



CITY COUNCIL AGENDA REPORT



DEPARTMENT Community Services

MEETING DATE October 19 2010

PREPARED BY Craig A. Steele, City Attorney

AGENDA LOCATION AR-1

TITLE Amendment to Chapter 12 32 of the Monrovia Municipal Code Relating to Parks Introduction and First Reading of Ordinance No 2010-17

OBJECTIVE Introduction of ordinance amending the City's Parks Ordinance

BACKGROUND Staff has identified the need to update and streamline the Parks Ordinance codified as Chapter 12 32 of the Monrovia Municipal Code (MMC) and to establish a process that allows a designated City Official to determine whether a Parks Ordinance violation shall be punishable as an infraction a misdemeanor, or an administrative citation. Over the past few months, the City Attorney's office has worked with Staff to incorporate the City's current administrative citation process into the existing Parks Ordinance, clarify existing provisions in the Parks Ordinance that may be vague, confusing or outdated, and amend certain restrictions to be consistent with proposed amendments to the City's animal control regulations. To effect these changes we have drafted several amendments to Chapter 12 32 of the MMC for consideration by the City Council.

The Community Services Commission has considered the proposed changes and recommends that the City Council adopt the amendments to Chapter 12 32 of the MMC.

ANALYSIS The proposed amendments to the Parks Ordinance make the following changes:

Designation of City parks and applicability of regulations Provides that park regulations are applicable not only to Monrovia Canyon Park but also to other City-designated parks (Grand Avenue Park, Julian Fisher Park, Olive Avenue Park, Recreation Park, Monrovia Library Park, and Rotary Parks) and any future public place or park that the City designates and opens up for the public's recreational use.

Hours of operation Establishes hours of operation for each City-designated park.

Restrictions applicable to city parks and the use of park facilities Clarifies the types of activities and behavior prohibited in city parks. Provisions relating to wildlife and other animals, the operation of vehicles, and fires and flame devices were added and/or expanded.

Violations punishable as an administrative citation, misdemeanor, or infraction Provides that violations of Chapter 12 32 may be punishable as an infraction, misdemeanor, or administrative citation.

Special park closures Authorizes the City Manager, the Fire Chief, or the Police Chief to declare any public park closed to protect public health, safety, and welfare.

Power to issue citations Deletes the provision giving public park employees the power of special policemen to arrest for violations of the Parks Ordinance, and instead authorizes any employee or officer of the Community Services Department designated by the Community Services Director, the Fire Department, or the Police Department to issue an administrative citation in accordance with Chapter

AR-1

1 17 of the MMC and to determine whether a violation shall be punishable as an infraction a misdemeanor, or an administrative citation

FISCAL IMPACT None

OPTIONS The City Council has the following options to consider,

- 1 Amend Chapter 12 32 of the Monrovia Municipal Code Relating to Parks as outlined in this report
- 2 Do not Amend Chapter 12 32 of the Monrovia Municipal Code Relating to Parks as outlined in this report and direct staff to explore other options

RECOMMENDATION Staff recommends that the City Council introduce the ordinance

COUNCIL ACTION REQUIRED If the City Council concurs, the appropriate action would be a motion to introduce, waive further, and read by title only Ordinance No 2010-17

ORDINANCE NO 2010-17

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
MONROVIA, CALIFORNIA, AMENDING CHAPTER 12 32 OF
TITLE 12 OF THE MONROVIA MUNICIPAL CODE RELATING
TO PARKS**

THE CITY COUNCIL OF MONROVIA DOES ORDAIN AS FOLLOWS

Section 1 Chapter 12 32 (Parks) of Title 12 (Streets Sidewalks and Public Places)
of the Monrovia Municipal Code is hereby amended to read as follows

“Chapter 12 32 PARKS

Sections

<u>12 32 010</u>	City parks designated
<u>12 32 020</u>	Applicability of chapter
<u>12 32 030</u>	Recreational activity
<u>12 32 040</u>	Hours of operation
<u>12 32 050</u>	Restrictions applicable to city parks and the use of park facilities
<u>12 32 060</u>	Violations punishable as administrative citation, infraction or misdemeanor
12 32 070	Special park closures
<u>12 32 070</u>	Power to issue citations

§ 12 32 010 CITY PARKS DESIGNATED

The following areas within the city are hereby designated as public parks for the recreational use of the public

