



OFFICE OF THE CITY ATTORNEY
Long Beach, California

ORD-26

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February 3, 2009

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Recommendation to declare ordinance amending the Long Beach Municipal Code by amending Subsection 8.68.020.R., Section 8.68.060, and Subsection 8.68.110.A.; and by adding Subsection 8.68.020.S., and Section 8.68.210, all relating to smoking in public places read the first time and laid over to the next regular meeting of the City Council for final reading.

DISCUSSION:

Pursuant to your request on December 2, 2008, this ordinance has been prepared and is submitted for your consideration. Please note that "smoking lounge" has been defined to include the smoking of all forms of tobacco products.

SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

ROBERT E. SHANNON, City Attorney

By


Linda Trang
Deputy City Attorney

REDLINE

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2
3 8.68.020 Definitions.

4 R. "Smoking lounge" means a business establishment that is devoted
5 to and designated specifically for the sole purpose of smoking tobacco
6 products, including but not limited to establishments known variously as
7 cigar shops, cigar lounges, hookah lounges, or tobacco shops. For
8 purposes of this Chapter, "smoking lounge" means private smokers'
9 lounge as defined in Section 6404.5 of the California Labor Code.

10 RS. "Workplace" means any enclosed area of a structure or portion
11 thereof occupied by any entity and frequented by employees during the
12 normal course of their employment where clerical, professional,
13 manufacturing, business services or other normal and customary activities
14 of the entity are performed or where other work is done at that location.
15 Workplace also includes, but is not limited to, spaces in office buildings,
16 medical office waiting rooms, libraries, museums, gaming clubs, bars,
17 taverns, employee lounges, employee breakrooms, conference rooms,
18 and employee cafeterias. Workplace does not include any of the
19 following: A a private home is not a workplace, except where such home is
20 used as a "childcare facility" as defined in subsection 8.68.020.E, and any
21 "smoking lounge" as defined in Subsection 8.68.020.R. that satisfies the
22 conditions specified in Subsection 8.68.060.B.

23
24 8.68.060 Smoking prohibited – Enclosed public places.

25 A. Smoking is prohibited and is unlawful in every enclosed "public
26 place" as defined in subsection 8.68.020.O. Every owner, manager or
27 operator of such facility shall post signs conspicuously in the premises
28 stating that smoking is prohibited within the "public place" as defined in

1 section 8.68.020 and in the case of motion picture theaters, such
2 information shall be shown upon the screen for at least five (5) seconds
3 before showing feature motion pictures.

4 B. This Section is not intended to prohibit smoking in any "smoking
5 lounge" as defined in Subsection 8.68.020.R. and under the following
6 conditions:

7 1. No persons under eighteen (18) years of age shall be
8 permitted within the business.

9 2. The business establishment shall have separate ventilation
10 such that air from the smoking lounge is exhausted directly outside and
11 not recirculated within the building or mixed with the general dilution
12 ventilation for the building. Windows which open to the outside shall not
13 be deemed to comply with this provision.

14
15 **8.68.110 Regulation of smoking in the workplace.**

16 **A. Smoking is prohibited in all workplaces in the City of Long Beach as**
17 **defined in Subsection 8.68.020.R.S.**

18
19 **8.68.210 Severability.**

20 All provisions of this Chapter are severable. If any part or provision of this
21 Chapter, or the application thereof to any person or circumstance, is held
22 invalid for any reason, the remainder of this Chapter, including the
23 application of such part or provision to persons or circumstances other
24 than those to which it is held invalid, shall not be affected and shall remain
25 in full force and effect.

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY AMENDING SUBSECTION 8.68.020.R., SECTION 8.68.060, AND SUBSECTION 8.68.110.A.; AND BY ADDING SUBSECTION 8.68.020.S., AND SECTION 8.68.210, ALL RELATING TO SMOKING IN PUBLIC PLACES

The City Council of the City of Long Beach ordains as follows:

Section 1. Subsection 8.68.020.R. of the Long Beach Municipal Code is amended to read as follows:

R. "Smoking lounge" means a business establishment that is devoted to and designated specifically for the sole purpose of smoking tobacco products, including but not limited to establishments known variously as cigar shops, cigar lounges, hookah lounges, or tobacco shops. For purposes of this Chapter, "smoking lounge" means private smokers' lounge as defined in Section 6404.5 of the California Labor Code.

Section 2. Section 8.68.060 of the Long Beach Municipal Code is amended to read as follows:

8.68.060 Smoking prohibited – Enclosed public places.

A. Smoking is prohibited and is unlawful in every enclosed "public place" as defined in subsection 8.68.020.O. Every owner, manager or operator of such facility shall post signs conspicuously in the premises stating that smoking is prohibited within the "public place" as defined in

1 section 8.68.020 and in the case of motion picture theaters, such
2 information shall be shown upon the screen for at least five (5) seconds
3 before showing feature motion pictures.

4 B. This Section is not intended to prohibit smoking in any
5 "smoking lounge" as defined in Subsection 8.68.020.R. and under the
6 following conditions:

7 1. No persons under eighteen (18) years of age shall be
8 permitted within the business.

9 2. The business establishment shall have separate
10 ventilation such that air from the smoking lounge is exhausted directly
11 outside and not recirculated within the building or mixed with the general
12 dilution ventilation for the building. Windows which open to the outside
13 shall not be deemed to comply with this provision.

14
15 Section 3. Subsection 8.68.110.A. of the Long Beach Municipal Code is
16 amended to read as follows:

17 A. Smoking is prohibited in all workplaces in the City of Long
18 Beach as defined in Subsection 8.68.020.S.

19
20 Section 4. Subsection 8.68.020.S. is added to the Long Beach Municipal
21 Code to read as follows:

22 S. "Workplace" means any enclosed area of a structure or portion
23 thereof occupied by any entity and frequented by employees during the
24 normal course of their employment where clerical, professional,
25 manufacturing, business services or other normal and customary activities
26 of the entity are performed or where other work is done at that location.
27 Workplace also includes, but is not limited to, spaces in office buildings,
28 medical office waiting rooms, libraries, museums, gaming clubs, bars,

1 taverns, employee lounges, employee breakrooms, conference rooms, and
2 employee cafeterias. Workplace does not include any of the following: a
3 private home, except where such home is used as a “childcare facility” as
4 defined in subsection 8.68.020.E., and any “smoking lounge” as defined in
5 Subsection 8.68.020.R. that satisfies the conditions specified in Subsection
6 8.68.060.B.

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8 Section 5. Section 8.68.210 is added to the Long Beach Municipal Code
9 to read as follows:

10 8.68.210 Severability.

11 All provisions of this Chapter are severable. If any part or provision
12 of this Chapter, or the application thereof to any person or circumstance, is
13 held invalid for any reason, the remainder of this Chapter, including the
14 application of such part or provision to persons or circumstances other than
15 those to which it is held invalid, shall not be affected and shall remain in full
16 force and effect.

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18 Section 6. The City Clerk shall certify to the passage of this ordinance by
19 the City Council and cause it to be posted in three (3) conspicuous places in the City of
20 Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the
21 Mayor.

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I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 20__, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

City Clerk

Approved: _____
(Date)

Mayor

OFFICE OF THE CITY ATTORNEY
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