

1 **BOARD OF SUPERVISORS, COUNTY OF LAKE, STATE OF CALIFORNIA**  
2 **ORDINANCE NO. \_\_\_\_**

3 **AN ORDINANCE OF LAKE COUNTY AMENDING CHAPTER NINE (9) OF**  
4 **THE LAKE COUNTY CODE OF ORDINANCES TO REGULATE SMOKING**  
5 **AND TOBACCO USE**

6 **WHEREAS** tobacco use is the number one cause of preventable death in California and continues  
7 to be an urgent public health issue, as evidenced by the following:

- 8 (i) Each year, smoking and exposure to secondhand smoke costs California an estimated  
9 \$13.3 billion in direct health care expenses, \$3.6 billion in Medicaid costs, and \$10.4 billion  
10 in productivity losses; and
- 11 (ii) Secondhand smoke has been repeatedly identified as a health hazard, as evidenced by  
12 the following:
- 13 (iii) In 2006, the U.S. surgeon general concluded that there is no risk-free level of exposure to  
14 secondhand smoke; and
- 15 (iv) In 2006, the California Environmental Protection Agency added secondhand smoke  
16 to the Proposition 65 list of chemicals known to the state of California to cause  
17 cancer, birth defects, and other reproductive harm; and

18 **WHEREAS** exposure to secondhand smoke anywhere has negative health impacts, and exposure to  
19 secondhand smoke can occur at significant levels outdoors, as evidenced by the following:

- 20 (i) Levels of secondhand smoke exposure outdoors can reach levels recognized as  
21 hazardous, depending on direction and amount of wind, number and proximity of  
22 smokers, and enclosures like walls or roofs; and
- 23 (ii) Smoking cigarettes near building entryways can increase air pollution levels by more  
24 than two times background levels, with maximum levels reaching the “hazardous”  
25 range on the United States EPA’s Air Quality Index; and

26 **WHEREAS** exposure to secondhand smoke causes death and disease, as evidenced by the  
27 following:

- 28 (i) Research indicates that exposure to secondhand smoke increases the risk of coronary  
heart disease by 25% to 30% and increases the risk of stroke by 20% to 30%; and
- (ii) Secondhand smoke kills more than 400 infants every year; and

**WHEREAS** electronic smoking device aerosol may be considered a health hazard, as evidenced  
by the following:

- (i) Research has found electronic smoking device aerosol contains at least 12 chemicals  
known to the State of California to cause cancer, birth defects, or other reproductive  
harm, such as formaldehyde, acetaldehyde, lead, nickel, chromium, arsenic, and  
toluene; and
- (ii) Given the increasing prevalence of electronic smoking device use, especially among  
youth and young adults, widespread nicotine exposure resulting in addiction and  
other harmful consequences serious concerns; and

1       **WHEREAS** secondhand cannabis smoke has been identified as a health hazard, as evidenced by  
2 the following:

- 3           (i) The California Environmental Protection Agency includes cannabis smoke on the  
4 Proposition 65 list of chemicals known to the state of California to cause cancer; and
- 5           (ii) Cannabis smoke contains at least 33 known carcinogens; and
- 6           (iii) In one study, exposure to cannabis smoke in an unventilated setting resulted in detectible  
7 levels of cannabinoids in non-smoker participants' blood and urine, and  
8 participants experienced minor increases in heart rate and impaired cognitive  
9 performance; and

10       **WHEREAS** tobacco waste is a major, consequential, and persistent source of litter, as evidenced  
11 by the following:

- 12           (i) Cigarette butts are often cast onto sidewalks and streets, and frequently end up in storm  
13 drains that flow into streams, rivers, bays, lakes, and ultimately the ocean; and
- 14           (ii) Non-cigarette forms of tobacco waste, such as plastic cigar tips and little cigar  
15 wrappers, also significantly contribute to litter; and

16       **WHEREAS** cigarette butts, smokeless tobacco, and electronic smoking devices pose a health  
17 threat of poisoning to young children, as evidenced by the following:

- 18           (i) In 2018, American poison control centers logged nearly 13,000 cases involving  
19 exposure to cigarettes, cigarette butts, electronic smoking devices, or other tobacco  
20 products, and of these, more than 10,000 (79.0%) occurred in children aged 5 years  
21 and younger; and
- 22           (ii) Children who ingest tobacco products can experience vomiting, nausea, lethargy, and  
23 gagging, with e-liquids potentially posing a greater risk of toxicity or fatality through  
24 either ingestion or transdermal absorption; and

25       **WHEREAS** exemptions and loopholes in California's smoke-free workplace laws  
26 disproportionately impact low-income communities and communities of color as well as those who  
27 work predominantly outdoors as evidenced by the following:

