



OFFICE OF THE CITY ATTORNEY  
Long Beach, California

ORD-25

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December 11, 2018

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

RECOMMENDATION:

Recommendation to declare ordinance 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, read the first time and laid over to the next regular meeting of the City Council for final reading. (Citywide)

DISCUSSION:

Pursuant to your request on August 21, 2018, this ordinance has been prepared and is submitted for your consideration.

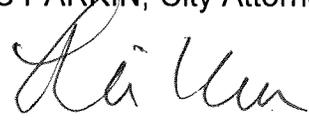
SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

CHARLES PARKIN, City Attorney

By

  
LINDA T. VU  
Deputy City Attorney

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CHAPTER 8.68 - SMOKING IN PUBLIC PLACES

8.68.010 - Purpose and findings.

The City Council finds that the smoking of tobacco, or any other weed or plant, is a medically documented danger to health and a material annoyance, inconvenience, discomfort and health hazard to those who are present in confined spaces, and in order to reduce exposure to environmental tobacco smoke and to serve the 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 and places of employment as stated and required in this Chapter.

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.
- D. "Beach launch ramps" shall mean the launch ramps located at the foot of Claremont Avenue and Granada Avenue.
- E. "Childcare facility" means any location or portion thereof where children other than those of the owner, operator or proprietor are cared for or supervised in exchange for anything of value.
- F. "Cigar" shall have the same definition as California Health and Safety Code § 104550, as currently defined or as may be amended.
- G. "Cigarette" shall have the same definition as California Health and Safety Code § 104556 as currently defined or as may be amended.
- H. "City facility" means any enclosed structure wherever owned or used by the City of Long Beach for its operations or activities.
- I. "City vehicle" means any vehicle owned and operated by the City for public purposes.
- J. "Eating establishment" means coffee shop, cafeteria, short order cafe, luncheonette, sandwich shop, soda fountain, restaurant, gaming club, bar, tavern, or any other establishment serving food.
- K. "Electronic cigarette" means an electronic and/or battery-operated device, the use of which may resemble smoking, which can be used to deliver an inhaled dose of nicotine or other substances. "Electronic Cigarette" includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor.
- ~~L.~~ "Employee" means any person who is employed by any employer for direct or indirect monetary wages or profit.
- ~~M.~~ "Employer" means any person who employs the services of any person other than himself or herself.

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- MN. "Enclosed" means closed in by a roof and four (4) walls with appropriate openings for ingress and egress but does not include areas commonly described as public lobbies.
- NO. "Motion picture theater" means any theater engaged in the business of exhibiting motion pictures.
- P. "Outdoor dining area" means an outdoor seating area of a publicly or privately owned eating establishment that is dedicated, designed, established or regularly used as a place for the consumption of food or drinks, and all non-enclosed areas within twenty feet (20') thereof.
- QQ. "Playground", for purposes of California Health and Safety Code § 104495, is more specifically defined to mean twenty-five feet (25') from the edge of a sand area within a City park or recreational area specifically designed to be used by children and that has play equipment installed in it.
- PR. "Public place" means any enclosed area to which the public is invited or in which the public is permitted, including, but not limited to, retail stores, retail service establishments, retail food production and marketing establishments, restaurants, theaters, auditoriums, gymnasiums, waiting rooms, reception areas, educational facilities, health facilities, public transportation facilities, bowling alleys, bingo parlors, hair salons, laundromats, gaming clubs, bars, taverns, hotel and motel lobbies. A private residence is not a "public place", except that the enclosed common areas of apartment or condominium structures, if any, shall be considered "public places" for purposes of Section 8.68.060.
- QS. "Service line" means an indoor line or area in which persons await service of any kind, regardless of whether or not such service involves the exchange of money. Such service shall include, but is not limited to, sales, providing information, directions, or advice and transfers of money or goods.
- RT. "Smoke" or "Smoking" shall mean 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, including, but not limited to, tobacco, or any other weed or plant.
- SU. "Smoking lounge" means any business establishment that is dedicated to the smoking of tobacco products, including, but not limited to, establishments known variously as cigar lounges, hookah lounges or tobacco clubs. For purposes of this Chapter, "smoking lounge" means private smokers' lounge as defined in Section 6404.5 of the California Labor Code.
- TV. "Workplace" means any enclosed area of a structure or portion thereof occupied by any entity and frequented by employees during the normal course of their employment where clerical, professional, manufacturing, business services or other normal and customary activities of the entity are performed or where other work is done at that location. Workplace also includes, but is not limited to, spaces in office buildings, medical office waiting rooms, libraries, museums, gaming clubs, bars, taverns, employee lounges, employee breakrooms, conference rooms and employee cafeterias. Workplace does not include any of the following: a private home, except where such home is used as a "childcare facility" as defined in Subsection 8.68.020.E, and any "smoking lounge" as defined in Subsection 8.68.020.~~S-U~~ that satisfies the conditions specified in Subsection 8.68.060.B.

