29

CITY OF SACRAMENTO

OFFICE OF THE CITY ATTORNEY
812 TENTH STREET
SUITE 201
SACRAMENTO, CA 95814
TELEPHONE (916) 449-5346

JAMES P. JACKSON
City Attorney
THEODORE H. KOBEY, JR.
Assistant City Attorney
SAMUEL L. JACKSON
WILLIAM P. CARNAZZO
LAWRENCE M. LUNARDINI
GARLAND E. BURRELL, JR.
DIANE B. BALTER
RICHARD F. ANTOINE
TAMARA MILLIGAN-HARMON
LINDA M. GONZALEZ
Deputy City Attorneys

February 11, 1987

PASSED FOR
PUBLICATION
& CONTINUED
TO 3-10-87

City Council
Sacramento, California

Honorable Members in Session:

SUBJECT: Amendment to the City's Ordinance Regulating Smoking

SUMMARY

It is recommended that the City Council adopt the attached ordinance which amends the current provisions of the City's ordinance regulating smoking.

BACKGROUND

The City's smoking regulation ordinance, when adopted, was virtually identical to the ordinance adopted by the County of Sacramento. Both ordinances are enforced by the County Department of Health.

The County of Sacramento has, based upon the recommendation of the County Health Director, recently adopted three amendments to its ordinance. The County Health Director has requested that the City also adopt these changes. Briefly, those amendments made the following changes:

a. Proprietors of bowling alleys are now authorized to designate various places within an alley where smoking is permitted. The amendment absolutely prohibits smoking within bowling lanes, bowling scoring areas, and seating areas for bowling participants.

b. At least 50% of each employee lunchroom and lounge may now be committed to smoking. The amendment authorizes smoking within the entirety of a lunchroom or lounge if the employer maintains two or more lunchrooms or lounges freely accessible to employees as Workplaces within the same building, and prohibits smoking within the entirety of all other lunchrooms and lounges.

c. Employers are now required, within actual workplaces, to adopt a written smoking policy, which specifies that the preferences of nonsmokers shall prevail if an accommodation cannot otherwise be reached. The amendment continues in effect the requirement to adopt a written policy, but does not require outright prohibition of smoking; rather, it places stronger emphasis on reaching an accommodation.

The attached ordinance would incorporate these same changes into the City's smoking regulation ordinance. Attachment "A" contains the underlined new language. Attachment "B" is the revised language without underlines for adoption by the City Council.

The Law and Legislation Committee considered the first two of these three changes. The third change was adopted by the County subsequent to preparation of the committee staff reports, and was therefore not considered by the Committee.

RECOMMENDATION:

It is recommended that the City Council adopt the attached ordinances which amend the current provisions of the City's ordinance regulating smoking.

Respectfully submitted,

James P. Jackson

JAMES P. JACKSON
City Attorney

JPJ:je
Att.

cc: Laurel Gaiser, American Lung Association
Ron Usher, County Health Director
Lee Elam, County Counsel
James Claypool, R.S., County Health Dept.

RECOMMENDATION APPROVED

Solon Wilson Jr.

For: Walter J. Slipe
City Manager

March 3, 1987
ALL DISTRICTS

RECOMMENDATION:

29

ORDINANCE NO. 87-022

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF

APPROVED
BY THE CITY COUNCIL

MAR 10 1987

OFFICE OF THE
CITY CLERK

AN ORDINANCE AMENDING SECTIONS 37.11, 37.20, AND 37.22 OF CHAPTER 37 OF THE SACRAMENTO CITY CODE, RELATING TO SMOKING POLLUTION CONTROL

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO AS FOLLOWS:

SECTION 1.

Section 37.11 of Chapter 37 of the Sacramento City Code is amended to read as follows:

§37.11 Arenas.

The prohibitions contained in Section 37.03 shall be applicable to sports pavilions, gymnasiums, exercise rooms, health spas, boxing arenas, swimming pools, roller and ice skating rinks, bowling alleys and other similar places where Members of the General Public assemble to either engage in physical exercise, participate in athletic competition or witness sports events.

An owner, manager or operator may permit persons to smoke within the portion of a facility described by this Section at a specified location or locations by posting "Smoking Permitted" signs in the manner prescribed by Section 37.25 at any such location so designated; provided that the owner, manager or operator of a bowling alley shall not post such signs or otherwise permit smoking within bowling lanes, at bowling scoring tables or within scoring areas, or at seating for bowling participants as distinguished from seating made available for bowling spectators. It shall not constitute a violation of Section 37.03 for a person to smoke in a location where smoking has been authorized in the manner prescribed herein.

SECTION 2.

Section 37.20 of Chapter 37 of the Sacramento City Code is amended to read as follows:

ATTACHMENT "A"

§37.20 Workplace -- Smoking Segregated.

Each Commercial Enterprise, Non-Profit Entity and the City maintaining a cafeteria, lunchroom, or lounge as a Workplace, shall designate not less than fifty percent of the floor space and seating capacity as a separate or contiguous area therein for nonsmoking, and shall post "No Smoking" signs therein in the manner prescribed by Section 27.25; provided that a particular Commercial Enterprise, Non-Profit Entity or the City which maintains two or more lunchrooms or lounges to which all employees are freely admitted as a Workplace within the same building, may authorize smoking within the entirety of a single lunchroom or lounge if smoking is prohibited by the posting of "No Smoking" signs in the manner prescribed by Section 27.25 within the entirety of all other lunchrooms or lounges within the same building. The provisions of this section shall not be deemed to authorize an employer to permit smoking within the entirety of any cafeteria maintained as a Workplace.

SECTION 3.

Section 37.22 of Chapter 37 of the Sacramento City Code is amended to read as follows:

§37.22 Workplace -- Smoking Restricted.

