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10/19/02

Ordinance 761

Creating a Chapter in the Clallam County Code Restricting Smoking on Clallam County Property

BE IT ORDAINED BY THE BOARD OF CLALLAM COUNTY COMMISSIONERS:

Chapter 19.05

PROHIBITING SMOKING ON CLALLAM COUNTY PROPERTY

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19.05.010 Purpose.

This chapter provides for the protection of the health, safety, and welfare of the public by reducing the potential of exposure to the effects of environmental tobacco smoke.

19.05.020 Legislative findings.

The Clallam County Board of Commissioners finds that:

- (1) Extensive medical and scientific research confirms that environmental tobacco smoke is harmful to smokers and nonsmokers alike, causing eye, nose, and throat irritation; aggravating lung and heart diseases, including emphysema; and is linked to various types of cancers.
- (2) Additional medical and scientific research concludes that carbon monoxide levels in rooms and vehicles where smoking occurs often exceeds maximum permissible safety levels and that other hazardous compounds are released into the environment by tobacco smoke, including but not limited to: tar, nicotine, cadmium, nitrogen dioxide, ammonia, benzene, formaldehyde, hydrogen sulfide, hydrogen cyanide, and arsenic.
- (3) Health research further shows that smoking in the workplace causes loss in employee morale and productivity, increases in employee accident rates and absenteeism, increases in employer medical costs, greater threats of fire damage, and other detrimental impacts to both public and private property.
- (4) The Washington State Legislature has recognized the increasing evidence posed by environmental tobacco smoke in the workplace and has therefore enacted the Washington Clean Indoor Air Act, codified at Chapter 70.160 RCW.
- (5) It is necessary to create designated smoking locations in order to protect county employees and the public from the health and property hazards created by tobacco smoke and limit the litter associated with smoking debris.

(6) Under the State Department of Labor and Industries' Environmental Tobacco Smoke regulation, WAC 296-800-24010, the county must minimize the amount of environmental tobacco smoke that enters its office buildings.

19.05.030 Definitions.

As used in this chapter, the following terms have the meanings indicated.

(1) "County personnel" means all persons employed by Clallam County, including any elected or appointed official or department head of Clallam County.

(2) "County workplace" means any county-owned and/or -operated building, any county-owned and/or -operated property, or in a county-owned and/or -operated vehicle.

(3) "Environmental tobacco smoke," means a mixture of smoke emitted from burning tobacco products and smoke exhaled by a smoker.

(4) "Public business" means any activity, service, work or function done by, on behalf of, or under the authority of Clallam County by county personnel.

(5) "Smoke" or "smoking" means the carrying, inhaling, or exhaling of smoke from any kind of lighted pipe, cigar, cigarette, or any other lighted smoking equipment, implement, apparatus, or item.

(6) "Smoking debris" means, but is not limited to cigarette or cigar butts, cigarette paper or product packaging, tobacco, smoke, ash, or any other residue resulting from smoking.

19.05.040 Smoking prohibited

No person shall smoke within or upon a county workplace, except in designated areas authorized by the Board of Clallam County Commissioners.

19.05.050 Exceptions.

The restriction in Section xx.xx.040 shall not apply to the following:

(1) Private living quarters let by Clallam County.

(2) Privately owned vehicles parked or operated at a county workplace.

(3) Lands designated and operated as County Parks, Trails, or Roads.

(4) County fairgrounds, except those areas established by the Fair Board as "Smoke Free Zones."

(5) Undeveloped, county-owned land.

19.05.060 Designated smoking areas.

The following are designated as authorized smoking areas and are in addition to the exemptions listed in section 050:

(1) Juvenile and Family Services Facility - The designated employee smoking area shall be the area as identified and signed under the overhang outside of the building and located on the north side of the facility just east of the generator room. The designated public smoking area shall be the area as identified and signed located approximately 65 feet to the northeast of the main entrance to the Administrative offices.

(2) Criminal Investigations Bureau Facility - The designated smoking area shall be the area as identified and signed located outside of the building to the south of the west pod.

(3) County Road and ERR Maintenance Yards and Gravel Pits - The designated smoking areas shall be established as outdoor locations located no closer than 50 feet from any man door entrance to any building and at least 25 feet away from any non-smoking staff or public. Designated covered smoking areas for use during inclement weather shall be equipment sheds when not occupied by other non-smoking staff.

(4) Courthouse Complex - The designated smoking area for employees and public use shall be the area as identified and signed located within the entire triangular landscaped portion of the east courthouse parking lot, which includes a covered shelter at the south westernmost corner.

19.05.070 Duties.

(1) Department heads, elected officials or other supervisors shall notify all employees of their respective departments about the subject of this chapter immediately following its adoption.

(2) Notice of this chapter shall be posted near entrances to county workplaces and at driveway entrances of the Clallam County Courthouse, Juvenile and Family Services, and Road Shop locations.

(3) Department heads and elected officials having control or supervision of a county workplace shall make every reasonable effort to ensure compliance with this chapter, including but not limited to, posting signs as appropriate under this chapter, and advising the public or county personnel that smoking in a county workplace is prohibited.

19.05.080 Penalties and enforcement – Fines.

(1) Any person violating this chapter by smoking in a county workplace shall pay a civil fine of \$65 for the first offense. Subsequent offenses shall increase by \$40 increments.

(2) At the discretion of Clallam County District Court, a person who violates this ordinance may complete a smoking cessation program in lieu of paying a fine.

(3) Local law enforcement shall enforce this chapter by issuing a notice of infraction and citing this chapter. Such notice of infraction shall be made upon the same forms as for nontraffic infractions.

(4) Any violation of this chapter for which a notice of infraction is issued shall be disposed of in the same manner as provided for traffic infractions under Chapter 7.80 RCW.

(5) All fines or forfeitures collected upon enforcement of this chapter shall be paid to Clallam County or applicable jurisdiction. If appropriate, the maximum allowable percentage shall be paid to Clallam County Health and Human Services' Tobacco Prevention and Control Program.

(6) Clallam County may adopt policies to enforce this ordinance.

19.05.090 Private actions.

(1) This chapter shall not be construed to prohibit private persons or organizations from bringing an action to enjoin violations of this chapter, nor shall it be construed to limit other actions in any way.

(2) In undertaking enforcement of this chapter, Clallam County is assuming and undertaking only to promote the general welfare. Clallam County is not assuming, nor is it imposing on county personnel, an obligation for breach of which the county or its personnel are liable in monetary damages.

19.05.100 Liberal construction.

This chapter is remedial in nature and shall be liberally construed to give full effect to the objectives and purposes for which it was enacted.

19.05.110 Severability.

If any provision of this chapter or its application to any person or circumstance is held invalid or unconstitutional, the remainder of the ordinance or its application to other persons or circumstances shall not be affected.

19.05.120 Effective date.

This chapter shall take effect 60 days after adoption by the Clallam County Board of Commissioners.

ADOPTED this nineteenth day of October 2004

BOARD OF CLALLAM COUNTY COMMISSIONERS

Excused Absence

Stephen P. Tharinger, Chair

M.C. Chapman

Michael C. Chapman

Howard V. Doherty, Jr.

ATTEST:

Trish Perrott

Trish Perrott, CMC, Clerk of the Board

Howard V. Doherty, Jr.