

ORDINANCE NO. 1053

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAMARILLO REPEALING AND REENACTING CHAPTER 9.24 OF TITLE 9 OF THE CAMARILLO MUNICIPAL CODE PROHIBITING SMOKING IN CERTAIN ENCLOSED AND UNENCLOSED AREAS AND AMENDING CHAPTER 9.36 OF TITLE 9 OF THE CAMARILLO MUNICIPAL CODE TO REGULATE THE SALE OF TOBACCO PRODUCTS

The City Council of the City of Camarillo ordains as follows:

SECTION 1. The City Council of the City of Camarillo does hereby find, determine and declare as follows:

A. Tobacco use causes death and disease and continues to be an urgent public health challenge, as evidenced by the following:

- Tobacco-related illness is the leading cause of preventable death in the United States,¹ accounting for about 443,000 deaths each year;² and
- Scientific studies have concluded that tobacco use can cause chronic lung disease, coronary heart disease, and stroke, in addition to cancer of the lungs, larynx, esophagus, and mouth;³ and
- Some of the most common types of cancers, including stomach, liver, uterine, cervix, and kidney are related to tobacco use;⁴ and

B. Secondhand smoke has been repeatedly identified as a health hazard, as evidenced by the following:

- The U.S. Surgeon General concluded that there is no risk-free level of

¹ US Department of Health and Human Services, Centers for Disease Control and Prevention. *Targeting Tobacco Use: The Nation's Leading Cause of Preventable Death*. 2008, p. 2. Available at: www.cdc.gov/nccdphp/publications/aag/pdf/osh.pdf.

² US Department of Health and Human Services, Centers for Disease Control and Prevention. "Smoking-Attributable Mortality, Years of Potential Life Lost, and Productivity Losses — United States, 2000-2004." *Morbidity and Mortality Weekly Report*, 57(45): 1226-1228, 2008. Available at: www.cdc.gov/mmwr/preview/mmwrhtml/mm5745a3.htm.

³ US Department of Health and Human Services, Centers for Disease Control and Prevention. *Targeting Tobacco Use: The Nation's Leading Cause of Preventable Death*. 2008, p. 2. Available at: www.cdc.gov/nccdphp/publications/aag/pdf/osh.pdf.

⁴ Leistikow B, Zubair K, et al. "Male Tobacco Smoke Load and Non-Lung Cancer Mortality Associations in Massachusetts." *BMC Cancer*, 8:341, 2008. Available at: www.biomedcentral.com/1471-2407/8/341.

exposure to secondhand smoke;⁵ and

- The California Air Resources Board placed secondhand smoke in the same category as the most toxic automotive and industrial air pollutants by categorizing it as a toxic air contaminant for which there is no safe level of exposure;⁶ and
- The California Environmental Protection Agency included secondhand smoke on the Proposition 65 list of chemicals known to the state of California to cause cancer, birth defects, and other reproductive harm;⁷ and

C. Exposure to secondhand smoke causes death and disease, as evidenced by the following:

- Secondhand smoke is responsible for as many as 73,000 deaths among nonsmokers each year in the United States;⁸ and
- Exposure to secondhand smoke increases the risk of coronary heart disease by approximately thirty percent;⁹ and
- Secondhand smoke exposure causes lower respiratory tract infections, such as pneumonia and bronchitis in as many as 300,000 children in the United States under the age of 18 months each year;¹⁰ and exacerbates childhood asthma;¹¹

D. Tobacco use and exposure to secondhand smoke impose great social and economic costs, as evidenced by the following:

⁵ US Department of Health and Human Services, Office of the Surgeon General. *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*. 2007. Report highlights available at: www.surgeongeneral.gov/library/secondhandsmoke/factsheets/factsheet7.html.

⁶ Resolution 06-01, Cal. Air Resources Bd. (2006) at 5. Available at: www.arb.ca.gov/regact/ets2006/res0601.pdf; See California Environmental Protection Agency, Air Resources Board. *News Release, California Identifies Secondhand Smoke as a "Toxic Air Contaminant."* Jan. 26, 2006. Available at: www.arb.ca.gov/newsrel/nr012606.htm.

⁷ California Environmental Protection Agency, Office of Environmental Health Hazard Assessment. *Chemicals Known to the State to Cause Cancer or Reproductive Toxicity*. 2006, p. 8 & 17. Available at: www.oehha.ca.gov/prop65/prop65_list/files/P65single081106.pdf.