Monrovia Canyon Park, on North Canyon Boulevard,
Grand Avenue Park, on North Grand Avenue and Prospect Avenue,
Julian Fisher Park, on South California Avenue and Almond Avenue,
Olive Avenue Park on West Olive Avenue and Mayflower Avenue,
Recreation Park, on South Shamrock Avenue and Lemon Avenue
Monrovia Library Park, on South Myrtle Avenue and Lime Avenue
Rotary Park, on South California Avenue and Lime Avenue

§ 12 32 020 APPLICABILITY OF CHAPTER

The rules and regulations prescribed in this chapter shall govern the use of the city parks designated above as well as any future public place or park that the city designates and opens for the recreational use of the public including, without limitation, the Hillside Wilderness

Preserve The City Council may, in its discretion, apply additional or more restrictive rules and regulations to specific parks or public places based on unique circumstances

§ 12 32 030 RECREATIONAL ACTIVITY

Recreational activity in any of the designated city parks, use of such parks, and city-sponsored recreational activity at any facility located at such parks shall be under the direction and control of the Community Services Director

§ 12 32 040 HOURS OF OPERATION

- A Grand Avenue Park shall be open to the public between dawn and eight o'clock (8 00) p m of each day
- B Monrovia Canyon Park shall be open to the public between dawn and eight o'clock (8 00) p m of each day
- C The following city parks shall be open to the public between dawn and ten o'clock (10 00) p m of each day Julian Fisher Park, Olive Avenue Park, Recreation Park, Rotary Park, and Monrovia Library Park However, the playground at Monrovia Library Park shall be open to the public only between dawn and dusk of each day
- D Use of city parks at times other than those specified in this section may be authorized by a special permit issued by the Community Services Department
- E The City Manager, the Public Works Director, or the Community Services Director may adjust the hours of closure at his or her discretion

§ 12 32 050 RESTRICTIONS APPLICABLE TO CITY PARKS AND THE USE OF PARK FACILITIES

The following conduct or activity shall be prohibited in the use of any park facility and within the limits of any city park

- A Breaking defacing, disturbing, marking or writing upon any building, monument, fence, cage pen, monument, statue, bench or other structure, apparatus or property,
- B Defacing destroying covering damaging or removing any placard notice or sign or parts thereof, whether permanent or temporary, posted or exhibited by the city,
- C Camping or lodging unless authorized by a special permit from the Community Services Department,
- D Throwing, depositing, leaving, scattering or dropping or abandoning bottles cans broken glass hot coals, ashes papers, trash sewage, waste or other materials except in receptacles provided for such purposes,
- E Fires and flame devices
 - (1) Making or kindling any fire except in designated barbeques provided by the city or camping spaces as authorized by a special permit from the Fire Department,
 - (2) Lighting, smoking carrying throwing or dropping any burning or smoldering portion of any cigarette, cigar, match or other burning substance,

- (3) Carrying or discharging any firearms, firecrackers, rockets, torpedoes, fireworks or other explosive or blasting devices, air guns or slingshots
- (4) Tampering, mutilating, destroying or removing installed Fire Department locks, barricades, seals, cables, signs and markers, or allowing any of these activities to occur,
- (5) Unlocking installed Fire Department gates, doors, barriers, and locks or allowing any of these activities to occur

F Plants, streams, ponds, and other natural features

- (1) Cutting, injuring, disturbing, plucking, pulling up or out, taking or removing any shrub, bush, tree, plant or flower,
- (2) Cutting or removing any wood, turf, grass, soil, rock, sand or gravel,
- (3) Digging any trenches, holes or other excavations
- (4) Swimming, bathing, wading in or polluting any stream, pond, lake or fountain
- (5) Throwing any trash, rubbish, vegetable or animal matter of any kind in any stream, pond, lake or fountain,
- (6) Discharging waste water or any other wastes in the park except in designated containers, drains or dumping stations,
- (7) Placing any debris or other pollutant in or upon any park lands or any body of water in or adjacent to a city park or any tributary stream, storm sewer or drain, or engaging or participating in any activity or act that will impair or imperil the purity or wholesomeness of any water designed for household or domestic use,
- (8) Rolling or throwing boulders, rocks or stones down the sides of any declivity or from any trails without first taking all necessary precaution to protect persons below from injury,

