

**ORDINANCE NO.**

**AN ORDINANCE OF THE CITY OF ANAHEIM AMENDING CHAPTER 6.30 (SMOKING IN PUBLIC PLACES) OF TITLE 6 (PUBLIC HEALTH AND SAFETY) OF THE ANAHEIM MUNICIPAL CODE TO PROHIBIT SMOKING IN PUBLIC PARKS AND WITHIN SPECIFIED DISTANCES OF SCHOOLS, DAY CARE CENTERS AND TRANSIT STOPS**

WHEREAS, the California Indoor Clean Air Act of 1976, as amended (commencing with Section 118920 of the California Health and Safety Code), authorizes local governing bodies to regulate smoking or ban completely the smoking of tobacco in any manner not inconsistent with state law;

WHEREAS, there is extensive evidence demonstrating that the smoking of tobacco and other substances is a danger to the health of smokers and others who, because of proximity to the smoker and/or inadequate ventilation, are subject to the smoke. The presence of smoke in the environment also constitutes a material annoyance and discomfort to nonsmokers;

WHEREAS, the City Council enacted Chapter 6.30 of the Anaheim Municipal Code (“AMC”) in 1986 to prohibit smoking in certain public and privately-owned buildings based on a finding that the smoking of tobacco, or any other weed, plant or substance is a positive danger to peoples’ health;

WHEREAS, in 2017, the City Council amended AMC Chapter 6.30 to address the emergence and proliferation of vaping and e-cigarettes as new methods of consuming nicotine products;

WHEREAS, in 2016, the voters of California passed Proposition 64, legalizing the use of recreational cannabis in California;

WHEREAS, through the adoption of Proposition 64, the People of the State of California prohibited cannabis use in all public places, as well as in all places where tobacco/nicotine use is also prohibited;

WHEREAS, since the enactment of Proposition 64, there has been an increase in smoking and cannabis use in public places, including in or near areas frequented by children, such as parks, schools, day care centers, and public bus stops;

WHEREAS, in order to further the public health, safety and welfare, the City Council desires to extend the AMC’s smoking ban to public parks, as well as to prohibit smoking within a specified distance of schools, day care facilities, and public transit stops; and

WHEREAS, the City Council also desires to make clear that the definition of smoking includes all cannabis, weed and plant products, as well as to make other modifications to Chapter 6.30 for consistency purposes.

**Section 1:** Anaheim Municipal Code Chapter 6.30 is hereby amended to read in full as follows:

## **CHAPTER 6.30 SMOKING IN PUBLIC PLACES.**

### **6.30.010 PURPOSE AND FINDINGS.**

There is extensive evidence to prove that the smoking of tobacco and other substances is a danger to the health of smokers and others who, because of proximity to the smoker or inadequate ventilation, are subject to the smoke. The presence of smoke in the environment also constitutes a material annoyance and discomfort to nonsmokers.

The California Legislature has determined that tobacco smoke is a hazard to the health of the general public and has authorized local public entities to ban or regulate smoking in any manner not inconsistent with State law. This chapter furthers the public health, safety and welfare by prohibiting smoking in certain areas.

### **6.30.020 DEFINITIONS.**

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section:

