

BOARD OF SUPERVISORS, COUNTY OF GLENN, CALIFORNIA

ORDINANCE NO. 1328

**AMENDING THE GLENN COUNTY CODE BY AMENDING TITLE 10, TO ADD CHAPTER 10.22
RELATING TO REGULATION OF SMOKING AND SECONDHAND SMOKE**

THE BOARD OF SUPERVISORS OF THE COUNTY OF GLENN ORDAINS AS FOLLOWS:

SECTION 1: The Glenn County Code is amended by amending Title 10, to add Chapter 10.22 to read in its entirety as follows:

Chapter 10.22

REGULATION OF SMOKING AND SECONDHAND SMOKE

Sections:

10.22.010	<i>Authority.</i>
10.22.020	<i>Findings and Purpose.</i>
10.22.030	<i>Definitions.</i>
10.22.040	<i>Smoking Prohibited.</i>
10.22.050	<i>Designated Smoking Areas.</i>
10.22.060	<i>Tobacco Products Waste.</i>
10.22.070	<i>Signage.</i>
10.22.080	<i>Penalties and Enforcement.</i>
10.22.090	<i>Other Applicable Laws.</i>

10.22.010 Authority.

Pursuant to the authority granted by Article XI, section 7 of the California Constitution, Health and Safety Code section 104495, and Government Code sections 53069.4, the Board of Supervisors does enact this Chapter.

10.22.020 Findings and Purpose.

The Board of Supervisors of the County of Glenn hereby finds and declares the following:

A. Tobacco use causes death and disease and continues to be an urgent public health challenge, as evidenced by the fact that 480,000 people die prematurely in the United States from smoking-related diseases every year, making tobacco use the nation's leading cause of preventable death; and tobacco use can cause disease in nearly all organ systems and is responsible for 90 percent of lung cancer deaths, 80 percent of all chronic obstructive pulmonary disease deaths, and 20 percent of coronary heart disease deaths.

B. Second-hand smoke has been repeatedly identified as a health hazard, as evidenced by the fact that the U.S. Surgeon General concluded that there is no risk-free level of exposure to second-hand smoke; the California Air Resources Board placed second-hand smoke in the same category as the most toxic automotive and industrial air pollutants by categorizing it as a toxic air contaminant for which there is no safe level of exposure; and, the California Environmental Protection Agency (EPA) included second-hand smoke on the Proposition 65 list of chemicals known to the state of California to cause cancer, birth defects, and other reproductive harm.

C. Exposure to second-hand smoke anywhere has negative health impacts, and exposure to second-hand smoke occurs at significant levels outdoors, as evidenced by the fact that levels of second-hand smoke exposure outdoors can reach levels attained indoors depending on direction and amount of wind and number and proximity of smokers; and smoking cigarettes near building entryways can increase air pollution levels by more than two times background levels, with maximum levels reaching the "hazardous" range on the United States EPA's Air Quality Index; and, to be completely free from exposure to second-hand smoke in outdoor places, a person may have to move nearly 23 feet away from the source of the smoke, about the width of a two-lane road.

D. Exposure to second-hand smoke causes death and disease, as evidenced by the fact that since 1964, approximately 2.5 million nonsmokers have died from health problems caused by exposure to second-hand smoke; second-hand smoke is responsible for an estimated 41,280 heart disease-related and lung cancer-related deaths among adult nonsmokers each year in the United States; and, exposure to second-hand smoke increases the risk of coronary heart disease by about 25 percent to 30 percent and increases the risk of stroke by 20 percent to 30 percent.

E. Tobacco use and exposure to second-hand smoke impose great social and economic costs, as evidenced by the fact that between 2009 and 2012, the total annual economic burden of smoking in the United States was between \$289 billion and \$332.5 billion; from 2005 to 2009, the average annual health care expenditures attributable to smoking were approximately \$132.5 billion to \$175.9 billion in direct medical care costs for adults and \$151 billion in lost productivity; the total annual cost of smoking in California was estimated at \$548 per resident or between \$2,262 and \$2,904 per smoker per year; and, California's Tobacco Control Program saved the state and its residents \$134 billion in health care expenditures between the year of its inception, 1989, and 2008, with savings growing yearly.

F. Laws restricting the use of tobacco products have recognizable benefits to public health and medical costs with a review of over 80 peer-reviewed research studies showing that smoke-free policies effectively reduce tobacco use; reduce exposure to second-hand smoke; increase the number of tobacco users who quit by a median of 3.8 percent; reduce initiation of tobacco use among young people; and, reduce tobacco-related illnesses and death.

