

Title 6 HEALTH AND SANITATION

Chapter 6.14 SMOKING PROHIBITED IN CERTAIN PUBLIC AREAS

Chapter 6.16 TOBACCO PRODUCTS SALES PROHIBITED FROM VENDING MACHINES

6.14.010 Purpose of chapter.

Because smoking of tobacco, or any other weed or plant, is a positive danger to health and a cause of material annoyance, inconvenience, discomfort and a health hazard to those who are present in confined places, and in order to serve public health, safety and welfare, the declared purpose of this chapter is to prohibit the smoking of tobacco, or any other weed or plant, in certain areas which are used by or open to the public. (Ord. 705 § 1 (part), 1981)

6.14.020 Definitions.

- (a) "Service line" or "service counter" means any indoor line or counter of which two or more people are involved in waiting for, receiving or giving service of any kind, regardless of whether or not such service involves the exchange of money. Such service shall include, but is not limited to, sales, giving of information, directions or advice, and transfers of money or goods.
- (b) "Smoke" or "smoking" means and includes the carrying of a lighted pipe, or lighted cigar, or lighted cigarette of any kind, or the lighting of a pipe, cigar or cigarette of any kind. (Ord. 705 § 1 (part), 1981)

6.14.030 Prohibition in certain public places.

Smoking shall be prohibited in the following places within the town to the extent the same are subject to the jurisdiction or licensing by the town.

- (a) Elevators, museums, galleries, public transportation facilities open to the public, and service lines of establishments doing business with the general public;
- (b) Waiting rooms, or public hallways of every private or public health care facility, including but not limited to hospitals; provided further, however, that this prohibition shall not prevent the establishment of a separate waiting room in the same facility in which smoking is prohibited. This prohibition shall not apply to private rooms or psychiatric facilities. Health care facilities also must provide nonsmoking sleeping rooms upon the request of any patient or his physician at the time such patient is being admitted to the facility;
- (c) In the area of the pharmacy counter of any store where people are waiting for or receiving medical prescriptions or like medication;
- (d) Within waiting rooms, meeting rooms, public assembly rooms, libraries and restrooms located in all buildings owned or operated by the town, except in lobbies and in zones designated for smoking by the town manager. Such smoking zones shall not exceed twenty percent of the seating capacity of each room or area;

- (e) Within any building not open to the sky which is primarily used for or designed for the purpose of exhibiting any motion picture, stage drama, lecture, musical recital or other similar performance whenever open to the public (except when smoking is a part of a stage production); within all restrooms, except that smoking will be allowed in an area commonly referred to as a lobby if such lobby is physically separated from the spectator area;
- (f) Retail food production and marketing establishments, including grocery stores and supermarkets open to the public. Such establishments shall be posted with signs prohibiting smoking in every public portion thereof. "No smoking" signs shall be specifically placed so that they are clearly visible to persons upon entering the store, clearly visible to persons in checkout lines, and clearly visible to persons at meat and produce counters. This requirement does not apply to restaurants;
- (g) All restrooms open for public use;
- (h) Smoking shall be prohibited within every publicly or privately owned restaurant, coffee shop, cafeteria, short-order cafe, luncheonette, sandwich stand, soda fountain or other eating establishment serving food to the general public whose occupied capacity is twenty or more persons; provided, however, that this prohibition against smoking shall not apply within any such establishment maintaining a contiguous "no smoking" area of a reasonable size designated by the owner or operator and for which notice is supplied by posted signing at the entrance of the premises. Said signing shall notify patrons that no-smoking seating is available upon request. Owners or operators shall make good faith efforts to seat patrons in such no-smoking sections when required. This prohibition shall not apply to restaurants which qualify under the provisions of Section 6.14.070, nor to banquet rooms in use for private functions.
- (i) Within any playground or tot lot in the town of Corte Madera. No person shall dispose of cigarette butts, cigar butts, or any other tobacco related products or waste in any playground or tot lot located in the town of Corte Madera. For the purpose of this section, the term "playground" shall mean any park or recreational area specifically designed to be used by children that has play equipment installed, or any similar facility located on city, county or state property or on public or private school grounds. For the purposes of this section the term "tot lot" shall mean a designated play area within a public park for the use of children under five years of age. For the purposes of this section the term "area" shall mean the fenced area surrounding the playground or tot lot. Where the area of a tot lot or playground is not contained within a fenced or enclosed area, the boundary of such playground or tot lot shall be defined by the edge of the resilient surface of safety material, such as wood, sand, concrete or any other material surrounding the playground or tot lot area. (Ord. 872 § 1, 2002; Ord. 705 § 1 (part), 1981)

6.14.040 Optional prohibition.

All managers and owners of any establishments serving or doing business with the public other than those specifically covered under Section 6.14.030 may at their discretion post "no smoking" signs within various areas of their businesses and utilize the full right of the provisions of this chapter. (Ord. 705 § 1 (part), 1981)

6.14.050 Posting of signs.

Signs which designate smoking or no-smoking areas established by this chapter shall be clearly, sufficiently, and conspicuously posted in every room, building, or other place so covered by this chapter. The manner of such posting, including the wording, size, color, design, and place of posting, whether on the walls, doors, tables, counters, stands or elsewhere, shall be at the discretion of the owner, operator, manager, or other person having control of such room, building, or other place so long as clarity, sufficiency, and conspicuousness are apparent in communicating the intent of this chapter. (Ord. 705 § 1 (part), 1981)

6.14.060 Governmental agency cooperation.

The town manager shall annually request such governmental and educational agencies involved with their specific business within the town to establish local operating procedures to cooperate and comply with this chapter. In federal, state, county, and special school districts within the town, the town manager shall urge enforcement of their existing no-smoking prohibitions and request cooperation with this chapter. (Ord. 705 § 1 (part), 1981)

6.14.070 Exceptions.

(a) Smoking shall be permitted in any room in which it is otherwise prohibited herein if the owner, operator, manager or other person having control of such room files with the town manager a written statement from a mechanical engineer registered in the state of California, certifying that such room is ventilated with a mechanical ventilation system which complies with one of the following:

(1) An outdoor air change of at least thirty-five cubic feet per minute, per occupant, the occupant load to be determined in accordance with Section 3301(d) of the 1976 Uniform Building Code, on file with the town clerk; or

(2) A system utilizing filters which achieve eighty percent efficiency, as described in National Bureau of Standards dust spot method, or other equipment which is equally effective. Such system shall have sufficient capacity to process the air content of the room served every fifteen minutes, or less.

