

ORDINANCE NO. 11810
(New Series)

MAR 17 1976

AN ORDINANCE AMENDING CHAPTER IV, ARTICLE 5, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 45.0102, 45.0103, 45.0104, 45.0108, 45.0109 AND 45.0110 RELATING TO THE PROHIBITION OF SMOKING IN CERTAIN AREAS USED BY OR OPEN TO THE PUBLIC.

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That Chapter IV, Article 5, Division 1 of the San Diego Municipal Code be and it is hereby amended by amending Sections 45.0102, 45.0103, 45.0104, 45.0108, 45.0109 and 45.0110 to read as follows:

SEC. 45.0102 DEFINITIONS

"Smoke" or "smoking" as defined in this article shall mean and include the carrying of a lighted pipe, or lighted cigar, or lighted cigarette of any kind, or the lighting of a pipe, cigar or cigarette of any kind.

"Service line" or "service counter" shall be defined as any indoor line or counter at which two (2) or more people are involved in waiting for, receiving or giving 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, giving of information, directions or advice, and transfers of money or goods. The "service line" or "service counter" provisions shall not apply to restaurants.

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SEC. 45.0103 PROHIBITION IN CERTAIN PUBLIC PLACES

Smoking shall be prohibited in the following places within the City of San Diego to the extent the same are subject to the jurisdiction or licensing by The City of San Diego:

a. Elevators, museums, galleries, public transportation facilities open to the public, and service lines of establishments doing business with the general public.

b. Waiting rooms, or public hallways of every private or public health care facility, including but not limited to hospitals; provided further, however, that this prohibition shall not prevent the establishment of a separate waiting room in which smoking is permitted as long as there also exists a waiting room in the same facility in which smoking is prohibited. This prohibition shall not apply to private rooms or psychiatric facilities. Health care facilities also must provide nonsmoking sleeping rooms upon the request of any patient or his physician at the time such patient is being admitted to the facility.

c. In the area of the pharmacy counter of any store where people are waiting for or receiving medical prescriptions or like medication.

d. Within waiting rooms, meeting rooms, public assembly rooms, libraries and restrooms located in

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all buildings owned or operated by The City of San Diego, except in zones designated for smoking by the City Manager. Such smoking zones shall not exceed twenty percent (20%) of the seating capacity of each room or area.

e. Within any building not open to the sky which is primarily used for or designed for the purpose of exhibiting any motion picture, stage drama, lecture, musical recital or other similar performance whenever open to the public (except when smoking is a part of a stage production); within all restrooms; except that smoking will be allowed in an area commonly referred to as a lobby if such lobby is physically separated from the spectator area.

f. Retail food production and marketing establishments, including grocery stores and supermarkets open to the public. Such establishments shall be posted with signs prohibiting smoking in every public portion thereof. No-smoking signs shall be specifically placed so that they are clearly visible to persons upon entering the store, clearly visible to persons in checkout lines, and clearly visible to persons at meat and produce counters. This requirement does not apply to restaurants.

g. All restrooms open for public use.

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SEC. 45.0104 OPTIONAL PROHIBITION

All managers and owners of any establishments serving or doing business with the public other than those specifically covered under Section 45.0103 may at their discretion post "No Smoking" signs within various areas of their businesses and utilize the full right of the provisions of this article.

SEC. 45.0108 ENFORCEMENT AND APPEAL

a. The City Manager shall be responsible for compliance with this article when facilities which are owned, operated or leased by The City of San Diego are involved. The City Manager shall provide business license applicants with copies of this article.

b. The owner, operator or manager of any facility, business or agency shall post or cause to be posted all "No Smoking" signs required by this article. Owners, operators, managers or employees of same shall be required to orally inform persons violating this article of the provisions thereof. The duty to inform such violator shall arise when such owner, operator, manager or employee of same becomes aware of such violation.

SEC. 45.0109 VIOLATIONS AND PENALTIES

Any person who violates any provision of this article by smoking in a posted "No Smoking" area, or by failing to post or cause to be posted a "No Smoking"

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sign required by this article, or by a knowing failure to inform any person who violates the provisions of this article, when such duty to inform arises as set forth in Section 45.0108, subsection b above, is guilty of an infraction and, upon conviction thereof, shall be punished by a fine of not less than ten dollars (\$10) nor more than one hundred dollars (\$100).

SEC. 45.0110 EDUCATION FOR NO-SMOKING PROGRAM

The City Manager, through the office of Citizens Assistance and Information, shall engage in a continuing program to inform and clarify the purposes of this article to citizens affected by it, and to guide owners, operators and managers in their compliance.

The City shall leave the responsibility of conducting a public education campaign, regarding the health-degrading aspects of smoking, to other governmental and health agencies equipped with the needed expertise to conduct such campaigns.

