



Monterey County Board of Supervisors

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Board Order

Upon motion of Supervisor Parker, seconded by Supervisor Phillips and carried by those members present, the Board of Supervisors hereby:

Received and approved five County Administrative Office (CAO) Policies.

PASSED AND ADOPTED on this 23rd day of January 2018, by the following vote, to wit:

AYES: Supervisors Alejo, Salinas, Phillips, Parker and Adams

NOES: None

ABSENT: None

I, Nicholas E. Chiulos, Acting Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 80 for the meeting January 23, 2018.

Dated: February 27, 2018
File ID: 18-020

Nicholas E. Chiulos, Acting Clerk of the Board of Supervisors
County of Monterey, State of California

By Denise Hancock
Deputy

County of Monterey Board Policy Manual

Policy Name	Policy Number	Page
Guidelines Regarding Campaigning or Displaying Political Materials	G - 50	1 of 2
Guidance Regarding Wearing or Displaying Campaign/Political Materials		
Policy Category Government and Administration		

I. Purpose

1. To set forth County guidelines regarding campaigning and political activities. This policy serves as a reminder to employees to respect State and local laws limiting political activity in the workplace. No employee gives up their constitutional rights by joining County service; however, we are obligated to comply with laws designed to ensure the appropriate use of the public resources with which we are entrusted.
2. To set forth County guidance with respect to wearing (e.g. clothing, buttons, and badges) or displaying (e.g. signs, bumper stickers) campaign and other political materials while on County time or property.

II. Background

California and Federal law prohibits the use of public funds to campaign for or against candidates or ballot measures. Public funds include the use of public employees' paid time, as well as all other County resources (e.g. facilities, cars, phones, copier/fax machines, computers, email, supplies, etc.). Further, State law specifically precludes local agency employees from participating in political activities of any kind while in uniform. Exercising authority under State law, the Board of Supervisors has established local regulations, which restrict both campaigning during work hours and campaigning on County premises which are included in Chapter 11.53 of the Monterey County Code. This policy is not intended to apply to collective bargaining activities. Because each individual case must be determined on its own facts, the following is intended to be a set of guidelines only. Public employees have many

ways to exercise their right to promote or oppose candidates and ballot measures. The key is to not use the public's time, money, or other resources to do so.

III. Policy

It is the policy of the Board of Supervisors that:

1. Respecting individual rights, restrictions on public employees' political activities are strictly limited to: (1) conduct during work hours; (2) the use of County property/premises; and (3) conduct while in uniform. No State or local laws should be interpreted as restricting a public employee's participation in lawful political activity which does not involve any of these three elements. In keeping with the focus on customer service, nothing prohibits a County employee at any time from providing public records, objective, unbiased and balanced factual information in response to a citizen's inquiry regarding a ballot measure.
2. First Amendment rights to free expression are not sacrificed upon assuming public employment with the County. Staff, on personal time, may sign their name to letters, newspaper editorials, or other written documents that advocate political positions. However, to avoid risk of confusion that the name listed in support or opposition of a political issue represents an official position of the County, any statement should clearly indicate that it is the individual's personal and not professional view, and shall not be on County letterhead, or otherwise be represented as an official County endorsement. Careful judgement should be exercised depending upon the circumstances and the employee's position. Official County editorials, press releases, or official statements shall be coordinated with the County Public Information Officer.
3. County employees shall not: (1) wear campaign or other political materials while wearing a uniform identifying his/her office or position with the County, whether on or off County property; and (2) affix campaign or other political materials on County vehicles.
4. While on County property, County employees may:
 - a. Wear campaign and other political badges or buttons during nonworking hours.
 - b. Wear campaign and other political badges or buttons during working hours, except in the limited circumstance where the views expressed by the campaign badge or button may be attributed to the County.
 - c. Display campaign and other political bumper stickers on their personal vehicles.
5. County employees may not:
 - a. Wear campaign and other political buttons while wearing a uniform identifying his or her office or position with the County, whether on or off County property.
 - b. Affix campaign and other political bumper stickers on County vehicles.

IV. Procedure

1. N/A

V. Review Date

- a. This Policy will be reviewed for continuance by [October 2017].

