

DATE SUBMITTED 11/30/2023
 SUBMITTED BY City Attorney
 DATE ACTION REQUIRED December 6, 2023

COUNCIL ACTION ()
 PUBLIC HEARING REQUIRED ()
 RESOLUTION ()
 ORDINANCE 1ST READING (X)
 ORDINANCE 2ND READING ()
 CITY CLERK'S INITIALS ()

**IMPERIAL CITY COUNCIL
 AGENDA ITEM**

SUBJECT:	DISCUSSION/ACTION: Adoption of ordinance prohibiting outdoor smoking at City parks and at City signature events.
BACKGROUND/SUMMARY: After presentations from a local advocacy group, the City attorney has drafted rules prohibiting outdoor smoking at City owned recreational areas and public event areas.	
FISCAL IMPACT: The Parks & Recreation Department will post signage at the parks for enforcement. This will cost approximately \$19,000, which includes staff time and materials.	FINANCE INITIALS <u>DP</u>
STAFF RECOMMENDATION: Adopt the first reading of the ordinance prohibiting smoking at City recreational areas and City public event areas.	DEPT. INITIALS _____
MANAGER'S RECOMMENDATION: <i>approve staff recommendation</i>	CITY MANAGER'S INITIALS <u>DHem</u>
MOTION: SECONDED: APPROVED () REJECTED () AYES: DISAPPROVED () DEFERRED () NAYES: ABSENT: REFERRED TO:	

ORDINANCE NO. 828

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
IMPERIAL ADDING RESTRICTIONS TO OUTDOOR
SMOKING IN DESIGNATED AREAS**

The City Council of the City of Imperial does hereby ordain as follows:

Section 1: Adding the following Chapter to the City Ordinances:

“CHAPTER 27. OUTDOOR SMOKING RESTRICTIONS.

Section 1. DEFINITIONS.

For the purposes of this chapter the following definitions shall govern unless the context clearly requires otherwise:

- (A) “Cannabis” has the meaning set forth in California Business and Professions Code Section 26001, as that section may be amended from time to time.
- (B) “Electronic smoking device” means any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah.
- (C) “Employee” means any person who is employed or retained as an independent contractor by any employer in consideration for direct or indirect monetary wages or profit, or any person who volunteers his or her services for an employer.
- (D) “Employer” means any person or nonprofit entity that retains the service of one or more employees.
- (E) “Enclosed area” means all space between a floor and a ceiling that is bounded by walls, doorways, or windows, whether open or closed, covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent.
- (F) “Person” means any natural person, business, corporation, partnership, cooperative association, personal representative, receiver, trustee, assignee, or any other legal entity.
- (G) “Place of employment” means an area under the control of an employer that an employee or the general public may enter in the normal course of operations, regardless of the hours of operation, including work areas and construction sites.
- (H) “Public event areas” means any publicly or privately-owned place used for an event open to the general public, regardless of any fee or age requirement, of events hosted by the City of Imperial, including, but not limited to the City of Imperial Signature events.
- (I) “Recreational area” means any area owned by the City of Imperial that is 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, facilities, parks, playgrounds, athletic fields, restrooms, beaches, picnic areas, spectator and concession areas, walking paths, gardens, hiking trails, bike paths, skateboard parks, and aquatic areas.
- (J) “Smoke” or “Smoking” means:
 - (1) inhaling, exhaling, or burning, any tobacco, nicotine, cannabis, or plant product, whether natural or synthetic;
 - (2) carrying any lighted, heated, or activated tobacco, nicotine, cannabis, or plant

product, whether natural or synthetic, intended for inhalation; or
(3) using an electronic smoking device or hookah.

(K) "Tobacco product" means:

(1) any product that is made from or derived from tobacco, or that contains nicotine, that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus;

(2) any electronic smoking device and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; or

(3) any component, part, or accessory of (1) or (2), whether or not any of these contains tobacco or nicotine, including but not limited to filters, rolling papers, blunt or hemp wraps, hookahs, mouthpieces, and pipes.

"Tobacco product" does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

(L) "Tobacco product waste" means any component, part, or remnant of any tobacco product. Tobacco product waste includes any waste that is produced from the use of a tobacco product, including all tobacco product packaging and incidental waste such as lighters or matches, whether or not it contains tobacco or nicotine.

(M) "Tobacco use" means the act of smoking or the consumption of any other tobacco product in any form.

(N) "Unenclosed area" means any area that is not an enclosed area.

Section 2. PROHIBITION OF SMOKING IN UNENCLOSED AREAS.

(A) Smoking is prohibited in the unenclosed areas of the following places within the City of Imperial:

(1) Recreational areas, including but not limited to City of Imperial parks; or

(2) Public event areas.

(B) Nothing in this chapter prohibits any person or employer with control over any property from prohibiting smoking on any part of such property, even if smoking is not otherwise prohibited in that area.

Section 3. ENFORCEMENT

(A) No person or employer shall permit smoking in an area that is under the control of that person or employer and in which smoking is prohibited by this article or any other law.

(B) It is recommended that a person or employer that has control of an area in which smoking is prohibited by this chapter shall post a clear, conspicuous, and unambiguous "No Smoking" or "Smoke-Free" sign at each entrance to the area, and in at least one other conspicuous point within the area. The presence or absence of signs shall not be a defense to a charge of smoking in violation of any other provision of this chapter.

(C) City staff and volunteers will be notified about the requirements of this chapter as deemed appropriate by the City Manager.

