

AN ORDINANCE OF LAKE COUNTY AMENDING THE
LAKE COUNTY CODE OF ORDINANCES TO REGULATE
SMOKING AND TOBACCO USE

ORDINANCE NO _____

The Board of Supervisors of the County of Lake does ordain as follows:

SECTION I. FINDINGS.

(1) Tobacco use is the number one cause of preventable death in California and continues to be an urgent public health issue, as evidenced by the following:

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

(2) Exposure to secondhand smoke anywhere has negative health impacts, and exposure to secondhand smoke can occur at significant levels outdoors, as evidenced by the following:

- (i) Levels of secondhand smoke exposure outdoors can reach levels recognized as hazardous, depending on direction and amount of wind, number and proximity of smokers, and enclosures like walls or roofs;
- (ii) Smoking cigarettes 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; and

(3) Exposure to secondhand smoke causes death and disease, as evidenced by the following:

- (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;

(4) 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;
- (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

(5) Secondhand cannabis smoke has been identified as a health hazard, as evidenced by the following:

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

(6) Laws restricting the use of tobacco products have recognizable benefits to public health and can reduce medical costs; these outcomes, consistently demonstrated in peer-reviewed research, include the following:

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

(7) Tobacco waste is a major, consequential, and persistent source of litter, as evidenced by the following:

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

(8) Cigarette butts, smokeless tobacco, and electronic smoking devices pose a health threat of

poisoning to young children, as evidenced by the following:

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

(9) Exemptions and loopholes in California's smoke-free workplace laws disproportionately impact low-income communities and communities of color as well as those who work predominantly outdoors as evidenced by the following:

- (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

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

(11) As of January 2024, there are more than 210 California municipalities with local laws restricting smoking in parks, 118 with local laws restricting smoking at outdoor public events and venues, 104 with local laws restricting smoking in all bar patio and outdoor dining places, and 130 with local laws restricting smoking at outdoor public transit waiting areas; and

(12) There is no constitutional right to smoke; and

NOW THEREFORE, it is the intent of the Board of Supervisors of the County of Lake, in enacting this ordinance, to provide for the public health, safety, and welfare by discouraging the inherently dangerous behavior of smoking and tobacco use around non-tobacco users, especially children; by protecting the public from exposure to secondhand smoke where they live, work, and play; by reducing the potential for children to wrongly associate smoking and tobacco use with a healthy lifestyle; and by affirming and promoting a healthy environment in Lake County.

SECTION II. ARTICLE XIV OF CHAPTER 9 OF THE LAKE COUNTY CODE IS HEREBY ADDED AS FOLLOWS:

Sec. 1. DEFINITIONS. For the purposes of this article the following definitions shall govern unless the context clearly requires otherwise:

- (A) “Cannabis” has the meaning set forth in California Business and Professions Code Section 26001, as that section may be amended from time to time.
- (B) “Electronic smoking device” means any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah.
- (C) “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.
- (D) “Employer” means any person or nonprofit entity that retains the service of one or more employees.
- (E) “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.
- (F) “Multiunit Residence” means property containing two or more units, including, but not limited to, apartment buildings, common interest developments, senior and assisted living facilities, and long-term health care facilities.
- (G) “Outdoor Dining Area” means any publicly or privately owned outdoor area, including streets and sidewalks, that is available to or customarily used by the general public or an employee, and that is designed, established, or regularly used for consuming food or drink.
- (H) “Person” means any natural person, business, corporation, partnership, cooperative association, personal representative, receiver, trustee, assignee, or any other legal entity.
- (I) “Place of employment” means an area under the control of an employer that an employee or the general public may enter in the normal course of operations, regardless of the hours of operation, including work areas and construction sites.
- (J) “Public event areas” means any publicly or privately owned place used for an event open to the general public, regardless of any fee or age requirement, including a farmers’ market, parade, fair, or festival.
- (K) “Public place” means any publicly or privately owned place that is open to the general public, regardless of any fee or age requirement, including sidewalks, streets, parking lots, plazas, shopping areas, stadiums, or sporting facilities.
- (L) “Recreational area” means any publicly or privately owned area, including streets and

sidewalks located within the area, that is open to the general public for recreational purposes, regardless of any fee or age requirement. The term “Recreational Area” includes, but is not limited to, facilities, parks, playgrounds, athletic fields, restrooms, beaches, picnic areas, spectator and concession areas, golf courses, walking paths, gardens, hiking trails, bike paths, riding trails, roller and ice-skating rinks, skateboard parks, amusement parks, zoos, and aquatic areas.

- (M) “Service area” means any publicly or privately owned area, including streets and sidewalks that is designed to be used or is regularly used by one or more persons to receive a service, wait to receive a service, or to make a transaction, whether or not such service or transaction includes the exchange of money. The term “service area” includes, but is not limited to, areas including or within 25 feet of information kiosks, automatic teller machines (ATMs), service lines, bus stops or shelters, or cab stands.
- (N) “Service lines” means an outdoor line in which one or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money, including but not limited to, ATM lines, concert lines, food vendor lines, mobile vendor lines, movie ticket lines, and sporting event lines.
- (O) “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.
- (P) “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 tobacco or nicotine, including but not limited to filters, rolling papers, blunt or hemp wraps, hookahs, mouthpieces, and pipes.

