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ORDINANCE NO. 2465

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
CHICO, CALIFORNIA, AMENDING SECTIONS 8.28.008,
8.28.010, AND 8.28.060 OF TITLE 8, CHAPTER 8.28,
RELATING TO THE REGULATION OF SMOKING.**

WHEREAS, electronic cigarettes or “e-cigarettes” are designed to resemble traditional cigarettes but do not contain tobacco;

WHEREAS, there is currently minimal federal or state regulation or control of the use of e-cigarettes;

WHEREAS, there are significant health concerns regarding the use of e-cigarettes;

WHEREAS, electronic smoking devices often mimic conventional tobacco products in shape, size, and color, with the user exhaling a smoke-like vapor similar in appearance to the exhaled smoke from cigarettes and other conventional tobacco products;

WHEREAS, the use of electronic smoking devices in smoke free locations threatens to undermine compliance with smoking regulations and reverse the progress that has been made in establishing a social norm that smoking is not permitted in public places and places of employment;
and

WHEREAS, the City Council of the City of Chico has concluded that it could better provide for the public health, safety, and welfare of the community by discouraging the use of electronic smoking devices around non-users, especially children; by protecting the public from exposure to secondhand byproducts of electronic smoking devices where they live, work, and play.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Chico:

Section 1. That section 8.28.008, of Title 8, Chapter 8.28, Smoking Regulations, is hereby amended as follows:

8.28.008 Findings.

The city council finds as follows:

- A. That tobacco smoke is a major contributor to indoor air pollution;
- B. That breathing side-stream or secondhand tobacco smoke is a cause of disease, including lung cancer in nonsmokers;
- C. That persons at special risk from the breathing of side-stream or secondhand smoke include pregnant women, children, elderly persons, persons with cardiovascular disease, persons with impaired respiratory function, including asthmatics, and persons with obstructive airway disease;

1 D. That health hazards induced by breathing side-stream or secondhand smoke include lung
2 cancer, respiratory infection, decreased exercise tolerance, decreased respiratory function,
3 bronchoconstriction, broncho-spasm and ear infections in children;

4 E. That persons who suffer ill effects from breathing side-stream or secondhand smoke may
5 experience a loss of job productivity or may be forced to take periodic sick leave because of
6 adverse reactions to same;

7 F. That there are numerous and credible health studies suggesting that electronic smoking
8 devices pose significant public health and safety risks and there are minimal federal and state
9 regulations or controls over the use of electronic smoking devices; and

10 G. That by reason of the foregoing, the smoking of tobacco (or other weed or plant) or of an
11 electronic smoking device is hazardous to the health of the general public.

12 **Section 2.** That section 8.28.010, of Title 8, Chapter 8.28, Smoking Regulations, is hereby amended
13 as follows:

14 **8.28.010 Definitions.**

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

17 A. "Bar" means any establishment open to and used by the general public which is devoted to
18 the service of alcoholic beverages and in which the service of food is only incidental to the
19 consumption of such beverages, and any portion of such establishment, including any portion of a
20 restaurant, which is devoted to the service of alcoholic beverages, in which the service of food is
21 only incidental to the consumption of such beverages and which is within an enclosed area which
22 separates the bar from the other areas of the establishment.

23 B. "Employee" means any person who regularly performs services for an employer either for
24 compensation or as a non-compensated volunteer.

25 C. "Employer" means any person, partnership, corporation, unincorporated association and/or
26 any nonprofit organization which employs or otherwise uses the services of one or more
27 employees.

28 D. "Enclosed area" means all space between a floor and ceiling which is enclosed on all sides
by solid walls, windows or other impermeable surfaces which extend from the floor to the ceiling
except for doors or similar openings used for ingress or egress.

E. "Health officer" means the city health officer; provided, that where the city council has
consented by ordinance or resolution to the enforcement of public health laws in the city by the
Butte County health officer, the term "health officer" shall mean the Butte County health officer.

F. "Place of employment" means any enclosed area under the control of an employer which
employees normally frequent during the course of employment, including but not limited to, work
areas, individual and group offices, employee lounges, restrooms, conference rooms, classrooms
and employee cafeterias and hallways.

