

**Chapter 10.70 - SMOKING POLLUTION CONTROL****Sections:****10.70.010 - Title.**

This Chapter shall be known as the "Smoking Pollution Control Ordinance."

(Ord. 3729, 1993)

**10.70.020 - Findings and purpose.****A. The County of Monterey Board of Supervisors does hereby find that:**

1. The Environmental Protection Agency has designated secondhand smoke a Class A carcinogen; and
2. Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution; and
3. Reliable studies have shown that breathing secondhand smoke is a significant health hazard especially for pregnant women and their unborn children, infants, elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease; and
4. Health hazards induced by breathing secondhand smoke include lung cancer, respiratory infection, decreased exercise tolerance, decreased respiratory function, bronchoconstriction, and bronchospasm; and
5. Nonsmokers who suffer allergies, respiratory diseases, and 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 such adverse reactions; and
6. Numerous studies have shown that a majority of both nonsmokers and smokers desire to have restrictions on smoking in public places and places of employment; and
7. Smoking is a potential cause of fires, and cigarette, cigar burns, and ash stains on merchandise and fixtures cause losses to businesses.

**B. Accordingly, the Board of Supervisors finds and declares that the purpose of this Chapter is to protect the public health and welfare by prohibiting smoking in all public places and in places of employment.**

(Ord. 3729, 1993)

**10.70.030 - Definitions.**

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

"Bar" means an enclosed area which is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages. Although a restaurant may contain a bar, the term "bar" shall not include the restaurant dining area. A "bar" for the purpose of this definition does not include any area where smoke can filter into a restaurant through a passageway, ventilation system, or any other means.

"Business" means any sole proprietorship, partnership, joint venture, corporation, or other

"Sports arena" means any enclosed or open sports pavilion, gymnasium, health spa, boxing arena, swimming pool, roller and ice rink, bowling alley, or other similar place where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports or other events, activities, or presentations.

"Tobacco vending machine" means any machine or device designated for or used for the vending of cigarettes, cigars, tobacco, or tobacco products upon the insertion of coins, bills, trade checks, or slugs.

(Ord. 3746, § 1, 1994)

10.70.040 - Application of Chapter to County owned or leased facilities and vehicles.

Smoking is prohibited in all enclosed facilities and vehicles owned or leased by the County of Monterey.

(Ord. 3729, 1993)

10.70.050 - Prohibition of smoking in public places.

Smoking shall be prohibited in all public places within the unincorporated areas of Monterey County, including, but not limited to, the following places:

- A. Elevators.
- B. Buses, taxicabs, and other means of public transit under the authority of the County of Monterey, and ticket, boarding, and waiting areas of public transit depots.
- C. Restrooms.
- D. Service lines.
- E. Retail stores.
- F. Common areas in apartment buildings, condominiums, retirement facilities, and nursing homes.
- G. Child day care facilities, as defined in the California Health and Safety Code, and private residences while used as family day care homes.
- H. All areas available to, and customarily used by, the general public in all businesses and nonprofit entities patronized by the public, including, but not limited to, offices, banks, hotels, and motels.
- I. Public areas of aquariums, libraries, and museums when open to the public.
- J. Within any area or facility which is primarily used for, or designed for the primary purpose of, exhibiting any motion picture, stage, drama, lecture, musical recital, or other similar performance, except when smoking is part of a stage production.
- K. Restaurants and restaurant-bar combinations.
- L. Theater-bar combinations and dinner theaters.
- M. Laundromats.
- N. Beauty shops and barber shops.
- O. Malls, except in outdoor malls in specifically designated smoking areas.
- P. Within sports arenas and convention halls.
- Q. Parks, outdoor recreation areas, and recreational trails, where such parks, recreation areas,

The sale of tobacco products to persons under eighteen years of age is prohibited by law.  
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- B. No person, business, tobacco retailer, or owner, manager, or operator of any establishment subject to this Chapter shall sell, offer to sell, or permit to be sold any tobacco product to an individual without requesting and examining identification establishing the purchaser's age as eighteen (18) years or older unless the seller has some reasonable basis for determining that the buyer is eighteen (18) years of age or older.
- C. It shall be unlawful for any person, business, or tobacco retailer to sell, permit to be sold, or offer for sale any tobacco product by means of self-service displays or by any other means other than vendor-assisted sales.
- D. No person, business, tobacco retailer, or other establishment subject to this Chapter shall locate, install, keep, maintain, or use, or permit the location, installation, keeping, maintenance, or use on his, her or its premises any vending machine for the purpose of selling or distributing any tobacco product. Any tobacco vending machine in use on the effective date of this Chapter shall be removed within thirty (30) days after the effective date of this Chapter.

(Ord. 3746 § 4, 1994)

10.70.080 - Where smoking not regulated.

- A. Notwithstanding any other provision of this Chapter to the contrary, the following areas shall not be subject to the smoking restrictions of this Chapter:
  - 1. Private residences, except when used as a child care, health care, board and care, or community foster care facility.
  - 2. Parks, outdoor recreation areas, and recreational trails, except where such parks, recreation areas, and trails are designated as nonsmoking.
- B. Notwithstanding any other provision of this Chapter, any owner, operator, manager, or other person who controls any establishment described in this Chapter may declare that entire establishment as a nonsmoking establishment.

(Ord. No. 5185, § 1, 8-23-2011; Ord. 3746 § 5, 1994)

10.70.090 - Posting of signs.

- A. Every owner, operator, manager, or other person having control of a building or other public place where smoking is regulated by this Chapter shall post plainly visible signs, with letters of not less than one inch (1") in height, stating either "Smoking" or "No Smoking", whichever is appropriate under this Chapter, 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).
- B. Every theater and auditorium shall have posted plainly visible signs in the lobby stating that smoking is prohibited within the theater or auditorium. In addition, in the case of motion picture theaters, information that smoking is prohibited in the theater shall be shown upon the screen for at least five seconds prior to the showing of each motion picture.
- C. Every restaurant shall have a plainly visible sign posted at every entrance clearly stating that smoking is prohibited within the restaurant.
- D. Every hotel and motel shall have plainly visible signs posted in the registration and lobby areas which state that nonsmoking rooms are maintained and may be available; rooms designed as being nonsmoking shall have signs designating such restriction conspicuously placed within the room.

10.70.150 - Other applicable laws.

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

(Ord. 3746 § 11, 1994)

10.70.160 - Review.

The Board of Supervisors shall review the provisions of this Chapter within one year of its adoption to determine what, if any, amendments must be enacted. However, failure to review this Chapter within the time specified shall not abrogate any of its provisions.

(Ord. 3746 § 12, 1994)