

ORDINANCE NO. 1816

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA HABRA AMENDING CHAPTER 12.28 (“PARKS”) OF TITLE 12 (“STREETS, SIDEWALKS AND PUBLIC PLACES”) OF THE LA HABRA MUNICIPAL CODE TO PROHIBIT SMOKING, VAPING, AND THE USE OF ELECTRONIC SMOKING DEVICES IN CITY PARKS AND CITY PARK PARKING LOTS.

WHEREAS, numerous studies have shown that second-hand smoke and second hand vaping is a significant public health hazard. The U.S. Environmental Agency has classified second-hand smoke as a Group A carcinogen, the most dangerous class of carcinogen. Smoking in City parks endangers children and others by exposing them to second-hand smoke. Moreover, children and youth who observe smoking and tobacco use in City parks may model the behavior. There is no risk-free level of exposure to second hand smoke.

WHEREAS, the City Council has determined that banning smoking in City parks, and City park parking lots is necessary to protect the health, safety, and welfare of La Habra residents and visitors. There is indisputable evidence that 100% smoke-free environments are the only effective way to protect the population from the harmful effects of exposure to second hand smoke;

WHEREAS, parks provide one of the few affordable entertainment options for individuals and families;

WHEREAS, tobacco litter and matches dropped in parks are particularly dangerous to young children who step on them or ingest them, sometimes while they are still hot, and creates additional work for maintenance staff; and

WHEREAS, tobacco products are poisonous to wildlife which inhabit or visit the parks and are generally detrimental to the environment; and

WHEREAS, prohibiting smoking and vaping in the City’s parks and adjacent public areas will ensure that nonsmokers may breathe air free from the hazardous effects of secondhand smoke, will protect the public’s health, comfort and welfare and promote a healthier environment; and

WHEREAS, the City, by virtue of the police powers delegated to it by the California Constitution, is authorized to adopt policies to promote the health, safety, and general welfare of its residents;

WHEREAS, the City desires to amend the La Habra Municipal Code to prohibit smoking, vaping and the use of electronic smoking devices at City parks, and City park parking lots; and

WHEREAS, the City Council of the City of La Habra, pursuant to the provisions of the California Environmental Quality Act (“CEQA”) (California Public Resources Code Sections 21000 et seq.) and State CEQA guidelines (Sections 15000 et seq.) has determined that the Ordinance is exempt pursuant to Section 15061(b)(3) of Title 14 the California Code of Regulations.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LA HABRA, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The above recitals are true and correct and are incorporated herein.

SECTION 2. Section 12.28.140 (“Smoking prohibited”) is hereby added to Chapter 12.28 (“Parks”) of Title 12 (“STREETS, SIDEWALKS AND PUBLIC PLACES”) of the La Habra Municipal Code as follows:

Section 12.28.140 Smoking prohibited.

A. Purpose

The purpose of this ordinance is to:

1. Protect the public health, safety and general welfare by prohibiting smoking in recreational areas under circumstances where other persons will be exposed to secondhand smoke;
2. Assure a cleaner and more hygienic environment for the city, its residents, and its natural resources;
3. Strike a reasonable balance between the interests of persons who smoke and the interests of nonsmokers, including children, to breathe smoke-free air, recognizing the threat to public health and the environment which smoking causes;
4. Provide for the public health, safety, and welfare by discouraging the inherently dangerous behavior of smoking around non-tobacco users, by protecting children from exposure to smoking where they live and play; and by protecting the public from nonconsensual exposure to secondhand smoke; and
5. Supplement applicable state and federal laws pertaining to smoking and not to duplicate, contradict, or frustrate such laws. This chapter shall be construed consistently with that intention.

B. Definitions

Unless the contrary is stated or clearly appears from the context, the following definitions will govern the construction of the words and phrases used in this chapter:

“City park” means all city-owned or city-leased property designated as a city park, which area includes the parking lot for the City park.

“Smoke”, “Vape”, “Smoking” or “Vaping” means and includes any of the following: (1) the direct burning or indirect heating of any cigar, cigarette, pipe, electronic cigarette, or any similar kind of smoking equipment or article, using any form of tobacco, plant product including marijuana, or other combustible substance in any form, or (2) the holding or carrying of a lighted or operated cigar, cigarette, pipe, electronic cigarette, or any other lighted smoking equipment or device, or (3) emitting or exhaling the smoke directly from a cigar, cigarette, pipe, electronic cigarette, or any other lighted smoking equipment or device. “Smoke” also means the gaseous or vaporous products or particles created by the use of a lighted or operated pipe, cigar, cigarette, electronic cigarette, or other kind of smoking equipment or article.

C. Prohibition.

1. It is unlawful for any person at any time to smoke in any of the following places:
 - City parks;
 - City park parking lots;
 - Within 20 feet of any city park;
 - Within 20 feet of any city park parking lot;
 - Within 25 feet of any playground or tot-lot sandbox area
2. No person shall intimidate, threaten any reprisal, or effect any reprisal, for the purpose of retaliating against another person who seeks to obtain compliance with this section.

D. Posting of signs required

Conspicuous signs that contain all capital lettering at least one inch (1”) in height on a contrasting background stating this prohibition shall be posted in all public parks.

- E. This Ordinance shall become effective thirty (30) days from and after its adoption. The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be published as required by law.

PASSED, APPROVED AND ADOPTED this 16 day of March, 2020.

Tom Beamish, Mayor

ATTEST:

Laurie Swindell, CMC
City Clerk

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS.
CITY OF LA HABRA)

I, Laurie Swindell, CMC, City Clerk for the City of La Habra, do hereby certify that the above and foregoing is a true and correct copy of Ordinance No. 1816 introduced at a joint regular meeting of the City Council of the City of La Habra held on the 16th day of March, 2020 and was finally adopted at a regular meeting held on the 6th day of April, 2020 by the following vote:

AYES: COUNCILMEMBERS: Beamish, Espinoza, Gomez, Medrano
NOES: COUNCILMEMBERS: Shaw
ABSTAIN: COUNCILMEMBERS: None
ABSENT: COUNCILMEMBERS: None

Witness my hand and the official seal of the City of La Habra this 6th day of April, 2020.

Laurie Swindell, CMC
City Clerk