G Wildlife and other animals

- (1) Leading or letting loose any cattle, horse, mule, goat, sheep, swine or fowl of any kind,
- (2) Riding or driving any horse or other animal not broken into and under the driver's perfect control,
- (3) Riding or propelling any horse or other animal elsewhere other than on roadways or trails provided for such purposes,
- (4) Killing, trapping, hunting, pursuing or in any manner disturbing any species of wildlife or other animals, including snakes other than poisonous snakes
- (5) Feeding any non-domesticated mammalian wildlife including but not limited to bears, deer, mountain lions, coyotes, raccoons, opossum, mice, rats, skunks, squirrels or feral cats. This prohibition does not include feeding of any non-domesticated mammalian by the owner of such animal when the non-domesticated mammalian is kept under a valid certificate or permit issued by the state of California Department of Fish and Game,
- (6) Bringing any animal into a park unless caged or kept on a leash no more than six feet in length,

- (7) Allowing or permitting any animal under that person's ownership or possession to defecate on any publicly owned place or otherwise having custody or possession of such animal at designated areas without possessing an appropriate device for cleaning up such animal's feces and disposing of it in a sanitary manner,
- (8) Permitting any animal under that person's control to disturb, harass or interfere with any park visitor, a park visitor's property or a city employee,
- (9) Keeping or maintaining noisy, offensive or dangerous animals as provided in section 6 28 080 of this code
- (10) Releasing or abandoning any animal within the park,

H Disorderly or hazardous conduct

- (1) Indulging in riotous boisterous, threatening or indecent conduct, or abusive, threatening, profane or indecent language
- (2) Engaging or participating in any game or activity which may create hazard or danger to other persons or property, including, but not limited to, baseball, hitting of golf balls engaging in model airplane flying, use of weapons provided however, that any such activity shall be permissible within any area which is specifically designed for such activity,
- (3) Obstructing, interfering with, remaining or loitering in a manner which interferes with the use or purpose of any park recreation facility or publicly owned place
- (4) Failing to comply with posted hours, signage or applicable rules,
- (5) Failing to observe any public park closure,

I Playing, participating or betting at or against any game of chance which is played, conducted or carried on with cards, dice or other device for money, chips, shells credit or any other representative of value or maintaining any gambling table or other instrument of gambling and gaming,

J Operation of vehicles

- (1) Driving or operating any vehicle, cycle or automobile elsewhere other than on roadways provided for such purposes, or at a rate of speed greater than the posted speed limit or as provided in this code,
- (2) Operating a motor vehicle or approaching any curve or turn on any mountain road within any park without sounding the horn of such vehicle
- (3) Operating any motor vehicle with an open muffler or making unnecessary smoke or noise of any kind in such operation
- (4) Parking or leaving a motor vehicle standing except in designated areas and only in a manner so as not to restrict normal traffic flow,
- (5) Parking or leaving a motor vehicle standing after closing hours, unless authorized by a special permit from the Community Services Department,
- (6) Failing to yield right of way to pedestrians and other trail or roadway users,
- (7) Failing to obey posted signs,

K Riding any bicycle, skateboard, roller skates or similar type of device except on designated roadways or trails,

L. Commercial and other related activities

- (1) Posting or placing any bills, notices papers or advertising devices of any kind
 - (2) Selling or offering for sale any merchandise, article or thing without the permission of the City Council,
 - (3) Practicing, carrying on, conducting or soliciting for any trade, occupation, business or profession without the permission of the City Council,
 - (4) Selling, exchanging, giving, loaning or distributing any pressurized can containing any substance commonly known as paint or dye to anyone under the age of 18 years old,
 - (5) Possessing any pressurized can containing any substance commonly known as paint or dye while in any city park, playground swimming pool, recreational facility public highway street, alley or any publicly owned place whether inside a vehicle or not, except as authorized by the city Such authorization includes authorization provided to city employees or employees of an individual or company under contract with the city
- M Assembling, collecting or gathering together in any walk driveway, passageway roadway or pathway in any park or in any other place set apart for the travel of persons or vehicles in and through any park, or to occupy the same so that the free passage and use thereof by persons passing along the same is obstructed in any manner, unless authorized by a permit from the Department of Community Services

§ 12 32 060 VIOLATIONS PUNISHABLE AS ADMINISTRATIVE CITATION, INFRACTION OR MISDEMEANOR

A violation of any provision of this chapter, excepting the provisions of § 12 32 050(G)(9) is punishable either as an infraction, a misdemeanor, or by the imposition of a civil fine issued pursuant to the administrative citation process set forth in chapter 1 17 of this code

A violation of § 12 32 050(G)(9) of this chapter is punishable pursuant to §§ 6 04 040 or 6 28 080(F) of this code