G. "Public place" means any establishment or facility area to which the public is invited or in
which the public is permitted, including but not limited to banks, educational facilities, health

1 facilities, professional offices, public transportation facilities, recreation and sports facilities,
2 restaurants, retail food production and marketing establishments, retail service establishments,
3 retail stores and theaters.

4 H. "Restaurant" means any establishment or portion of an establishment, other than a bar or
5 portion of a restaurant used as a bar, which is open to and used by the general public and which is
6 devoted to the service of food and/or beverages.

7 I. "Smoke" means the gases, particles, or vapors released into the air as a result of combustion,
8 electrical ignition or vaporization, including from an electronic smoking device, when the apparent
9 or usual purpose of the combustion, electrical ignition or vaporization is human inhalation of the
10 byproducts, except when the combusting material contains no tobacco or nicotine and the purpose
11 of inhalation is solely olfactory. Smoke includes, but is not limited to, tobacco smoke, electronic
12 smoking device vapors, and marijuana smoke.

13 J. "Smoking" means engaging in an act that generates smoke, such as possessing a lighted pipe,
14 a lighted hookah pipe, a lighted cigar, a lighted cigarette of any kind, or an operating electronic
15 smoking device.

16 K. "Electronic Smoking Device" means any electronic or battery-operated device that delivers
17 vapors for inhalation. This term includes every variation and type of such devices whether they are
18 manufactured, distributed, marketed or sold as an electronic cigarette, an electronic cigar, an
19 electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or
20 descriptor. Electronic Smoking Device does not include any product specifically approved by the
21 United States Food and Drug Administration for use in the mitigation, treatment or prevention of
22 disease.

23 **Section 3.** That section 8.28.060, of Title 8, Chapter 8.28, Smoking Regulations, is hereby amended
24 as follows:

25 **8.28.060 Exceptions to smoking prohibitions and regulations.**

26 Notwithstanding anything herein to the contrary, the following areas shall not be subject to
27 the smoking prohibitions and regulations provided for in this chapter:

28 A. Private residences, other than portion of a private residence used as a child care or health
care facility;

B. Hotel and motel rooms rented to guests;

C. Retail stores that deal exclusively in the sale of tobacco or smoking paraphernalia, including but not limited to electronic smoking devices.

D. Restaurant, hotel and motel conference or meeting rooms, and other assembly rooms
when being used for private functions.

Section 4. The City Council finds and determines that the enactment of this Ordinance is not a
project under the California Environmental Quality Act (CEQA) (Cal. Pub. Resource Code §§ 21000

1 et seq.) in that activities described in the Ordinance are a continuing administrative activity of the
2 city involving general policy and procedure making and organization or administrative activities of
3 governments that will not result in direct or indirect physical changes in the environment. (State
4 CEQA Guidelines, Cal. Code of Regs., Title14, § 15378.) Therefore, no environmental assessment
5 is required or necessary.

6 **Section 5.** If any part of this Ordinance or its application to any individual, entity, or circumstance
7 is held to be invalid, the remainder of the Ordinance, including the application or provision to other
8 persons or circumstances, shall not be affected and shall continue in full force and effect. To this
9 end, the provisions of this Ordinance are severable.

10 **Section 6.** The City Clerk shall attest to the passage and adoption of this Ordinance, and shall cause
11 same to be posted as required by law, and this Ordinance shall take effect thirty (30) calendar days
12 after its adoption.

13 THE FOREGOING ORDINANCE was adopted by the City Council of the City of Chico at its
14 meeting held on August 4, 2015, by the following vote.

15 AYES: Fillmer, Ritter, Schwab, Stone, Sorensen


16 NOES: Coolidge

17 ABSENT: Morgan

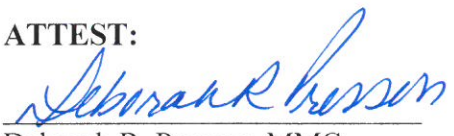
18 ABSTAIN: None

19 DISQUALIFIED: None

20 **APPROVED AS TO FORM*:**

21 
22 Vincent C. Ewing
23 City Attorney

24 **ATTEST:**

25 
26 Deborah R. Presson, MMC
27 City Clerk

28 *Pursuant to the Charter of the City of Chico § 906