11/10/26 #56
(O-2027-18)

ORDINANCE NUMBER O-22158 (NEW SERIES)

DATE OF FINAL PASSAGE NOV 13 2026

AN ORDINANCE AMENDING CHAPTER 4, ARTICLE 3, DIVISION 10 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 43.1001, 43.1002, AND 43.1004 RELATING TO PROHIBITING SMOKING AND VAPING IN OUTDOOR DINING AREAS.

RECITALS

The Council of the City of San Diego (Council) adopts this Ordinance based on the following:

A. The City of San Diego does not comprehensively prohibit smoking or vaping in outdoor dining areas.

B. While some restaurants voluntarily maintain smoke-free and vape-free outdoor patios, there is no consistent standard for all outdoor dining areas throughout the City.

C. The harmful effects of smoking, which include secondhand smoke exposure to bystanders, are well-established. According to the United States Centers for Disease Control and Prevention, there is no safe level of secondhand smoke exposure. Even brief exposure can cause immediate negative health effects.

D. The United States Environmental Protection Agency has classified secondhand smoke as a public health risk and a Group A carcinogen, the most dangerous class of carcinogens.

E. In addition to the negative health consequences associated with secondhand smoke, tobacco smoke can leave a harmful residue, known as "thirdhand smoke", that can remain on surfaces, furniture, clothing, and other materials after exposure.

F. This smoking residue can be absorbed through the skin or ingested by consuming contaminated objects or dust. Thirdhand smoke is toxic to humans, especially children, causing

health problems such as slow wound healing, increased levels of bad cholesterol, impaired liver function, and lung inflammation.

G. There are also negative health impacts and public health concerns for those exposed secondhand to vape aerosol.

H. E-cigarette aerosol is harmful to health as it contains nicotine, heavy metals, volatile organic compounds, and other potentially harmful substances. According to a 2022 study of 2,097 young people, the Southern California Children's Health Study found that secondhand nicotine-vape exposure was associated with 40% higher odds of bronchitis symptoms and 53% higher odds of shortness of breath.

I. The City desires to protect public health by establishing a comprehensive citywide regulation banning smoking or vaping in outdoor dining areas.

J. The Office of the City Attorney prepared this Ordinance based on the information provided by City staff, including information provided by affected third parties and verified by City staff, with the understanding that this information is complete and accurate.

ACTION ITEMS

Be it ordained by the Council of the City of San Diego:

Section 1. Chapter 4, Article 3, Division 10 of the San Diego Municipal Code is amended by amending sections 43.1001, 43.1002, and 43.1004, to read as follows:

§43.1001 Definitions

For purposes of this Division, the following definitions apply:

Boardwalk through *Electronic cigarette shop* [No change in text.]

Outdoor dining area means:

(a) An outdoor area of a business that is dedicated by the business's owner, operator, or manager as a place for the consumption of food or drink

regularly sold or provided by the business, such as an outdoor seating area of a restaurant, and all non-enclosed areas within 25 feet of such outdoor area. An *outdoor dining area* shall not include an area that is contiguous to one of the following:

(1) A business that requires its patrons to be at least 18 years old, such as a bar, nightclub, or hookah lounge; or

(2) A restaurant, business or non-commercial building that is completely closed to the general public for a private event for the duration of the private event.

(b) An outdoor area that is dedicated by the person authorized to manage or control the area as a place for the consumption of food or drink regularly sold or provided by one or more nearby businesses, such as an outdoor seating area of a food court, and all non-enclosed areas within 25 feet of such outdoor area.

Place of employment through *Police permit* [No change in text.]

Public beach has the same meaning as *coastal beach*, as defined in San Diego Municipal Code section 113.0103, provided that the *coastal beach* is owned or controlled by the City of San Diego.

Public park has the same meaning as in San Diego Municipal Code section 113.0103.

Public place [No change in text.]

Seawall has the same meaning as in San Diego Municipal Code section 56.54(a).

Smoke or *smoking* through *Vaping lounge* [No change in text.]

§43.1002 Prohibitions

(a) through (e) [No change in text.]

(f) It is unlawful to tamper with, remove, deface, destroy or otherwise vandalize any sign designating either:

(1) [No change in text.]

(2) a demarcated area for *smoking* or *vaping* as described in section 43.1002(g).

(g) [No change in text.]

(h) It is unlawful to *smoke, vape,* and ingest *cannabis* or *cannabis* products at Special Events.

(i) [No change in text.]

(j) It is unlawful to *smoke* or *vape* in an *outdoor dining area.*

§43.1004 Posting of Signs

(a) The owner, operator, or manager of any *public place, outdoor dining area,* or *place of employment* shall ensure that signs are posted in accordance with section 43.1004 to designate *smoking* and no–*smoking* areas as well as *vaping* and no–*vaping* areas.

(b) through (c) [No change in text.]

(d) Signs shall be placed at all entrances to *public places*, *outdoor dining areas,* and *places of employment*, including restaurants, which read substantially as follows: NO SMOKING AND NO USE OF ELECTRONIC CIGARETTES EXCEPT IN DESIGNATED AREAS.

(e) through (f) [No change in text.]

Section 2. The Council dispenses with a full reading of this Ordinance before its passage because a written copy of this Ordinance was made available to the Council and the public before the date of its passage.

Section 3. This Ordinance will take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: HEATHER FERBERT, City Attorney

By _____
Ken So
Senior Deputy City Attorney

KRS:jdf:cc:cw
September 23, 2026
Or.Dept: CD2
Doc. No.: 4506184

I certify that the Council of the City of San Diego adopted this Ordinance at a meeting held on NOV 10 2026.

DIANA J.S. FUENTES
City Clerk

By _____
Deputy City Clerk

Approved: 11/13/26 _____
(date) TODD GLORIA, Mayor

Vetoed: _____ _____
(date) TODD GLORIA, Mayor

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~
NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

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§43.1004 Posting of Signs

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(e) through (f) [No change in text.]

KRS:jdf:cc:cw
September 23, 2026
Or.Dept: CD2
Doc. No.: 4506186

#50

Passed by the Council of The City of San Diego on November 10, 2026, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	☒	☐	☐	☐
Jennifer Campbell	☐	☐	☒	☐
Stephen Whitburn	☒	☐	☐	☐
Henry L. Foster III	☐	☐	☒	☐
Marni von Wilpert	☐	☐	☒	☐
Kent Lee	☒	☐	☐	☐
Raul A. Campillo	☒	☐	☐	☐
Vivian Moreno	☒	☐	☐	☐
Sean Elo-Rivera	☒	☐	☐	☐

Date of final passage NOV 13 2026.

(Please note: When an ordinance is approved by the Mayor, the date of final passage is the date the approved ordinance was returned to the Office of the City Clerk.)

AUTHENTICATED BY: TODD GLORIA
Mayor of The City of San Diego, California.

(Seal) DIANA J.S. FUENTES
City Clerk of The City of San Diego, California.

By _____, Deputy

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 OCT 26 2026, and on NOV 13 2026.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal) DIANA J.S. FUENTES
City Clerk of The City of San Diego, California.

By _____, Deputy

Office of the City Clerk, San Diego, California

Ordinance Number **O-22158**