuts, the boundary shall be designated by a boundary fence.

D. **“Designated Smoking Area”**: an outdoor area, designated by the City Manager, within the City Hall Complex, the Public Library or an associated and immediately adjacent

parking lot owned by the City serving those facilities which is: (1) identified by conspicuous signage, and (2), which is at least twenty (20) feet away from any doorway or window that opens to the outdoors.

E. **“Controlled Location”**: any of the following enclosed locations: (1) warehouse facilities covered by Labor Code section 6404.5(d)(6); (2) tobacco shops and lounges; (3) any portion of a lobby for a hotel, motel or similar establishment that is subject to exclusion from a place of employment under Labor Code section 6404.5(d)(2); (4) any meeting or banquet rooms within a hotel, motel, or a similar establishment that is subject to exclusion from a place of employment under Labor Code section 6404.5(d)(2); and (5) any small business that is potentially excluded from the definition of place of employment by Labor Code section 6404.5(d)(14).

F. **“Eating Establishment”**: means a coffee shop, cafeteria, short-order café, luncheonette, sandwich shop, soda fountain, ice cream parlor, restaurant or similar establishment serving food to the public. This definition does not include bar establishments principally devoted to serving alcoholic beverages and in which serving food is incidental to the consumption of alcoholic beverages.

G. **“Unenclosed Dining Area”**: any area, not fully enclosed by a roof and/or walls, including streets and sidewalks, available to or customarily used by the general public or employees to consume food.

H. **“Reasonable Distance”**: a distance of no less than twenty (20) feet in any direction from the boundaries of an area in which smoking is prohibited.

(Prior Code 14-31; Ord. No. 89-49, Enacted 1/8/90; Ord. No. 92-6, Amended 05/26/92; Ord. No. 2009-18, Amended, 9/22/09; Ord. No. 2013-17, Amended 8/13/13; Ord. No. 2013-19, Amended 10/22/13; Ord. No. 2014-15, Amended, 06/24/14; Ord. No. 2022-12, Amended 06/28/22)

Section 8.12.030 Prohibitions

A. No person shall smoke in a public place, a controlled location, or place of employment, except in designated smoking areas as defined in Section 8.12.040.

B. No ashtrays or smoking disposal receptacles shall be placed in areas where smoking is prohibited.

(Prior Code 14-31.3; Ord. No. 89-49, Enacted 1/8/90; Ord. No. 92-6, Amended 05/26/92; Ord. No. 2013-17, Amended 8/13/13; Ord. No. 2022-12, Amended 06/28/22)

Section 8.12.040 Exceptions - Areas Where Smoking is Permitted

The following areas are exempt from the mandatory no-smoking provisions of this chapter, and permit smoking.

A. Private residences, except private residences licensed as family day care homes, during hours of operation as a family day care home.

B. Guestroom accommodations in a hotel, motel, or similar transient lodging establishment, if approved by the management of that facility, but not to exceed forty percent of all available guestroom accommodations.

C. Employee breakrooms designated by an employer for smoking, provided that all requirements of Labor Code section 6404.5(d)(13) are satisfied.

D. Cabs of motortrucks or truck tractors, as defined in the Vehicle Code, if no nonsmoking employees are present.

E. Patient smoking areas in long-term health care facilities, approved by the management of the facility, as defined in Section 1418 of the Health and Safety Code.

F. Theatrical production sites, if smoking is an integral part of the story in the theatrical production, if approved by the management of the facility.

G. Medical research or treatment sites, if smoking is an integral to any research and treatment being conducted, if approved by the management of the facility.
(Prior Code 14-31.5; Ord. No. 89-49, Enacted 1/8/90; Ord. No. 2013-17, Amended and Renumbered 8/13/13; Ord. No. 2022-12, Amended 06/28/22)

Section 8.12.050 Posting of Signs

A. Where smoking is prohibited throughout an entire building and in all theatres, a sign stating "No smoking" shall be posted at each entrance to the building or theatre.

B. Where smoking is prohibited in an Unenclosed Dining Area of an Eating Establishment, a sign stating "No smoking" shall be posted at each entrance to the Unenclosed Dining Area.

C. Where smoking is permitted in designated areas of a building: (1) a sign stating "Smoking is prohibited, except in designated areas" shall be posted at each entrance to the building; (2) the area where smoking is permitted shall be posted each entry to that area with a sign stating "Designated smoking area except for guestrooms covered by the following clause;," and (3) for hotels or motels which allowed smoking in select guest rooms as permitted by this Chapter, a sign shall be posted in each such guestroom which shall substantially read "Designated smoking room" with an additional notice advising the guest that smoking may only occur within that room.

D. Employers shall provide written information to employees concerning smoking at the place of employment, including the location of designated smoking areas, if any.

E. 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.

(Prior Code 14-31; Ord. No. 89-49, Enacted 1/8/90; Ord. No. 2013-17, Amended and Renumbered 8/13/13; Ord. No. 2022-12, Amended 06/28/22)

Section 8.12.060 Retaliation against Persons Requesting Compliance Prohibited

No person shall intimidate or threaten any reprisal or effect any reprisal for the purpose of retaliating against another person because such other person seeks to attain compliance with the provisions of this chapter.

(Prior Code 14-31; Ord. No. 89-49, Enacted 1/8/90; Ord. No. 2013-17, Amended and Renumbered 8/13/13; Ord. No. 2022-12, Amended 06/28/22)

Section 8.12.070 Penalties and Enforcement

A. Each incident of smoking in violation of this chapter is punishable pursuant to Chapter 1.16 of this code, or in alternative by the administrative code enforcement remedies of Chapter 1.13 of this code.

B. Except as otherwise provided, enforcement of this chapter is at the sole discretion of authorized governmental officers to enforce this chapter pursuant to Chapters 1.13 and 1.16 of this code. Nothing in this chapter shall create a right of action in any person against the city or its agents for damages or to compel public enforcement of this chapter against private parties.

C. Nothing in this Chapter shall limit the ability of any authorized governmental officer to issue citations or to enforce any provision of state law prohibiting smoking.

D. Labor Code section 6404.5, and not this Chapter, applies to the smoking of tobacco products in a place of employment and violations of that statute will be cited pursuant to that authority, not pursuant to this Chapter.

E. The owner, operator, or manager of any public place, controlled location, or place of employment shall inform any person who violates this chapter by smoking in a public place or place of employment not designated as a smoking area, of the provisions of this chapter and may refuse services or sales to such persons or effect disciplinary actions.

F. The City Manager or his designee shall be responsible for compliance with this chapter when facilities which are owned, operated, or leased by the City of Vista are involved. (Prior Code 14-31; Ord. No. 89-49, Enacted 1/8/90; Ord. No. 92-6, Amended, 05/26/92; Ord. No. 2013-17, Amended and Renumbered 8/13/13; Ord. No. 2022-12, Amended 06/28/22)