(b) The above ventilation exceptions shall not apply to the following areas where smoking is to be absolutely prohibited: retail food production and marketing establishments including grocery stores and supermarkets open to the public as regulated in Section 6.14.030(f), elevators, service lines, public transportation facilities open to the public, public health care facilities as regulated in Section 6.13.030(b), theaters as regulated in Section 6.14.030(e), and restrooms open to public use. (Ord. 705 § 1 (part), 1981)

6.14.080 Enforcement and appeal.

(a) The town manager shall be responsible for compliance with this chapter when facilities which are owned, operated or leased by the town are involved. The town manager shall provide business license applicants with copies of this chapter.

(b) The owner, operator or manager of any facility, business or agency shall post or cause to be posted all "no smoking" signs required by this chapter. (Ord. 705 § 1 (part), 1981)

6.14.090 Violations and penalties.

Any person who violates any provision of this chapter by smoking in a posted "no smoking" area, or by failing to post or cause to be posted a "no smoking" sign required by this chapter, is guilty of an infraction and, upon conviction thereof, shall be punished by a fine of not less than ten dollars nor more than one hundred dollars. (Ord. 705 § 1 (part), 1981)

6.14.100 Education for no-smoking program.

The town manager shall engage in a continuing program to inform and clarify the purposes of this chapter to citizens affected by it, and to guide owners, operators and managers in their compliance. (Ord. 705 § 1 (part), 1981)

Chapter 6.16 TOBACCO PRODUCTS SALES PROHIBITED FROM VENDING MACHINES

6.16.010 Title.

This chapter shall be known as the "Corte Madera Tobacco Ordinance." (Ord. 794 § 1 (part), 1995)

6.16.020 Findings and purpose.

The town council does find that it is deleterious to human life and society at large to allow the sale of tobacco products to minors and it is within the council's basic police power to implement and enforce the provisions of this chapter. (Ord. 794 § 1 (part), 1995)

6.16.030 Definitions.

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

- (1) "Business" means any sole proprietorship, joint venture, corporation or other business entity formed for profit-making purposes, including retail establishments where tobacco products are sold.
- (2) "Retail tobacco store" or "tobacco retailer" means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.
- (3) "Self-service merchandising" means open display of tobacco products and point-of-sale tobacco promotional products to which the public has access without the intervention of an employee.

- (4) "Tobacco product" means any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco, snuff or any other form of tobacco which may be utilized for smoking, chewing, inhalation or other manner of ingestion.
- (5) "Tobacco vending machine" means any electronic or mechanical device or appliance the operation of which depends upon the insertion of money, whether in coin or paper currency, or other things representative of value, which dispenses or releases a tobacco product.
- (6) "Vendor-assisted" means only a store employee has access to the tobacco product and assists the customer by supplying the product. The customer does not take possession of the product until it is purchased. (Ord. 794 § 1 (part), 1995)

6.16.040 Regulating the sale of tobacco products.

- (a) Any person, business, tobacco retailer or other establishment which sells tobacco products shall post at least one plainly visible sign at or in the immediate vicinity of the point of purchase of tobacco products which states that the sale of tobacco products to persons under eighteen years of age is prohibited by law and that photo identification is required for purchase. Said sign shall use the wording adopted by the state of California Department of Health Services. The letters of said sign shall be at least one-quarter-inch high.
- (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 years or greater unless the seller has some reasonable basis for determining the buyer's age.
- (c) It is 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 merchandising, or by any means other than vendor-assisted sales.
- (d) No person, business or tobacco retailer shall locate, install, keep, maintain or use, or permit the location, installation, keeping, maintenance or use on his, her or its premises any tobacco vending machine. Any tobacco vending machine in use on the effective date of the ordinance codified in this chapter shall be removed within thirty days after the effective date of the ordinance codified in this chapter. (Ord. 794 § 1 (part), 1995)

6.16.050 Enforcement.

- (a) Notice of these regulations shall be given to all applicants for a business license.
- (b) Enforcement of this chapter shall be implemented by the town manager or his/her designee.
- (c) Any citizen who desires to register a complaint under this chapter may make said complaint known to and thereby initiate enforcement with the town manager or his/her designee.
- (d) Notwithstanding any other provision of this chapter, a private citizen may bring legal action to enforce this chapter. (Ord. 794 § 1 (part), 1995)

6.16.060 Violation and penalty.

(a) It is unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation of this chapter to fail to comply with any of its provisions.

(b) Any person, business, tobacco retailer or owner, manager or operator of any establishment subject to this chapter who violates any provision of this chapter shall be deemed guilty of an infraction, punishable by:

(1) A fine, not exceeding one hundred dollars and/or five days of community service, for the first violation.

(2) A fine, not exceeding two hundred dollars and/or ten days of community service, for a second violation of this chapter within one year.

(3) A fine not exceeding five hundred dollars and/or fifteen days of community service, for a third violation of this chapter within one year. (Ord. 794 § 1 (part), 1995)