

MEETING DATE: 07/28/2008

AGENDA ITEM: **Introduction of an Ordinance Amending Chapter 9.11 of the Culver City Municipal Code Relating to Smoking Regulations to 1) Add New Regulations Prohibiting Smoking in Outdoor Dining Areas; 2) Relocate Existing Regulations Prohibiting Smoking in City Parks from Subchapter 9.10.500, et seq. to Chapter 9.11; and 3) Update Existing Regulations Contained in Chapter 9.11 to be Consistent with State Law.**

ATTACHMENTS

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ORDINANCE NO. 2008-_____

AN ORDINANCE OF THE CITY OF CULVER CITY, CALIFORNIA, AMENDING CHAPTER 9.11 OF THE CULVER CITY MUNICIPAL CODE RELATING TO SMOKING REGULATIONS TO 1) ADD NEW REGULATIONS PROHIBITING SMOKING IN OUTDOOR DINING AREAS; 2) RELOCATE EXISTING REGULATIONS PROHIBITING SMOKING IN CITY PARKS FROM SUBCHAPTER 9.10.500, *et seq.* TO CHAPTER 9.11; AND 3) UPDATE EXISTING REGULATIONS CONTAINED IN CHAPTER 9.11 TO BE CONSISTENT WITH STATE LAW.

WHEREAS, the California Air Resources Board has identified environmental tobacco smoke, or secondhand smoke, as a Toxic Air Contaminant, which may cause and contribute to death or serious illness, including increased risks of cancer, and is especially hazardous to children and people with asthma and other respiratory problems; and

WHEREAS, according to the United States Environmental Protection Agency, any level of exposure to secondhand smoke is harmful; and

WHEREAS, it is the intent of the City Council of the City of Culver City to provide for the public's health, safety, and welfare by discouraging the inherently dangerous activity of tobacco use around non-consenting individuals; and

WHEREAS, the City Council hereby declares that the intent and purpose of prohibiting smoking at the locations identified in this Ordinance is to protect the public health, safety, and welfare by reducing the number of locations in the City where exposure to secondhand smoke can occur; and

WHEREAS, for organizational purposes and ease of reference for the public, the City's smoke-free parks regulations set forth in Chapter 9.10 shall be relocated to Chapter 9.11; and

WHEREAS, the City's existing general smoking regulations set forth in Chapter 9.11 are unnecessary as they are either duplicative of or in conflict with state law.

1 **NOW THEREFORE**, the City Council of the City of Culver City, California,
2 **DOES HEREBY ORDAIN** as follows:

3 **SECTION 1.** Chapter 9.11 of the Culver City Municipal Code is hereby
4 repealed and replaced with the following:

5 **CHAPTER 9.11: SMOKING REGULATIONS**

6 § 9.11.100 Purpose

7 § 9.11.105 Definitions

8 § 9.11.110 Smoking Prohibited in Outdoor Dining Areas

9 § 9.11.115 Smoking Prohibited in City Parks and Recreational Areas

10 § 9.11.120 Other Prohibitions and Requirements

11 § 9.11.125 Exemptions

12 § 9.11.130 Penalties and Enforcement

13 § 9.11.135 Conflict of Provisions

14 **§ 9.11.100 PURPOSE.**

15 It is the intent of the City Council of the City of Culver City to control
16 exposure to secondhand smoke by prohibiting smoking at certain locations, in
17 addition to those places where smoking is prohibited by state law. The California Air
18 Resources Board has identified environmental tobacco smoke, or secondhand
19 smoke, as a Toxic Air Contaminant, which may cause and contribute to death or
20 serious illness, including increased risks of cancer, and is especially hazardous to
21 children and people with asthma and other respiratory problems. The intent and
22 purpose of prohibiting smoking at the locations identified in this Chapter is to protect
23 the public health, safety, and welfare by reducing the number of locations in the City
24 where exposure to secondhand smoke can occur. The provisions of this Chapter
25 are intended to be a supplement to existing state law smoking prohibitions and
26 restrictions.

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1 weed or plant, including a pipe, cigar, hookah pipe, or cigarette of any kind.

2 **Tobacco Paraphernalia** shall mean cigarette papers or wrappers,
3 pipes, holders of smoking materials of all types, cigarette rolling machines,
4 and any other item designed for the smoking, preparation, storing, or
5 consumption of Tobacco Products.

6 **Tobacco Product** shall mean:

7 A. any substance containing tobacco leaf, including but not
8 limited to cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing
9 tobacco, dipping tobacco, bidis, or any other preparation of tobacco; and

10 B. any product or formulation of matter containing
11 biologically active amounts of nicotine that is manufactured, sold, offered for
12 sale, or otherwise distributed with the expectation that the product or matter
13 will be introduced into the human body, but does not include any product
14 specifically approved by the United States Food and Drug Administration for
15 use in treating nicotine or tobacco dependence.