G. Laws restricting electronic smoking devices use also have benefits to the public as evidenced by the fact that research has found at least ten chemicals known to the State of California to cause cancer, birth defects, or other reproductive harm, such as formaldehyde, acetaldehyde, lead, nickel, and toluene; more than one study has concluded that exposure to vapor from electronic smoking devices may cause passive or second-hand vaping; the use of electronic smoking devices in smoke-free locations threatens to undermine compliance with smoking regulations and reverse the progress that has been made in establishing a social norm that smoking is not permitted in public places and places of employment; and, the State of California's

Tobacco Education and Research Oversight Committee (TEROC) "opposes the use of e-cigarettes in all areas where other tobacco products are banned.

H. Cigarette butts are a major and persistent source of litter, as evidenced by the fact that in 2007, it was estimated that Americans consume 360 billion cigarettes each year; 55.7 percent of smokers admit to littering cigarettes in the last month; in an observational study of nearly 10,000 individuals, after cigarettes were smoked, 45 percent of cigarettes ended up as litter; in 2011, 22.6 percent of all debris collected from beaches and coastal areas are smoking related products; and, 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.

I. Cigarette butts pose a health threat to young children, as evidenced by the fact that in 2012, American poison control centers received nearly 8,648 reports of poisoning by the ingestion of cigarettes, cigarette butts, and other tobacco products and 84.5 percent of these poisonings were in children ages five and younger; and children who ingest cigarette butts can experience vomiting, nausea, lethargy, and gagging.

J. California cities and counties have the legal authority to adopt local laws that make all indoor places of employment nonsmoking and there is no Constitutional right to smoke.

K. The purpose of this Chapter is to provide for the public health, safety, and welfare by discouraging the inherently dangerous behavior of smoking around non-tobacco users, especially children, by protecting the public from exposure to second-hand smoke where they live, work, and play; by reducing the potential for children to wrongly associate smoking with a healthy lifestyle; and, by affirming and promoting a healthy environment in the County of Glenn.

10.22.030 Definitions.

The following words and phrases, whenever used in this Chapter, shall have the meaning defined in this section unless the context clearly requires otherwise.

A. "Business" means any sole proprietorship, joint venture, corporation, or other business entity conducted for profit or nonprofit purposes including, but not limited to, retail establishments where goods or services are sold as well as entities where legal, medical, dental, engineering, architectural, or other professional services are offered or delivered.

B. "Common area at a shopping mall" means any indoor or outdoor common area of a shopping mall accessible to and usable by the occupants or customers of the establishment and including, but not limited to, halls, lobbies, outdoor eating areas, play areas and parking lots.

C. "County" means County of Glenn.

D. "Electronic smoking device" means an electronic device that can be used to deliver an inhaled dose of nicotine, or other substances, including any component part, or accessory of such a device, whether or not sold separately. "Electronic smoking device" includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor.

E. "Entryway" means the primary place(s) of public access to a business, playground, recreational area, or shopping mall.

F. "Person" means an individual.

G. "Playground" means any publicly or privately owned park or recreational area designed in part to be used by children that has play or sports equipment installed or has been designated or landscaped for play or sports activities, or any similar facility located on public or private school grounds, or on County property.

H. "Recreational area" means any area that is publicly or privately owned and open to the general public for recreational purposes, regardless of any fee or age requirement. The term "recreational area" includes, but is not limited to, parks, picnic areas, plazas, sports fields, golf courses, walking paths, gardens, hiking trails, bike paths, horseback riding trails, swimming pools, roller- and ice-skating rinks, stadiums, and skateboard parks.

I. "Service area" means any publicly or privately owned area designed to be used or is regularly used by one or more persons to receive a service, wait to receive a service or to make a transaction, whether or not such service or transaction includes the exchange of money. The term "service area" includes but is not limited to information kiosks, automatic teller machines (ATMs), ticket lines, bus stops or shelters, mobile vendor lines or cab stands.

J. "Shopping mall" means any parcel of land zoned and used for retail sales by more than one retailer that is jointly operated, or which includes shared parking facilities.

K. "Smoke" means the gases, particles, or vapors released into the air as a result of combustion, electrical ignition or vaporization, when the apparent or usual purpose of the combustion, electrical ignition or vaporization is human inhalation of the resulting combustion products, including but not limited to tobacco smoke, cigarette smoke, marijuana smoke, gas, aerosol or vapor released by the ignition of electronic smoking devices. "Smoke" does not include the products of combustion of incense or similar products when used solely for olfactory purposes and not containing tobacco or nicotine.