- A. "Bar" means an area which is devoted to serving alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages.
- B. "Electronic cigarette", also known as an e-cigarette, means an electronic and/or battery-powered device, the use of which may resemble smoking, which can be used to deliver an inhalable dose of nicotine, cannabis or other substances into the form of a vapor that is inhaled by the user. "Electronic cigarette" includes any such device, whether manufactured, distributed, marketed or sold as an electronic cigarette, e-cigarette, an electronic vaping device, a personal vaporizer, an electronic nicotine delivery system ("ENDS"), an electronic cigar, an electronic cigarillo, an electronic pipe or any other product name or descriptor. "Electronic cigarette" shall include any refill, cartridge and any other component of an electronic cigarette.
- C. "Employee" means any person who is employed by any employer for direct or indirect monetary wages, profit, or any other form of consideration.
- D. "Employer" means any person, partnership, corporation, including municipal corporation, or other entity which employs the services of four or more persons.
- E. "Enclosed facility" means any building or room within a building closed in by a roof and four walls with appropriate openings for ingress and egress but does not include areas commonly described as public lobbies.
- F. "Motion picture theater" means any theater engaged in the business of exhibiting motion pictures.
- G. "Service line" means an indoor line or area in which persons await service of any kind, regardless of whether or not such service involves the exchange of money or other consideration. Such service shall include, but is not limited to, sales, giving of information, directions, or advice and transfers of money or goods.
- H. "Smoke" or "Smoking" means and includes any of the following: (1) the direct burning or indirect heating of any cigar, cigarette, pipe, electronic cigarette, or any similar kind of smoking equipment or article using any form of tobacco, nicotine, weed, cannabis, plant product, or other

combustible substance in any form, or (2) the holding or carrying of a lighted or operated cigar, cigarette, pipe, electronic cigarette, or any other lighted smoking equipment or device, or (3) emitting or exhaling the smoke directly from a cigar, cigarette, pipe, electronic cigarette, or any other lighted smoking equipment or device. "Smoke" also means the gaseous or vaporous products or particles created by the use of a lighted or operated pipe, cigar, cigarette, electronic cigarette, or other kind of smoking equipment or article.

I. "Workplace" means any enclosed area of a structure or portion thereof occupied by a business entity and frequented by employees during the normal course of their employment and where clerical, professional, or business services of the business entity are performed or where other work is done at that location. Workplace includes, but is not limited to, spaces in office buildings, medical office waiting rooms, libraries, museums, hospitals and nursing homes, employee lounges, conference rooms and employee cafeterias. A private residence is not a workplace.

#### **6.30.030 SMOKING PROHIBITED — ELEVATORS.**

Smoking is prohibited and is unlawful within elevators in public or private buildings generally used by and open to the public including, but not limited to, elevators in office, hotel and multifamily residential buildings.

#### **6.30.040 SMOKING PROHIBITED — HOSPITALS AND HEALTH CARE FACILITIES.**

A. In public areas of health care facilities and hospitals, as defined in Section 1250 of the California Health and Safety Code, including waiting rooms, public hallways and lobbies, all smoking is prohibited, except in specially designated smoking areas, which may be all or part of a public area.

B. Every publicly or privately owned health care facility, including hospitals, shall make a reasonable effort to determine preference and to assign patients placed in rooms occupied by two or more patients according to the patient's individual nonsmoking or smoking preference.

C. In rooms and areas occupied by two or more patients, smoking shall be prohibited for hospital staff, visitors and the general public. "STAFF AND VISITOR SMOKING PROHIBITED" signs shall be conspicuously posted in such areas.

#### **6.30.050 SMOKING PROHIBITED — CITY-OWNED AND OPERATED BUILDINGS.**

A. It is unlawful for any person to smoke within any enclosed building, or within any portion of any enclosed building, or in any outdoor area within twenty-five (25) feet of a main exit, entrance, operable window, or ventilation intake of any enclosed building, which building, or portion thereof, is owned by the City of Anaheim.

B. For purposes of this section, the following terms shall have the respective meanings hereinafter set forth:

(i) The term "building" shall not include the Anaheim Convention Center or Anaheim Stadium, or any portions thereof.

(ii) The terms "City" and "City of Anaheim" shall include the City of Anaheim, the City of Anaheim, as Successor Agency to the Anaheim Redevelopment Agency, the Anaheim Housing Authority, the Anaheim Public Financing Authority, the Anaheim Housing and Public Improvements Authority, and the Anaheim Public Improvement Corporation.

(iii) The term “owned” shall include any property interest of the City of Anaheim (as herein defined) whereby the City has obtained the right of exclusive possession or occupancy whether by fee title, or as lessee, sublessee, tenant, licensee or otherwise.

