

ORDINANCE NO. SCC 2014-06

**AN ORDINANCE OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF SHASTA
AMENDING CERTAIN PROVISIONS OF CHAPTER 8.45 OF
THE SHASTA COUNTY CODE CONCERNING SMOKING AND
THE USE OF ELECTRONIC CIGARETTES IN WORKPLACES AND
ENCLOSED PUBLIC PLACES**

The Board of Supervisors of the County of Shasta ordains as follows:

SECTION I. Amendment of Section 8.45.010 of the Shasta County Code

Section 8.45.010 of the Shasta County Code is amended to read in its entirety as follows:

8.45.010 Findings and Purpose

The board of supervisors of the county finds that:

- A. Smoking is responsible for the premature deaths of approximately four hundred eighty thousand Americans each year from lung and other cancers, heart disease, respiratory illness, and other disease.
- B. Tobacco smoke is a major contributor to indoor air pollution and is responsible for approximately forty 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 or secondhand smoke include lung cancer, heart attack, respiratory infection, decreased exercise tolerance, decreased respiratory function, broncho-constriction, 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.
- F. Credible studies have demonstrated that there are health concerns regarding the use of electronic smoking devices by users of the devices and bystanders.
- G. Although electronic smoking devices do not produce the same smoke as conventional tobacco product cigarettes, they do produce a cloud of vapors

containing dangerous substances to which users and bystanders are exposed. Existing studies on electronic smoking devices' vapor emissions and cartridge contents have found a number of dangerous substances and concerns including:

1. The existence of chemicals known to the State of California to cause cancer such as formaldehyde, acetaldehyde, lead, nickel, and chromium;
 2. The existence of very small particulate matter that reaches deep into the lungs (PM 2.5), xylene, acrolein, tin, toluene, and aluminum, which are associated with a range of negative health effects such as skin, eye, and respiratory irritation, neurological effects, damage to reproductive systems, and even premature death from heart attacks and stroke;
 3. An increase in the reports of poisonings from electronic smoking devices and products, including acute poisonings of young children;
 4. The existence of nicotine in most electronic smoking devices. Nicotine is a highly addictive neurotoxin included in the Proposition 65 list of Chemicals Known to the State to Cause Cancer or Reproductive Toxicity and is known to cause birth defects. Nicotine is a component of the emissions from electronic smoking devices containing nicotine and involuntarily exposes non-users to nicotine.
- H. Scientific studies and FDA testing have demonstrated that the solutions in electronic smoking devices contain toxic chemicals and that labeling has often misrepresented nicotine content contained in the devices.
- I. The Centers for Disease Control and Prevention has reported that from 2011-2013, the use of electronic smoking devices by never-smoking U.S. middle and high school students more than tripled, including more than a quarter of a million never-smoking 6-12 graders who initiated using electronic smoking devices.
- J. There are products other than electronic smoking devices approved by the FDA for smoking cessation. To date, scientific studies have not consistently demonstrated significant benefit of electronic smoking devices for smoking cessation and these devices are not approved by the FDA for smoking cessation.
- K. With certain exceptions, state law prohibits smoking inside public buildings and at places of employment.
- L. The use of electronic smoking devices in locations where the smoking of tobacco is prohibited may cause confusion and uncertainty, and make it more difficult to enforce smoke-free environments and other prohibitions on smoking tobacco.

- M. The smoking of tobacco, or any other weed or plant is a proven danger to health.
- N. The health, safety, and general welfare of the residents of, persons employed in, and persons who frequent the county would be benefitted by the elimination of smoking and the use of electronic smoking devices 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 (which includes the use of electronic smoking devices) 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.

SECTION II. Amendment of Section 8.45.020 of the Shasta County Code

Section 8.45.020 of the Shasta County Code is amended to read in its entirety as follows:

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.

“Electronic Smoking Device” means an electronic and/or battery-operated device, which can be used to deliver an inhaled dose of nicotine or other substances. “Electronic Smoking Device” 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. “Electronic Smoking Device” does not include any product specifically approved by the United States Food and Drug Administration for use in the mitigation, treatment, or prevention of disease.

