

SMOKING ORDINANCE UPDATE

STUDY SESSION

CITY COUNCIL

AUGUST 22, 2024

PALM DESERT
CIVIC CENTER /
1951



Background

December 2009 – City Council adopted Ordinance No. 1200, which revised Palm Desert Municipal Code (PDMC) Chapter 8.36 concerning the Regulation and Prohibition of Smoking.

A key change introduced by this ordinance was the prohibition of smoking in unenclosed areas.

Since that update, the mediums and substances used for smoking have evolved. This includes the introduction of electronic smoking devices and a variety of substances beyond traditional tobacco.

Update

1. General Cleanup of Terms and Grammar

- a. **Review and Revise Language:** Ensure that the language used throughout the ordinance is clear, precise, and free of ambiguities. This includes updating terminology to reflect current usage and removing any outdated or redundant terms.

2. Amend Definition of “Smoking”

- a. **Current Definition:** Ensure that the term “smoking” is updated to encompass all relevant activities, including the use of electronic smoking devices and non-tobacco substances.

3. Add Definition for “Electronic Smoking Device”

- a. **New Definition:** Introduce a specific definition for electronic smoking devices to address the growing use of vaping products.

Clarification

4. Clarification on “Private Country Clubs”

a. Requested Clarification: PDMC Chapter 8.36 prohibits smoking in unenclosed areas for the following:

- Public places;
- Places of employment;
- Businesses, including, but not limited to, restaurants and bars, and other public accommodations.
 - In addition, prohibition within 20 feet of the primary entrance to a dining area.
 - Two or more entrances, smoking area may be designated within 20 feet of one of the secondary entrances; but prohibited within 20 feet of any other entrance.
- Common areas of multifamily residential properties owned by the city of Palm Desert, except where permitted under Section 8.36.070.

Definition of “Public Place”

“Public place” means:

1. Any area to which the public is invited or in which the public is permitted, including, but not limited to, shopping malls, retail stores, retail service establishments, retail food production and marketing establishments, restaurants, theaters, waiting rooms, reception areas, educational facilities, health facilities, and public transportation facilities and their associated parking areas. **A private residence or private country club is not a public place;**
2. Areas measured a distance of forty feet from the entrances and exits to city-owned public places;
3. Areas measured a distance of twenty feet from the primary entrances to publicly or privately-owned commercial, industrial, institutional, or office professional buildings;
4. Unenclosed areas owned by the city including, but not limited to, city-owned property, parks, playgrounds, restrooms, baseball and soccer fields, except the golf course area of Desert Willow or where specific signs are posted permitting such smoking;
5. Unenclosed public events including, but not limited to, sports events, entertainment, speaking performances, ceremonies and fairs;
6. Hotels, except in designated areas.

Clarification

Recently, Code Compliance staff addressed a complaint regarding smoking in front of a restaurant located within a private country club community. During our review, we encountered a potential conflict in the application of the code.

- While smoking is prohibited in unenclosed areas of Places of Employment, Businesses, and Public Places, a “private country club” is explicitly excluded from the definition of “public places.”
- “Private country club” is not defined within the code, leading to some ambiguity
 - Was the intent to allow smoking in all unenclosed areas of a private country club; or
 - Only within the golf course area (fairways and greens), and certain designated areas.

Staff Recommendation

1. Define “private country club” as a gated residential community, generally not open to the public with a golf course, clubhouse, and other amenities.
2. Exempt private country clubs (current practice), unless they specifically request to “opt-in” through board action where smoking would only be permitted within the golf course area, and certain designated areas.