- 28           (i) California Labor Code does not prohibit smoking in cabs of trucks, long-term care  
facilities, outdoor places of employment, tobacco shops, private smokers' lounges,  
and up to 20 percent of hotel rooms. Employees in these areas are disproportionately  
individuals of low- income and individuals of color; and

29       **WHEREAS** there is no constitutional right to smoke; and

30       **WHEREAS** laws restricting the use of tobacco products have recognizable benefits to public  
31 health and can reduce medical costs; these outcomes, consistently demonstrated in peer- reviewed  
32 research, include the following:

- 33           (i) Reduced prevalence of tobacco use; and
- 34           (ii) Reduced initiation of tobacco use among young people; and
- 35           (iii) Fewer hospitalizations from tobacco-related diseases, such as asthma and  
36 cardiovascular disease; and

1       **WHEREAS** California cities and counties have the legal authority to adopt local laws that  
2 prohibit all tobacco use indoors and outdoors in areas not already covered by state law; and

3       **WHEREAS** as of January 2024, there are more than 210 California municipalities with local laws  
4 restricting smoking in parks, 118 with local laws restricting smoking at outdoor public events and  
5 venues, 104 with local laws restricting smoking in all bar patio and outdoor dining places, and 130 with  
6 local laws restricting smoking at outdoor public transit waiting areas; and

7       **WHEREAS** it is the intent of the County Board of Supervisors, in enacting this Ordinance, to  
8 provide for the public health, safety, and welfare of the residents of the County of Lake by  
9 discouraging the inherently dangerous behavior of smoking and tobacco use around non-tobacco  
10 users, especially children; by protecting the public from exposure to secondhand smoke where they  
11 live, work, and play; by reducing the potential for children to wrongly associate smoking and  
12 tobacco use with a healthy lifestyle; and by affirming and promoting a healthy environment in the  
13 county.

14       **NOW THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF LAKE  
15 DOES ORDAIN AS FOLLOWS:**

16       **SECTION I.** Article XIV of Chapter 9 of the Lake County Code is hereby added to  
17 read as follows:

18       **“ARTICLE XIV. – REGULATIONS GOVERNING SMOKING AND TOBACCO USE  
19 WITHIN UNENCLOSED AREAS OF THE COUNTY OF LAKE.**

20       **Sec. 9-134. DEFINITIONS.** For the purposes of this Article the following definitions shall govern  
21 except where the context of such words and phrases clearly indicates a different meaning or construction:

- 22       (A) “Cannabis” has the meaning set forth in California Business and Professions Code Section  
23 26001, as that section may be amended from time to time.
- 24       (B) “County staff” means the Person in Control of County owned, leased, or managed unit  
25 of real estate or common area.
- 26       (C) “Electronic smoking device” means any device that may be used to deliver any aerosolized  
27 or vaporized substance to the person inhaling from the device, including, but not limited to, an  
28 e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah.
- (D) “Employee” means any person who is employed or retained as an independent contractor by  
any employer in consideration for direct or indirect monetary wages or profit, or any person  
who volunteers his or her services for an employer.
- (E) “Employer” means any person or nonprofit entity that retains the service of one or more  
employees.
- (F) “Enclosed area” means all space between a floor and a ceiling that is bounded by walls,  
doorways, or windows, whether open or closed, covering more than 50 percent of the  
combined surface area of the vertical planes constituting the perimeter of the area. A wall  
includes but is not limited to any retractable divider, garage door, or other physical barrier,  
whether temporary or permanent.
- (G) “Multiunit Residence” means property containing two or more units, including, but not

1 limited to, apartment buildings, common interest developments, senior and assisted living  
2 facilities, and long-term health care facilities.

3 (H) “Outdoor Dining Area” means any publicly or privately owned outdoor area, including  
4 streets and sidewalks, that is available to or customarily used by the general public or an  
5 employee, and that is designed, established, or regularly used for consuming food or drink.

6 (I) “Person” means any natural person, business, corporation, partnership, cooperative  
7 association, personal representative, receiver, trustee, assignee, or any other legal entity.

8 (J) “Person in Control”: person, employer, business, or owner, proprietor, manager, or operator  
9 that is legally responsible for overseeing the day-to-day operations of a unit of real estate or  
10 with legal control over a common area.

11 (K) “Recreational area” means any publicly or privately owned area, including streets and  
12 sidewalks located within the area, that is open to the general public for recreational  
13 purposes, regardless of any fee or age requirement. The term “Recreational Area” includes,  
14 but is not limited to, facilities, parks, playgrounds, athletic fields, restrooms, beaches,  
15 picnic areas, spectator and concession areas, golf courses, walking paths, gardens, hiking  
16 trails, bike paths, riding trails, roller and ice-skating rinks, skateboard parks, amusement  
17 parks, zoos, and aquatic areas.