VI. Board Action

- a. [*Legistar File Number:*], [*date*]

County of Monterey Board Policy Manual

Policy Name County Media Policy	Policy Number	Page
	G-145	1 of 3
Policy Category Government and Administration		

I. Purpose

The purpose of this policy is to establish media guidelines for Monterey County employees, elected officials and appointees that emphasize Monterey County's desire for transparency in government. Public trust and confidence in the County are dependent upon open and honest communication with its residents.

The goal of the Monterey County Media Policy is to provide guidelines for successful communications with the media and to define procedures that ensure the media receives accurate and prompt information.

These guidelines are provided for use by County staff, elected officials and members of county commissions, panels and advisory boards. These guidelines can be used by individual departments to create additional or enhanced communication guidelines to address unique media needs.

II. Background

A positive working relationship with information outlets is a key component of a communications program.

The County Media Policy was developed in 2009 and updated in 2017 to guide Department Heads, employees and the County Communications Coordinator in their communications with the media and the public.

When referring to "media" the term includes newspaper, magazine, radio, television and internet outlets.

III. Policy

It is the policy of the County that:

1. Designated county employees should respond to public or media inquiries they receive in an appropriate, timely manner
2. County employees should follow the approved County Media Guidelines and/or the guidelines developed specifically designed for their department.

IV. Procedure

MEDIA INQUIRIES

Media inquiries regarding County operations should be handled in a professional and timely manner. Most media deadlines are daily, so press inquiries should be referred or returned the same day.

Although any County employee, appointed or elected official may receive a media inquiry, the inquiry should be directed to the individuals designated to respond to media inquiries. It is recommended that each County Department, Advisory Panel or Commission or other appointed body designate a person to handle media inquiries. All other members of each department or body should be aware who is to receive media calls and/or speak to the press. If a department chooses not to have an employee manage media calls, those calls can be directed to the County Communications Coordinator.

Elected Officials in Monterey County routinely receive media inquiries related to various departments. Elected Officials should avoid speaking on behalf of the entire County unless they are representing a position or policy adopted by the Board of Supervisors.

The County Administrative Officer may address media inquiries regarding issues of countywide policy or defer questions to the appropriate department.

Department Heads or a designee should address media inquiries about policies or issues impacting their department or designate an alternative. If an issue has the potential for countywide impact or is of a critical nature, the Department Head or designee should alert the CAO and the Board of Supervisors.

Members of County Commissions and Panels are responsible for answering queries regarding decisions made by that body. Members who vote in the minority may express their dissent, but should respect the majority decision. Also, individual members should refrain from speaking on behalf of the entire group, unless specifically asked to do so by that body.

OFFICIAL RELEASES OF INFORMATION

Each County Department may wish to inform the public about unique information or services it provides by developing public or news messages. The Department Head, Elected Official or his/her designee is the person authorized to develop, approve and release such information.

Information can be released by news release, interviews, response to media inquiry, news conferences, website post or social media.

News releases/messages should be informative and accurate. The "Monterey County Press Release Guideline" is available at <http://www.in.co.monterey.ca.us/policies/related-policy-documents>. Copies of news messages should be kept by the issuing Department and should be sent to the Communications Coordinator for additional distribution as needed.

Social Media is widely used by the community and press to find information. See separate Social Media Usage Policy, O-70 for specific information about county use of Social Media.

News conferences are a useful method for releasing critical information to the press at one time. News conferences should be done on an as needed basis and are not suitable for all types of information releases. The County Communications Coordinator is available to assist Departments to determine if a News Conference is needed and to coordinate such an event if desired.

COMMUNICATIONS COORDINATOR

The Communications Coordinator is located in the CAO's office and is the primary liaison between the media and the County and is available to assist County Departments who do not have a designated media contact.

The Communications Coordinator can assist departments, elected officials and advisory body members with media queries, news releases, news conferences and interviews as needed.

The Communications Coordinator shall develop and provide training opportunities for County staff on media relations as needed.