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

- (Q) “Tobacco product waste” means any component, part, or remnant of any tobacco product. Tobacco product waste includes any waste that is produced from the use of a tobacco product, including all tobacco product packaging and incidental waste such as lighters or matches, whether or not it contains tobacco or nicotine.
- (R) “Tobacco use” means the act of smoking or the consumption of any other tobacco product in any form.
- (S) “Unenclosed area” means any area that is not an enclosed area.

Sec. 2. PROHIBITION OF SMOKING AND TOBACCO USE IN UNENCLOSED AREAS.

- (A) Smoking and tobacco use is prohibited in the unenclosed areas of the following places within Lake County:
 - (1) Recreational areas;
 - (2) Service areas;
 - (3) Outdoor dining areas;
 - (4) Places of employment;
 - (5) Public event areas; or
 - (6) Other public places.
- (B) Nothing in this article prohibits any person or employer with control over 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.
- (C) It is not a violation of this article to use tobacco as part of a Native American spiritual or cultural ceremony.

Sec. 3. SMOKE-FREE BUFFER ZONES.

Smoking in all unenclosed areas shall be prohibited within 25 feet from any area in which smoking is prohibited under Sec. 2 of this article or by any other law. This prohibition shall not apply to unenclosed areas of private residential properties that are not multiunit residences.

Sec. 4. TOBACCO WASTE.

- (A) No person or employer shall permit smoking ash receptacles within an area under their

control and in which smoking or tobacco use is prohibited by law, including within twenty-five (25) feet from any area in which smoking or tobacco use is prohibited. The presence of smoking ash receptacles in violation of this subsection shall not be a defense to a charge of smoking or tobacco use in violation of any provision of this article.

- (B) No person shall dispose of tobacco product waste within the boundaries of an area in which smoking or tobacco use is prohibited.

Sec. 5. ENFORCEMENT.

- (A) No person or employer shall permit smoking or tobacco use in an area that is under the control of that person or employer and in which smoking or tobacco use is prohibited by this article or any other law.
- (B) A person or employer that has control of an area in which smoking and tobacco use is prohibited by this article shall post a clear, conspicuous, and unambiguous “No Smoking” and “No Tobacco Use” or “Smoke-Free” and “Tobacco-Free” sign at each entrance to the area, and in at least one other conspicuous point within the area. The signs shall have letters of no less than one inch in height and shall include the international “No Smoking” symbol. Signs posted on the exterior of buildings to comply with this section shall include the 25-foot distance requirement set forth in Sec. 3. The presence or absence of signs shall not be a defense to a charge of smoking or tobacco use in violation of any other provision of this article.
- (C) County staff and volunteers will be notified about the requirements of this article in its policies and procedures.
- (D) County staff will communicate the requirements of this article to public event organizers. County staff will also make periodic observations of recreational areas and other county property covered by this article to monitor for compliance. Anyone found by county staff to be violating this article will be reminded of its requirements and asked to comply before being subject to ejection from the property.
- (E) A person or employer that has control of an area in which smoking and tobacco use is prohibited by this article shall direct anyone who is smoking or using tobacco in violation of this article to extinguish the product being smoked or stop using the tobacco product. If they do not stop smoking or using the tobacco product, the person or employer shall refuse any service and shall immediately ask them to leave the property. If the ejection is from a public event, it shall be for the duration of the public event.
- (F) No person or employer shall intimidate, threaten any reprisal, or effect any reprisal, for the purpose of retaliating against another person who seeks to attain compliance with this article.

Sec. 6. VIOLATIONS AND PENALTIES.

- (A) Each refusal of a request to comply with the requirements of this article may be subject to a fifty dollar (\$50) administrative fine and education of the ordinance.
- (B) Multiple violations of this article by a person or employer that has control of an area in which smoking and tobacco use is prohibited by this article may result in the suspension or revocation of any permit or license issued to the person for the property on which the violations occurred.
- (C) Any violation of this article is hereby declared to be a public nuisance.
- (D) Any violation of this article may be subject to legal remedies, including, but not limited to, nuisance abatement proceedings, code enforcement proceedings, and /or suits for injunctive relief.
- (E) Each instance of smoking or tobacco use in violation of this article shall constitute a separate violation. For violations other than for smoking, each day of a continuing violation of this article shall constitute a separate violation.
- (F) The remedies provided by this article are cumulative and in addition to any other remedies available at law or in equity.

SECTION III. STATUTORY CONSTRUCTION & SEVERABILITY.

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

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

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

AYES:

NOES:

ABSENT OR NOT VOTING:

COUNTY OF LAKE

Chair, Board of Supervisors

ATTEST: SUSAN PARKER
Clerk of the Board of Supervisors

By: _____

APPROVED AS TO FORM:

Lloyd GUINTIVANO
County Counsel