18 (L) “Service area” means any publicly or privately owned area, including streets and sidewalks that  
19 is designed to be used or is regularly used by one or more persons to receive a service, wait to  
20 receive a service, or to make a transaction, whether or not such service or transaction includes  
21 the exchange of money. The term “service area” includes, but not limited to, areas including or  
22 within 30 feet of information kiosks, automatic teller machines (ATM’s), service lines, bus  
23 stops or shelters, or cab stands.

24 (M) “Service lines” means an outdoor line in which one or more persons are waiting for or  
25 receiving service of any kind, whether or not the service involves the exchange of money,  
26 including but not limited to, ATM lines, concert lines, food vendor lines, mobile vendor  
27 lines, movie ticket lines, and sporting event lines.

28 (N) “Smoke” or “Smoking” means:

(1) Inhaling, exhaling, or burning any tobacco, nicotine, cannabis, or plant product, whether  
natural or synthetic;

(2) carrying any lighted, heated, or activated tobacco, nicotine, cannabis, or plant product,  
whether natural or synthetic, intended for inhalation; or

(3) using an electronic smoking device or hookah.

(O) “Tobacco product” means:

(1) any product that is made from or derived from tobacco, or that contains nicotine, that is  
intended for human consumption or is likely to be consumed, whether inhaled, absorbed,  
or ingested by any other means, including but not limited to, a cigarette, a cigar, pipe  
tobacco, chewing tobacco, snuff, or snus;

(2) any electronic smoking device and any substances that may be aerosolized or vaporized  
by such device, whether or not the substance contains nicotine; or

(3) any component, part, or accessory of (1) or (2), whether or not any of these contains

1 tobacco or nicotine, including but not limited to filters, rolling papers, blunt or hemp  
2 wraps, hookahs, mouthpieces, and pipes.

3 (4) "Tobacco product" does not include drugs, devices, or combination products authorized for  
4 sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food,  
5 Drug, and Cosmetic Act.

6 (P) "Tobacco product waste" means any component, part, or remnant of any tobacco product.  
7 Tobacco product waste includes any waste that is produced from the use of a tobacco  
8 product, including all tobacco product packaging and incidental waste such as lighters or  
9 matches, whether or not it contains tobacco or nicotine.

10 (Q) "Tobacco use" means the act of smoking or the consumption of any other tobacco product in  
11 any form.

12 (R) "Unenclosed area" means any area that is not an enclosed area.

13 **Sec. 9-135. PROHIBITION OF SMOKING AND TOBACCO USE.**

14 (A) Effective 90 days upon adoption of this Ordinance, smoking and tobacco use is  
15 prohibited within 30 feet of the entrances and operable windows of buildings and  
16 Unenclosed Areas of the following places, in the unincorporated area of Lake County.

17 1) All Unenclosed Areas owned or leased by the County of Lake;

18 2) Recreation areas; or

19 3) Service areas; or

20 4) Outdoor dining areas.

21 5) Notwithstanding parts 1 through 4 above, the prohibitions of this Article shall not  
22 apply to Unenclosed Areas of private residential properties that are not multiunit  
23 residences.

24 (B) Effective 180 days after the adoption of this ordinance, Smoking and Tobacco use is  
25 prohibited in the Unenclosed Areas of the following places within the unincorporated areas of  
26 the County of Lake:

27 (1) All Unenclosed Areas owned or leased by the County of Lake; or

28 (2) Recreational areas; or

(3) Service areas; or

(4) Outdoor dining areas.

(5) Notwithstanding parts 1 through 4 above, the prohibitions of this Article shall not  
apply to Unenclosed Areas of private residential properties that are not multiunit  
residences.

(C) Nothing in this Article prohibits any Person in Control of any property from prohibiting  
smoking and tobacco use on any part of such property, even if smoking or tobacco use is not  
otherwise prohibited in that area.

(D) It is not a violation of this Article to use tobacco as part of a Native American spiritual or  
cultural ceremony.

1           **Sec. 9-136. TOBACCO WASTE.**

- 2           (A) No Person in Control shall permit smoking ash receptacles within an area which smoking,  
3           or tobacco use is prohibited by law, including within thirty (30) feet from any area in which  
4           smoking, or tobacco use is prohibited under this Article.  
5           (B) The presence of smoking ash receptacles in violation of this Article shall not be a defense to  
6           a charge of smoking or tobacco use in violation of any provision of this Article.  
7           (C) No person shall dispose of tobacco product waste within the boundaries of an area in which  
8           smoking, or tobacco use is prohibited.

