

ORDINANCE NO. NS-2827

AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF SANTA ANA AMENDING CHAPTER 18  
AND CHAPTER 31 OF THE SANTA ANA  
MUNICIPAL CODE RELATING TO PROHIBITING  
SMOKING IN CITY PARKS

THE CITY COUNCIL OF THE CITY OF SANTA ANA DOES ORDAIN AS  
FOLLOWS:

Section 1. The City Council of the City of Santa Ana hereby finds,  
determines and declares as follows:

- A. This Ordinance is necessary to protect the public health and welfare from the harmful health effects associated with secondhand smoke by regulating smoking in public parks.
- B. Studies have shown that breathing secondhand tobacco smoke is a significant health hazard for several populations, including children, elderly people, individuals with cardiovascular disease, individuals with impaired respiratory function, asthmatics, and those with obstructive airway disease.
- C. The Surgeon General of the United States found in a 1986 report that secondhand tobacco smoke is a cause of lung disease, including lung cancer, in healthy nonsmokers. The Surgeon General further found that the simple separation of smokers and nonsmokers within the same air space may reduce, but does not eliminate, the exposure of nonsmokers to secondhand tobacco smoke.
- D. Nonsmokers with allergies, respiratory disease, and those who suffer other ill effects of breathing secondhand smoke may experience a loss of job productivity or may be forced to take periodic sick leave because of reactions to secondhand tobacco smoke.
- E. The Environmental Protection Agency (EPA) has designated secondhand smoke as a Class A carcinogen and a significant cause of respiratory problems in children.

Section 2: Santa Ana Municipal Code Chapter 18, Article II, Division 1 is hereby amended to read in full as follows (new language in bold, deleted language in strikeout, for tracking purposes only):

ARTICLE II.

PUBLIC SMOKING REGULATIONS

DIVISION 1.

CITY BUILDINGS AND PARKS

Sec. 18-39. Definitions.

(1) *City building* means a building, or portion of a building, owned, leased or otherwise occupied by the city.

(2) *Park* means any public park or recreation or playground area, including Class I Bike Trails and paseos, or building or facility thereon within the City of Santa Ana, owned and maintained by the city as a public park or recreation or playground area, whether or not such areas have been formally dedicated to such purpose.

(3) *Smoke* or *smoking* as used in this Article II shall include the carrying, holding, possession or smoking of a lighted pipe or cigar or cigarette of any kind, or the lighting of a pipe, cigar or cigarette of any kind.

(4) *Stadium* means the Eddie West Field-Santa Ana Stadium.

(5) *Zoo* means the Santa Ana Zoo at Prentice Park.

Sec. 18-40. Prohibition in city buildings, parks, stadium and zoo.

(a) Except as otherwise provided in subsection (b) below, no person shall smoke in any city building, park, stadium or zoo. Violation of this section shall be an infraction as specified in Section 19.6 of the Penal Code of the State of California.

(b) Subsection (a) above shall not apply to the following areas:

- (1) Open-air entryways, courtyards or balconies.
- (2) Parking structures.
- (3) Any area of a building occupied by a tenant pursuant to a lease

agreement with the city.

Sec. 18-41. Duty to post signs.

"No smoking" signs shall be conspicuously posted in every room, building, or other place where smoking is prohibited by this article, by the department head, operator, manager, or other person having control of such room, building, or other place.

Section 3: Santa Ana Municipal Code Section 31-1 is hereby amended to read in full as follows:

Sec. 31-1. Definitions.

Unless the particular provisions or the context otherwise requires, the definitions and provisions contained in this section shall govern the construction, meaning and application of words and phrases used in this chapter.

- (1) The words "amplified sound" mean music or speech projected or transmitted by artificial means including, but not limited to, amplifiers, loudspeakers or any similar devices.
- (2) The word "department" means the recreation and parks department of the City of Santa Ana.
- (3) The word "director" means the director of the recreation and parks department.
- (4) The word "park" means any public park or recreation or playground area, including Class I Bike Trails and paseos, or building or facility thereon within the City of Santa Ana, owned and maintained by the city as a public park or recreation or playground area, whether or not such areas have been formally dedicated to such purpose.
- (5) The word "pollution" means the contamination or other alteration of the physical, chemical or biological properties of park waters.
- (6) The word "smoke or smoking" shall include the carrying, holding, possession or smoking of a lighted pipe or cigar or cigarette of any kind, or the lighting of a pipe, cigar or cigarette of any kind.
- (7) The word "stadium" means the Eddie West Field-Santa Ana Stadium.
- (8) The word "vehicle" includes any wheeled device or conveyancy,

whether propelled by motor, animal or human power. The term shall include any trailer in tow of any kind, size or description. Exception is made for baby carriages and vehicles in the service of the city.

(9) The word "zoo" means the Santa Ana Zoo at Prentice Park.

Section 4: Santa Ana Municipal Code Section 31-2 is hereby amended to read in full as follows (new language in bold, deleted language in strikeout, for tracking purposes only):

Sec. 31-2. Prohibited conduct.

The conduct described in sections 31-2.1 through 31-2.19 shall be prohibited within the exterior boundary lines of any public park unless specifically allowed through the issuance of a permit pursuant to the requirements of section 31-3. The conduct described in sections 31-2.1 through 31-2.19 shall be prohibited in the stadium or zoo unless inconsistent with the terms and conditions of uses permitted by a contract approved by the city council.

Section 5: A new Section 31-2.19 is hereby added to the Santa Ana Municipal Code to read in full as follows:

Sec. 31-2.19. Smoking prohibited in parks, stadium and zoo.

Smoking is prohibited and is unlawful within the boundaries of any park, stadium or zoo.

Section 6. In accordance with the California Environmental Quality Act, the recommended action is categorically exempt from further review per section 15321, Class 21, as the project involves an enforcement action by a regulatory agency for an inspection program. A Categorical Exemption for Environmental Review No. ER-2011-025 will be filed for this project.

Section 7. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Santa Ana hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

ADOPTED this 6th day of February 2012

\_\_\_\_\_  
Miguel A. Pulido  
Mayor

APPROVED AS TO FORM:  
Joseph Straka, Interim City Attorney

By: \_\_\_\_\_  
Laura Sheedy  
Assistant City Attorney

YES: Councilmembers: Alvarez, Benavides, Bustamante, Tinajero,  
Sarmiento (5)

NOES: Councilmembers: None (0)

ABSTAIN: Councilmembers: None (0)

NOT PRESENT: Councilmembers: Martinez, Pulido (2)

#### CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, MARIA D. HUIZAR, Clerk of the Council, do hereby attest to and certify that the attached Ordinance No. NS-2827 to be the original ordinance adopted by the City Council of the City of Santa Ana on February 6, 2012 and that said ordinance was published in accordance with the Charter of the City of Santa Ana.

Date: \_\_\_\_\_

\_\_\_\_\_  
Clerk of the Council  
City of Santa Ana