

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY AMENDING SECTIONS 8.68.020, 8.68.060, 8.68.065, 8.68.075, 8.68.090 AND SUBSECTION 8.68.110.A; ALL RELATING TO SMOKING IN PUBLIC PLACES

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

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

8.68.020 Definitions.

The following words and phrases, whenever used in this Chapter, shall be given the following definitions:

A. "Adjacent water areas" shall mean fifty feet (50') seaward of the mean high tide line of the City beaches.

B. "Bar" means an 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. Bar shall also include a nightclub or cabaret where entertainment and/or dancing are provided in addition to the consumption of alcoholic beverages or food.

C. "Beach bike path" shall mean that portion of the bike path located on the sand areas of the beach from the eastern edge of the Long Beach Shoreline Marina parking lot at approximately Alamitos Avenue easterly to the southeastern corner of the intersection of Ocean Boulevard at approximately Bayshore Avenue.

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1 D. "Beach launch ramps" shall mean the launch ramps located at  
2 the foot of Claremont Avenue and Granada Avenue.

3 E. "Childcare facility" means any location or portion thereof  
4 where children other than those of the owner, operator or proprietor are  
5 cared for or supervised in exchange for anything of value.

6 F. "Cigar" shall have the same definition as California Health and  
7 Safety Code § 104550, as currently defined or as may be amended.

8 G. "Cigarette" shall have the same definition as California Health  
9 and Safety Code § 104556 as currently defined or as may be amended.

10 H. "City facility" means any enclosed structure wherever owned  
11 or used by the City of Long Beach for its operations or activities.

12 I. "City vehicle" means any vehicle owned and operated by the  
13 City for public purposes.

14 J. "Eating establishment" means coffee shop, cafeteria, short  
15 order cafe, luncheonette, sandwich shop, soda fountain, restaurant, gaming  
16 club, bar, tavern, or any other establishment serving food.

17 K. "Electronic cigarette" means an electronic and/or battery-  
18 operated device, the use of which may resemble smoking, which can be  
19 used to deliver an inhaled dose of nicotine or other substances. "Electronic  
20 Cigarette" includes any such device, whether manufactured, distributed,  
21 marketed, or sold as an electronic cigarette, an electronic cigar, an  
22 electronic cigarillo, an electronic pipe, an electronic hookah, or any other  
23 product name or descriptor.

24 L. "Employee" means any person who is employed by any  
25 employer for direct or indirect monetary wages or profit.

26 M. "Employer" means any person who employs the services of  
27 any person other than himself or herself.

28 N. "Enclosed" means closed in by a roof and four (4) walls with

1 appropriate openings for ingress and egress but does not include areas  
2 commonly described as public lobbies.

3 O. "Motion picture theater" means any theater engaged in the  
4 business of exhibiting motion pictures.

5 P. "Outdoor dining area" means an outdoor seating area of a  
6 publicly or privately owned eating establishment that is dedicated,  
7 designed, established or regularly used as a place for the consumption of  
8 food or drinks, and all non-enclosed areas within twenty feet (20') thereof.

9 Q. "Playground", for purposes of California Health and Safety  
10 Code § 104495, is more specifically defined to mean twenty-five feet (25')  
11 from the edge of a sand area within a City park or recreational area  
12 specifically designed to be used by children and that has play equipment  
13 installed in it.

14 R. "Public place" means any enclosed area to which the public is  
15 invited or in which the public is permitted, including, but not limited to, retail  
16 stores, retail service establishments, retail food production and marketing  
17 establishments, restaurants, theaters, auditoriums, gymnasiums, waiting  
18 rooms, reception areas, educational facilities, health facilities, public  
19 transportation facilities, bowling alleys, bingo parlors, hair salons,  
20 laundromats, gaming clubs, bars, taverns, hotel and motel lobbies. A  
21 private residence is not a "public place", except that the enclosed common  
22 areas of apartment or condominium structures, if any, shall be considered  
23 "public places" for purposes of Section 8.68.060.

24 S. "Service line" means an indoor line or area in which persons  
25 await service of any kind, regardless of whether or not such service  
26 involves the exchange of money. Such service shall include, but is not  
27 limited to, sales, providing information, directions, or advice and transfers of  
28 money or goods.

1           T.     "Smoke" or "Smoking" shall mean the carrying of a lighted  
2 pipe, lighted cigar, or lighted cigarette of any kind, or the lighting of a pipe,  
3 cigar or cigarette of any kind, including, but not limited to, tobacco, or any  
4 other weed or plant.

5           U.     "Smoking lounge" means any business establishment that is  
6 dedicated to the smoking of tobacco products, including, but not limited to,  
7 establishments known variously as cigar lounges, hookah lounges or  
8 tobacco clubs. For purposes of this Chapter, "smoking lounge" means  
9 private smokers' lounge as defined in Section 6404.5 of the California Labor  
10 Code.