(D) City staff will communicate the requirements of this chapter to public event organizers. City staff may also make periodic observations of recreational areas and other city property covered by this chapter to monitor for compliance. Anyone found by city staff to be violating this chapter will be reminded of its requirements and asked to comply before being subject to ejection from the property.

(E) A person or employer that has control of an area in which smoking is prohibited by this chapter shall direct anyone who is smoking in violation of this chapter to extinguish the product being smoked. If they do not stop smoking, the person or employer shall refuse any service and shall immediately ask them to leave the property. If the ejection is from a public event, it shall be for the duration of the public event.

(F) No person or employer shall intimidate, threaten any reprisal, or effect any reprisal, for the purpose of retaliating against another person who seeks to attain compliance with this chapter.

Section 4. VIOLATIONS AND PENALTIES.

(A) Each refusal to comply with a request from a city employee in violation of this Chapter may be subject to a fifty dollar (\$50) administrative fine.

(B) A person or employer that has control of an area in which smoking is prohibited by this chapter and that fails to comply with this chapter shall be guilty of an administrative fine punishable by:

(1) A fine not exceeding one hundred dollars (\$100) for a first violation.

(2) A fine not exceeding one hundred and fifty dollars (\$150) for a second violation within one year.

(3) A fine not exceeding two hundred and fifty dollars (\$250) for each additional violation within one year.

(C) Multiple violations of this chapter by a person or employer that has control of an area in which smoking is prohibited by this chapter may result in the suspension or revocation of any permit or license issued to the person for the property on which the violations occurred.

(D) Any violation of this chapter is hereby declared to be a public nuisance.

(E) Any violation of this chapter may be remedied by a civil action brought by the city attorney including, but not limited to, administrative or judicial nuisance abatement proceedings, civil code enforcement proceedings, and suits for injunctive relief.

(F) Each instance of smoking in violation of this chapter shall constitute a separate violation. For violations other than for smoking, each day of a continuing violation of this chapter shall constitute a separate violation.

(G) The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.”

Section 5. Severability. If Any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

Section 6. Effective Date Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to California Government Code section 36933.

CERTIFICATION

I, Kristina M. Shields, City Clerk of the City of Imperial, California, hereby certify that the foregoing ordinance was duly and regularly introduced at a meeting of the City Council on the 6th day of December, 2023, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Imperial, California, this _____ day of _____, 2023.

KRISTINA M. SHIELDS,
City Clerk



Park Rules & Regulations

- **Park Hours - Sunrise to Sunset (Section 12.08.040)**
- **No Consumption of Alcohol (Section 12.08.010)**
- **Park is a Smoke Free Zone (Section 5.23.040)**
- **No Skateboarding, Rollerblading, or Roller Skating (Section 12.16.010)**
- **No Loitering In or Near Restrooms (Section 12.08.060)**
- **No Destroying Plant Material (Section 12.08.070)**
- **No Defacing Park Facilities (Section 12.08.080)**
- **No Unruly Conduct or Language (Section 12.08.090)**
- **All Pets Must be Leashed - Owner Must Pick-up after Their Pets (Section 12.08.100)**
- **No Weapons or Paintballs (Section 12.08.110)**
- **No Firecrackers or Fireworks (Section 12.08.120)**
- **No Fires Except in BBQ's (Section 12.08.130)**
- **No Solicitation and/or Sale (Section 12.08.140)**
- **No Disposing of Outside Rubbish (Section 12.08.150)**
- **No Amplified Music (Section 12.08.090)**
- **No Vehicles Allowed on Grounds (Section 10.48)**
- **No Parking along Red Painted Curbs/Fire Lanes (Section 12.08.050)**

If you are witness to any acts of vandalism or graffiti, please contact
(951) 304-COPS (2677)

For questions, contact the Murrieta Community Services Department
41810 Juniper Street, Murrieta, CA 92562
(951) 304-PARK (7275)

Cost Breakdown for Park Rules and Regulation Signage

This presentation is for City Council to see the cost associated with adding park signage to all 17 locations that will incorporate park hours and rules, which will also include no smoking.

Benefits of Park Rules with No Smoking Messaging

These are examples of park rules and regulations that can be enforced and how they can benefit the community.

1 Park Rules and Regulations 📜

No littering, No feeding wildlife, No alcohol allowed, No loud music, No camping without permission, No off-leash pets

2 Health & Safety 🚫

No smoking signs protect park visitors from second-hand smoke exposure, promoting a healthier environment.

3 Nature Conservation 🌿

By having these signs in place, it will help preserve the natural surroundings, reducing fire risks and preventing litter.

4 Community Engagement 🤝

Installing rules and regulation signs with no smoking included demonstrates social responsibility, promoting a sense of unity and respect among park-goers.

Cost Analysis

1 — Sign Materials & Designs 💡

The park signs will incorporate hours, rules and regulations with a no smoking component. The design will be a square with a two pole in ground support, high heat tolerant coating, and anti-graffiti protection.

2 — Installation 💪

Installation will be handled in house by the Parks and Recreation Department with no additional labor or installation cost to the city budget.

3 — Impact to the Budget 💰

Cost associated with the purchase and installation for all the City park locations will be a direct impact on the general fund. These signs were not budgeted for the 2023-2024 fiscal year.

Project cost estimate: \$19,000.00

Signage

- 17 4x6 signs with high heat and anti-graffiti coating
- Approximately \$1,000.00 per sign

Staff Time

- 6 hours per sign
- 17 signs total

Installation Cost

- City staff time

Material Cost

- 34 4x4x10 pressure treated posts
- Nuts, bolts, and hardware
- 51 bags of concrete (3 pages per sign)