

**Smoking in Workplaces and Enclosed Public Places
Shasta County, California
Chapter 8.45.**

SMOKING IN WORKPLACES AND ENCLOSED PUBLIC PLACES

Sections:

- 8.45.010 Findings and purpose.
- 8.45.020 Definitions.
- 8.45.030 Prohibition of smoking in county buildings and enclosed public places.
- 8.45.040 Regulation of smoking in stadiums.
- 8.45.050 Regulation of smoking in places of employment.
- 8.45.060 Where smoking not regulated.
- 8.45.070 Prohibition of vending machine sales.
- 8.45.080 Posting of signs.
- 8.45.090 Nonretaliation.
- 8.45.110 Enforcement.
- 8.45.120 Violations and penalties.
- 8.45.130 Public education.
- 8.45.140 Other applicable laws.

8.45.010 Findings and purpose.

The board of supervisors of the county finds that:

- A. Smoking is responsible for the premature deaths of four hundred thirty-four thousand Americans each year from lung cancer, heart disease, respiratory illness and other disease;
- B. Tobacco smoke is a major contributor to indoor air pollution and is responsible for fifty-three thousand deaths among nonsmokers each year;
- C. Breathing sidestream or secondhand smoke is a significant health hazard for certain population groups, including children, elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease;
- D. Health hazards induced by breathing sidestream and secondhand smoke include lung cancer, heart attack, respiratory infection, decreased exercise tolerance, decreased respiratory function, broncho constrictions, and bronchospasm;
- E. Nonsmokers breathing sidestream or secondhand smoke may experience a loss of job productivity or may be forced to take periodic sick leave because of adverse reactions to breathing smoke; and
- F. The smoking of tobacco, or any other weed or plant is a proven danger to health.

The health, safety, and general welfare of the residents of persons employed in, and persons who frequent the county would be benefited by the elimination of smoking in workplaces and enclosed public places.

The board of supervisors of the county finds and declares that the purposes of this chapter are (1) to protect the public health and welfare by prohibiting smoking in enclosed public places and places of employment; and (2) to guarantee the right of nonsmokers to breathe smoke-free air, and to recognize that the need to breathe smoke-free air shall have priority over the desire to smoke. (Ord. 93-3 § 2 (part), 1993)

8.45.020 Definitions.

The following words and terms are used and defined as follows for the purposes of this chapter, unless the context in which any word or term is used requires another usage or meaning:

"Bar" means an area or establishment which is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food, if any, is only incidental to the consumption of such beverages. Although a restaurant may contain a bar, the term bar shall not include the restaurant dining area.

"Business" means any sole proprietorship, partnership, joint venture, corporation or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered.

"Employee" means any person who is employed by any employer in consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services for a nonprofit entity.

"Employer" means any person, partnership, corporation, or governmental, public or other nonprofit entity, which employs the services of one or more employees.

"Enclosed area" means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of door or passage ways) which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling. "Enclosed" shall mean the condition of being an enclosed area.

"Place of employment" means any enclosed area under the control of an employer which one or more employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference and class rooms, employee cafeterias and hallways. A private residence is not a place of employment unless it is used as a child care, health care, or other care providing facility which is required by state law or regulation to be licensed as such.

"Public place" means any place to which the public is invited or in which the public is permitted, and includes without limitation those places specified in Section 8.45.030(B). A private residence is not a public place.

"Restaurant" means any restaurant, coffee shop, cafeteria sandwich stand, private or public school cafeteria, and any other eating establishment which gives or offers for sale food to the public, guests, or employees, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities, except that the term restaurant shall not include a cocktail lounge or tavern if said cocktail lounge or tavern is a bar as defined in this section.

"Service line" means any indoor line at which one or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.

"Smoking" means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe or other object containing tobacco or any other plant or combustible substance in any manner or in any form.

"Sports arena" means a sports pavilion, gymnasium, health spa boxing arena swimming pool, roller or ice skating rink, bowling alley and other similar enclosed place where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.

"Stadium" means a stadium or arena with open-air seating.

