

ORDINANCE NUMBER O-18892 (NEW SERIES)

ADOPTED ON NOV 27 2000

AN ORDINANCE AMENDING CHAPTER IV, ARTICLE 3, DIVISION 10, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 43.1001, 43.1002, AND 43.1003, ALL RELATING TO SMOKING REGULATIONS.

WHEREAS, at the October 18, 2000, meeting of the Committee on Natural Resources and Culture [NR&C], public testimony was received and documents were presented regarding health concerns associated with, among other things, the prevalence of cigarette smoking and the disposal of cigarette butts in City park tot lot areas; and

WHEREAS, the presence of cigarette smoke, cigarette butts, and other tobacco-related waste in and around City tot lots presents a danger to the health of small children playing in the tot lots in that the ingestion of that waste and the breathing of second-hand smoke could create health-related problems for those children; and

WHEREAS, NR&C voted 5-0 to recommend that the City Council adopt an ordinance prohibiting smoking within fifty feet of all tot lots in City parks; NOW, THEREFORE,

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

Section 1. That Chapter IV, Article 3, Division 10, of the San Diego Municipal Code is amended by amending sections 43.1001, 43.1002, and 43.1003, to read as follows:

SEC. 43.1001 Purpose and Intent

The smoking of tobacco, or any other weed or plant, is a positive danger to health and is a material annoyance, inconvenience, discomfort, and health hazard to those who are

present in confined spaces, and to small children playing in Tot Lots. Therefore, in order to serve the public health, safety and welfare, the declared purpose of this Division is to prohibit the smoking of tobacco, or any weed or plant, in Public Places and Places of Employment except in designated smoking areas identified by signs as set forth in Section 43.1005 of this Division. A further purpose of this Division is to prohibit smoking in and around public Tot Lots.

SEC. 43.1002 Definitions

For purposes of this Division, the following definitions shall apply:

"Bar" means an establishment where the primary business is sale of alcoholic beverages for consumption on the premises and where all occupants are required to be twenty-one (21) years or older.

"Place of Employment" means any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment. It includes work areas, private offices, employee lounges, conference rooms, and employee cafeterias. It does not include a private residence or a Public Place .

"Public Park" has the same meaning as in Municipal Code section 113.0103.

"Public Place" means any enclosed area where the public is routinely permitted without special invitation. It includes retail stores, retail service establishments, retail food production and marketing establishments, restaurants, theaters, waiting rooms, reception areas, educational facilities, health facilities, and public transportation facilities. It does not include a private residence.

"Shared Work Area" means a room in a Place of Employment in which more than one

person is assigned to perform work during the course of a work shift period.

"Smoke" or "smoking" includes 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.

"Tot Lot" means a play area designed for use by children that is located in a Public Park.

The boundary of a Tot Lot is typically defined with concrete or wood, but may be defined by other material.

SEC. 43.1003 Prohibitions

(a) It is unlawful to Smoke in a Public Place or Place of Employment except in a designated smoking area lawfully established in accordance with this Division.

(b) It is unlawful to Smoke in a Tot Lot or within fifty feet of a Tot Lot. This prohibition does not apply to private property.

(c) It is unlawful for an owner, operator, or manager of any facility, business, or agency to designate or maintain a smoking area in a Public Place or Place of Employment which does not comply with the requirements set forth in Sections 43.1004 and 43.1005 of this Division.

(d) It is unlawful for an owner, operator, or manager of any facility, business, or agency to knowingly permit ashtrays or other ash receptacles to be located in areas where smoking is prohibited by this Division.

(e) It is unlawful to intimidate, threaten any reprisal, or effect any reprisal, for the purpose of retaliating against another person who seeks to attain compliance with the provisions of this Division.

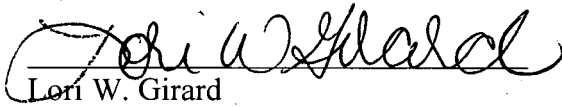
Section 2. That a full reading of this ordinance is dispensed with prior to its final passage,

a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 3. That this ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: CASEY GWINN, City Attorney

By



Lori W. Girard
Deputy City Attorney

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