

SECONDHAND SMOKE PROTECTIONS

SECTION I. SUMMARY. This ordinance amends the Secondhand Smoke and Tobacco Product Control Ordinance of Contra Costa County, Division 445 of the Ordinance Code, to prohibit the use of electronic cigarettes at all places where smoking is prohibited and to require a tobacco retailer's license for the sale of electronic cigarettes, by amending the definitions of "smoking" and "tobacco product." This ordinance also amends the definition of "multi-unit residence."

SECTION II. Section 445-2.006 of the County Ordinance Code is amended to read:

445-2.006 Definitions. For purposes of this division, the following words and phrases have the following meanings:

- (a) "Enclosed" means all space between a floor and ceiling where the space is closed in on all sides by solid walls or windows that extend from the floor to the ceiling. An enclosed space may have openings for ingress and egress, such as doorways or passageways. An enclosed space includes all areas within that space, such as hallways and areas screened by partitions that do not extend to the ceiling or are not solid.
- (b) "Multi-unit residence" means a building that contains ~~two~~ **four** or more dwelling units, including but not limited to apartments, condominiums, senior citizen housing, nursing homes, and single room occupancy hotels. **A primary residence with an attached or detached second unit permitted pursuant to Chapter 82-24 of this code is not a multi-unit residence for purposes of this division.**
- (c) "Multi-unit residence common area" means any indoor or outdoor area of a multi-unit residence accessible to and usable by residents of different dwelling units, including but not limited to halls, lobbies, laundry rooms, common cooking areas, stairwells, outdoor eating areas, play areas, swimming pools, and carports.
- (d) "Place of employment" means any area under the control of an employer, business, or nonprofit entity that an employee, volunteer, or the public may have cause to enter in the normal course of operations, regardless of the hours of operation. Places of employment include, but are not limited to: indoor work areas; bars; restaurants; at least 80 percent of the guest rooms in any hotel and motel; vehicles used for business purposes; taxis; employee lounges and breakrooms; conference and banquet rooms; bingo and gaming

facilities; long-term health care facilities; warehouses; retail or wholesale tobacco shops; and private residences used as licensed child-care or health-care facilities when employees, children or patients are present and during business hours. The places specified in subdivision (d)(1), (2), (3), (4), (6), (7), (8), (11), (12), (13) and (14) of Labor Code section 6404.5 are places of employment for purposes of this division and are regulated as specified in this division. The places specified in subdivision (d)(5), (9), and (10) of Labor Code section 6404.5 are not places of employment for purposes of this division.

- (e) “Public place” means any area to which the public is invited or in which the public is permitted. A private residence is not a public place.
- (f) “Self-service display” means the open display of tobacco products or tobacco paraphernalia in a manner that is accessible to the general public without the assistance of a retailer or employee of the retailer.
- (g) “Service area” means any area designed to be or regularly used by one or more persons to receive or wait to receive a service, enter a public place, or make a transaction, whether or not the service involves the exchange of money. Service areas include but are not limited to automatic teller machine waiting areas, bank teller windows, ticket lines, bus stops and taxi stands.
- (h) **“Smoke” means the gases, particles, or vapors released into the air as a result of the combustion, electrical ignition, or vaporization of a tobacco product, when the apparent or usual purpose of the combustion, electrical ignition, or vaporization is human inhalation of the tobacco product. “Smoke” includes but is not limited to tobacco smoke, electronic cigarette vapors, and marijuana smoke. “Smoke” excludes incense or similar products inhaled solely for olfactory purposes as long as those products do not contain tobacco or nicotine.**
- (i) **“Smoking” means engaging in an act that generates smoke. “Smoking” includes** means inhaling, exhaling, burning, possessing, holding, or carrying any lighted cigar, lighted cigarette, lighted pipe, lighted hookah pipe, operating electronic cigarette, or any other smoke inhalation device of any kind. “Smoking” includes smoking marijuana for medical purposes.
- (j) “Tobacco paraphernalia” means cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed for the smoking, preparation, storing, or consumption of tobacco products.
- (k) “Tobacco product” means **any of the following:**
 - (1) Any substance containing tobacco leaf, including but not limited to cigarettes,

cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, bidis, **blunts, clove cigarettes**, or any other preparation of tobacco.

- (2) **Any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, including but not limited to electronic cigarettes.**

The term “tobacco product” does not include any product specifically approved by the United States Food and Drug Administration for use in treating nicotine dependence or tobacco dependence. (Ords. 2013-10 §2, 2010-10 §2, 2006-66 § 4, 98-43 § 2, 91-44 § 2.)