§ 12 32 070 SPECIAL PARK CLOSURES

The City Manager, the Fire Chief, or the Police Chief may declare any public park closed as necessary to protect the public health safety and welfare

§ 12 32 080 POWER TO ISSUE CITATIONS

In addition to any citation authority conferred by applicable law any employee or officer of the Community Services Department designated by the Director, the Fire Department or the Police Department shall have the power and authority to issue an administrative citation in accordance with chapter 1 17 of the code if he or she determines that a violation of this chapter has occurred Such employee or officer shall have the authority to determine whether the violation shall be punishable as an infraction, a misdemeanor, or as an administrative citation

Section 2 Severability If any section, subsection, subdivision, paragraph, sentence clause or phrase of this Ordinance or any part hereof is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining portions of this Ordinance or any part thereof The City Council of the City of Monrovia hereby declares that it would have

passed each section subsection, subdivision, paragraph sentence, clause or phrase hereof irrespective of the fact that any one or more sections subsections, subdivisions paragraphs sentences, clauses or phrases be declared invalid

Section 3 The City Clerk shall certify to the adoption of this Ordinance

INTRODUCED this 19th day of October, 2010

PASSED, APPROVED, AND ADOPTED this 2nd day of November 2010, by the following vote

**AYES
NOES
ABSTAIN
EXCUSED**

BY

Mary Ann Lutz, Mayor
City of Monrovia

ATTEST

APPROVED AS TO FORM

Alice Atkins, CMC City Clerk
City of Monrovia

Craig A Steele, City Attorney
City of Monrovia

**STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) §
CITY OF MONROVIA)**

I, ALICE D ATKINS CMC, City Clerk of the City of Monrovia, California, do hereby certify that the foregoing is a true and correct copy of Ordinance No 2010-17 it has been published pursuant to law, and was duly adopted and passed at a regular meeting of the City Council on the 2nd day of November 2010 by the following vote

**AYES
NOES
ABSTAIN
EXCUSED**

ATTEST

Alice D Atkins CMC City Clerk
City of Monrovia

Alice Atkins

From Alice Atkins
Sent Monday October 18 2010 5 24 PM
To City Council
Cc Scott Ochoa C Steele
Subject Smoking Regulations
Attachments CALIFORNIA CODES HEALTH AND SAFETY CODE SECTION 118950 pdf CALIFORNIA CODES SECTION 1596-70 - 1596-799 pdf CALIFORNIA CODES SECTION 104350-104495 pdf CALIFORNIA CODES SECTION 118875-118915 pdf California Laws and Regulations Prohibiting Smoking doc Monrovia Municipal Code - Smoking Regulations doc

Attached are reference materials that Staff has put together for current regulations related to smoking from the State level to the Monrovia Municipal Code

Please let me know if you have any questions

Alice

Alice D Atkins, CMC | City Clerk
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Do what you can with what you have where you are " -- Theodore Roosevelt

CALIFORNIA CODES
HEALTH AND **SAFETY CODE**
SECTION 118950

118950 (a) The Legislature hereby finds and declares the following

(1) **Smoking** is the single most important source of preventable disease and premature death in California

(2) **Smoking** is responsible for one-quarter of all death caused by fire

(3) Tobacco-related disease places a tremendous financial burden upon the persons with the disease, their families, the health care delivery system, and society as a whole

(4) Despite laws in at least 44 states prohibiting the sale of tobacco products to minors, each day 3,000 children start using tobacco products in this nation. Children under the age of 18 years consume 947 million packages of cigarettes in this country yearly

(5) The earlier a child begins to use tobacco products, the more likely it is that the child will be unable to quit

(6) More than 60 percent of all smokers begin **smoking** by the age of 14 years, and 90 percent begin by the age of 19 years

(7) Use of smokeless tobacco products among minors in this state is increasing

(8) Smokeless tobacco or chewing tobacco is harmful to the health of individuals and may cause gum disease, mouth or oral cancers, increased tooth decay and leukoplakia

(9) Tobacco product advertising and promotion are an important cause of tobacco use among children. More money is spent advertising and promoting tobacco products than any other consumer product

(10) Distribution of tobacco product samples, coupons, coupon offers, gift certificates, gift cards, or other similar offers is a recognized source by which minors obtain tobacco products, beginning the addiction process

(11) It is the intent of the Legislature that keeping children from beginning to use tobacco products in any form and encouraging all persons to quit tobacco use shall be among the highest priorities in disease prevention for the State of California