⁸ US Department of Health and Human Services, Centers for Disease Control and Prevention. *Fact Sheet – Secondhand Smoke*. 2006. Available at: www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/general_facts/index.htm.

⁹ Barnoya J and Glantz S. "Cardiovascular Effects of Secondhand Smoke: Nearly as Large as Smoking." *Circulation*, 111: 2684-2698, 2005. Available at: www.circ.ahajournals.org/cgi/content/full/111/20/2684.

¹⁰ US Department of Health and Human Services, Centers for Disease Control and Prevention. *Targeting Tobacco Use: The Nation's Leading Cause of Preventable Death*. 2008, p. 2. Available at: www.cdc.gov/nccdphp/publications/aag/pdf/osh.pdf.

¹¹ US Department of Health and Human Services, Centers for Disease Control and Prevention. *Fact Sheet – Secondhand Smoke*. 2006. Available at: www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/general_facts/index.htm.

- The total annual economic burden of smoking in the United States is \$193 billion;¹² and
- From 2001-2004, the average annual health care expenditures attributable to smoking were approximately \$96 billion;¹³ and
- The medical and other costs to nonsmokers due to exposure to secondhand smoke were estimated at over \$10 billion per year in the United States in 2005;¹⁴ and
- The total annual cost of smoking California was estimated at \$475 per resident or \$3,331 per smoker per year, for a total of nearly \$15.8 billion in smoking-related costs in 1999 alone;¹⁵ and
- California's Tobacco Control Program saved the state and its residents \$86 billion in health care expenditures between the year of its inception, 1989, and 2004, with savings growing yearly;¹⁶

E. Exposure to secondhand smoke anywhere has negative health impacts, and exposure to secondhand smoke does occur at significant levels outdoors, as evidenced by the following:

- Levels of secondhand smoke exposure outdoors can reach levels attained indoors depending on direction and amount of wind and number and proximity of smokers;¹⁷ and
- Irritation from secondhand smoke begins at levels as low as 4 micrograms per cubic meter, and in some outdoor situations this level can be found as far away as 13 feet from the burning cigarette;¹⁸ and

¹² Centers for Disease Control and Prevention. *News Release, Slightly Lower Adult Smoking Rates*. 2008. Available at: www.cdc.gov/media/pressrel/2008/r081113.htm.

¹³ Ibid.

¹⁴ Behan DF, Eriksen MP and Lin, Y. *Economic Effects of Environmental Tobacco Smoke*. Schaumburg, IL: Society of Actuaries, 2005, p. 2. Available at: [www.soa.org/files/pdf/ETSReportFinalDraft\(Final%203\).pdf](http://www.soa.org/files/pdf/ETSReportFinalDraft(Final%203).pdf).

¹⁵ Max W, Rice DP, Zhang X, et al. *The Cost of Smoking in California, 1999*. Sacramento, CA: Tobacco Control Section, California Department of Health Services, 2002, p. 74. Available at: <http://repositories.cdlib.org/cgi/viewcontent.cgi?article=1026&context=ctcre>.

¹⁶ Lightwood JM, Dinno A and Glantz SA. "Effect of the California Tobacco Control Program on Personal Health Care Expenditures." *PLoS Med*, 5(8): e178, 2008. Available at: www.plosmedicine.org/article/info:doi/10.1371/journal.pmed.0050178.

¹⁷ Klepeis NE, Ott WR, and Switzer P. *Real-Time Monitoring of Outdoor Environmental Tobacco Smoke Concentrations: A Pilot Study*. San Francisco: University of California, San Francisco and Stanford University, 2004, p. 34, 80. Available at: http://exposurescience.org/pub/reports/Outdoor_ETS_Final.pdf; See also Klepeis NE, Ott WR and Switzer P. "Real-Time Measurement of Outdoor Tobacco Smoke Particles." *Journal of Air and Waste Management Association*, 57: 522-534, 2007. Available at: www.ashaust.org.au/pdfs/OutdoorSHS0705.pdf.