PUBLIC RECORDS

All information that is determined to be a public record will be made available to the media and the public in accordance with the California Public Records Act. Public Records Requests are typically made to a specific department, the Communications Coordinator or County Counsel; however, any County employee, appointed or elected official can receive a public records request.

If such a request is received, time is critical. Please refer the request to the department staff person assigned to process Public Records Requests as soon as possible. If no person is designated or if there are questions regarding the request, employees should contact their supervisor, Department Head or the department's County Counsel.

V. Review Date

a. This Policy will be reviewed for continuance by [*date*].

VI. Board Action

a. Legistar File Number, *date*.

County of Monterey Board Policy Manual

Policy Name Monterey County Values and Guiding Principles	Policy Number G-150	Page 1 of 2
Policy Category Government and Administration		

I. Purpose

1. To establish foundational Values and Guiding Principles that support Monterey County's Mission. The guiding principles are the basic element of how the organization optimizes service delivery and customer experience across all channels of the Monterey County Organization.

II. Background

1. The Mission of Monterey County is to Excel at providing Quality Services for the benefit of all Monterey County residents while developing, maintaining, and enhancing the resources of the region.
2. The Values of Monterey County are:
 - a. We are committed to assuring honesty and integrity in all County actions.
 - b. We are committed to providing top quality customer service.
 - c. We are committed to practicing continuing innovation.
 - d. We are committed to treating our fellow employees, customers, and residents with respect and courtesy at all times.

III. Policy

It is the policy of the County that Monterey County staff understand and apply Guiding Principles that sustain the organizations mission and values in daily business activities and when interacting with internal and external customers.

IV. Procedure

Employees will demonstrate the following:

1. In order to ensure honesty and integrity we will:
 - a. Recognize, at all times, that our authority as employees and officers is founded on public trust.

- b. Hold high ethical standards on how we do business and maintain accountability among ourselves and our community.
 - c. Value each other and our customers.
 - d. Give our best, professional recommendations.
 - e. Be transparent and consistent in our actions and welcome honest feedback.
- 2. In order to provide top quality customer service, we will:
 - a. Treat members of the public and fellow employees with respect and courtesy at all times.
 - b. Make efficient and effective use of county resources.
 - c. Empower staff to respond flexibly to the needs of customers and model County values and guiding principles.
 - d. Provide services in a manner consistent with state of the art professional techniques to meet or exceed the expectations of our customers.
- 3. In order to practice continuing innovation, we will:
 - a. Encourage constructive change and use innovative best practices to move the organization towards excellence.
 - b. Work collaboratively with employees, stewards and partners to strengthen our community and maintain the public's trust.
 - c. Communicate openly and extensively among ourselves and with our public.
 - d. Focus on solutions and initiate proactive steps to meet anticipated challenges.
 - e. Seek opportunities for professional growth.
- 4. In order to treat our fellow employees and residents with respect and courtesy at all times, we will:
 - a. Recognize diversity in our employees and community as a strength.
 - b. Maintain professional relationships of mutual respect, trust and support.
 - c. Encourage a work environment that promotes honesty and integrity without fear of relation.
 - d. Recognize the power of teamwork and appreciate employee accomplishments.
 - e. Take corrective action where necessary in privacy and with respect for the individual.
 - f. Provide quality customer service in a timely and courteous manner.

V. Review Date

- a. This Policy will be reviewed for continuance by [*date*].

VI. Board Action

- a. Legistar File Number, *date*.

County of Monterey Board Policy Manual

Policy Name County Facility Guide on Microwave Popcorn	Policy Number	Page
	G-165	1 of 1
Policy Category Government & Administration		

I. Purpose

1. To provide guidance and direction on the restriction of preparing microwave popcorn in County facilities.

II. Background

- a. Since the occupancy of the County Administration building, a number of fire alarm incidents requiring evacuation and deployment of the Salinas Fire Department have resulted from the microwave over-cooking of popcorn resulting in burning, smoking, and in some cases ignition. Each event is disruptive and expensive and requires complete evacuation of the facility by staff and the public, as well as deployment of valuable police and fire resources. Further, these risks pose a significant fire safety risk to the new building and its occupants. It is unknown whether the artificial butter flavoring containing diacetyl, which can cause an irreversible lung disease called bronchiolitis obliterans if exposure is prolonged.