Each Commercial Enterprise, Non-Profit Entity and the City maintaining a Workplace other than those described by Sections 37.20 and 37.21 shall, not later than April 15, 1985, adopt, implement and maintain a written Smoking Policy which shall contain, at a minimum, the following provisions and requirements:

(a) Any nonsmoking employee may object to his or her employer about smoke in his or her Workplace. The employer shall attempt to reach a reasonable accommodation, insofar as possible, between the preferences of the nonsmoking and smoking employees.

(b) If an accommodation which is satisfactory to all affected nonsmoking employees cannot be reached within a particular Workplace, ~~the preferences of nonsmoking employees shall prevail and the employer shall prohibit smoking in a manner which accommodates the desires of the nonsmoking employees.~~ the Commercial Enterprise, Non-Profit Entity or City who employs the non-smoking employees shall formulate, promulgate and implement restrictions or prohibitions upon smoking in a manner which accommodates the reasonable preferences and needs of the nonsmoking employees in relation to the nuisance and health impacts of the smoking upon the nonsmokers. The area in which smoking is prohibited shall be posted by "No Smoking" signs in the manner prescribed by the provisions of Section 37.25.

§37.20 Workplace -- Smoking Segregated.

SECTION 3.

§37.22 Workplace -- Smoking Restricted.

The Smoking Policy shall be announced within three weeks of adoption to all employees working in the Workplace, and shall be conspicuously posted in all Workplaces. A copy of the written Smoking Policy shall, upon request, be provided to any existing or prospective employee.

DATE PASSED FOR PUBLICATION:

DATE ENACTED:

DATE EFFECTIVE:

_____
MAYOR

ATTEST:

_____
CITY CLERK

March 3, 1987
ALL DISTRICTS

ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF

AN ORDINANCE AMENDING SECTIONS 37.11, 37.20, AND 37.22 OF CHAPTER 37 OF THE SACRAMENTO CITY CODE, RELATING TO SMOKING POLLUTION CONTROL

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO AS FOLLOWS:

SECTION 1.

Section 37.11 of Chapter 37 of the Sacramento City Code is amended to read as follows:

§37.11 Arenas.

The prohibitions contained in Section 37.03 shall be applicable to sports pavilions, gymnasiums, exercise rooms, health spas, boxing arenas, swimming pools, roller and ice skating rinks, bowling alleys and other similar places where Members of the General Public assemble to either engage in physical exercise, participate in athletic competition or witness sports events.

An owner, manager or operator may permit persons to smoke within the portion of a facility described by this Section at a specified location or locations by posting "Smoking Permitted" signs in the manner prescribed by Section 37.25 at any such location so designated; provided that the owner, manager or operator of a bowling alley shall not post such signs or otherwise permit smoking within bowling lanes, at bowling scoring tables or within scoring areas, or at seating for bowling participants as distinguished from seating made available for bowling spectators. It shall not constitute a violation of Section 37.03 for a person to smoke in a location where smoking has been authorized in the manner prescribed herein.

SECTION 2.

Section 37.20 of Chapter 37 of the Sacramento City Code is amended to read as follows:

§37.20 Workplace -- Smoking Segregated.

Each Commercial Enterprise, Non-Profit Entity and the City maintaining a cafeteria, lunchroom, or lounge as a Workplace, shall designate not less than fifty percent of the floor space and seating capacity as a separate or contiguous area therein for nonsmoking, and shall post "No Smoking" signs therein in the manner prescribed by Section 27.25; provided that a particular Commercial Enterprise, Non-Profit Entity or the City which maintains two or more lunchrooms or lounges to which all employees are freely admitted as a Workplace within the same building, may authorize smoking within the entirety of a single lunchroom or lounge if smoking is prohibited by the posting of "No Smoking" signs in the manner prescribed by Section 27.25 within the entirety of all other lunchrooms or lounges within the same building. The provisions of this section shall not be deemed to authorize an employer to permit smoking within the entirety of any cafeteria maintained as a Workplace.

SECTION 3.

Section 37.22 of Chapter 37 of the Sacramento City Code is amended to read as follows:

§37.22 Workplace -- Smoking Restricted.

Each Commercial Enterprise, Non-Profit Entity and the City maintaining a Workplace other than those described by Sections 37.20 and 37.21 shall, not later than April 15, 1985, adopt, implement and maintain a written Smoking Policy which shall contain, at a minimum, the following provisions and requirements:

(a) Any nonsmoking employee may object to his or her employer about smoke in his or her Workplace. The employer shall attempt to reach a reasonable accommodation, insofar as possible, between the preferences of the nonsmoking and smoking employees.

(b) If an accommodation which is satisfactory to all affected nonsmoking employees cannot be reached within a particular Workplace, the Commercial Enterprise, Non-Profit Entity or City who employs the non-smoking employees shall formulate, promulgate and implement restrictions or prohibitions upon smoking in a manner which accommodates the reasonable preferences and needs of the nonsmoking employees in relation to the nuisance and health impacts of the smoking upon the nonsmokers. The area in which smoking is prohibited shall be posted by "No Smoking" signs in the manner prescribed by the provisions of Section 37.25.

§37.20 Workplace -- Smoking Segregated.

SECTION 3.

§37.21 Workplace -- Smoking Restricted.

The Smoking Policy shall be announced within three weeks of adoption to all employees working in the Workplace, and shall be conspicuously posted in all Workplaces. A copy of the written Smoking Policy shall, upon request, be provided to any existing or prospective employee.

DATE PASSED FOR PUBLICATION:

DATE ENACTED:

DATE EFFECTIVE:

_____
MAYOR

ATTEST:

_____
CITY CLERK

March 3, 1987
ALL DISTRICTS