"Vending machine" means any self-service device or object holding goods which are intended for sale to individual consumers and which are delivered to the purchaser mechanically or passively upon the insertion of currency or tokens into the device. (Ord. 93-3 § 2 (part), 1993)

8.45.030 Prohibition of smoking in county buildings and enclosed public places.

A. Smoking is prohibited in:

1. All enclosed areas of all buildings or other structures which are owned or leased by the county or any agency or department thereof; and
2. All vehicles which are owned or leased by the county or any agency or department thereof.

B. Smoking is prohibited in all those enclosed areas of any public place which are intended to be accessible to or which are customarily used by the general public. Such public places include, but are not limited to the following:

1. Buses, taxicabs and other means of public transit which are based in and subject to the authority of the county;
2. Public transit stations or depots;
3. Retail stores and any other commercial outlets open to all or any segment of the public;
4. Restaurants, including those in private clubs;
5. Bars, including those in private clubs;
6. Aquariums, galleries, libraries and museums;
7. Any theater or other facility which is primarily used for exhibiting any motion picture, stage, drama lecture, musical recital or other similar performance, except that actors may smoke as part of a stage production performed therein;
8. Sports arenas and convention halls;
9. Every room, chamber, or other place used for public meetings or public assembly while a meeting which is open to the general public is in progress and for a period of time preceding such meeting as necessary to ensure that residual smoke is not present during the meeting;
10. Waiting rooms, sleeping rooms, hallways, wards and semiprivate and private rooms of private and public health facilities, including, but not limited to, hospitals, clinics, physical therapy facilities, doctors' offices and dentists' offices;
11. Malls and other multiple-unit commercial facilities;
12. Polling places;
13. Bingo parlors;
14. Offices when open to the public, including but not limited to attorneys' and other professionals' offices;
15. Banks;
16. Laundromats;
17. Hotels and motels, except as provided in Section 8.45.060;
18. Educational facilities;

19. Retail service establishments; and

20. Restaurants, hotel and motel conference or meeting rooms and public or private assembly rooms if one or more employees normally frequent the enclosed area during the course of employment and while the area is being used for private functions.

C. Without limiting the generality of subsection B of this section, smoking is specifically prohibited in the following areas of any public place:

1. Waiting areas (only if the public place is enclosed);

2. Restrooms;

3. Service lines (only if the public place is enclosed);

4. Elevators; and

5. Lobbies, hallways and other common areas.

D. Notwithstanding any other provision of this section, any owner, operator, manager, or other person who controls any establishment or facility may declare that entire establishment or facility as a nonsmoking establishment, whether enclosed or not. (Ord. 93-3 § 2 (part), 1993)

8.45.040 Regulation of smoking in stadiums.

Smoking shall be prohibited in all seating sections and within twenty feet of such sections of any stadium during any public event held at such stadium. This section shall not be construed to permit smoking in any enclosed areas of a stadium in which smoking is otherwise prohibited by any provision of this chapter. (Ord 93-3 § 2 (part), 1993)

8.45.050 Regulation of smoking in places of employment.

A. Except as provided in subsection E of this section, smoking is prohibited in all enclosed places of employment. Each employer associated with each such place of employment shall make reasonable efforts, as necessary, to ensure that all enclosed areas in the place of employment controlled by such employer are free from tobacco smoke or other smoke emanating from smoking products. As used in this subsection, "reasonable efforts" shall not include the incurring of any expense to make structural or other physical modifications. Nothing in this section shall be construed to prevent an employer in its discretion from making any such modifications on a voluntary basis.

B. Within ninety days of the effective date of the ordinance codified in this chapter, each employer having an enclosed place of employment located within the county shall

adopt, implement, make known and maintain a written smoking policy which shall contain the following requirements:

Smoking shall be prohibited in all enclosed facilities within a place of employment without exception. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, and all other enclosed areas.

C. The employer shall communicate the requirements of subsection B of this section to all employees concurrently with adoption of the smoking policy.

D. An employer shall supply a written copy of the employer's smoking policy which includes such requirements upon request to any current or prospective employee of such employer.

E. Subsection A of this section shall apply to any enclosed workplace occupied by a single individual, whether a sole proprietor, sole employee of a closely-held corporation or otherwise, if such workplace shares with any other enclosed workplace a common heating, cooling or ventilation system or any other opening through which smoke may pass into any other enclosed workplace.