III. Policy

1. It is the Policy of the County that microwave policy is no longer allowed to be prepared in any County facility. County employees are requested not to bring in un-popped microwave popcorn to work.

IV. Review Date

1. This Policy will be reviewed for continuance by

V. Board Action

1. Legistar File Number, *date*.

County of Monterey Board Policy Manual

Policy Name	Policy Number	Page
Smoke-Free and Tobacco Product Use Policy	G-210	1 of 14
Policy Category Government and Administration		

I. Purpose

To provide and maintain a safe and healthy work place for every employee, to protect the health, safety and well-being of employees, volunteers and the public.

II. Background

Secondhand smoke has been repeatedly identified as a health hazard – the U.S. Surgeon General concluded that there is no risk-free level of exposure to secondhand smoke.¹ The California Air Resources Board categorized secondhand smoke as a toxic air contaminant for which there is no safe level of exposure,^{2,3} and the California Environmental Protection Agency (EPA) 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.⁴

Exposure to secondhand smoke anywhere has negative health impacts, and exposure to secondhand smoke occurs at significant levels outdoors. Smoking near building entryways can increase air pollution levels by more than two times background levels, with maximum levels reaching the “hazardous” range on the United States EPA’s Air Quality Index.⁵ To be completely free from exposure to secondhand smoke in outdoor places, a person may have to move nearly 23 feet away from the source of the smoke, about the width of a two-lane road.^{5,6}

Since 1964, approximately 2.5 million nonsmokers have died from health problems caused by exposure to secondhand smoke.^{7,8} Secondhand smoke is responsible for an estimated 41,300 heart disease-related and lung cancer-related deaths among adult nonsmokers each year in the United States.⁸ Exposure to secondhand smoke increases the risk of coronary heart disease by about 25 percent to 30 percent⁹ and increases the risk of stroke by 20 percent to 30 percent.¹⁰

Pursuant to the County of Monterey Board Resolution No. 91-499, a Smoke-Free Policy was developed about the use of tobacco in facilities and vehicles, owned, leased or operated by the County.

Therefore, it is the intent of the County of Monterey, in adopting this policy, to discourage the inherently dangerous behavior of smoking and tobacco use around non-tobacco users; to protect the public from exposure to secondhand smoke; and to affirm and promote a healthy environment on County owned, and/or leased property or County occupied property.

The Board of Supervisors adopted strict prohibitions on smoking. The Smoking Pollution Ordinance (Monterey County Code, Chapter 10.70) prohibits smoking in public places, including places of employment, businesses, retail establishments, restaurants, and on the grounds of health care facilities within the unincorporated areas of the County. The Ordinance specifically prohibits smoking in all enclosed facilities and vehicles owned or leased by the County, even if they are located within incorporated jurisdictions. Further, it is the County's policy that all other aspects of the ordinance apply to County-owned or controlled facilities (i.e. leased) whether the facility is in the unincorporated areas of the County or within an incorporated city.

III. Policy

It is the policy of the County that:

Smoking and the use of tobacco products is prohibited in all buildings and facilities, both indoors and outdoors, and inside vehicles owned, leased, and/or operated by the County of Monterey.

IV. Procedure

1. Definitions:

- a. "County of Monterey buildings and facilities" means any buildings and facilities owned, and/or leased, or occupied by the County of Monterey, and all outdoor or non-enclosed areas associated with any County of Monterey buildings and facilities including, but not limited to, courtyards, patios, breezeways, sidewalks, gardens, yards, parking lots, and access roads.
- b. "Electronic Smoking Device" means an electronic device that can be used to deliver an inhaled dose of nicotine, or other substances, including any component, part, or accessory of such a device, whether sold separately. "Electronic Smoking Device" includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor.
- c. "Smoke" means the gases, particles, or vapors released into the air as a result of combustion, electrical ignition, or vaporization, when the apparent or usual purpose of the combustion, electrical ignition, or vaporization is human inhalation of the byproducts, except when the combusting or vaporizing material contains no tobacco or nicotine *and* the purpose of inhalation is solely olfactory, such as for example, smoke from incense.