L. "Smoking" means engaging in any act, conduct or process that generates tobacco smoke, including but not limited to a lighted pipe, cigar, or cigarette of any kind; hookah pipe; an operating electronic smoking device or a lighted smoke inhalation device of any kind that generates smoke of any kind, from tobacco, marijuana, or any other weed or plant.

M. "Tobacco product" means:

1. Any 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, and snuff; and

2. Any electronic smoking device.

3. Notwithstanding any provision of subsections (1) and (2) of this definition to the contrary, "tobacco product" includes any component, part, or accessory of a tobacco product, whether or not sold separately.

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

5. "Business" means any sole proprietorship, partnership, joint venture, corporation, association, or other entity formed for profit-making purposes.

10.22.040 Smoking Prohibited.

- A. Smoking is prohibited within 20 feet of any entryway.
- B. Smoking is prohibited in any common area at a shopping mall, playground, recreational area, or service area.
- C. Smoking is prohibited in and within 20 feet of any building owned, controlled and/or maintained by the County.
- D. The above prohibitions are in addition to, and not in place of, any prohibitions and limitations on smoking and tobacco use imposed by California law.

10.22.050 Designated Smoking Areas.

The County may designate areas of outdoor property under its control within which smoking is permitted. Such designated smoking areas shall be determined by the Board of Supervisors and shall be clearly marked. The Board of Supervisors shall have the authority to modify or withdraw any such designation.

10.22.060 Tobacco Products Waste.

- A. No person shall dispose of lit or unlit cigars or cigarettes, or cigar or cigarette butts, or any other tobacco-related waste, within 20 feet of any entryway, except in a receptacle clearly provided and marked for such disposal.
- B. No person shall dispose of lit or unlit cigars, cigarettes, electronic smoking devices or cigar or cigarette butts, or any other smoking-related waste in any common area at a shopping mall, playground, recreational area, or service area except in a receptacle clearly provided and marked for that purpose.

10.22.070 Signage.

- A. A person or business that has legal or de facto control of an area in which smoking is prohibited may, but is not required to, post a clear and unambiguous "No Smoking" or "Smokefree" sign at a conspicuous point within the nonsmoking area. Signage exemplars will be made available by the County.

B. To the extent practical, the County may post clear and unambiguous "No Smoking" or "Smokefree" signs at conspicuous points within nonsmoking areas under its control.

10.22.080 Penalties and Enforcement.

The remedies provided by this Chapter are cumulative and in addition to any other remedies available at law or in equity. Any peace officer or code enforcement official may enforce this Chapter. Any person who violates any provisions of this Chapter shall be guilty of an infraction punishable by:

1. A fine not to exceed \$100.00 for a first violation.
2. A fine not to exceed \$200.00 for a second violation of this Chapter within any 12-month period.
3. A fine not to exceed \$500.00 for each additional violation of this Chapter within any 12-month period.

Nothing in this Chapter shall be construed as providing a private right of action.

10.22.090 Other Applicable Laws.

This Chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

SECTION 2: The Board of Supervisors hereby finds that this Ordinance is not subject to review under the California Environmental Quality Act ("CEQA") pursuant to CEQA guidelines sections 15060, subdivision (c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15601, subdivision (b)(3) (there is no possibility the activity in question may have a significant impact on the environment). In addition to the forgoing general exemptions, the Board of Supervisors further finds that the Ordinance is categorically exempt from review under CEQA under the Class 8 Categorical Exemption (regulatory activity to assure the protection of the environment).

SECTION 3: If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held illegal, invalid, or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof. The Board of Supervisors hereby declares that it would have passed this Chapter and each section, subsection, sentence, clause, portion, or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared illegal, invalid or unconstitutional.

SECTION 4: This ordinance shall take effect thirty (30) days after the date of its adoption and before the expiration of fifteen (15) days from the date of passage thereof shall be published at least once in a newspaper of general circulation, in the County of Glenn, State of California, together with the names of the members of the Board of Supervisors voting for and against the same.

THIS ORDINANCE WAS PASSED AND ADOPTED by the Glenn County Board of Supervisors, State of California, at the meeting of said Board held on **May 21, 2024**, by the following vote:

AYES: Supervisors Carmon, Rossman, and Yoder

NOES: None

ABSENT: Supervisor Arnold



JIM YODER, Chairman
Glenn County Board of Supervisors

ATTEST:



SCOTT H. DE MOSS, Clerk of the Board
County of Glenn, California

APPROVED AS TO FORM:



DEBORAH MICHELI, Interim County Counsel
County of Glenn, California