(b) It is unlawful for any person, agent, or employee of a person in the business of selling or distributing smokeless tobacco or cigarettes to engage in the nonsale distribution of any smokeless tobacco or cigarettes to any person in any public building, park or playground, or on any public sidewalk, street, or other public grounds, or on any private property that is open to the general public

(c) For purposes of this section

(1) Nonsale distribution means to give smokeless tobacco or cigarettes to the general public at no cost, or at nominal cost, or to give coupons, coupon offers, gift certificates, gift cards, or other similar offers, or rebate offers for smokeless tobacco or cigarettes to the general public at no cost or at nominal cost. Distribution of tobacco products, coupons, coupon offers, gift certificates, gift cards, or other similar offers, or rebate offers in connection with the sale of another item, including tobacco products, cigarette lighters, magazines, or newspapers shall not constitute nonsale distribution

(2) Smokeless tobacco means (A) a loose or flat, compressed cake form of tobacco that may be chewed or held in the mouth or (B) a

shredded, powdered, or pulverized form of tobacco that may be inhaled through the nostrils, chewed, or held in the mouth

(3) Public building, park, playground, sidewalk, street, or other public grounds means any structure or outdoor area that is owned, operated, or maintained by any public entity, including, but not limited to city and county streets and sidewalks, parade grounds, fair grounds, public transportation facilities and terminals, public reception areas, public health facilities, public recreational facilities, and public office buildings

(4) Private property that is open to the general public means any structure or outdoor area that is owned, operated, or maintained by any private entity and that is open for entry or use by the general public, whether or not a fee or charge is imposed for entry or use

(d) Any person who violates this section shall be liable for a civil penalty of not less than two hundred dollars (\$200) for one act, five hundred dollars (\$500) for two acts, and one thousand dollars (\$1,000) for each subsequent act constituting a violation. Each distribution of a single package, coupon, coupon offer, gift certificates, gift cards, or other similar offers, or rebate offer to an individual member of the general public in violation of this section shall be considered a separate violation.

(e) Neither this section nor any other provision of law shall invalidate an ordinance of, or prohibit the adoption of an ordinance by, a city or county regulating distribution of smokeless tobacco or cigarette samples within its boundaries that is more restrictive than this section. An ordinance that imposes greater restrictions on the sale or distribution of tobacco than this section shall govern, to the extent of any inconsistency between it and this section.

(f) Subdivisions (a) to (e), inclusive, do not apply to any public building, park, playground, sidewalk, street, or other public grounds, or any private property that is open to the general public where minors are **prohibited** by law. Subdivisions (a) to (e), inclusive, do not apply to any public building, park, playground, sidewalk, street, or other public grounds open to the general public and leased for private functions where minors are denied access by a peace officer or licensed security guard on the premises.

(g) Subdivisions (a) to (e), inclusive, do not apply to any private property that is open to the general public where minors are denied access to a separate nonsale distribution area by a peace officer or licensed security guard stationed at the entrance of the separate nonsale distribution area and the separate nonsale distribution area is enclosed so as to prevent persons outside the separate nonsale distribution area from seeing the nonsale distribution unless they undertake unreasonable efforts to see inside the area.

CALIFORNIA CODES
HEALTH AND **SAFETY CODE**
SECTION 1596 70-1596 799

1596 795 (a) The **smoking** of tobacco in a private residence that is licensed as a family day care home shall be **prohibited** during the hours of operation as a family day care home and in those areas of the family day care home where children are present. Nothing in this section shall prohibit a city or county from enacting or enforcing an ordinance relating to **smoking** in a family day care home if the ordinance is more stringent than this section.

(b) The **smoking** of tobacco on the premises of a licensed day care center shall be **prohibited**.

CALIFORNIA CODES
HEALTH AND **SAFETY CODE**
SECTION 104350-104495

104420 The State Department of **Education** shall provide the leadership for the successful implementation of this article in programs administered by local public and private schools, school districts, and county offices of **education**. The State Department of **Education** shall do all of the following

(2) All school districts and county offices of **education** that receive funding pursuant to paragraph (1) shall adopt and enforce a tobacco-free campus policy no later than July of each fiscal year. The policy shall prohibit the use of tobacco products, any time, in district-owned or leased buildings, on district property and in district vehicles. Information about the policy and enforcement procedures shall be communicated clearly to school personnel, parents, pupils, and the larger community. Signs stating "Tobacco use is prohibited" shall be prominently displayed at all entrances to school property. Information about **smoking** cessation support programs shall be made available and encouraged for pupils and staff. Any school district or county office of **education** that does not have a tobacco-free district policy implemented by July 1, shall not be eligible to apply for funds from the Cigarette and Tobacco Products Surtax Fund for that fiscal year.