¹⁸ Junker MH, Danuser B, Monn C, et al. "Acute Sensory Responses of Nonsmokers at Very Low Environmental Tobacco Smoke Concentrations in Controlled Laboratory Settings." *Environmental Health Perspectives*, 109(10):

- To be completely free from exposure to secondhand smoke in outdoor places, a person may have to move nearly 25 feet away from the source of the smoke, about the width of a two-lane road;¹⁹ and

F. Cigarette butts are a major and persistent source of litter, as evidenced by the following:

- It is estimated that over two billion cigarette butts are discarded every day worldwide, and that Americans alone discard more than 175 million pounds of cigarette butts every year;²⁰ and
- Cigarette butts and filters made up 16% of the trash and debris collected in the City of Camarillo during the 2009 Coastal Cleanup Day event,²¹ and accounted for 37% of the countywide collection in 2007;²² and
- Cigarette butts carelessly discarded frequently end up in storm drains that flow into streams, rivers, bays, lagoons and ultimately the ocean;²³ and
- Cigarette filters, made of plastic cellulose acetate, take approximately 15 years to decompose;²⁴ and

G. Laws restricting smoking have recognizable benefits to public health and medical costs, as evidenced by the following:

- Cities with smoke-free laws see an appreciable reduction in hospital admittances for heart attacks in the months and years after such laws are passed;²⁵ and
- Smoking bans help people reduce the number of cigarettes they smoke or

1046-1052, 2001. Available at: www.pubmedcentral.nih.gov/picrender.fcgi?artid=1242082&blobtype=pdf; Repace JL. "Benefits of Smoke-Free Regulations in Outdoor Settings: Beaches, Golf Courses, Parks, Patios, and in Motor Vehicles." *William Mitchell Law Review*, 34(4): 1621-1638, 2008. Available at: <http://tobacco.health.usyd.edu.au/site/supersite/contact/pdfs/WilliamMitchellRepace.pdf>.

¹⁹ Repace JL. "Benefits of Smoke-Free Regulations in Outdoor Settings: Beaches, Golf Courses, Parks, Patios, and in Motor Vehicles." *William Mitchell Law Review*, 34(4): 1621-1638, 2008. Available at: <http://tobacco.health.usyd.edu.au/site/supersite/contact/pdfs/WilliamMitchellRepace.pdf>.

²⁰ Surfrider Foundation, San Diego Chapter, Hold on to Your Butt, www.surfridersd.org/hotyb.php.

²¹ City of Camarillo, Coastal Cleanup Day Collection Data. September 2009.

²² Ocean Conservancy, *International Coastal Cleanup Day Annual Report for 2007*, www.oceanconservancy.org.

²³ Surfrider Foundation, San Diego Chapter, Hold on to Your Butt, www.surfridersd.org/hotyb.php.

²⁴ *Ibid.*

²⁵ US Department of Health and Human Services, Centers for Disease Control and Prevention. "Reduced Hospitalizations for Acute Myocardial Infarction After Implementation of a Smoke-Free Ordinance – City of Pueblo, Colorado, 2002 – 2006." *Morbidity and Mortality Weekly Report*, 57(51&52): 1373-1377, 2009. Available at: www.cdc.gov/mmwr/preview/mmwrhtml/mm5751a1.htm; Glantz SA. "Meta-Analysis of the Effects of Smokefree Laws on Acute Myocardial Infarction: An Update." *Preventive Medicine*, 47(4): 452-453, 2008.

quit altogether;²⁶ and

- Strong smoking regulations for restaurants decrease the number of children who transition from experimenting with smoking to becoming actual smokers;²⁷ and

H. It is estimated that 15.4% of California high school students smoke,²⁸ and 5% of youths residing in the Central Coast/Tri-Counties region smoke²⁹; and

I. State law prohibits smoking within 25 feet of playgrounds and tot lots and expressly authorizes local communities to enact additional restrictions,³⁰ and state law prohibits smoking within 20 feet of entryways and operable windows of government buildings;³¹ and

J. State law prohibits smoking in most workplaces³²; and

K. Both state law and case law³³ affirm local governments' authority to enact additional restrictions to prohibit smoking in those workplaces not expressly prohibited by state law; and

L. Creating smoke-free areas helps protect the health of the 86.7% of Californians who are nonsmokers;³⁴ and

M. Society is becoming less tolerant and less accepting of cigarette smoking, as evidenced by the following:

- A 2008 survey of California voters found that 75% thought that secondhand smoke is harmful, 64% were bothered by secondhand smoke, and 73%

²⁶ Neighmond P. "Smoking Bans Help People Quit, Research Shows." *National Public Radio*, October 25, 2007. Available at: www.npr.org/templates/story/story.php?storyId=15610995.