Section 2. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: JOHN W. WITT, City Attorney

By Paul E. Robinson
Paul E. Robinson
Deputy City Attorney

PER:k:605
REV. 3-10-76
Or.Dept.: P.S.&S. Committee

MICROFILMED
MAY 8 1978

Passed and adopted by the Council of The City of San Diego on MAR 17 1976,
 by the following vote:

Councilmen	Yeas	Nays	Excused	Absent
Gil Johnson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Maureen F. O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lee Hubbard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Floyd L. Morrow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tom Gade	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Ellis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jess D. Haro	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Pete Wilson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY: PETE WILSON
 Mayor of The City of San Diego, California.

EDWARD NIELSEN
 City Clerk of The City of San Diego, California.
 By Kathleen Martinez, Deputy.

(Seal)

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

MAR 3 1976, and on MAR 17 1976

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

EDWARD NIELSEN
 City Clerk of The City of San Diego, California.
 By Kathleen Martinez, Deputy.

(Seal)

RECEIVED
 CITY CLERK'S OFFICE
 1976 MAR 11 AM 10:49
 SAN DIEGO, CALIF.

Office of the City Clerk, San Diego, California

Ordinance 11810 Adopted MAR 17 1976
 Number
 01337

MICROFILMED
 CC-1255-A (REV. 5-78) MAY 8 1978

ATTORNEY(S)

San Diego, City of
202 C St., 12th Floor
San Diego, CA 92101

CERTIFICATE OF PUBLICATION

No.

IN THE MATTER OF

ORDINANCE AMENDING CHAPTER IV, ARTICLE 5, DIVISION 1

ORDINANCE NO. 11810

(New Series)

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c. In the area of the pharmacy counter of any store where people are waiting for or receiving medical prescriptions or like medication.

d. Within waiting rooms, meeting rooms, public assembly rooms, libraries and restrooms located in all buildings owned or operated by the City of San Diego, except in zones designated for smoking by the City Manager. Such smoking zones shall not exceed twenty percent (20%) of the seating capacity of each room or area.

e. Within any building not open to the sky which is primarily used for or designed for the purpose of exhibiting any motion picture, stage drama, lecture, musical recital or other similar performance whenever open to the public (except when smoking is a part of a stage production); within all restrooms; except that smoking will be allowed in an area commonly referred to as a lobby if such lobby is physically separated from the spectator area.

JOYCE M. BRIDGES

I, hereby certify that San Diego Daily Transcript is a daily newspaper of general circulation within the provisions of the Government Code of the State of California, printed and published in the City of San Diego, County of San Diego, State of California; that I am the principal clerk of said newspaper; and the

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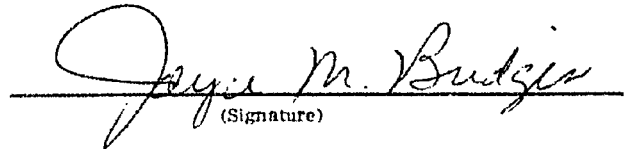
is a true and correct copy of which this certificate is annexed and was published in said newspaper on

April 1, 1976

I certify under penalty of perjury that the foregoing is true and correct, at San Diego, California, on

April 1, 1976

01338


(Signature)

2 1/8" @ 4.84 = 102.25 ✓
Copies (2 clips) 1.70 103.45

f. Retail food production and marketing establishments, including grocery stores and supermarkets open to the public. Such establishments shall be posted with signs prohibiting smoking in every public portion thereof. No-smoking signs shall be specifically placed so that they are clearly visible to persons upon entering the store, clearly visible to persons in checkout lines, and clearly visible to persons at meat and produce counters. This requirement does not apply to restaurants.

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SEC. 45.0109 VIOLATIONS AND PENALTIES

Any person who violates any provision of this article by smoking in a posted "No Smoking" area, or by failing to post or cause to be posted a "No Smoking" sign required by this article, or by a knowing failure to inform any person who violates the provisions of this article, when such duty to inform arises as set forth in Section 45.0108, subsection b above, is guilty of an infraction and, upon conviction thereof, shall be punished by a fine of not less than ten dollars (\$10) nor more than one hundred dollars (\$100).

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Introduced on March 3, 1976.
Passed and adopted by the Council of The City of San Diego on March 17, 1976.

AUTHENTICATED BY:
PETE WILSON,
Mayor of The City of San Diego, California,
EDWARD NIELSEN,
City Clerk of The City of San Diego, California.
By KATHLEEN MARTINEZ,
Deputy
(SEAL)
Pub. Apr. 1, 1976 LS 0381

*Ord 11820
NS*

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Ord 1182