CALIFORNIA CODES
HEALTH AND **SAFETY CODE**
SECTION 118875-118915

118875 This article and Article 2 (commencing with Section 118920) shall be known and may be cited as the California Indoor Clean Air Act of 1976

118880 The Legislature finds and declares that tobacco smoke is a hazard to the health of the general public

118885 Within indoor rooms, indoor chambers, or indoor places of public assembly in publicly owned buildings in which public business is conducted requiring or providing direct participation or observation by the general public there shall be a contiguous area of not less than 50 percent of the total area of the room, chamber, or place designated and posted by signs of sufficient number and posted in locations as to be readily seen by persons within the area, where the **smoking** of tobacco is **prohibited** while a public meeting is in progress. A public body, commission, agency, or other entity conducting a public meeting may waive the requirements of this section with respect to its own members, provided that the rights of nonsmoking members are not adversely affected

118890 Every health facility, as defined in Section 1250, and clinic, as defined in Section 1200, shall comply with the following

(a) Shall make every reasonable effort to assign patients to rooms according to the patient's individual nonsmoking or **smoking** preference

(b) Shall designate and post by signs of sufficient number and posted in locations as to be readily seen by persons within the area, a contiguous area of not less than 20 percent of every cafeteria or other dining area whose occupied capacity is 50 or more persons as a nonsmoking section

(c) This section shall not prevent any health facility or clinic from banning **smoking** in any area that it may designate and post by sign or in all areas of the facility or clinic

118895 Within every publicly owned building open to the general public for the primary purpose of exhibiting any motion picture, stage drama, music recital, or any other performance, with the exception of any indoor sporting event, signs shall be posted in sufficient number and in locations as to be readily seen by persons within the area, that shall designate that the **smoking** of tobacco is **prohibited** in any area other than that commonly known as the lobby. This prohibition shall not apply except during those times when the building is actually open to the public.

118900 Within every restaurant in a publicly owned building serving food or alcoholic beverages in rooms whose occupied capacity is 50 or more persons there shall be designated and posted by signs of sufficient number and posted in locations as to be readily seen by persons within the area, a contiguous area of not less than 20 percent of the serving area where the **smoking** of tobacco is **prohibited**.

(a) This section shall not apply to banquet rooms in use for private functions.

(b) This section shall not apply to premises under lease as a restaurant for the time as the lessee of record on January 1, 1977, has a lease as the operator of the restaurant.

(c) As used in this section, "restaurant" means any place designated as a restaurant by Section 28522.

118905 Any person may apply for a writ of mandate to compel compliance by any public entity that has not complied with the requirements of this article and Article 3 (commencing with Section 118920) for the designating or posting of nonsmoking areas or areas where the **smoking** of tobacco is **prohibited**. If judgment is given for the applicant, he or she may recover all reasonable costs of the suit, including reasonable attorney fees, reasonableness to be determined by the court.

118910 The Legislature declares its intent not to preempt the field of regulation of the **smoking** of tobacco. A local governing body may ban completely the

smoking of tobacco, or may regulate **smoking** in any manner not inconsistent with this article and Article 3 (commencing with Section 118920) or any other provision of state law

118915 (a) Except as provided in subdivision (b), no person shall smoke any tobacco product in any retail food production and marketing establishment, as defined in Section 28802, during the hours the establishment is open to the public

(b) The provisions of subdivision (a) shall not apply to that portion of an establishment subject to Section 118900 nor to an area of an establishment set aside for employee **smoking** and not open to the public

California's Approach to Limiting Smoking in Public Places

Summary

California has among the stiffest smoking regulations in the country, earning itself the reputation as "America's Non-Smoking Section." This is a reputation that elected leaders and anti-smoking advocates continue to reinforce. Since 1993, a half-dozen laws have been adopted restricting where smokers can safely puff away – and there is continual local and state action to further limit where smokers can use tobacco in public places. The primary motivation of these laws is to reduce the adverse health impacts caused by second hand smoking, which is linked to lung cancer, bronchitis, respiratory infections and heart disease, according to the Centers for Disease Control and Prevention. Nonetheless, smokers and others contend that these bans are not fair to those who are engaging in a legal activity.