²⁷ Siegel M, Albers AB, Cheng DM, *et al.* "Local Restaurant Smoking Regulations and the Adolescent Smoking Initiation Process: Results of a Multilevel Contextual Analysis Among Massachusetts Youth." *Archives of Pediatrics and Adolescent Medicine*, 162(5): 477-483, 2008. Available at: <http://archpedi.ama-assn.org/cgi/reprint/162/5/477.pdf>.

²⁸ Tobacco Control Section, Cal. Dep't of Public Health Services, *Youth Smoking* (July 2008), available at www.cdph.ca.gov/programs/Tobacco/Documents/CTCPFactShYouthSmoking2008.pdf

²⁹ Tobacco Control Section, Cal. Dep't of Public Health Services, *Regional Smoking Prevalence* (August 2003), available at www.sonoma-county.org/health/prev/pdf/regional.pdf

³⁰ Cal. Health & Safety Code § 104495 (West 2008).

³¹ Cal. Gov't Code § 7597 (West 2008).

³² Cal. Labor Code § 6404.5

³³ *City of San Jose v. Dept. of Health Services* (1998)66 Cal. App. 4th 35, 39, 44.

³⁴ Hong M, Barnes RL and Glantz SA. *Tobacco Control in California 2003-2007: Missed Opportunities*. San Francisco: Center for Tobacco Control Research and Education, 2007, p. 9. Available at: <http://repositories.cdlib.org/cgi/viewcontent.cgi?article=1074&context=ctcre>.

support laws restricting smoking in outdoor public places;³⁵

- A 2009 survey of Camarillo residents, workers and visitors found that 87% believe secondhand smoke is harmful,³⁶ and more than two-thirds support laws restricting smoking in most outdoor public places.³⁷

N. It is the intent of the City Council in enacting this ordinance, to provide for the public health, safety, and welfare by discouraging the inherently dangerous behavior of smoking around non-tobacco users, especially children; by protecting the public from exposure to secondhand smoke where they live, work and play; by reducing the potential for children to wrongly associate smoking and tobacco with a healthy lifestyle; and by affirming and promoting a healthy environment in and around the City.

SECTION 2. Amendment of Chapter 9.24 of Title 9 of the Municipal Code.

Title 9, Chapter 9.24 of the Camarillo Municipal Code is hereby amended to read as follows:

“CHAPTER 9.24 REGULATION OF SMOKING

9.24.010 Definitions.

9.24.020 Prohibition of Smoking in Certain Enclosed and Unenclosed Areas.

9.24.030 Permissible Smoking Areas.

9.24.040 Reasonable Smoking Distance Required.

9.24.050 Duty of Person, Employer, Business or Non-profit Entity.

9.24.060 Posting of Signs.

9.24.070 Violations and Penalties.

9.24.080 Non-Retaliation.

9.24.090 Public Education.

9.24.010 Other Applicable Laws.

9.24.110 Application to Publicly Owned Facilities.

Section 9.24.010 Definitions.

In addition to the definitions contained in this Code, including the Official Zoning

³⁵ Goodwin Simon Victoria Research. *Study of California Voters' Attitudes About Secondhand Smoke Exposure*. Sacramento: Center for Tobacco Policy & Organizing, 2008, p. 1-3. Available at: http://www.center4tobaccopolicy.org/_files/_files/Results_of_SHS_Poll_November_2008.pdf.

³⁶ Tobacco Education Program, Ventura County Public Health Dept. *Report of a Public Opinion Survey on Secondhand Smoke in Outdoor Places, City of Camarillo, February 2009*, p. 5.

³⁷ *Ibid.*, p. 3.

Ordinance of the City, the following words and phrases shall be defined as set forth below, for the purpose of this Chapter, unless the context clearly requires a different definition:

- A. "Business" means any sole proprietorship, partnership, joint venture, corporation or other legal entity formed for profit-making purposes, including but not limited to, retail establishments where goods and/or services are sold, and professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are provided.
- B. "Dining Area" means any area, including streets and Sidewalks, available to or customarily used by the general public, that is designed, established, or regularly used for consuming food or drink.
- C. "Employee" means any person who is employed or retained as an independent contractor by any Business, Employer or Non-profit Entity in consideration for direct or indirect monetary wages or profit. Employee shall also mean any person who volunteers his or her services to a Non-profit Entity, Business or Employer.
- D. "Employer" means any person, Business or Non-profit Entity that retains the services of one or more Employees.
- E. "Enclosed Area" means all space in a building between a floor and ceiling which is enclosed on all sides by solid walls or windows exclusive of door or passage ways which extend from the floor to the ceiling; and all areas which are screened by partitions which do not extend to the ceiling or are not solid.
- F. "Family Day Care Home" means a home providing day care for children, which is subject to state and/or county licensing requirements.
- G. "Multi-Unit Residence" means a building or portion thereof designed for occupancy by two or more families living independently of each other, with each provided with kitchen facilities. A single-family house shared by roommates is not a Multi-Unit Residence for purposes of this section.
- H. "Multi-Unit Residence Common Area" means every area of a Multi-Unit Residence accessible to and usable by the occupants of more than one dwelling space, including but not limited to halls, lobbies, laundry rooms, paths, courtyards, elevators, stairs, community rooms, outdoor eating areas, play areas and swimming pools.
- I. "Non-profit Entity" means any corporation, unincorporated association or other legal entity created for charitable, philanthropic, educational, character building, political, social or other similar purposes, the net proceeds from the operations of which are committed to the promotion of the objects or purposes of the organization and not to private financial gain.

- J. "Parking Lot" means a parking area, whether public or private, used for the parking of vehicles and available for public use, either free of charge or for remuneration.
- K. "Place of Employment" means any area under the control or possession of an Employer, Business or Non-profit Entity which Employees may enter during the course of their employment, including but not limited to, indoor and outdoor work areas, construction sites, vehicles used in employment or for business purposes, taxis, employee lounges and restrooms, conference and banquet rooms, bingo and gaming facilities, Retail Tobacco Stores, long-term health care facilities, warehouses, and employee cafeterias and hallways. A private residence is a "Place of Employment" if it is used, at any time, as a Family Day Care Home or Residential Care Home.
- L. "Public Place" means any area to which the public is invited or in which the public is permitted, regardless of any fee or age requirement, but does not include streets or Sidewalks, except those streets or Sidewalks designated by City Council Resolution.
- M. "Reasonable Distance" means a distance of twenty-five (25) feet in any direction from an area in which Smoking is prohibited.
- N. "Recreational Area" means any area that is publicly or privately owned, and open to the general public for recreational purposes regardless of any fee requirement, including but not limited to, parks, picnic areas, gardens, swimming pools, walking paths, skateboard parks, sporting facilities, stadiums, fitness clubs and playgrounds, but does not include golf course fairways.
- O. "Residential Care Home" means a home providing round-the-clock care for children or elderly persons, which is subject to state and/or county licensing requirements.
- P. "Retail Tobacco Store" means any retail business establishment generating at least 90% of its revenues from the sale of tobacco products, including but not limited to, cigarettes, cigars, pipe tobacco and smoking accessories.
- Q. "Service Area" means any publicly or privately owned area, including streets and sidewalks, designed to be used or regularly used by one (1) or more persons to receive or wait to receive a service, enter a Public Place or Place of Employment, or make a transaction, whether or not the exchange of money is involved. The term "Service Area" includes but is not limited to information kiosks, automatic teller machines (ATMs), ticket lines, bus stops or shelters, mobile vendor lines or cab stands.
- R. "Sidewalk" means any public or private Sidewalk or walkway located in a Public Place.

- S. "Smoke" means the gases and particles released into the air by combustion when the apparent or usual purpose of the combustion is human inhalation of the resulting combustion products, such as, for example, tobacco Smoke, marijuana Smoke, and crack cocaine Smoke, except when the combusting material contains no tobacco and the purpose of the inhalation is solely olfactory, such as, for example, Smoke from incense.
- T. "Smoking" means inhaling, exhaling, burning or carrying any lighted substance in any manner or in any form.
- U. "Smoking Lounge" means a business established for the purpose of providing customers with a place to purchase and Smoke cigars and pipe tobacco, and which generates at least 90% of its revenues from the sale of tobacco products, including but not limited to, cigars, pipe tobacco and Smoking accessories.
- V. "Unenclosed Area" means any area that is not an Enclosed Area.

Section 9.24.020 Prohibition of Smoking in Certain Enclosed and Unenclosed Areas.