The term "Smoke" includes, but is not limited to, tobacco smoke, Electronic Smoking Device vapors, smoke from plant products, and crack cocaine smoke.

- d. "Smoking" means inhaling, exhaling, burning, or carrying any lighted, heated, or ignited cigar, cigarette, cigarillo, pipe, hookah, Electronic Smoking Device, or any plant product intended for human inhalation.
- e. "Tobacco Product" means:
 - i. Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff; and
 - ii. Any Electronic Smoking Device.
 - iii. Notwithstanding any provision of subsections (1) and (2) to the contrary, "Tobacco Product" includes any component, part, or accessory of a Tobacco Product, whether sold separately. "Tobacco Product" does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.

2. Applicability

- a. This policy and procedure is applicable to all County of Monterey employees, volunteers, contracted staff, patients, and visitors.
- b. Security guards, correctional officers, other maintenance workers or jail inmates are considered visitors and will abide by the rules and procedures in this section.

3. Prohibitions

- a. Smoking and the use of tobacco products is prohibited at all times at County of Monterey owned and leased buildings and facilities, both indoors and outdoors.
- b. Smoking and the use of tobacco products is prohibited at all times in vehicles owned, leased, and/or operated by the County of Monterey.
- c. Smoking and the use of tobacco products is prohibited in personal vehicles while such vehicles are on County of Monterey owned or leased property.

4. Implementation and Support

- a. Signs designating that County of Monterey buildings and facilities, both inside and outside, are smoke-free, will be conspicuously posted in English and Spanish. The international non-smoking symbol (a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) may be used.

- b. All County of Monterey buildings and facilities are to implement and support this Policy fully and consistently.
 - c. All employees are authorized to communicate this Policy with courtesy and diplomacy to other employees, visitors, and patients.
 - d. Notification Procedures: All employees are responsible for assuring that patients, visitors, and employees are informed about this Policy.
 - i. Employees and Volunteers: A copy of this Policy and Procedure is posted on the County of Monterey INFONET Policies webpage. Copies are available to each employee.
 - 1. New employees and volunteers shall be apprised of this policy and these procedures during the interview selection process and new employee orientation conducted by County of Monterey Human Resources.
 - ii. Visitors and Patients: Visitors/patients of the facility will be informed as to the Smoke-Free and Tobacco Product Use Policy by on-site personnel responsible for the area.
 - e. Wellness Programs:
 - i. To assist in ensuring compliance with this policy, the County shall provide to each County of Monterey employee and volunteer:
 - 1. Resources regarding the dangers associated with smoking and tobacco product use and tobacco cessation on the County Wellness Program webpage.
5. Enforcement
- a. Department Heads or appointing authorities, or both, shall be individually responsible for (1) posting of "No Smoking" signs in every building and/or department, particularly in those areas open to the public; (2) the removal of all cigarette receptacles from within facilities under their control or jurisdiction. The County Administrative Officer or his/her designee shall be responsible for the implementation of these elements of the policy in those sections of the County facilities occupied and used by multiple County departments. In addition, the County Administrative Officer or his/her designee shall be responsible for the procurement of the "No Smoking" signs which will, in turn, be distributed to all departments.
 - b. Management shall enforce this policy.
 - c. In addition, all employees are responsible for enforcing this Policy.
 - d. Enforcement Procedures:
 - i. Employees: Any employee observed not to be following the Smoke-Free and Tobacco Product Use Policy will be counseled by management personnel. If the employee is uncooperative, the employee's Manager/Supervisor will contact Human Resources to initiate the progressive discipline procedure up to and including termination for insubordination.

