

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CYPRESS,
CALIFORNIA, REPEALING SECTION 17-42 THROUGH 17-50 OF CHAPTER
17 (OFFENSES – MISCELLANEOUS) OF THE CYPRESS MUNICIPAL CODE
AND REPLACING IT WITH A NEW SECTION 17-42 (SMOKING PROHIBITED)

WHEREAS, pursuant to California Labor Code §6404.5(h), local governments have the full right and authority to prohibit all tobacco use indoors and outdoors in areas not already covered by state law;

WHEREAS, there is a broad public recognition by the residents of the City of Cypress (“City”) of the dangers of secondhand smoke and support for smoke-free regulations, as evidenced by a 2024 City survey in which 78.5% of 367 residents said they would be in favor of smoking prevention in their city;

WHEREAS, secondhand smoke has been repeatedly identified as a health hazard. The California Environmental Protection Agency includes secondhand smoke to the Proposition 65 list of chemicals known to the state of California to cause cancer, birth defects, and other reproductive harm;

WHEREAS, exposure to secondhand smoke has negative health impacts, causing disease and death, and such exposure can occur at significant levels outdoors;

WHEREAS, the City intends to protect the public health, safety, and welfare of its residents, especially children, by promoting and affirming a healthy environment; and

WHEREAS, the City Council desires to attain the foregoing objectives.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CYPRESS HEREBY ORDAINS AS FOLLOWS:

Section 1. Recitals Incorporated. The City Council finds the foregoing Recitals are true and correct and are incorporated herein by this reference.

Section 2. Sections 17-42 through 17-50 of Chapter 17 (Offenses – Miscellaneous) of the Cypress Municipal Code are hereby repealed in their entirety and replaced with a new Section 17-42, which shall read as follows:

§ 17-42. SMOKING PROHIBITED

A. Definitions.

For the purposes of this chapter, the following terms and phrases shall have the meaning given in this section unless the context clearly requires otherwise:

- (1) "Cannabis" means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" includes cannabis that is used for medical, non-medical, or other purposes. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. "Cannabis" also does not include industrial hemp, as defined in California Health and Safety Code Section 11018.5.
- (2) "Designated smoking area" means an area that is designated by signage that identifies it as a smoking area and is located at least 50 feet from any location where smoking is prohibited by this chapter, at least 50 feet from any door, window, opening, or air intake for an enclosed area, and contains a waste receptacle for smoking product waste.
- (3) "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 employee.
- (4) "Employer" means any person or nonprofit entity that retains the service of one or more employees.
- (5) "Enclosed area" means any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of persons, animals, goods, equipment, vehicles, processes, or activities of any kind.
- (6) "Multiunit residence" means a residential use in which there is more than one dwelling unit on a lot, including senior and assisted living facilities, and long- term health care facilities and excluding navigation centers or emergency shelters as those terms are commonly defined.
- (7) "Outdoor dining area" means any publicly or privately owned outdoor area, including streets and sidewalks, that is available to or customarily used by the general public or an employee, and that is designed, or regularly used for consuming food or drink.
- (8) "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 operation, regardless of the hours of operation, including work areas and construction sites.
- (9) "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, including a farmers' market, parade, fair, or festival.
- (10) "Recreational area" means any area open to the public for recreational purposes, publicly or privately owned, including, but not limited to, parks, picnic areas, playgrounds, gardens, athletic fields, walking paths, hiking trails, amphitheaters, bike paths, sports facilities, and other locations designated as open space (OS) in the Cypress Municipal Code, and their associated parking lots.

- (11) "Smoking" means inhaling, exhaling, burning or carrying any lighted, heated or ignited tobacco or cannabis product.
- (12) "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.

B. Prohibition of smoking in designated areas.

- (1) Except as otherwise expressly authorized by state or federal law, smoking is prohibited in the enclosed and unenclosed areas of the following places within the city:
 - (a) Recreational areas;
 - (b) Outdoor dining areas;
 - (c) Places of employment;
 - (d) Public event areas;
 - (e) Multiunit residences and complexes, including outdoor common areas unless specifically designated for smoking;
 - (f) Within 25 feet of a bus stop; and,
 - (g) Within 100 feet of public or private schools and day care centers.
- (2) 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.

C. Prohibitions generally.

No person shall intimidate, harass, or otherwise retaliate against any person who seeks to attain compliance with this chapter. Moreover, no person shall intentionally or recklessly expose another person to secondhand smoke in response to that person's effort to achieve compliance with this chapter.

D. Enforcement, Violations and Penalties.

- (1) No person or employer shall allow smoking in any area under their control where smoking is prohibited by this chapter or by other law.

- (2) A person or employer that has control of an area in which smoking is prohibited by this chapter or other law shall post a clear, conspicuous, and unambiguous "No Smoking" sign at each entrance to the area. Signs posted on the exterior of buildings to comply with this section shall include the 25- or 100-foot distance requirement set forth in Section 17-42(B)(1). The presence or absence of signs shall not be a defense to a charge of smoking in an area where smoking is prohibited.
- (3) 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 to stop. If they do not stop smoking, the person or employer may refuse any service and 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.
- (4) 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 violation has occurred.
- (5) 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.
- (6) Any violation of this article is punishable pursuant to section 1-7 of the Cypress City Code, except for as preempted by state law.
- (7) Any violation of this article is hereby declared to be a public nuisance.
 - (a) Any activity that is conducted in violation of any provisions of this article is hereby declared to be a public nuisance, and, as such, may be abated or enjoined from further operation, in accordance with the procedures set forth in Chapter 13, Article III of the Cypress Municipal Code.
 - (b) All costs to abate such public nuisance, including attorneys' fees and court costs, shall be paid by the person causing the nuisance.
 - (c) Any appeal to a determination that such activity constitutes a public nuisance shall be pursuant to the appeal provisions in Chapter 13, Article III of the Cypress Municipal Code.
- (8) The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.

Section 3. Severability. If any section, subsection, sentence, clause, paragraph, or phrase of this Ordinance or any part thereof is for any reason held to be invalid or otherwise unenforceable by any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have enacted each and every section, subsection, sentence, clause, paragraph, or phrase thereof, irrespective of any determination of validity.

Section 4. Effective Date. This Ordinance shall take effect 30 days after its adoption.

Section 5. Certification. The City Clerk shall certify as to the passage and adoption of this Ordinance and shall cause the same to be published and posted at the designated locations in the City of Cypress.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Cypress at a regular meeting held on the _____ day of _____, 2025.

MAYOR OF THE CITY OF CYPRESS

ATTEST:

CITY CLERK OF THE CITY OF CYPRESS

STATE OF CALIFORNIA }
COUNTY OF ORANGE } SS

I, _____, City Clerk of the City of Cypress, DO HEREBY CERTIFY that the foregoing Ordinance was duly adopted at a regular meeting of said City Council held on the _____ day of _____, 2025, by the following roll call vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

CITY CLERK OF THE CITY OF CYPRESS