Details

Anti-smoking laws in the state began in the 1990s, first starting with the prohibition of smoking in day care facilities in 1993. Just two years later, a bill banning smoking in indoor workplaces became law. Then, in 1996, another bill was passed that prohibited smoking in indoor workplaces, including restaurants and bars. For the next 15 years, public smoking options have continually been minimized, both at the local and state level.

California State Laws and Regulations Prohibiting Smoking		
Building Entryways AB 846	This legislation prohibits smoking within 20 feet of main entrances, exits, and operable windows of all state, county, and city buildings , including University of California (UC), California State University (CSU), and California community college buildings.	Approved September 8 2003
Playgrounds and Tot Lots AB 188	This bill bans smoking within a playground or tot lot/sandbox areas. However, there is no designation of a minimum distance away a smoker must be located from the playground. This is punishable by a \$100 fine.	Approved August 6 2001
Workplaces, Bars and Restaurants AB 3037	This bill prohibits smoking in indoor workplaces including restaurants and bars.	Approved February 23 1996
Enclosed Workplaces AB 13	This legislation prohibits smoking in enclosed workplaces.	Approved July 21 1994
Day Care Facilities AB 615	This bill prohibits smoking in day care facilities, including private residences.	Approved September 8 1993
Smoking in a Car with a Minor SB 7	This bill prohibits smoking in a car (parked or moving) when a child (less than 18 years) is in the car.	Approved October 10 2007

But smokers have had some victories, too. Gov. Arnold Schwarzenegger vetoed Senate Bill 4 on May 3, 2010, which would have banned smoking at public parks and beaches – a ban that more than 100 cities have already imposed. The primary motivation for the bill was to reduce second-hand smoking and eliminate the litter of cigarette butts. However, the Governor decried the law, and in his veto message wrote, "There is something inherently uncomfortable about the idea of the state encroaching in such a broad manner on the people of California," the *Los Angeles Times* reported on May 4, 2010. "This bill crosses an important threshold between state power and local decision-making."

Local Authority

Under California Labor Law, § 6404.5, cities and counties have the right to adopt restrictions on top of the state laws. Locally, cities and counties up and down the state have taken steps to further ban smoking by enacting bans against tobacco use at farmers markets, smoking in outdoor cafes, and at sports fields, among others. Of course, some of these cities have enacted more restrictive bans than others. An example, but certainly not an extensive list, of bans include the following:

- In 2006, the Bay Area city of Belmont made history for becoming the first city in the United States to ban smoking anywhere in the city except for single-family homes.
- In 2008, the Pasadena City Council approved an ordinance that banned smoking in outdoor shopping and dining areas, in ATM and movie ticket lines and within 20 feet of building entrances and outdoor events like the Rose Parade.
- In 2009, the Los Angeles County Board of Supervisors on a 4-1 vote (Supervisor Don Knabe opposed) banned smoking at county parks, beaches and golf courses.
- In January 2010, the City of Los Angeles made it illegal to smoke in outdoor cafes, outside food trucks and at food courts, similar to ordinances that Burbank, Beverly Hills and Santa Monica already enacted.
- In April 2010, Crescent City adopted an ordinance that prohibits smoking in all city buildings and vehicles, in public parks, at public events such as a farmer's market and parades, and within 25 feet of all public entrances to buildings, offices and businesses open to the general public.

Conclusion

In general, California has taken a strong stance against public tobacco use, primarily because of the adverse health affects of second-hand smoke. In addition to the restrictions the state has imposed, some cities have decided to further restrict public tobacco use for both health and cleanliness reasons by prohibiting smoking at parks, public events and within a certain distance of entrances to buildings. Some cities have done this years ago, while others, such as West Hollywood, who considered imposing tighter restrictions earlier this month.

Sources

1 American Lung Association http://slati.lungusa.org/state_templ.asp?id=5

2 Assembly Bill No. 188 and no. 846

3 Center for Disease Control and Prevention

http://www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/general_facts/index.htm

4 Grube, Nick. April 20, 2010. *The Triplicate*. "City Council supports smoking ban."

5 McGreevy, Patrick. May 4, 2010. *Los Angeles Times*. "Gov. vetoes smoking ban at state parks and beaches." <http://articles.latimes.com/2010/may/04/local/la-me-0504-smoking-20100504>

6 California Environmental Protection Agency, Air Resources Board
http://www.arb.ca.gov/toxics/ets/laws_ets.htm

Monrovia Municipal Code

References to Smoking Regulations (as of 10/18/2010)

