*Recommended Code amendments are red-lined.

COSTA MESA MUNICIPAL CODE
Title 8 – Health and Sanitation

CHAPTER V. - SMOKING IN PUBLIC FACILITIES

Sec. 8-131. - Purpose and findings.

The City Council finds that the smoking of tobacco, electronic cigarettes, or any other weed, plant, or substance is a positive danger to health and a material annoyance to those who are present in confined and unconfined spaces, and in order to serve public health, safety and welfare, the declared purpose of this chapter is to prohibit the smoking of tobacco, electronic cigarettes, or any other weed, plant or substance, in public facilities owned or operated by the City of Costa Mesa as stated and required in this chapter.

Sec. 8-132. - Definitions.

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

(a) City-owned sports facilities means any area of cleared enclosed land, as well as any facilities adjacent to it, used primarily for sporting events, which is owned and/or run by the city, and shall include, but is not limited to, the Jack Hammett Sports Complex at 2750 Fairview Road, the TeWinkle Athletic Complex at 970 Arlington Drive, the Luke Davis Field at 570 W. 18th Street, Downtown Aquatic Center at 1860 Anaheim Avenue. "City-owned sports facilities" shall not include sports fields owned by the Newport Mesa Unified School District.

(b) City-owned community gardens means a plot of cultivated ground, which is owned and/or run by the city and is made available to the citizens in whole or in part to the growing of herbs, fruits, flowers, or vegetables for household use, and includes but is not limited to, the Hamilton Community Garden at 523 Hamilton Street, and the Del Mar Community Garden at 170 Del Mar Avenue.

(c) Public facility means and includes any of the following, which is owned, leased or operated by the City of Costa Mesa, a California municipal corporation, but does not include facilities used as multifamily residential buildings:

(1) Any building, structure or room within a building enclosed by a roof and four (4) walls with appropriate openings for ingress and egress.

(2) Any motor vehicle enclosed by a roof with appropriate openings for ingress and egress.

(d) Park shall have the same meaning as section 12-1 of the Costa Mesa Municipal Code.

(e) Smoke or smoking means and includes any of the following:

(1) The consumption of tobacco products, electronic cigarettes, and related products by burning, inhalation, vaporization, or other forms of ingestion.

(2) The holding or carrying of a lighted or electronically-charged smoking device; or

(3) Emitting or exhaling the smoke or vapor directly from a cigar, cigarette, pipe, electronic cigarette or any other lighted smoking device or substance.

Sec. 8-133. - Smoking prohibited.

Smoking is prohibited and is unlawful within all areas posted as a no smoking area by the city by signs of sufficient number and posted in such locations as to be readily seen by persons within such area, including but not limited to:

(a) Public facilities as defined in section 8-132(c).

(b) Within any park.

(c) Within fifty (50) feet of any park perimeter, provided that if any such perimeter encroaches on private property, this section's prohibition shall not apply to the private property. This prohibition shall also not apply to persons and vehicles in route along the public streets and sidewalks.

(d) Within the parking lot and enclosed fenced areas of all city-owned sports facilities, grounds or structures.

(e) Within the parking lot and enclosed fenced areas of city-owned community gardens.

Sec. 8-134. - Disposal of waste.

It shall be unlawful to dispose of any part of any tobacco product including, but not limited to, cigars and cigarettes or any other combustible substance, in any place where smoking is prohibited.

Sec. 8-135. - Administration.

The no smoking regulations established by this chapter shall be administered by any city employee authorized to enforce violations of this Code or state laws.

Sec. 8-135.1. - Violations and penalties.

(a) Any violation of section 8-133 shall be punishable in accordance with the provisions set out in section 1-33 of this Code.

(b) Ejection. Any person who violates section 8-133 shall be subject to ejection from the park by any city employee authorized to enforce violations of this Code or state laws.

(c) Three or more violations of section 8-133 by the same individual within any twelve-month period within the same park, sports facility or community garden is declared to be a public nuisance and may be abated by the city through civil proceedings by means of a restraining

order, preliminary or permanent injunction, or in any other manner provided by law for the abatement of such nuisances, including but not limited to, the remedies provided for in section 1-33 of this Code. Any such individual may be ordered to stay away from the public facility, sports facility or community garden where the violations occurred for up to twelve (12) months following the most recent violation.

(Ord. No. 11-12, § 1, 11-15-11)

FOOTNOTE(S):

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Editor's note— Ord. No. 11-12, § 1, adopted November 15, 2011, amended Ch. V in its entirety to read as herein set out. Former Ch. V, §§ 8-131—8-135, pertained to similar subject matter, and derived from Ord. No. 91-16, § 1, 6-17-91.

Cross reference— Fire code amendments re no smoking, § 7-35.