**6.30.055 SMOKING PROHIBITED — ANAHEIM CONVENTION CENTER.**

A. It is unlawful for any person to smoke in any place or area within the Anaheim Convention Center, or in any outdoor area within twenty-five (25) feet of a main exit, entrance, operable window, or ventilation intake of the Anaheim Convention Center.

B. The term “Anaheim Convention Center” as used herein shall mean the indoor areas of the facilities generally located at 800 West Katella Avenue, Anaheim, California, including without limitation the arena facility operated at such location, regardless of whether such facilities continue to be known by such name or by any other commercial or non-commercial name.

**6.30.060 SMOKING PROHIBITED — THEATERS.**

A. Smoking is prohibited and is unlawful in every publicly or privately owned motion picture theater which is open to the public for the primary purpose of exhibiting any motion picture in all areas except either in that area commonly known as the lobby, or in areas not open to the public. Every owner and/or manager of such theater shall post signs conspicuously in the lobby stating that smoking is prohibited within the theater and such information shall be shown upon the screen for at least five seconds before showing feature motion pictures.

B. Where not otherwise prohibited by law, smoking may be prohibited within all or any portion of any auditorium or other enclosed facility which is open to the public for the purpose of exhibiting any stage drama, musical recital, athletic event or any other performance or event open to the public upon the posting of signs in those certain areas where smoking is prohibited as determined by the owner or person in control of said facility or portion thereof. Said signs shall be posted conspicuously in the areas where smoking is prohibited and shall conform to the specifications set forth in Section 6.30.120 of this chapter. The term “person in control of said facility or portion thereof” as used in this section shall mean any person or entity which has leased, rented, hired or otherwise obtained the right to use of such facility or portion thereof for the purpose of exhibiting such performance or event to the public. Nothing contained herein shall require the owner or person in control of such facility or portion thereof to designate and post such facility or portion thereof as a nonsmoking area except in those certain facilities and areas where smoking is prohibited by the fire marshal or by any other law, ordinance or regulation.

**6.30.065 SMOKING PROHIBITED — ANAHEIM STADIUM.**

.010 Except as hereinafter provided, it is unlawful for any person to smoke in any place or area within Anaheim Stadium, including, but not limited to, any event seating, aisle areas, all areas located inside the gates/turnstiles, and within twenty five (25) feet of the entrance to all gates/turnstiles used for patron ingress and egress, ticket windows, will-call windows, ticket office and the entryway to the team store.

.020 Notwithstanding subsection .010 above, nothing contained in this section shall be deemed to prohibit smoking upon or within rampways within Anaheim Stadium that are clearly designated with written signage as a smoking area. For purposes of this section, “rampways” means the pedestrian accessways which connect and provide patron access from one level of Anaheim Stadium to another.

.030 The term “Anaheim Stadium”, as used in this chapter, shall mean the stadium generally located at 2000 Gene Autry Way, Anaheim, California, currently known and referred to as Angel Stadium of Anaheim, regardless of whether such stadium continues to be known by such commercial name or by any other commercial or non-commercial name.

#### **6.30.070 SMOKING PROHIBITED — PUBLIC RESTROOMS AND PARKS**

Smoking is prohibited and is unlawful in any public park (as defined in section 13.08.010 of this Code), or in a public restroom in any public or private building.

#### **6.30.090 (Repealed by 5812, 6/11/02)**

#### **6.30.100 SMOKING PROHIBITED — RETAIL FOOD PRODUCTION AND MARKETING ESTABLISHMENTS.**

Smoking is prohibited and unlawful in any retail food marketing establishments including grocery stores and supermarkets except (i) those areas of such establishments set aside for offices, (ii) areas thereof not open to the public and (iii) areas thereof set aside for the serving and/or consumption of food and beverages.

#### **6.30.105 SMOKING PROHIBITED — PUBLIC BUS STOPS, SCHOOLS AND DAY CARE FACILITIES**

Smoking is prohibited and is unlawful within twenty-five (25) feet of a public bus or transit stop, and within one hundred (100) feet of any school or day care facility.