8.68.030 - Smoking prohibited—Elevators.

Smoking is prohibited and is unlawful within elevators in buildings generally used by and open to the public, including elevators in office, hotel and multifamily buildings.

8.68.040 - Smoking prohibited—Hospitals, healthcare facilities and childcare facilities.

- A. Smoking is prohibited in public areas of healthcare facilities and hospitals, as defined in California Health and Safety Code § 1250.

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B. "Staff and visitor smoking prohibited" signs shall be conspicuously posted in public areas of healthcare facilities.

C. Smoking is prohibited in all childcare facilities as defined in Subsection 8.68.020.E.

8.68.050 - Smoking prohibited—Public meeting rooms.

Smoking is prohibited and is unlawful in public meeting rooms, hearing rooms, conference rooms, chambers and places of public assembly in which public business is conducted, when the public business requires or permits direct participation or observation by the general public.

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

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

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

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

8.68.066 - Smoking prohibited—City parks and other recreation areas.

A. Smoking shall be prohibited in any outdoor area that has been improved or developed by or on behalf of the City, and open to the general public for park or open space use, including, but not limited to, public parks, picnic areas, playgrounds, sports or playing fields, walking paths, gardens, hiking trails, bike paths, and any other areas designated a park by the Director of the Department of Parks and Recreation.

B. The provisions of this Section shall not apply to Municipal golf courses, or permitted activities, including, but not limited to filming and/or special events.

8.68.070 - Smoking prohibited—Public restrooms.

Smoking is prohibited and is unlawful in public restrooms.

8.68.075 - Smoking prohibited—Bus stops.

Smoking is prohibited and is unlawful at and within twenty feet (20') of any bus stop, ~~with the exception of designated outdoor dining areas, private residential property, or while actively passing on the way to another destination.~~

8.68.080 - Smoking prohibited—Indoor service lines.

Smoking is prohibited and is unlawful in indoor service lines in which more than one (1) person is giving or receiving services of any kind.

8.68.085 - Smoking prohibited—Farmers' markets.

Smoking is prohibited and is unlawful at any farmers' market and within twenty feet (20') of all entrances and exits of farmers' markets, as defined in Subsection 3.80.180.G of the Long Beach Municipal Code.

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8.68.090 - Smoking prohibited—~~Eating establishments, and bars, and outdoor dining areas.~~

- A. ~~Smoking is prohibited and is unlawful in every publicly or privately owned enclosed coffee shop, cafeteria, short order cafe, luncheonette, sandwich shop, soda fountain, restaurant, gaming club, bar, tavern or other eating establishment, including bars and restaurants serving food.~~
- B. ~~Establishments, as defined in Subsection A, which maintain an outdoor seating area shall maintain a contiguous no smoking area of not less than two-thirds (2/3) of both the outdoor seating capacity or the outdoor floor space in which customers are being served.~~
- B. Smoking is prohibited and is unlawful in all outdoor dining areas as defined in Subsection 8.68.020.P, except after 11:00 P.M. This Subsection is not intended to regulate smoking in the following places and under the following conditions:
  - 1. A non-enclosed area of a drinking establishment, such as a bar, that sells or offers for sale alcoholic beverages pursuant to a license from the Department of Alcoholic Beverage Control (ABC), limits entry to patrons age eighteen (18) and older, and where food service, if any, is only incidental to the sale of alcoholic beverages. For purposes of this paragraph, a drinking establishment shall not include a business with an ABC license type 41 or type 47, both of which are issued to restaurants and require substantial sales of meals for consumption on the premises.
  - 2. A non-enclosed area of any eating establishment, including bars and restaurants, for which that limited outdoor area is designated for smoking during a special event pursuant to a special event permit issued by the City under Chapter 5.60 of this Code. Unless otherwise authorized by the City Manager in his/her sole discretion, a special event under this Subsection shall not last longer than ten (10) consecutive calendar days at one (1) site, and shall be limited to not more than twice in any calendar year at any one (1) site.
- C. Establishments that are exempt from Subsection B above, and which maintain an outdoor dining area, shall maintain a contiguous no smoking area of not less than two-thirds (2/3) of both the outdoor seating capacity or the outdoor floor space in which customers are being served.

8.68.095 - Mobile food preparation vehicle.

Smoking is prohibited and is unlawful at and within forty feet (40') of any operating mobile food preparation vehicle, as defined in Section 5.37.110 of the Long Beach Municipal Code.

8.68.100 - Smoking prohibited—Retail food production and marketing establishments.

Smoking is prohibited and unlawful in any retail food marketing establishments including grocery stores and supermarkets.

8.68.110 - Regulation of smoking in the workplace.