“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” or “Enclosed” 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.

“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.

“Smoke” means the gases, particles, or vapors released into the air as a result of combustion, electrical ignition, or vaporization of any substance, when the apparent or usual purpose of the combustion, electrical ignition, or vaporization is human inhalation of the byproducts, except when the combusting or vaporizing material contains no tobacco, nicotine, alcohol, nor controlled substance *and* the purpose of inhalation is solely olfactory, such as, for example, smoke from incense. The term “Smoke” includes, but is not limited to, tobacco smoke and smoke or vapors of any kind from Electronic Smoking Devices.

“Smoking” means engaging in an act that generates smoke, such as, for example: possessing a lighted pipe, a lighted hookah pipe, a lighted cigar, operating an Electronic Smoking Device, or a lighted cigarette, of any kind; or lighting or igniting a pipe, a hookah pipe, a cigar, a cigarette or an Electronic Smoking Device, of any kind.

“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.

“Tobacco Product” means any product that contains tobacco, is derived from tobacco, or contains synthetically produced nicotine and is intended for human consumption. “Tobacco Product” does not include any cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence.

“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.

SECTION III. Amendment of subsection (B) of Section 8.45.050 of the Shasta County Code

Subsection (B) of Section 8.45.050 of the Shasta County Code is amended to read in its entirety as follows:

- B. 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.

SECTION IV. Amendment of Section 8.45.070 of the Shasta County Code

Section 8.45.070 of the Shasta County Code is amended to read in its entirety as follows:

8.45.070 Prohibition of vending machine sales.

- A. “Vending machine” means any machine or device designated for or used for the vending of cigarettes, cigars, tobacco, electronic smoking devices, or tobacco products upon the insertion of coins, bills, trade checks, or slugs.
- B. No cigarette, electronic smoking device, or 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.

SECTION V. Amendment of Section 8.45.080 of the Shasta County Code

Section 8.45.080 of the Shasta County Code is amended to read in its entirety as follows:

8.45.080 Posting of Signs

Signs saying "No Smoking" or displaying the international "No Smoking" symbol (consisting of a pictorial representation of a 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.

SECTION VI. Amendment of Section 8.45.140 of the Shasta County Code

Section 8.45.140 of the Shasta County Code is amended to read in its entirety as follows:

8.45.140 Other applicable laws and regulations.

- A. This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by any other applicable law.
- B. This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted in any establishment, facility, or location by any employer, owner, operator, manager, or other person who exercises control over such establishment, facility, or location.

SECTION VII.

All other provisions of Chapter 8.45 of the Shasta County Code not specifically amended by this ordinance remain in full force and effect.

SECTION VIII.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity and enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases of this ordinance, or their application to any other person or circumstance.

SECTION IX.

All former ordinances and resolutions, or parts thereof, conflicting or inconsistent with the provisions of this ordinance are hereby repealed. The adoption of this ordinance shall not in any manner affect any action or prosecution for violation of ordinances in effect prior to the effective date of this ordinance, be construed as a waiver of any license, fee, or penalty required by or resulting from any such ordinance, or affect the validity of any bond (or cash deposit in lieu thereof) required to be posted, filed, or deposited pursuant to such ordinance.

SECTION X.

This ordinance shall take effect and be in full force and effect 30 days after its passage. The Clerk shall cause this ordinance to be published as required by law.

DULY PASSED AND ADOPTED this 16th day of December, 2014 by the Board of Supervisors of the County of Shasta by the following vote:

AYES: Supervisors Giacomini, Schappell, Baugh, Kehoe, and Moty
NOES: None
ABSENT: None
ABSTAIN: None
RECUSE: None



LES BAUGH, CHAIRMAN
Board of Supervisors
County of Shasta
State of California

ATTEST:

LAWRENCE G. LEES
Clerk of the Board of Supervisors

By: 
Deputy

THIS INSTRUMENT IS
A CORRECT COPY OF THE ORIGINAL
ON FILE IN THIS OFFICE

ATTEST DEC 17 2014

CLERK OF THE BOARD
Supervisors of the County of Shasta, State of California
By: 