

ORDINANCE NO. 3487 C.S.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MONTEREY

AMEND MONTEREY CITY CODE SECTION 22-29(b) "REGULATION OF SMOKING IN PUBLIC PLACES" TO PROHIBIT SMOKING ON MUNICIPAL WHARF I (OLD FISHERMAN'S WHARF)

THE COUNCIL OF THE CITY OF MONTEREY DOES ORDAIN, as follows:

SECTION 1: The following findings are hereby adopted:

WHEREAS, tobacco use causes death and disease and continues to be an urgent public health challenge, as evidenced by the following:

- Tobacco-related illness is the leading cause of preventable death in the United States,¹ accounting for about 443,000 deaths each year;²
- Scientific studies have concluded that tobacco use can cause lung, larynx, esophageal and oral cancers;³ and
- Each year in the United States, exposure to secondhand smoke is responsible for as many as 3,000 deaths from lung cancer, 46,000 deaths from heart disease, and hundreds of thousands of respiratory tract infections in children under 18 months old;⁴ and

WHEREAS, secondhand smoke has been repeatedly identified as a health hazard, as evidenced by the following:

- The U.S. Surgeon General concluded that there is no safe level of exposure to secondhand smoke;⁵
- In 2006, the California Air Resources Board identified secondhand smoke (environmental tobacco smoke) as toxic air contaminant for which there is no safe level; and

WHEREAS, cigarette butts are a major and persistent source of litter, as evidenced by the following:

- It is estimated that 4.95 trillion cigarette butts are disposed of in our environment annually worldwide,⁶

¹ US Department of Health and Human Services, Centers for Disease Control and Prevention. *Tobacco Use: The Nation's Leading Killer*. 2011, p. 2. Available at: www.cdc.gov/chronicdisease/resources/publications/aag/pdf/2011/Tobacco_AAG_2011_508.pdf.

² Id.

³ Id.

⁴ See *supra* fn 1.

⁵ US Department of Health and Human Services, Office of the Surgeon General. *How Tobacco Smoke Causes Disease: The Biology and Behavioral Basis for Smoking-Attributable Disease: A Report of the Surgeon General*. 2010, p. 9. Report Highlights available at: www.surgeongeneral.gov/library/tobaccosmoke/factsheet.html.

⁶ Surfrider Foundation, San Diego Chapter, Hold on to your Butt, <http://sandiego.surfrider.org/campaigns/hold-on-to-your-butt>

- Cigarette butts are often cast onto sidewalks and streets, and frequently end up in storm drains that flow into streams, rivers, bays, lagoons and ultimately the ocean;⁷
- Cigarette butts take up to 25 years to decompose;⁸ and

WHEREAS, laws restricting the use of tobacco products have recognizable benefits to public health and medical costs:

- Cities with smoke-free laws see an appreciable reduction in hospital admittances for heart attacks in the months and years after such laws are passed;⁹ and
- Smoking bans help people reduce the number of cigarettes they smoke or quit altogether;¹⁰ and

WHEREAS, as of January 2, 2013, a number of cities/counties in California have adopted smokefree outdoor air regulations:

- 97 cities/counties restrict smoking at outdoor dining areas
- 93 cities/counties restrict smoking within entryways of buildings
- 98 cities/counties restrict smoking at public events
- 293 cities/counties restrict smoking in recreation areas
- 90 cities/counties restrict smoking at service areas
- 31 cities/counties restrict smoking on sidewalks in commercial areas
- 34 cities/counties restrict smoking at outdoor worksites;¹¹ and

WHEREAS, while California law comprehensively regulates smoking in places of employment, playgrounds, day care facilities, schools, and public buildings, the City is not preempted from prohibiting smoking in areas not covered by State law, such as the Municipal Wharf I; and

WHEREAS, the City of Monterey determined that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA)(CCR, Title 14, Chapter 3 ("CEQA Guidelines), Article 20, Section 15378). In addition, CEQA Guidelines Section 15061 includes the general rule that CEQA applies only to activities which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the proposed action and this matter have no potential to cause any effect on the environment, or because it falls within a category of activities excluded as projects pursuant to CEQA Guidelines section 15378, this matter is not a project. Because the matter does not cause a direct or any reasonably foreseeable indirect physical change on or in the environment, this matter is not a project. Any subsequent discretionary projects resulting from this action will be assessed for CEQA applicability.

⁷ Id.

⁸ Id.

⁹ US Department of Health and Human Services, Centers for Disease Control and Prevention. "Reduced Hospitalizations for Acute Myocardial Infarction After Implementation of a Smoke-Free Ordinance – City of Pueblo, Colorado, 2002-2006." *Mortality Weekly Report*, 57(51&52): 1373-1377, 2009. Available at <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5751a1.htm>

¹⁰ Neighmond P. "Smoking Bans Help People Quit, Research Shows." *National Public Radio*, October 25, 2007, www.npr.org/templates/story/story.php?storyId=15610995.

¹¹ American Lung Association in California *State of Tobacco Control 2013 – California Local Grades*, 2013. p. 10. Available at: http://www.lung.org/associations/states/california/assets/pdfs/sotc-2013-county-grades/sotc-2013_full-ca-report_for.pdf

NOW THEREFORE, the Monterey City Council declares as follows:

SECTION 2: Monterey City Code, Section 22-29(b), is hereby amended to add subsection 10, to read as follows:

(b) Smoking is prohibited in the following places located within the City of Monterey except as provided in subsection (c) of this section:

1. Beaches.
2. The Recreation Trail.
3. Buildings. All enclosed areas of buildings which are open to the public.
4. Covered public parking lots and parking areas, including stairwells.
5. Buses, taxicabs, shuttles, and other means of public transportation operating in the City of Monterey.
6. Service areas.
7. City-owned vehicles.
8. Where any person or entity that either owns or exercises management and control over the property and has declared the area, where smoking would otherwise be allowed, to be a nonsmoking area and posts "No Smoking" signs as described in subsection (d) of this section.
9. Enclosed places of employment.
10. Municipal Wharf I (Old Fisherman's Wharf)

SECTION 3: All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 9: This ordinance shall be in full force and effect thirty (30) days from and after its final passage and adoption.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MONTEREY this 19th day of November, 2013, by the following vote:

AYES:	5	COUNCILMEMBERS:	Downey, Haffa, Selfridge, Sollecito, Della Sala
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	0	COUNCILMEMBERS:	None
ABSTAIN:	0	COUNCILMEMBERS:	None

APPROVED:

ATTEST:



City Clerk thereof



Mayor of said City