F. Subsection A of this section shall apply to those enclosed areas of buildings owned or used by private clubs, fraternal organizations, health clubs and similar groups, if one or more employees normally frequent the enclosed area during the course of employment and while the area is being used by members or guests of the club, organization or group. (Ord. 93-3 § 2 (part), 1993)

8.45.060 Where smoking not regulated.

A. Notwithstanding any other provision of this chapter, the following areas shall not be subject to the smoking restrictions of this chapter:

1. Private residences, except when used as a child care, health care, or other care-providing facility required to be licensed as such by any governmental entity; and

2. Hotel and motel rooms rented to guests. (Ord. 93-3 § 2 (part), 1993)

8.45.070 Prohibition of vending machine sales.

A. "Tobacco vending machine" means any machine or device designated for or used for the vending of cigarettes, cigars, tobacco, or tobacco products upon the insertion of coins, bills, trade checks or slugs.

B. Effective January 1, 1994, no cigarette or other tobacco product may be sold, offered for sale, or distributed by or from a vending machine or appliance, or any other device designed or used for vending purposes. (Ord. 93-3 § 2 (part), 1993)

8.45.080 Posting of signs.

Within thirty days of the effective date of the ordinance codified in this chapter, signs saying "No Smoking" or displaying the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly, sufficiently and conspicuously posted in every building or other place where smoking is prohibited by this chapter, by the owner, operator, manager or other person having control of or occupying such building or enclosed area. The posting of any sign allowing or encouraging smoking in such a place is prohibited. Any failure to comply in whole or in part with the requirements of this section shall not relieve any person or entity from any obligation to comply with any other provisions of this chapter applicable to such person or entity. (Ord. 93-3 § 2 (part), 1993)

8.45.090 Nonretaliation.

No person or employer shall discharge, refuse to hire, discipline, or in any manner retaliate against any employee or applicant for employment because such employee or applicant claims or exercises any right to a smoke-free environment afforded by this chapter. (Ord. 93-3 § 2 (part), 1993)

8.45.110 Enforcement.

A. The tobacco control/education division of the department of public health shall have authority to communicate with employers and those having control of any place wherein smoking is regulated or prohibited pursuant to this chapter for the purposes of providing information, notifying of alleged violations of this chapter, informally attempting to resolve disputes that may arise hereunder, or otherwise implementing the provisions of this chapter in a manner not inconsistent with this chapter or any other laws.

B. Any owner, manager, operator, or employee of any establishment regulated by this chapter may inform persons in violation of any provision of this chapter of the appropriate provisions thereof.

C. The department of resource management shall verify, while an establishment is undergoing otherwise mandated inspections, that the posting requirements of Section 8.45.080 are met and may issue citations for violations of that section.

D. This chapter may be enforced by the public health officer and his or her designees, who shall have the authority to issue citations pursuant to Section 8.45.120. (Ord. 93-3 § 2 (part), 1993)

8.45.120 Violations and penalties.

A. It is a violation of this chapter for any person who owns, manages, operates or otherwise controls the use of any enclosed area of a public place subject to regulation under this chapter to fail to comply with any applicable provision of this chapter. However, an owner, manager, operator or employee of an enclosed area described in Section 8.45.030(B) or (C) is not obligated to enforce the prohibition against smoking in the enclosed area as against a customer or other member of the public visiting the enclosed area, and the failure to enforce the prohibition shall not subject the owner, manager, operator or employee to prosecution under this chapter.

B. It is a violation of this chapter for any person to smoke in any area where smoking is prohibited by the provisions of this chapter.

C. Any person in violation of any provision of this chapter shall be guilty of an infraction, punishable by a civil fine not exceeding one hundred dollars for each violation.

D. A separate offense is committed for each and every day, or part of a day, during which any violation is caused, committed, continued or permitted. Each offense is punishable separately from every other offense. (Ord. 93-3 § 2 (part), 1993)

8.45.130 Public education.

The department of public health shall engage in a continuing program to explain and clarify the purposes and requirements of this chapter to persons affected by it, and to guide owners, operators, and managers in their compliance with it. Such program may include publication of a brochure for affected businesses and individuals explaining the provisions of this chapter. (Ord. 93-3 § 2 (part), 1993)

8.45.140 Other applicable laws.

This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by any other applicable law. (Ord. 93-3 § 2 (part), 1993)