- ii. Volunteers: Any volunteer observed not to be following the Smoke-Free and Tobacco Product Use Policy will be counseled by management personnel. If a volunteer is uncooperative, the volunteer's assigned Manager/Supervisor will contact Human Resources to initiate termination.
 - iii. Visitors: An employee who encounters an uncooperative visitor shall politely ask the individual to refrain from smoking and tobacco product use, document the incident, and inform their supervisor.
- e. In any dispute arising under the Smoke-Free and Tobacco Product Use Policy, the rights of the non-smoker to a smoke-free and tobacco-free place of employment shall be given preference.
- f. Complaint Procedure:
 - i. Any member of the public or employee who desires to register a complaint under this policy may initiate the complaint with the Department Director, Assistant Director, any supervisor, or site manager.
 - ii. Any complaint or violation of this policy shall be made known to the appropriate Department Director or Assistant Director.
 - iii. Any member of the public or employee can also register a complaint with the County's designated enforcement agency under the County Ordinance, the Department of Health's Environmental Health Bureau.
 - 1. Environmental Health will refer the complaint and inform the appropriate Department Director and/or Assistant Director for front line resolution.

6. References

- a. Smoking Pollution Control Ordinance (Monterey County Code, Chapter 10.70)
- b. Monterey County Board of Supervisors' Resolution Number 91-499, adopted November 8, 1991, Policy Banning Smoking and/or the use of Tobacco in Facilities and Vehicles Owned and Leased and Operated by the County of Monterey.

V. Review Date

- a. This Policy will be reviewed for continuance by [date].

VI. Board Action

- a. [Legistar File Number:], [date]

REFERENCES

1. U.S. Department of Health and Human Services. 2006 Surgeon General's Report—The Health Consequences of Involuntary Exposure to Tobacco Smoke. 2006. Available at: www.cdc.gov/tobacco/data_statistics/sgr/2006/index.htm. Accessed June 14, 2014.
2. California Environmental Protection Agency Air Resources Board. *Environmental Tobacco Smoke: A Toxic Air Contaminant. California Environmental Protection Agency Air Resources Fact Sheet.*; 2006. Available at: www.arb.ca.gov/toxics/ets/factsheetets.pdf.
3. California Environmental Protection Agency Air Resource Board. California Identifies Secondhand Smoke as a “Toxic Air Contaminant.” *News Release*. 2006. Available at: www.arb.ca.gov/newsrel/nr012606.htm.
4. Chemicals known to the state to cause cancer or reproductive toxicity. State of California Environmental Agency Office of Health Hazard Assessment Safe Drinking Water and Toxic Enforcement Act of 1986. 2015. Available at: www.oehha.ca.gov/prop65/prop65_list/files/P65single012315.pdf.
5. Klepeis NE, Ott WR, Switzer P. Real-time measurement of outdoor tobacco smoke particles. *J Air Waste Manag Assoc*. 2007;57(August 2013):522–534. doi:10.3155/1047-3289.57.5.522.
6. Repace J. Benefits of Smokefree Regulations in Outdoor Settings: Beaches, Golf Courses, Parks, Patios, and in Motor Vehicles. *William Mitchell Law Rev*. 2008;34(4):1621–1638. Available at: www.repace.com/pdf/Repace_Ch_15_Outdoor_Smoke.pdf.
7. U.S. Surgeon General. Factsheet: The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General. 2014. Available at: www.surgeongeneral.gov/library/reports/50-years-of-progress/fact-sheet.html. Accessed June 2, 2015.
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10. U.S. Department of Health and Human Services. *The Health Consequences of Smoking — 50 Years of Progress A Report of the Surgeon General.*; 2014. Available at: www.surgeongeneral.gov/library/reports/50-years-of-progress/full-report.pdf.

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 business entity formed for profit-making purposes, including retail establishments where goods or services are sold, as well as professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered.

"County Health Officer" means the Director of the County Health Department or his or her designee.

"Dining area" means any enclosed area containing a counter or tables upon which food is served.

"Employee" means any person who is employed by any employer in consideration for direct or indirect monetary wages or profit, or any person who volunteers his or her services for a nonprofit entity.

"Employer" means any person, partnership, corporation, public agency, or nonprofit entity, who employs the services of one or more persons.

"Enclosed" means closed in by a roof and four walls with appropriate openings for ingress and egress.

"Motion picture theater" means any theater engaged in the business of exhibiting motion pictures.

"Nonprofit entity" means any corporation, unincorporated association, or other 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. A public agency is not a "nonprofit entity" within the meaning of this Section.