- A. Smoking is prohibited in all workplaces in the City of Long Beach as defined in Subsection 8.68.020.FV.
- B. Smoking is prohibited in conference and meeting rooms, classrooms, auditoriums, restrooms, medical facilities, hallways, elevators, cafeteria, lunchrooms, employee lounges, employee breakrooms, designated eating areas and common areas.
- C. This Section is not intended to regulate smoking in the following places and under the following conditions:
  - 1. A private home which may serve as a workplace except when used as a "childcare facility" as defined in Subsection 8.68.020.E; or
  - 2. Any property owned, leased or used by governmental agencies other than the City of Long Beach.

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D. The provisions of Sections 8.68.090 and 8.68.100 shall govern the public access areas of such facilities; however, such employers shall otherwise comply with provisions of this Section 8.68.110.

8.68.120 - Prohibition of electronic cigarette use in smoke-free places and other regulations.

- A. It shall be a violation of this Chapter to use an electronic cigarette in any place within the City where smoking is prohibited by law.
- B. No person or entity shall knowingly permit the use of electronic cigarettes in an area under the legal or de facto control of that person or entity and in which smoking is prohibited by law.
- C. All other regulations and prohibitions contained in this Chapter relating to tobacco products shall apply the same to electronic cigarettes.

8.68.130 - Posting of signs required.

- A. Except where other signs are required, whenever in this Code smoking is prohibited, conspicuous signs shall be posted so stating, containing all capital lettering not less than one inch (1") in height on a contrasting background. It is the duty of the owner, operator, manager, or other persons having control of such room, building, workplace, or other place where smoking is prohibited, to post such signs or to cause such signs to be posted.
- B. A warning sign must be posted at each sales counter and on each vending machine where tobacco products are sold. This warning sign must be posted in a place that can be clearly seen by the public, and the size and format of the warning sign shall comply with California Code of Regulations, Title 17.
- C. Notwithstanding this Section, the presence or absence of signs shall not be a defense to the violation of any other provision of this Chapter.

8.68.140 - Structural modifications not required.

- A. It shall be the responsibility of employers to provide smoke-free areas for nonsmokers within existing facilities to the maximum extent possible, but employers are not required to incur any expense to make structural or other physical modifications in providing these areas.
- B. Nothing in this Chapter shall require the owner, operator, or manager of any theater, auditorium, healthcare facility, or any building, facility, structure, or business, to incur any expense to make structural or other physical modifications to any area or workplace.
- C. Nothing in this Section shall relieve any person from the duty to post signs or adopt policies as required by this Chapter.

8.68.150 - Administration and enforcement.

- A. The no smoking ordinance established by this Chapter shall be administered by the Department of Health and Human Services.
- B. Any person may register a complaint for an alleged non-compliance with this Chapter with the Department of Health and Human Services.

8.68.160 - Exemptions.

Any owner or manager of a business or other establishment subject to this Chapter may apply to the City Health Officer for an exemption or modification to any provisions of this Chapter due to unusual circumstances or conditions.

- A. Such exemption shall be granted only if the City Health Officer finds from the evidence presented by the applicant for exemption at a public hearing that the applicant cannot comply with the provisions of this Chapter for which an exemption is requested without incurring

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expenses for structural or other physical modifications, other than posting signs, to buildings and structures.

- B. The applicant for an exemption shall pay concurrent with the application, the fee, as prescribed by resolution of the City Council, to cover cost of the hearing and noticing of the hearing.

8.68.170 - City facilities.

There shall be no smoking in any "City facility" as defined in Subsection 8.68.020.H or in any "City vehicle" as defined in Subsection 8.68.020.I or in any covered area of the Long Beach Airport, notwithstanding any exception or exemption contained in any other provision of this Chapter.

8.68.180 - Tobacco products distribution.

- A. No person or entity shall sell or otherwise distribute any cigarette or other tobacco product unless such cigarette or tobacco product is in the manufacturer's original package with all required health warnings.
- B. No person or entity shall distribute or furnish without charge or cause or authorize distribution or furnishing of any cigarette or other tobacco product in any public place or at any event to which the public is invited unless such activity is authorized in a permit for staging of a special event which is subject to revocation for violation of the requirement of Subsection A of this Section.
- C. The provision of Subsection B of this Section shall not apply to private functions or nightclubs, where minors are not present and such distribution is authorized by the proprietor.

8.68.190 - Billboard advertising.

No person or entity shall place, establish, keep, maintain or locate any advertisement for any tobacco product on any billboard within five hundred feet (500') of or so oriented that the message portion of the sign is visible from any school, childcare center, nursery school, hospital, place of worship or recreational facility.

8.68.200 - Violations and penalties.

Any person or entity violating any provision of this Chapter is guilty of an infraction, and upon conviction thereof, shall be punished by a fine not to exceed one hundred dollars (\$100.00) for a first violation, two hundred dollars (\$200.00) for a second violation within one (1) year, and five hundred dollars (\$500.00) for a third and for each subsequent violation within one (1) year.

8.68.210 - Retaliation.

No person shall discharge, refuse to hire, or in any other manner retaliate against any employee, applicant, or patron exercising any right or privilege created by this Chapter.

8.68.220 - Severability.

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

- 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

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

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

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

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

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

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

OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

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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