9           **Sec. 9-138. SIGNAGE.**

- 10          (A) A Person in Control of an area in which smoking, and tobacco use is prohibited by this  
11          Article shall post a clear, conspicuous, and unambiguous “No Smoking” and “No Tobacco  
12          Use” or “Smoke-Free” and “Tobacco-Free” sign at each entrance to the Unenclosed Area,  
13          and in at least one other conspicuous point within the Unenclosed Area.  
14          (B) Each sign shall have letters of no less than one inch in height and shall include the  
15          international “No Smoking” symbol.  
16          (C) Signs posted on the exterior of buildings to comply with this section shall include the 30-  
17          foot distance requirement set forth in Sec. 9-135, Part (A) above.  
18          (D) The presence or absence of signs shall not be a defense to a charge of smoking or tobacco use  
19          in violation of any other provision of this Article.

20          **Sec. 9-139. VIOLATIONS AND REMEDIES.**

- 21          (A) Any person who violates any of the provisions of this Article may be subject to any  
22          State or County enforcement remedies, as well as any applicable legal or equitable  
23          remedies available under law.  
24          (B) No person shall intimidate, threaten any reprisal, or effect any reprisal, for the purpose of  
25          retaliating against another person who seeks to attain compliance with this article.

26          **Sec. 9-140. COUNTY EMPLOYEES .**

- 27          (A) County Staff will be notified about the requirements of this article in County policies and  
28          procedure.  
29          (B) County Staff will communicate to all applicants seeking use or access to county property  
30          the requirements of this article. This may include but is not limited to: adopting language  
31          in permitting process paperwork and applications for the use of county property no  
32          matter the duration of the use.  
33          (C) County Staff will make observations of county property covered by this article to monitor  
34          for compliance.  
35          (D) County Staff will remind anyone found to be violating the Smoking and tobacco use  
36          requirements contained herein, and asked to comply before being subject to ejection from

1 the property. Violators will be reminded of these requirements and asked to comply  
2 before being subject to ejection from the property.

3 **SECTION II. Statutory Construction & Severability.**

4 It is the intent of the Board of Supervisors of the County of Lake to supplement applicable  
5 state and federal law and not to duplicate or contradict such law and this ordinance shall be construed  
6 consistently with that intention. If any section, subsection, subdivision, paragraph, sentence, clause, or  
7 phrase of this ordinance, or its application to any person or circumstance, is for any reason held to be  
8 invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or  
9 enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses, or  
10 phrases of this ordinance, or its application to any other person or circumstance. The board of  
11 supervisors of Lake County declares that it would have adopted each section, subsection, subdivision,  
12 paragraph, sentence, clause, or phrase independently, even if any one or more other sections,  
13 subsections, subdivisions, paragraphs, sentences, clauses, or phrases were declared invalid or  
14 unenforceable.

15 **SECTION III. Environmental Review.**

16 The Board of Supervisors finds this ordinance is not a project within the meaning of  
17 section 15378 of the California Environmental Quality Act (“CEQA”) Guidelines, because there  
18 is no potential for the adoption of this Ordinance to result in an impact to or physical change in  
19 the environment, either directly or indirectly. In the event this Ordinance is found to be a project  
20 and subject to CEQA, it is exempt from CEQA pursuant to section 15061(b)(3) of the CEQA  
21 Guidelines, known as the “Common Sense” exemption, because it can be seen with certainty that  
22 there is no possibility of a significant effect on the environment.

23 This ordinance shall take effect on the \_\_\_\_\_ day of \_\_\_\_\_, 2024, and after the passage it  
24 shall be published in at least once in a newspaper of general circulation in the County of Lake.

25 The foregoing Ordinance was introduced before the Board of Supervisors on the \_\_\_\_\_ day of  
26 \_\_\_\_\_, 2024 and passed by the following vote on the \_\_\_\_\_ day of \_\_\_\_\_, 2024.

27 **AYES:**

28 **NOES:**

**ABSENT OR NOT VOTING:**

COUNTY OF LAKE

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Chair, Board of Supervisors

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**ATTEST: SUSAN PARKER**  
**Clerk of the Board of Supervisors**

By: \_\_\_\_\_

**APPROVED AS TO FORM:**  
**LLOYD GUINTIVANO**  
**County Counsel**

  
By: Lloyd Guintivano (Aug 23, 2024 10:25 PDT)








# smoke free ordinance final 8.22.24

Final Audit Report

2024-08-23

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