CHAPTER 8 28 SMOKING

§ 8 28 010 PROHIBITED

It shall be unlawful for any person to light, ignite or otherwise set fire to, or smoke, carry, throw or deposit, any lighted cigar, cigarette, tobacco or other smoldering or smoke-producing substance within

(A) Those portions of any building, structure or other enclosed facility open to the general public for the primary purpose of exhibiting any motion picture, stage production, musical recital or similar performance, other than in an area which serves as a lobby,

(B) In all public areas of City Hall, including all public meeting rooms, waiting areas, hallways, and restrooms located therein,

(C) In all public areas of the Community Center, including all public meeting rooms, waiting areas, hallways, reception halls, restrooms and game rooms located therein,

(D) Any elevator designed principally for the accommodation of passengers

(83 Code, § 8 28 010) (Ord 89-22 § 1, 1989, Ord 90-16 § 1, 1990)

§ 8 28 020 POSTING OF “NO SMOKING” SIGNS—MUTILATION OR DESTRUCTION OF SIGNS PROHIBITED

(A) *Posting of “No Smoking” signs* The person having the authority to manage and control any area set forth in § 8 28 010, wherein the described prohibition applies, shall post or cause to be posted and prominently displayed, and shall maintain “No Smoking” signs in conspicuous locations within said areas upon no less than two separate walls or columns in such area. Said signs shall be posted not less than five feet or more than eight feet above the floor level and shall be of sufficient number and location to cause the message by at least one of said signs to be clearly visible, legible and readable at all times from any other point within this same range of height from the floor in said area. Failure to post and maintain such signs shall be a misdemeanor.

(B) Notwithstanding division (A) of this section, where smoking is prohibited within an entire building it shall be sufficient to post a sign at each public entrance.

thereto, giving notice that smoking is prohibited within such building. The wording of the sign shall substantially be as follows:

NOTICE - SMOKING IS PROHIBITED IN THIS BUILDING

(C) *Unlawful to mutilate or destroy signs* It shall be unlawful to mutilate or destroy any sign posted in accordance with this section.

(83 Code, § 8 28 020) (Ord 89-22 § 2, 1989)

§ 8 28 030 EXEMPTION

Section 8 28 010 shall not be applicable to any room, chamber or place of meeting or public assembly under the jurisdiction of the Monrovia Public School's Board of Education unless such Board of Education adopts and files with the City Clerk a resolution declaring such places to be subject to the smoking prohibition as set forth in § 8 28 010.

(83 Code, § 8 28 030)

**CHAPTER 8 14
FIRE HAZARDS RELATING TO VEGETATION AND OTHER CONDITIONS
OR ACTIVITIES**

§ 8 14 050 ADDITIONAL REGULATIONS AND PROVISIONS

(H) *Smoking*

(1) Lighting, igniting or otherwise setting fire to, or smoking, tobacco products of any kind, including but not limited to, cigarettes, pipes or cigars in the very high fire severity zone is prohibited.

(2) Exceptions Lighting, igniting or otherwise setting fire to, or smoking, tobacco products is allowed within a lawfully erected building, as well as in approved smoking areas as designated by the Fire Chief.

**CHAPTER 12 32
PARKS**

§ 12 32 030 UNLAWFUL ACTS SPECIFIED

Within the limits of any parks or public places, or within the limits of Monrovia Canyon Park, it shall be unlawful for any person to do any of the acts specified in this section, to wit

(G) To make or kindle a fire for any purpose, or to in any manner transport fire or any burning substance, except at such places in Monrovia Canyon Park as may be especially provided and designated for such purpose by the Superintendent thereof, and no fire shall be built or started at any time above the falls in Sawpit Canyon in Monrovia Canyon Park, or to leave any fire or live coals unextinguished, after having kindled the same in any such place in Monrovia Canyon Park specially provided and designated for such purpose by the Superintendent, it shall be unlawful for any person to smoke or to carry any burning or smoldering portion of any cigarette, cigar, or tobacco, on any mountain road, trail or drive, or in any part of either of the canyons, except at the duly designated camping places therein, it shall be unlawful to throw or drop any lighted cigarette, cigar, match or any other burning substance from any vehicle within the limits of either of the canyons,

§ 15 20 190 SECTION 806 5-806 15 ADDED—CHRISTMAS TREES

Section 806 5-806 15 is hereby added as follows

**CHAPTER 15 20
FIRE CODE**

Sources of Ignition

806 14 Smoking or open flames shall not be permitted upon any Christmas tree lot
Approved “**NO SMOKING**” signs shall be posted as required