- A. Smoking shall be prohibited in the following Enclosed and Unenclosed Areas within the City of Camarillo, except in such places in which Smoking is already prohibited by state or federal law, in which case the state or federal law applies:
 - 1) Public Places;
 - 2) Dining Areas;
 - 3) Recreation Areas;
 - 4) Service Areas;
 - 5) Private residences if used, at any time, as a Family Day Care Home or Residential Care Home;
 - 6) The permitted sites of public events held in Unenclosed Areas, including but not limited to sports events, entertainment and speaking performances, ceremonies, pageants, parades, farmers' markets and fairs, whether in a private venue or on a public street. This prohibition applies from the time 60 minutes before the event begins to the time 60 minutes after the event ends;
 - 7) Multi-Unit Residence Common Areas, but not including Parking Lots; and;
 - 8) Sidewalks designated by City Council Resolution.
- B. Smoking is prohibited in all Enclosed and Unenclosed Places of Employment, except in such places in which Smoking is already prohibited by state or federal

law, in which case the state or federal law applies, and except as provided for in Section 9.24.030 E of this Chapter.

Section 9.24.030 Permissible Smoking Areas.

Notwithstanding any other provision of this Chapter, Smoking is permitted in the following areas unless prohibited by federal or state law:

- A. Private residences, except if used, at any time, as a Family Day Care or Residential Care Home, subject to state and/or county licensing requirements;
- B. Retail Tobacco Stores and Smoking Lounges that are located in a building which contains no other businesses or uses and the walls of the building are at least 10 feet from any other building;
- C. Parking Lots, except:
 - 1) Smoking is not permitted in Parking Lots when the Parking Lot is included in an approved permit for a public event.
 - 2) Smoking is not permitted in Parking Lots within a Reasonable Distance of any location where Smoking is prohibited by this Chapter.
- D. Streets and Sidewalks, except:
 - 1) Smoking is not permitted on streets or Sidewalks designated as "No Smoking" by City Council Resolution.
 - 2) Smoking is not permitted on streets or Sidewalks within a Reasonable Distance of any location where Smoking is prohibited by this Chapter.
- E. Up to twenty percent (20%) of hotel and motel guest rooms, provided at least eighty percent (80%) of the guest rooms in a hotel or motel are designated as permanent non-smoking rooms and ashtrays and matches are permanently removed from such non-smoking rooms. Permanent "No Smoking" signage shall be posted in non-smoking rooms; and
- F. Enclosed Places of Employment when all three of the following criteria are satisfied:
 - 1) There are no Employees other than the owner(s) or operator(s) of the Business or Non-profit Entity;
 - 2) The public is not permitted in such Places of Employment; and
 - 3) The Enclosed Area containing the Place of Employment is located in a building which contains no other businesses or uses and the walls of the building are at least 10 feet from any other building.

Section 9.24.040 Reasonable Smoking Distance Required.

- A. Smoking in Unenclosed Areas shall be prohibited within a Reasonable Distance from any entrance, exit, window, opening, crack, or vent into an Enclosed Area in which Smoking is prohibited, except while actively passing on the way to another destination and so long as Smoke does not enter any Enclosed Area in which Smoking is prohibited.
- B. Smoking in Unenclosed Areas shall be prohibited within a Reasonable Distance from any Unenclosed Area in which Smoking is prohibited under Section 9.24.020 of this Chapter, except while actively passing on the way to another destination.
- C. The prohibitions in subsections (A) and (B) shall not apply to Unenclosed Areas of private residential properties that are not Multi-Unit Residences,

Section 9.24.050 Duty Of Person, Employer, Business Or Non-profit Entity.

- A. No person, Employer, Business or Non-profit Entity shall knowingly permit Smoking in an area which is under the control or possession of the person, Employer, Business or Non-profit Entity and in which Smoking is prohibited by law and the person, Employer, Business or Non-profit Entity is not otherwise compelled to act under state or federal law.
- B. No person shall dispose of any cigarette, cigar or tobacco, or any part of a cigarette or cigar, except in a designated waste disposal container.
- C. Notwithstanding any other provision of this Chapter, any person, landlord, Employer, Business or Non-profit Entity who controls any property, establishment or Place of Employment regulated by this Chapter may declare any part of such area in which Smoking would otherwise be permitted to be a non-smoking area.

Section 9.24.060 Posting of signs.