"Place of employment" means any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference and class rooms, employee cafeterias, and hallways. A private residence is not a "place of employment" unless it is used as a child care or health care facility.

"Public place" means any area to which the public is invited or in which the public is permitted. For the purpose of this Chapter, a private residence is not a "public place" except when the residence is used as a child care, health care, board and care, or community foster care facility.

"Restaurant" means any coffee shop, cafeteria, luncheonette, tavern, cocktail lounge, sandwich stand, soda fountain, dining area, private and public school cafeteria, or eating establishment, boardinghouse, or guesthouse, which gives or offers for sale food to the public, except that the term "restaurant" shall not include a cocktail lounge or tavern if said cocktail lounge or tavern is a "bar" as defined this Section.

"Service line" means any indoor line at which one or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.

"Smoking" means inhaling, exhaling, burning or carrying any lighted pipe, cigar, cigarette, weed, plant, or other combustible organic or chemical substance, the smoke from which is specifically designed or intended to be inhaled or drawn into the nose or mouth.

"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, and trails are designated as nonsmoking.
- R. Video arcades, bingo parlors, card rooms, game rooms, pool halls, dance halls, amusement centers, and bowling alleys.
- S. Every room, chamber, place of meeting or public assembly, including school buildings under the control of any board, council, commission, committee, including joint committees, or agencies of the County or any political subdivision of the State during such time a public meeting is in progress.
- T. The grounds, waiting rooms, hallways, wards, and patient rooms of health care facilities, including, but not limited to, hospitals, medical centers, clinics, physical therapy facilities, and medical, dental, and chiropractic offices.
- U. Areas which share the air space - including but not limited to air conditioning, heating, or other ventilation systems, entries, doorways, open windows, hallways, and stairways - with other enclosed areas in which smoking is prohibited.
- V. At least seventy-five (75) percent of the guest rooms in every hotel and motel shall be maintained as fixed nonsmoking rooms.

(Ord. 3746 § 2, 1994)

10.70.060 - Regulation of smoking in places of employment.

- A. It shall be the responsibility of each employer to provide a smoke-free place of employment for all employees.
- B. Within ninety (90) days of the effective date of this Chapter, each employer having an enclosed place of employment located within the County shall adopt, implement, make known, and maintain a written smoking policy which shall contain the following requirement:

Smoking shall, without exception, be prohibited in all enclosed facilities within a place of employment. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairwells, restrooms, vehicles, and all other enclosed facilities.

- C. The smoking policy shall be communicated to all employees within three weeks of its adoption, and at least annually thereafter.
- D. Each employer shall provide a written copy of the smoking policy to any existing or prospective employee who so requests.
- E. No employer or other person shall discharge, refuse to hire, discriminate against, or in any manner retaliate against any employee or applicant for employment because such employee or applicant exercises any rights to a smoke-free place of employment afforded by this Chapter.
- F. No employer or other person shall discharge, discriminate against, or retaliate against any employee who smokes, if the employee obeys the employer's nonsmoking policies and regulations.

(Ord. 3746 § 3, 1994)

10.70.070 - Regulation of the sale and distribution of tobacco products.

- A. Every person, business, tobacco retailer, or other establishment subject to this Chapter shall post, at each point of purchase of tobacco products, plainly visible with letters of not less than one-quarter inch in height stating:

Notice

The sale of tobacco products to persons under eighteen years of age is prohibited by law. Photo id required.

- 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.

(Ord. 3746 § 6, 1994)

10.70.100 - Enforcement.

- A. The County Health Officer shall enforce and implement this Chapter.
- B. Any person who desires to register a complaint under this Chapter may initiate an enforcement action with the County Health Officer.
- C. Whenever any facility in which smoking is prohibited by this Chapter applies for any permit or regulatory approval of the County or undergoes any required inspection, the Health Department shall require a certification from the owner, manager, operator, or other person having control of such facility that all requirements of this Chapter have been complied with.
- D. Any owner, operator, or employee of any facility in which smoking is prohibited may inform persons violating this Chapter of the appropriate provisions of this Chapter.

