

ORDINANCE NUMBER _____ (CCS)

(City Council Series)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA
AMENDING SANTA MONICA MUNICIPAL CODE SECTION 4.44.020, TO PROHIBIT
SMOKING IN COMMON AREAS OF MULTI-UNIT HOUSING FACILITIES AND NEAR
MULTI-UNIT HOUSING FACILITIES

WHEREAS, Section 4.44.020 of the Santa Monica Municipal Code prohibits smoking in many areas of the City where smoking can be a nuisance and cause health concerns for others; and

WHEREAS, smoking in common areas and near multi-unit housing facilities continues to be a concern, such that smoke enters dwelling units.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA MONICA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Santa Monica Municipal Code Section 4.44.020 is hereby amended as follows:

4.44.020 Prohibitions.

(a) Smoking in Specific Locations. It is unlawful to smoke in the following places:

- (1) Any elevator;
- (2) Any public park;
- (3) Any parklet;
- (4) Any public beach;
- (5) Anywhere on the Santa Monica Pier;
- (6) Any outdoor service area;

- (7) Inside any public building (as that term is defined in Government Code Section 7596);
- (8) Any outdoor dining area;
- (9) Within twenty feet of the entrance, exit or open window of any building open to the public;
- (10) The Third Street Promenade;
- (11) Any farmers' market;
- (12) The property of any public library;
- (13) Any hotel for which an occupancy permit is issued on or after February 9, 2012;
- (14) Any "vaping lounge" or other business that sells electronic smoking devices; except that electronic smoking devices may be used at the two such businesses that were locally licensed as such lounges in Santa Monica as of June 24, 2014, provided there is appropriate ventilation so as not to interfere with neighboring occupants and provided no minors are allowed in the businesses;
- (15) The common areas of any multi-unit housing facility, except designated smoking areas as provided in Section 4.44.040; violations of this Subsection may not be used as grounds to terminate a tenancy; Code Enforcement shall be solely responsible for enforcement of this Subsection for violations taking place inside multi-unit housing facilities; and
- (16) On the sidewalk, alley, street, or other public right-of-way within thirty feet of any doorway or open window of a multi-unit housing building, except when not stationary and continuously moving through the area.

(b) Disposal of Smoking Waste. No person shall dispose of any cigarette, cigar or tobacco, or any part of a cigarette or cigar, in any place where smoking is prohibited under this Chapter, except in a designated waste disposal container.

(c) Liability of Businesses. No business owner, operator or manager shall knowingly or intentionally allow smoking in an outdoor dining area that is under their control. This law does not require the physical ejection of any person from the business or the taking of steps to prevent smoking under circumstances that would involve a significant risk of physical harm.

(d) Posting of Signs. Every business that owns or controls an outdoor dining area covered under subsection (a)(8) shall post one or more prominent signs in conspicuous locations to apprise users of the prohibition of smoking in that outdoor dining area. Multiple signs must be provided as needed for larger areas to ensure that signs are readily visible to all users of the area.

(e) Enforcement and Penalties.

(1) Infraction. A violation of this Section is an infraction and shall be punished as follows: a written warning shall be issued for the first offense, then fines may be issued in the amounts of fifty dollars (\$50) for the second offense occurring within one year of the first offense, one hundred dollars (\$100) for the third offense occurring within one year of the second offense, and two hundred dollars (\$200) for the fourth offense occurring within one year of the third offense.

(2) Administrative Citation. Any person violating any provision of this Section may be subject to administrative citation pursuant to Chapter 1.09 of this Code; however, for a violation of subsection 15, a written warning shall be issued for the first

offense, then administrative citations may be issued in the amounts of fifty dollars (\$50) for the second offense occurring within one year of the first offense, one hundred dollars (\$100) for the third offense occurring within one year of the second offense, and two hundred dollars (\$200) for the fourth offense occurring within one year of the third offense. Also, in their sole discretion, Code Enforcement may require approved “No Smoking” signage to be posted in common areas of multi-unit housing facilities where violations have occurred.

(3) Nonexclusive Remedies and Penalties. Punishment under this Section shall not preclude punishment pursuant to Health and Safety Code Section 13002, Penal Code Section 374.4, or any other law proscribing the act of littering. Nothing in this Section shall preclude any person from seeking any other remedies, penalties or procedures provided by law.

Section 2. Any provision of the Santa Monica Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to affect the provisions of this Ordinance.

Section 3. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

Section 4. The Mayor shall sign, and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall take effect 30 days from its adoption.

APPROVED AS TO FORM:

Douglas Sloan, City Attorney