

INTRODUCED BY COUNCIL PRESIDENT IGNACIO DE LA FUENTE

ORDINANCE NO. 12708 2005 SEP 15 PM 2:41 C.M.S.

ORDINANCE AMENDING OAKLAND MUNICIPAL CODE, TITLE 8, CHAPTER 8.30, SMOKING, TO DEFINE THE SMOKE-FREE AREA REQUIRED OUTSIDE WORK BUILDINGS AS 25 FEET FROM ANY ENTRANCE, EXIT, WINDOW AND AIR INTAKE VENT OF BUILDINGS THAT SERVE AS PLACES OF EMPLOYMENT

WHEREAS, the Oakland City Council enacted in 1986 and amended in 1992 a “smoking pollution control ordinance” as Chapter 8.30 of the Oakland Municipal Code to, among other things, limit smoking at places of employment “to protect the public health and welfare”; and

WHEREAS, people with respiratory disabilities have a right to safe and reasonable access to public facilities and places of employment under Title III of the federal Americans With Disabilities Act; and

WHEREAS, Section 8.30.060 of Oakland’s Municipal Code currently provides that, “Smoking outside of the work building shall occur at a reasonable distance from the building to insure that smoke does not enter the building and affect occupants therein”; and

WHEREAS, “Reasonable distance” is broadly defined in Section 8.30.030 of Oakland’s Municipal Code as “any distance necessary to insure the occupants of a building are not exposed to secondhand smoke created by smokers outside of the building” as determined by the City Administrator; and

WHEREAS, the City Administrator issued Administrative Instruction Number 4001 defining a reasonable distance for smoke-free areas outside city-owned buildings to be 25 feet from entrances, exits, windows and air intake vents; and

WHEREAS, to further reduce the harmful effects of tobacco smoke on the public and employees, the American Lung Association has proposed that the City of Oakland establish a similar 25 foot smoke-free area for buildings that serve as places of employment, citywide; and

WHEREAS, the City Council finds that compliance will be more likely and enforcement easier if the smoking prohibition is defined as a specific distance; now, therefore,

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. Smoke Free Zone Amended. Title 8, Chapter 8.30, Sections 8.30.030 and 8.30.060 of the Oakland Municipal Code are amended to delete the general definition “Reasonable distance” and to define the City’s requirement for smoke-free areas outside of work buildings as 25 feet from any entrance, exit, window and air intake vent of buildings that serve as places of employment as follows:

8.30.030 Definitions.

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section:

... “Reasonable distance” means any distance necessary to insure that occupants of a building are not exposed to secondhand smoke created by smokers outside of the building. ... The determination of the

~~City Manager or appropriate designee shall be final in any disputes relating to reasonable distance for smoking outside of buildings regulated by this chapter. . . .~~

8.30.060 Smoking policy requirements.

~~. . . B. Smoking outside of the work building shall occur at a reasonable minimum distance of 25 feet from any building entrance, exit, window and air intake vent of the building to insure that smoke does not enter the building and affect occupants therein. . . .~~

SECTION 2. Outdated References to City "Manager" Corrected. Title 8, Chapter 8.30, Section 8.30.030, Definitions, of the Oakland Municipal Code is amended to change outdated references to the "City Manager" to "City Administrator" as follows:

8.30.030 Definitions.

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section:

~~. . . "City Manager" means the City of Oakland City Administrator or his or her designee.~~

SECTION 3. Remaining Provisions Unchanged. Except as amended herein, all provisions, articles, sections, subsections, sentences, clauses or phrases of Oakland Municipal Code Chapter 8.30, shall remain unchanged and in full force and effect.

SECTION 4. Severability. If any article, section, subsection sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional, the offending portion shall be severed and shall not affect the validity of remaining portions which shall remain in full force and effect.

SECTION 5. Effective Date. This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

347083

IN COUNCIL, OAKLAND, CALIFORNIA, OCT 18 2005, 2005

PASSED BY THE FOLLOWING VOTE:

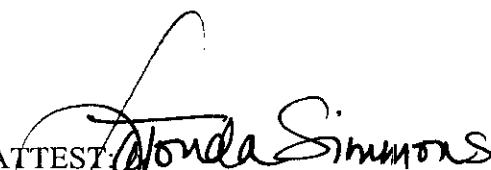
AYES- BROOKS, BRUNNER, , KERNIGHAN, NADEL, QUAN, REID, AND PRESIDENT DE LA FUENTE →

NOES-

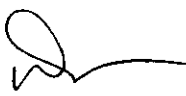
ABSENT-

ABSTENTION-

Excuses - Chang - 1

ATTEST 
LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

Introduction Date: OCT 04 2005



FILED
OFFICE OF THE CITY CLERK
OAKLAND

2005 SEP 15 PM 5:26

NOTICE AND DIGEST

ORDINANCE AMENDING OAKLAND MUNICIPAL CODE, TITLE 8, CHAPTER 8.30, SMOKING, TO DEFINE THE SMOKE-FREE AREA REQUIRED OUTSIDE WORK BUILDINGS AS 25 FEET FROM ANY ENTRANCE, EXIT, WINDOW AND AIR INTAKE VENT OF BUILDINGS THAT SERVE AS PLACES OF EMPLOYMENT

This Ordinance amends Oakland Municipal Code Chapter 8.30 to define the smoke-free area required outside work buildings as 25 feet from any entrance, exit, window and air intake vent of buildings that serve as places of employment.