11          V.     "Workplace" means any enclosed area of a structure or  
12 portion thereof occupied by any entity and frequented by employees during  
13 the normal course of their employment where clerical, professional,  
14 manufacturing, business services or other normal and customary activities  
15 of the entity are performed or where other work is done at that location.  
16 Workplace also includes, but is not limited to, spaces in office buildings,  
17 medical office waiting rooms, libraries, museums, gaming clubs, bars,  
18 taverns, employee lounges, employee breakrooms, conference rooms and  
19 employee cafeterias. Workplace does not include any of the following: a  
20 private home, except where such home is used as a "childcare facility" as  
21 defined in Subsection 8.68.020.E, and any "smoking lounge" as defined in  
22 Subsection 8.68.020.U that satisfies the conditions specified in Subsection  
23 8.68.060.B.

24  
25           Section 2.     Section 8.68.060 of the Long Beach Municipal Code is  
26 amended to read as follows:

27           8.68.060     Smoking prohibited - Enclosed public places.

28           A.     Smoking is prohibited and is unlawful in every enclosed

1 "public place" as defined in Subsection 8.68.020.R. Every owner, manager  
2 or operator of such facility shall post signs conspicuously in the premises  
3 stating that smoking is prohibited within the "public place" as defined in  
4 Section 8.68.020 and in the case of motion picture theaters, such  
5 information shall be shown upon the screen for at least five (5) seconds  
6 before showing feature motion pictures.

7 B. This Section is not intended to prohibit smoking in any  
8 "smoking lounge" as defined in Subsection 8.68.020.U and in compliance  
9 with the provisions of Chapter 5.88.

10

11 Section 3. Section 8.68.065 of the Long Beach Municipal Code is  
12 amended to read as follows:

13 8.68.065 Smoking prohibited - City beaches, beach bike path and beach  
14 launch ramps.

15 Smoking shall be prohibited on all sand areas and adjacent water  
16 areas of City beaches, the beach bike path and beach launch ramps, with  
17 the exception of permitted beach concessions and permitted activities,  
18 including, but not limited to filming and/or special events.

19

20 Section 4. Section 8.68.075 of the Long Beach Municipal Code is  
21 amended to read as follows:

22 8.68.075 Smoking prohibited - Bus stops.

23 Smoking is prohibited and is unlawful at and within twenty feet (20')  
24 of any bus stop, private residential property, or while actively passing on the  
25 way to another destination.

26

27 Section 5. Section 8.68.090 of the Long Beach Municipal Code is  
28 amended to read as follows:

1           8.68.090     Smoking prohibited - Eating establishments, bars, and outdoor dining  
2                     areas.

3                 A.     Smoking is prohibited and is unlawful in every publicly or  
4                 privately owned enclosed eating establishment, including bars and  
5                 restaurants.

6                 B.     Smoking is prohibited and is unlawful in all outdoor dining  
7                 areas as defined in Subsection 8.68.020.P, except after 11:00 P.M. This  
8                 Subsection is not intended to regulate smoking in the following places and  
9                 under the following conditions:

10                    1.     A non-enclosed area of a drinking establishment, such  
11                    as a bar, that sells or offers for sale alcoholic beverages pursuant to a  
12                    license from the Department of Alcoholic Beverage Control (ABC), limits  
13                    entry to patrons age eighteen (18) and older, and where food service, if  
14                    any, is only incidental to the sale of alcoholic beverages. For purposes of  
15                    this paragraph, a drinking establishment shall not include a business with  
16                    an ABC license type 41 or type 47, both of which are issued to restaurants  
17                    and require substantial sales of meals for consumption on the premises.

18                    2.     A non-enclosed area of any eating establishment,  
19                    including bars and restaurants, for which that limited outdoor area is  
20                    designated for smoking during a special event pursuant to a special event  
21                    permit issued by the City under Chapter 5.60 of this Code. Unless  
22                    otherwise authorized by the City Manager in his/her sole discretion, a  
23                    special event under this Subsection shall not last longer than ten (10)  
24                    consecutive calendar days at one (1) site, and shall be limited to not more  
25                    than twice in any calendar year at any one (1) site.

26                 C.     Establishments that are exempt from Subsection B above,  
27                 and which maintain an outdoor dining area, shall maintain a contiguous no  
28                 smoking area of not less than two-thirds (2/3) of both the outdoor seating

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capacity or the outdoor floor space in which customers are being served.

Section 6. Subsection 8.68.090.A. of the Long Beach Municipal Code is amended to read as follows:

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

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of \_\_\_\_\_, 2018, by the following vote:

Ayes: Councilmembers: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Noes: Councilmembers: \_\_\_\_\_

\_\_\_\_\_

Absent: Councilmembers: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
City Clerk

Approved: \_\_\_\_\_  
(Date)

\_\_\_\_\_  
Mayor