- A. Signs for Enclosed Areas
 - 1) Signs with the words "No Smoking in This Establishment or Within 25 Feet of Entrances, Exits and Operable Windows," a City of Camarillo phone number where complaints can be directed, and citation of this Chapter, California Labor Code Sec. 6404.5 and California Government Code Sec. 7597, will be provided by the City and must be conspicuously posted at all entrances to every Enclosed Area in which Smoking is prohibited by this Chapter by the person, Employer, Business or Non-profit Entity having control or possession of such place. For purposes of this Chapter, the City Manager or designee shall be responsible for the posting of signs in facilities owned or leased in part by the City of Camarillo.

- 2) For enclosed buildings with multiple tenants, signs with the wording specified in this section must be conspicuously posted at each exterior entrance to the building by the person, Employer, Business or Non-profit Entity having control or possession of such building. Individual Enclosed Areas within the multiple-tenant building need not be posted.

B. Signs for All Other Areas

"No Smoking" or "Smoke Free" signs, with letters of no less than two inches in height or 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) shall be clearly, sufficiently and conspicuously posted in every Unenclosed Area in which Smoking is prohibited by this Chapter by the person, Employer, Business or Non-profit Entity having control or possession of such place.

C. In any Business where Smoking is permitted in Enclosed Areas pursuant to this Chapter and, in addition to the "No Smoking" sign requirements of Section 9.24.030 E:

- 1) Signs shall be permanently posted which include the words: "WARNING: SMOKING ALLOWED IN THIS ESTABLISHMENT" or "WARNING: SMOKING ALLOWED IN PORTIONS OF THIS ESTABLISHMENT";
- 2) Each such sign shall be printed in capital letters not less than 2" in height; and
- 3) All such signs shall be posted so as to be clearly visible from the exterior of the entrance(s) to the building.

Section 9.24.070 Violations and Penalties.

- A. A violation of this Chapter constitutes an infraction, subject to penalties as provided for in Chapter 1.12 of this Code.
- B. Causing, permitting, aiding, abetting, or concealing a violation of any provision of this Chapter shall constitute a violation.
- C. The remedies provided by this Chapter are cumulative and in addition to any other remedy available at law or in equity.
- D. Enforcement of this Chapter shall be implemented by the City Manager. Any peace officer or code enforcement official also may enforce this Chapter.
- E. Except as otherwise provided, enforcement of this Chapter is at the sole discretion of the City. Nothing in this Chapter shall create a right of action in any person against the City or its agents to compel public enforcement of this Chapter against private parties.

- F. Punishment under this Section shall not preclude punishment pursuant to Health & Safety Code Section 13002, Penal Code Section 374.4, or any other law proscribing the act of littering. Nothing in this Section shall preclude any person from seeking any other remedies, penalties or procedures provided by law.

Section 9.24.080 Non-Retaliation.

No person, Business, Employer or Non-profit Entity shall intimidate, threaten any reprisal, or effect any reprisal, for the purpose of retaliating against another person who seeks to attain compliance with this Chapter.

Section 9.24.090 Public Education.

The City Manager, in conjunction with the Ventura County Department of Health and other health organizations, shall engage in a continuing program to explain and clarify the purposes and requirements of this ordinance to citizens affected by it, and to guide owners, operators, employers and managers in their compliance with it. Such program may include the publication of a brochure for affected businesses and individuals explaining the provisions of this ordinance.

Section 9.24.100 Other Applicable Laws.

This Chapter shall not be interpreted or construed to permit Smoking where it is otherwise prohibited by other applicable laws.

Section 9.24.110 Application to Publicly Owned Facilities.

All facilities owned, leased or controlled by the City or by any other public agency shall be subject to the provisions of this Chapter, unless now or hereafter the application of this Chapter to such public facilities is prohibited or preempted by applicable law.”

SECTION 3. Amendment of Chapter 9.36 of Title 9 of the Municipal Code.
Chapter 9.36 of Title 9 of the Camarillo Municipal Code is hereby amended to read as follows:

**“CHAPTER 9.36
REGULATION OF THE SALE OF TOBACCO PRODUCTS**

9.36.010 Definitions.

9.36.020 Prohibitions.

9.36.030 Non-Retaliation.

9.36.040 Conflicts of Law.

9.36.050 Penalty for Violation.

9.36.010 Definitions.

For the purpose of the provisions of this Chapter the following words and phrases shall be construed to have the meanings set forth below:

