ORDINANCE NO. 2018 - 1792

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. Chapter 13.3 is amended to read:

CHAPTER 13.3
SMOKING AND SECONDHAND SMOKE PROTECTION

Section 2. Section 13.3.-12 of Chapter 13.3 is amended as follows:

Sec. 13.3-12. Definitions

As used in this chapter, the following terms shall mean:

Bar means an area which is devoted to the serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages (Department of Alcoholic Beverage Control type 61, 42 or 48 liquor licenses). The area of a restaurant which is devoted to the serving of alcoholic beverages and in which the service of food may be only incidental to the consumption of such beverages shall also be considered a bar for the purposes of Section 13.3-32. An area in which food service is only incidental shall (1) not exceed forty (40%) percent of a restaurant’s total seating capacity; or (2) shall encompass only those areas in which gross receipts of the restaurant from food do not exceed forty (40%) percent. The operator of each restaurant shall designate by which method it determines its bar area as of the sixtieth day following the effective date of this ordinance, and shall notify the Solano County Department of Resource Management. The method chosen by the operator shall not be changed.

Cigarette 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 bill or other thing representative of value, which dispenses or releases a tobacco product and/or tobacco accessories.

Commercial enterprise - Nonprofit entity - Person.

[Operators of Public Places] The term “commercial enterprise” means any business entity formed for profit-making purposes, including professional corporations and other entities under which legal, medical, dental, engineering, architectural, or other professional services are delivered, and also any person charged with the responsibility of controlling conduct in behalf of the enterprise upon any premises regulated by this chapter.

The term “Nonprofit entity” means any corporation, unincorporated association or other entity created for charitable, philanthropic, educational, character building, political, social, or other similar purposes, the net proceeds from operations of which are committed to promotion of the
objects or purposes of the organization and not a private gain, together with any person charged with the responsibility of controlling conduct in behalf of the entity upon and any premises regulated by the provisions of this chapter.

A public agency is not a nonprofit entity within the meaning of this section.

The term “person” means any natural person, partnership, corporation, unincorporated association, joint venture, business trust, joint stock company, club, other organization of any kind, except the County of Solano or any other public agency.

Distribution means to give, sell, deliver, dispense, issue, or cause or hire any person to give, sell, deliver, dispense, issue or offer to give, sell, deliver, dispense or issue.

Enclosed area means all spaces between a floor and ceiling which is served by a common heating, ventilating and air conditioning system, and is enclosed on at least three (3) sides by solid walls or windows (exclusive of door or passageways) which extend from the floor to the ceiling, including all space in it screened by partitions which do not extend to the ceiling or are not solid, “office landscaping,” or similar structures.

Members of the general public means shoppers, customers, patrons, patients, students, clients and other similar invitees of a commercial enterprise or non-profit entity; and excludes their employees, sales representatives, service repair persons, and persons delivering goods, merchandise or services to a commercial enterprise, non-profit entity, or the County of Solano.

Office means an enclosed area containing a desk, table, or similar furnishings for clerical, administrative or supervisory work; a complex of such enclosures and a building containing such enclosures, whether or not the building is utilized primarily for other purposes such as retailing, wholesaling, or storage, or manufacturing, together with all hallways, stairways, elevators, escalators, restrooms, lobbies, waiting rooms, reception areas, entry areas, and conference rooms within or associated with the complex of such enclosures; including, but not limited to, (i) legal, medical, dental, engineering, accounting, counseling and other professional offices; (ii) insurance, real estate, ticket, collection agency, and other offices where business services are offered to or goods or services are offered to or may be ordered by or may be paid for by Members of the general public; and (iii) offices to which Members of the general public are admitted in order to promote the objects or purposes of a nonprofit entity.

Restaurant means any coffee shop, cafeteria, luncheonette, soda fountain, fast food service, and other establishment where cooked or otherwise prepared food is sold to Members of the general public for consumption on the premises. The term does not include a cafeteria or lunchroom, defined as a place of employment, whether or not Members of the general public incidentally frequent the facility.

Smoking means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, whether natural or synthetic, in any manner or in any form. “Smoking” includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking.
**Tobacco accessories** means any item designed or marketed for the consumption, use or preparation of tobacco products.

**Tobacco product** means any of the following:

(A) A product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, or snuff.

(B) An electronic device that delivers nicotine or other vaporized liquids to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, pipe, or hookah.

(C) Any component, part, or accessory of a tobacco product, whether or not sold separately.

(2) "Tobacco product" does not include a product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where the product is marketed and sold solely for such an approved purpose.

**Tobacco product sample** means a tobacco product and/or tobacco accessories distributed to Members of the general public at no cost or at a nominal cost for product promotional purposes.

**Tobacco Store** means a place utilized primarily for the sale to Members of the general public, at retail, of tobacco products or accessories and in which the sale of any other products is merely incidental.

**Workplace** means any enclosed area which is occupied by two or more employees under the control of an employer including, but not limited to, work areas, employee lounges, conference rooms, employee cafeterias, restrooms, union halls, cafeterias, or any other rooms or areas utilized primarily for the benefit or use of the employees. A private residence is not a place of employment except when it serves as a licensed day care facility for children, licensed health care facility, or licensed community care facility.

Notwithstanding the provisions of this definition, a private residence, including either an attached or detached garage, shall not constitute a workplace, except when the residence serves as a licensed day care facility for children, a licensed health care facility, or licensed community care facility.

**Section 3. 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 4. Effective Date

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

Section 5. 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 July 24, 2018 by the following vote:

AYES: Supervisors Hannigan, Brown, Spering
       and Chair Vasquez

NOES: Supervisors None.

EXCUSED: Supervisors Thomson

[Signature]
JHN M. VASQUEZ, Chair
Solano County Board of Supervisors

ATTEST:

BIRGITTA E. CORSELLO, Clerk
Solano County Board of Supervisors

By: [Signature]
Jeanette Neiger, Chief Deputy Clerk

Introduced: June 26, 2018
Adopted: July 24, 2018
Effective: August 23, 2018