#### **6.30.110 (Repealed by 5812, 6/11/02)**

#### **6.30.120 POSTING OF SIGNS REQUIRED.**

Except where other signs are required, whenever in this chapter smoking is prohibited, conspicuous signs shall be posted so stating, containing all capital lettering not less than one inch in height on a contrasting background and/or the international No Smoking logo. It is the duty of the owner, operator, manager, or other persons having control of such room, building, or other place where smoking is prohibited, to post such signs or to cause such signs to be posted.

#### **6.30.130 STRUCTURAL MODIFICATIONS NOT REQUIRED.**

A. It shall be the responsibility of employers to provide smoke-free areas for nonsmokers within existing facilities to the maximum extent possible, but employers are not required to incur any expense to make structural or other physical modifications in providing these areas.

B. Nothing in this chapter shall require the owner, operator, or manager of any theater, auditorium, health care facility, or any building, facility, structure, or business, to incur any expense to make structural or other physical modifications to any area or workplace.

C. Nothing in this section shall relieve any person from the duty to post signs or adopt policies as required by this chapter.

#### **6.30.140 ADMINISTRATION.**

The no smoking regulations established by this chapter shall be administered by the City Code Enforcement Supervisor and the Code Enforcement Officers under such supervisor's direction.

### **6.30.150 (Repealed by 6312, 11/25/14)**

### **6.30.160 VIOLATIONS AND PENALTIES.**

Notwithstanding any other provision in this Code, any person who violates any of the provisions or fails to comply with any of the mandatory requirements of this Chapter may be prosecuted for an infraction. Written citations for infractions may be issued by police officers or designated non-safety employees, who shall be designated by separate resolution pursuant to the provisions of California Penal Code Section 836.5. Any person convicted of an infraction shall be punishable either by (1) a fine not exceeding one hundred dollars (\$100.00) for a first violation; (2) a fine not exceeding two hundred dollars (\$200.00) for a second violation of the same provision within one year; (3) a fine not exceeding five hundred dollars (\$500.00) for each additional violation of the same provision within one (1) year.

### **6.30.170 CHAPTER AS SUPPLEMENT TO STATE LAW.**

With respect to environmental smoke and smoking activities regulated by this chapter, the purpose and intent of this chapter is to regulate such uses and activities only to the extent such regulation is permitted by state law. Nothing contained in this chapter shall be deemed to permit any activity or conduct which is otherwise prohibited by state law. In the event any provision of this chapter is deemed to prohibit any activity or conduct which is prohibited, or which is regulated to the exclusion of any local regulation, by any state law, the provision of this chapter shall be deemed inoperative so long as such provision of state law is in effect.

#### **Section 2:**

The City Council finds the introduction and adoption of this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly).

#### **Section 3:**

The City Council of the City of Anaheim hereby declares that should any section, paragraph, sentence, phrase, term or word of this ordinance be declared for any reason to be invalid, it is the intent of the City Council that it would have adopted all other portions of this ordinance independent of the elimination of any such portion as may be declared invalid. If any section, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subdivision, paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one (or more) section, subdivision, paragraph, sentence, clause or phrase had been declared invalid or unconstitutional.

#### **Section 4:**

The City Clerk shall certify to the passage of this ordinance and shall cause the same to be printed once within fifteen (15) days after its adoption in the *Anaheim Bulletin*, a newspaper of general circulation, published and circulated in the City of Anaheim.

**Section 5:**

This ordinance shall take effect and be in full force thirty (30) days from and after its final passage.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the City Council of the City of Anaheim held on the \_\_\_\_ day of \_\_\_\_\_, 2024, and thereafter passed and adopted at a regular meeting of said City Council held on the \_\_\_\_ day of \_\_\_\_\_, 2024, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

CITY OF ANAHEIM

By: \_\_\_\_\_  
MAYOR OF THE CITY OF ANAHEIM

ATTEST:

\_\_\_\_\_  
CITY CLERK OF THE CITY OF ANAHEIM