- A. "Business" means any sole proprietorship, joint venture, corporation or other legal entity formed for profit-making purposes, including, but not limited to, retail establishments where goods or services are sold.
- B. "Employee" means any Person who is employed in any capacity by a Business which offers for sale any Tobacco Product, including but not limited to, any Person who volunteers his or her services for a non-profit entity which offers for sale any Tobacco Product.
- C. "Person" means a natural person or any legal entity.
- D. "Self-service Display" means any open display of any type of Tobacco Products and point-of-sale, tobacco-related promotional products that the public has access to without the assistance or intervention of an Employee.
- E. "Tobacco Product" means any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco, snuff or any other form of tobacco which may be utilized for smoking, chewing, inhaling or other manner of ingestion.
- F. "Tobacco Retailer" means any Person or legal entity operating a Business at which Tobacco Products are offered for sale.
- G. "Tobacco Vending Machine" means any electronic or mechanical device or appliance the operation of which depends upon the insertion of money, whether in coin or paper currency, or other things representative of value, which dispenses or releases a Tobacco Product.
- H. "Vendor-assisted" means that only an Employee of a Tobacco Retailer has access to Tobacco Products and assists a customer by supplying the Tobacco Product, and the customer does not take possession of the Tobacco Product until it is purchased.

9.36.020 Prohibitions.

- A. Signage. No Person shall engage in the sale of any Tobacco Products without first posting and permanently maintaining a plainly visible sign at the point-of-sale of Tobacco Products which has wording similar to the following:

THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER 18
YEARS OF AGE IS PROHIBITED BY LAW AND SUBJECT TO
PENALTIES. PHOTO IDENTIFICATION IS REQUIRED OF
PURCHASERS APPEARING TO BE UNDER 27 YEARS OF AGE.

The letters of the sign shall be at least one-half inch high.

- B. Identification. No Person or Employee shall sell, offer to sell or permit to be sold, any Tobacco Product to any purchaser who appears to be under twenty-seven years of age, without first verifying by means of photographic identification containing the bearer's date of birth that the purchaser is not under eighteen years of age.
- C. Packaging. No Person or Employee shall sell, offer to sell or permit to be sold, any Tobacco Products not in the original packaging provided by the manufacturer and with all required health warnings.
- D. Self-Service Display. No Person or Employee shall sell, offer for sale or display for sale, any Tobacco Products or point-of-sale, tobacco-related promotional products by means of a Self-service Display or by any means other than Vendor-assisted sales.
- E. Machines. No Business or other commercial retail or wholesale outlet, shall locate, install, keep, maintain or use, or permit the location, installation, keeping, maintenance or use on his or her or its premises of, any Tobacco Vending Machine for the purpose of selling or distributing any Tobacco Products.

9.36.030 Non-Retaliation.

No Person shall discharge, refuse to hire or in any manner retaliate against any Employee or applicant for employment because such Employee or applicant agrees to abide by the provisions of this Chapter.

No Person shall intimidate or threaten any reprisal or effect any reprisal for the purpose of retaliating against any Employee because such Employee seeks to attain compliance with the provisions of this Chapter.

9.36.040 Conflicts of Law.

This Chapter shall not be interpreted or construed to permit Tobacco Vending Machines and/or distribution of Tobacco Product samples where they are otherwise restricted by other applicable laws. This Chapter shall not be construed to be in conflict with any laws and/or regulations imposed by the state or federal government.

9.36.050 Penalty for Violation.

Any violation of the provisions of this Chapter shall be deemed to be a misdemeanor and punishable as such. Each day a violation of any provision of this Chapter shall continue is to be a new and separate violation."

SECTION 4. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or

circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of Camarillo hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof independently, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof is declared invalid or unenforceable.


SECTION 5. The City Clerk is directed to cause this ordinance to be published in the manner prescribed by law.

Passed, Approved and Adopted April 28, 2010.



Mayor

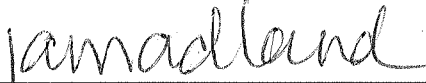
ATTEST:



City Clerk

I, Jeffrie Madland, City Clerk of the City of Camarillo, certify Ordinance No. 1053 was introduced by the City Council at a meeting held April 14, 2010, and subsequently passed and adopted by the City Council at a regular meeting held April 28, 2010, by the following vote:

AYES: Councilmembers: Craven, McDonald, Morgan, Waunch, Mayor Kildee
NOES: Councilmembers: None
ABSENT: Councilmembers: None



City Clerk