ORDINANCE NO. 2013 - 1739

AN ORDINANCE AMENDING CHAPTER 13.3 OF THE SOLANO COUNTY CODE RELATING TO CLEAN INDOOR AIR AND HEALTH PROTECTION

The Board of Supervisors of the County of Solano ordains as follows:

Section 1. Section 13.3.-11 of Chapter 13.3 is amended as follows:

Sec. 13.3.-11. Authority
This chapter is enacted pursuant to the provisions Health and Safety Code section 118910 for the purpose of protecting public health by restricting and regulating smoking in public places and in places of work in order to reduce the hazards and nuisance which smoking causes to those who are involuntarily exposed.

Section 2. Section 13.3-23 of Chapter 13.3 is amended as follows:

Sec. 13.3-23. Same -- County buildings and automobiles
  a) Smoking is prohibited within a minimum of 25 feet of any entrance, exit, operational window or air intake vent of any county-owned, rented or leased facilities or as designated and posted at each facility. Smoking is also prohibited in all county-owned, rented or leased facilities and vehicles in accordance with Government Code section 7597.

  b) Where it is reasonable and within budgeted funds, the County will provide outdoor facilities which may include building overhangs, benches, cigarette receptacles, awnings, and shelters to accommodate individuals who wish to smoke.

Section 3. Section 13.3-33 of Chapter 13.3 is amended as follows:

Sec. 13.3-33. Exemption procedures
  a) Any owner or manager of a business or other establishment subject to this chapter may apply to the Director of Resource Management for an exemption or modification to its provisions. Exemptions may only be granted on (1) a showing by the applicant of significant financial hardship due to compliance, or (2) the proposed implementation of an alternative approach or technology which would provide equivalent protection from the health hazards of sidestream smoke.

  b) An application will include any information required by the Director and accompanied by a reasonable fee.

  c) The decision of the Director is appealable to the County Administrator.
d) An appeal must be in writing and be hand-delivered or mailed to the County Administrator.

e) An appeal must be received by the County Administrator on or before ten days from the date on the notice of determination from the Director.

f) A hearing shall be scheduled within thirty days unless an extension is authorized by the appellant.

g) The decision of the County Administrator, or his or her designee, shall be a final administrative order, with no further administrative right of appeal.

h) The hearing need not be conducted according to technical rules relating to evidence and witnesses. All parties involved shall have the right to offer testimonial, documentary and tangible evidence bearing on the issues, to be represented by counsel, and to confront and cross-examine witnesses. Any relevant evidence may be admitted if it is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Unless otherwise specifically prohibited by law, the burden of proof is on the appellant.

Section 4. Section 13.3-34 of Chapter 13.3 is amended as follows:

Sec. 13.3-34. Posting requirements
    a) Each owner, operator, manager, or other person having control of an establishment or facility within which smoking is regulated by this chapter shall conspicuously post in every place where smoking is prohibited "No Smoking" signs with letters not less than one inch in height (or the international "No Smoking" symbol consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a bar across it).

    b) An owner, operator, or manager of a building where, pursuant to these regulations, there is no smoking permitted in any space in the building, may limit the "No Smoking" posting to the first floor entrances and exits and to the elevator lobby areas of all other floors.

Section 5. Section 13.3-38 of Chapter 13.3 is amended as follows:

Sec. 13.3-38. Enforcement
    a) The Director of Resource Management, or the Director's designee, shall enforce the provisions of this chapter. The Director is authorized to institute, through the County Counsel's office, under Government Code section 25132, civil actions for the recovery of fines for violations of this chapter made infractions by section 13.3-36 for violations of sections 13.3-14 through 13.3-29.

    b) In the performance of the enforcement responsibilities the Director shall:
(1) Receive and record such complaints, and analyze their frequency and volume in relation to alleged violations of this chapter by or at particular establishments or facilities;

(2) Conduct an on-site inspection of any establishment or facility with respect to which the nature and volume of complaints suggests long-standing and pronounced violations of any of the provisions of this chapter;

(3) Provide to the owner, operator, or manager of any such establishment or facility, a copy of the provisions of this chapter and such advisory assistance to rectify future violations as may be necessary to achieve compliance with the provisions of this chapter;

(4) Follow up such investigation and advice with a written directive explaining in detail the steps required in order to achieve future compliance with the provisions of this chapter; and

(5) Establish a time for the cessation of the violation and may, in the Director's discretion, commence civil action pursuant to the provisions of this chapter.

c) The Department of Resource Management shall affirmatively seek the support and cooperation of other local public agencies, such as fire protection districts, to provide information, assistance and advice in the enforcement of the provisions of this chapter, during the conduct by any of such agencies of on-site inspections of establishments or facilities.

d) The provisions of section 13.3-35 shall not be remedied by either the Director or any other county official. Any member of the general public, an employee or applicant for employment may, under the provisions of Section 13.3-37, commence in his or her name a civil action for injunctive relief, monetary damages or other appropriate relief against a person who violates any of the provisions of this chapter.

Section 6. Severability

If any provision of this ordinance is for any reason held by a court of competent jurisdiction to be invalid, including but not limited to being preempted by state law, that portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion nor other applications of the ordinance which can be given effect without the invalid provision or application.

Section 7. Effective Date

This ordinance shall be effective thirty (30) days after its passage.
Section 8. Publication

A summary of this ordinance shall be published once within fifteen (15) days after its adoption, in the Fairfield Daily Republic, a newspaper of general circulation in the County of Solano.

Passed and adopted by the Solano County Board of Supervisors at its regular meeting on October 8, 2013 by the following vote:

AYES: Supervisors Hannigan, Spering, Thomson, Vasquez, and Chair Seifert.

NOES: Supervisors None.

EXCUSED: Supervisors None.

Linda J. Seifert, Chair
Solano County Board of Supervisors

ATTEST:

Birgitta E. Corsello, Clerk
Board of Supervisors

By: Patricia J. Crittenden, Chief Deputy Clerk

Introduced: September 24, 2013
Adopted: October 8, 2013
Effective: November 8, 2013