3-06/040.00 - City of Calabasas Second-Hand Smoke Control Ordinance

PURPOSE

In order to establish guidelines for the enforcement of the City of Calabasas Second-Hand Smoke Control Ordinance, the following guidelines have been established.

BACKGROUND

The Calabasas City Council amended Chapter 12 of Article 8 of the Calabasas Municipal Code "Comprehensive Second-Hand Smoke Control Ordinance." The following is highlights of the amendment.

The code is intended to protect the public health, safety and general welfare by prohibiting smoking in public places under circumstances where other persons will be exposed to second-hand smoke. The ordinance is designed to assure a cleaner environment for the City, its residents, and streams, by striking a reasonable balance between the needs of persons who smoke and the needs of non-smokers, including children.

OVERVIEW

Sec. 8.12.040 Prohibition of Smoking C.M.C. - Public and Other Places Where Smoking is prohibited. Except as otherwise provided by state or federal law, smoking is prohibited everywhere in the City of Calabasas, including but not limited to: public places; places of employment; multi-unit residence common areas; enclosed and unenclosed places of hotels, businesses, restaurants, bars, and other public accommodations.

Smoking is permitted on private residential property, other than those used as a child-care or health-care facility subject to licensing requirements when employees, children or patients are present. In up to twenty percent of the guest rooms of a hotel or motel when 80 percent of the rooms are permanently designated as nonsmoking rooms. Designated unenclosed areas in shopping mall common areas designated as "smokers' outposts." Any outdoor area in which no nonsmoker is present and, due to the time of day or other factors, it is not reasonable to expect another person to arrive (i.e. The Commons at 3:00 a.m.).

A violation of this ordinance shall constitute a misdemeanor punishable pursuant to 1.16.010(a) Calabasas Municipal Code.

During the initial period, enforcement of this ordinance is to be for the most part educational in nature. The public should be given ample opportunity to not only be made aware of the new ordinance, but also to cooperate.

DIRECTIVE

Deputy personnel shall be aware of the procedures of this ordinance. Smoking is prohibited in all public places in the City of Calabasas where other persons can be exposed to second-hand smoke. Note: A deputy (while on duty) cannot be an offended person. (See list of definitions for clarification)

These places include indoor and outdoor businesses, hotels, parks, apartment common areas, restaurants

and bars where the general public can be reasonably expected to congregate.

When a resident is smoking on their balcony, which is directly adjacent to a common area, the resident would be in violation of the ordinance if the person walking by was offended by the smoke and pursued legal action.

When a person witnesses or is offended by an individual smoking in violation of the ordinance, the offended individual is to personally ask the violator to comply with the ordinance or ask an employee of the establishment to enforce the ordinance. If the violator fails to comply with either the offended party or employee's request, private security should be contacted, providing the establishment or complex employs security. If the violator fails to comply with security, a Code Enforcement Officer from the City of Calabasas shall be requested to respond.

NOTE: Security and Code Enforcement do not have authority to detain persons.

If the violator remains at the location and refuses to cooperate with the Code Enforcement Officer, the Sheriff's Department may be called. It is the mission of the Sheriff's Department to defuse the situation and assist the Code Enforcement Officer in obtaining information from the violator in order for the City to issue a citation. If the violator cooperates, the Code Enforcement Officer will issue a City of Calabasas citation.

If the violator refuses to comply with the Code Enforcement Officer, the Deputy shall advise the Code Enforcement Officer or victim of private person's arrest procedures. The Code Enforcement Officer or offended party may then effect a private person's arrest, if the offense occurred in their presence. When a deputy handles a private person's arrest at the request of a victim or Code Enforcement Officer, the deputy shall follow established policy and procedures (refer to Field Operations Directive 02-06). The Deputy will cite all violators to Malibu Court. If it becomes necessary to take a violator into custody, that person, after the completion of the booking process, will be issued a citation to Van Nuys Court.

NOTE: *When a person is non-desirous of prosecution the deputy will take no action.*

DEFINITIONS

- Business- means any sole proprietorship, partnership, corporation, association, or other entity formed for profit-making purposes or that has an employee.

  Note: Calabasas County Club is a member's only private golf course and is thereby exempt due to the exclusivity created by private membership which is not open to the general public.

- Common area at a shopping mall: Any indoor or outdoor common area of a shopping mall accessible to and usable by the occupants or customers of more than retail establishment, including but not limited to halls, lobbies, outdoor eating areas, play areas and parking lots.
- Employee: Any person who is employed or retained as an independent contractor by any employer or any person who volunteers his or her services for an employer, association, nonprofit entity.
- Multi-unit residence common area: Any common area of a multi-unit residence accessible to and usable by the occupants of more than one dwelling, including but not limited to halls, lobbies, laundry rooms, outdoor eating areas, play areas and swimming pools.
- Present: Within a reasonable distance

- Public Place: Any public or private place open to the general public regardless of any fee or age requirement.
- Reasonable Distance: A distance of twenty feet or, with respect to a designated smoking area, such larger area as the city manager reasonably determines in writing to be necessary in a given circumstance to ensure that occupants of an area in which smoking is prohibited are not exposed to secondhand smoke created by smokers outside the area.
- Recreational Area: Any public or private area open to the public for recreational purposes whether or not any fee for admission is charged, including, for example, parks, gardens, sporting facilities, stadiums, and playgrounds.
- Smoking: Possession of (and “smoke” means to possess) a lit pipe, lit cigar, or lit cigarette of any kind, or the lighting of a pipe, cigar, or cigarette of any kind, including, but not limited to, any tobacco product, or any other weed or plant.
- Tobacco Product: Any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, bidis, or any other preparation of tobacco.