

## **Chapter 6.14 PROHIBITION OF SMOKING IN UNENCLOSED DINING AREAS**

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### **6.14.010 Purpose.**

Because smoking of tobacco, or any other weed or plant, is a danger to health and a cause of material annoyance, inconvenience, discomfort and a health hazard to those who are present in unenclosed areas as well as confined places, in order to serve public health, safety and welfare, the declared purpose of this article is to prohibit the smoking of tobacco, or any other weed or plant in unenclosed dining areas.

(Ord. No. CS-188, § II, 10-2-2012)

### **6.14.020 Definitions.**

- (a) "Enclosed dining area" as defined in this chapter shall mean an area enclosed by a roof and walls with appropriate openings for ingress and egress.
- (b) "Public place" as defined in this chapter shall mean any place, publicly or privately owned, which is open to the general public regardless of any fee or age requirement.
- (c) "Reasonable distance" as defined in this chapter shall mean a distance of twenty feet in any direction from an area in which smoking is prohibited.
- (d) "Smoke" or "smoking" as defined in this chapter 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.
- (e) "Unenclosed dining area" as defined in this chapter shall mean any dining area, which is not an enclosed dining area, including streets and sidewalks, which is available to or customarily used by the general public, an employee, or any invitee, and which is designed, established, or regularly used for consuming food or drink.

(Ord. No. CS-188, § II, 10-2-2012)

## Title 6 - HEALTH AND SANITATION\*

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#### **6.14.030 Prohibition.**

Smoking is prohibited in unenclosed dining areas within the City of Carlsbad, except places where smoking is already prohibited by state or federal law, in which case those laws apply.

(Ord. No. CS-188, § II, 10-2-2012)

#### **6.14.040 Reasonable smoking distance required.**

Smoking shall be prohibited within a reasonable distance, as defined in this chapter, from any unenclosed dining area.

(Ord. No. CS-188, § II, 10-2-2012)

#### **6.14.050 Optional prohibition.**

Nothing in this chapter prohibits any person, corporation or any other legal entity, or employer, with legal control over any property from prohibiting smoking on any part of such property, even if smoking is not otherwise prohibited in that area by law.

(Ord. No. CS-188, § II, 10-2-2012)

#### **6.14.060 Posting of signs.**

Any person, corporation or any other legal entity, or employer that has legal or de facto control of an unenclosed dining area in which smoking is prohibited by this chapter shall post a clear, conspicuous and unambiguous "No Smoking" or "Smoke-free" sign at each point of ingress to the area, and in at least one other conspicuous point within the area. The signs shall have letters of no less than one inch in height and shall include the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it). Notwithstanding this provision, the presence or absence of signs shall not be a defense to a charge of smoking in violation of any other provision of this chapter.

(Ord. No. CS-188, § II, 10-2-2012)

#### **6.14.070 Other requirements and prohibitions.**

No ashtrays or smoking disposal receptacles shall be placed in areas where smoking is prohibited.

(Ord. No. CS-188, § II, 10-2-2012)

#### **6.14.080 Penalties and enforcement.**

- (a) Each incident of smoking in violation of this chapter is punishable pursuant to [Chapter 1.08](#) of this code, or in alternative by the administrative code enforcement remedies of [Chapter 1.10](#) of this code.
- (b) Except as otherwise provided, enforcement of this chapter is at the sole discretion of the persons authorized to enforce this chapter pursuant to Chapters [1.08](#) and [1.10](#) of this code. Nothing in this chapter shall create a right of action in any person against the city or its agents for damages or to compel public enforcement of this chapter against private parties.

(Ord. No. CS-188, § II, 10-2-2012)

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FOOTNOTE(S):

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**Editor's note**— Ord. No. CS-188, § II, adopted Oct. 2, 2012, amended Ch. 6.14 in its entirety to read as set out herein. The former Ch. 6.14, §§ 6.14.010—6.14.090, pertained to the prohibition of smoking in certain public areas and derived from Ord. No. 5065, § 1(part), 1983. ([Back](#))