(Ord. 3746 § 7, 1994)

10.70.110 - Violations and penalties.

- A. It shall be unlawful for any person who owns, manages, operates, or otherwise controls the use of any facility in which smoking is prohibited by this Chapter to fail to comply with the provisions of this Chapter.
- B. It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this Chapter.
- C. Any person, business, or owner, proprietor, manager, or operator of any establishment subject to this Chapter who violates Section 10.70.040, 10.70.050, 10.70.060, 10.70.080, or 10.70.090 of this Chapter shall be guilty of an infraction.

(Ord. 3746 § 8, 1994)

10.70.120 - Reserved.

Editor's note— Ord. No. 5185, § 2, adopted August 23, 2011, repealed the former section 10.70.120 in its entirety, which pertained to exemptions and derived from Ord. No. 3746, § 13, adopted 1994.

10.70.130 - Public education.

- A. The County Health Officer shall engage in a continuing program to explain and clarify the purposes of this Chapter to citizens affected by it, and to guide owners, operators, and managers in their compliance with it. Where feasible, such education program shall be undertaken and maintained in conjunction and coordination with appropriate health or safety-oriented community-based organizations and coalitions.
- B. The County Health Officer shall, in coordination with other health agencies, have the responsibility for providing public education on the health consequences of smoking.

(Ord. 3746 § 9, 1994)

10.70.140 - Governmental agency cooperation.

The County Health Officer shall annually request such governmental and educational agencies having offices within Monterey County to establish local operating procedures that are consistent with the provisions of this Chapter. The County Health Officer shall urge Federal, State, municipal public agencies, and special districts to enact and enforce smoking prohibitions and restrictions for their facilities within Monterey County that are consistent with the provisions of this Chapter.

(Ord. 3746 § 10, 1994)

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)

Smoke-Free Policy

WHEREAS, the County of Monterey desires to provide and maintain a safe and healthy work place for every employee; and

WHEREAS, the County of Monterey desires to protect the health, safety and well-being of employees, volunteers and the public,

BE IT RESOLVED THAT, the County does hereby establish the "County of Monterey Smoke-Free Policy" with regard to the use of tobacco in facilities and vehicles, owned, leased, or operated by the County.

POLICY

1. The smoking of tobacco, or the use of other forms of tobacco, or both, are prohibited inside any facility or vehicle owned and operated by the County of Monterey. Smoking, or the use of other forms of tobacco, or both, are additionally prohibited in the portions of any facility leased by the County of Monterey. Smoking, or the use of other forms of tobacco, or both, are also prohibited within the fenced grounds of the County's jail.
2. In the case of any County employee or volunteer found to have violated any of the prohibitions contained in this policy, appropriate disciplinary action will be taken pursuant to the applicable collective bargaining agreement covering that employee or consistent with the current Monterey County Personnel Resolution No. 80-339, as amended, or both.
3. In order to ensure compliance with this policy, the County shall provide the following program for all County employees and volunteers: distribution to each County employee and volunteer of (1) a brochure regarding the dangers associated with smoking or the usage or other forms of tobacco; (2) distribution to each County employee and volunteer a copy of this policy; and (3) dissemination of information regarding the County Wellness Program, in order to provide counseling and/or referral for extended counseling on the cessation of tobacco use.
4. Department Heads or appointing authorities, or both, shall be individually responsible for (1) posting of "No Smoking" signs in every building and/or department, particularly in those areas open to the public; (2) the removal of all cigarette receptacles from within facilities under their control or jurisdiction. The County Administrative Officer shall be responsible for the implementation of these elements of the policy in those sections of the County facilities occupied and used by multiple County departments. In addition, the County Administrative Officer shall be responsible for the procurement of the "No Smoking" signs which will, in turn, be distributed to all departments.
5. Any citizen or employee who desires to register a complaint under this policy may initiate the complaint with any department head or with the County Administrative Officer or with his/her designee. Any County official, manager, or supervisor receiving a complaint, or learning of a violation of this policy, shall make known said complaint or violation to the appropriate department head, the County Administrative Officer, or to his/her designee.
6. This policy shall be in full force and effect on and after November 8, 1991.