16 **§ 9.11.110 SMOKING PROHIBITED IN OUTDOOR DINING**
17 **AREAS.**

18 A. *Prohibition.* Smoking is prohibited in all Outdoor Dining Areas
19 located on private or public property, including the public right-of-way.

20 B. *Posting of Signs.* Every Outdoor Dining Area subject to the
21 prohibition set forth in subsection (A) above must have one or more
22 conspicuously displayed signs stating that smoking is prohibited in the
23 Outdoor Dining Area. Such signs must have text and/or graphics to clearly
24 indicate that smoking is prohibited in the Outdoor Dining Area and include an
25 appropriate Culver City Municipal Code citation. Any text must be clearly
26 contrasted with the background and must be a minimum of one inch in
27 height. The text must state "No Smoking," "Smoke Free Area," or another
28 phrase to clearly indicate that smoking is prohibited. Any graphics must be

1 substantially similar to the international "No Smoking" symbol, consisting of a
2 pictorial representation of a burning cigarette enclosed in a red circle with a
3 red bar across it. Such signs shall be posted in a quantity and manner
4 reasonably likely to inform individuals occupying the Outdoor Dining Area that
5 smoking is prohibited within the Outdoor Dining Area and must be made of
6 permanent, weather resistant materials.

7 C. *Time of Posting.* Every business or property subject to subsection
8 (A) above shall post the signs required by this Section within thirty (30) days
9 of the effective date of this Chapter. Every business or property which
10 becomes subject to the provisions of this Chapter after its effective date shall
11 post the required signs immediately upon commencing operations.

12 **§ 9.11.115 SMOKING PROHIBITED IN CITY PARKS AND**
13 **RECREATIONAL AREAS.**

14 A. *Prohibition.* Smoking within any Park or Recreational Area is
15 Prohibited.

16 B. *Tobacco Waste.* The disposal of any Tobacco Product or
17 Tobacco Paraphernalia within any Park or Recreational Area is prohibited,
18 except in a City-designated waste receptacle, or unless being done as part of
19 a scene in a film, television or live performance production.

20 C. *Posting of Signs.* The City shall cause the installation of "No
21 Smoking" signs, with letters of no less than one inch in height and including the
22 international "No Smoking" symbol consisting of a pictorial representation of a
23 burning cigarette enclosed in a red circle crossed by a red bar. Such signs shall be
24 clearly and conspicuously posted and maintained at all main entrances to a Park or
25 Recreational Area and additional signs shall be posted in a quantity and manner
26 reasonably likely to inform individuals occupying the Park or Recreational Area that
27 smoking is prohibited within the area.

1 **§ 9.11.120 OTHER PROHIBITIONS AND REQUIREMENTS.**

2 A. Nothing in this Chapter shall be construed to prohibit Smoking
3 in any area in which Smoking is already prohibited by state or federal law
4 unless the applicable state or federal law permits additional local regulation.

5 B. Nothing in this Chapter shall be construed to grant any person
6 an affirmative right to Smoke or permit Smoking in any area in which
7 Smoking is otherwise prohibited by this Chapter or state or federal law, or
8 prohibited by a person with property rights in the no-Smoking area.

9 C. No person shall Smoke or knowingly permit Smoking in
10 an area under the person's legal or de facto control in which Smoking is
11 prohibited by this Chapter or state or federal law except a person
12 who is already compelled to act under state or federal law unless the
13 applicable state or federal law permits additional local regulation.

14 D. No person shall willfully mutilate or destroy any sign required by
15 this Chapter.

16 E. Signs required by this Chapter are exempt from the sign
17 requirements in Chapter 17.330 of this Code.

18 F. The absence of signs required by this Chapter shall not be a
19 defense to a violation of any provision of this Chapter.

20 G. No person shall intimidate, threaten any reprisal, or effect any
21 reprisal, for the purpose of retaliating against another person who seeks to
22 attain compliance with this Chapter.

23 **§ 9.11.125 EXEMPTION.**

24 The provisions of this Chapter shall not apply to any person acting in a
25 scene of a live performance production or a film or television production, as
26 long as a Film Permit has been obtained, if required pursuant to the
27 provisions of Chapter 11.14 of this Code.

1 **§ 9.11.130 PENALTIES AND ENFORCEMENT.**

2 A. The remedies provided by this Chapter are cumulative and
3 in addition to any other remedies available at law or in equity.

4 B. A violation of this Chapter is subject to a civil action brought
5 by the City Attorney, punishable by a civil fine not less than one hundred
6 dollars (\$100) and not exceeding one thousand dollars (\$1,000) per
7 violation.

8 C. A violation of any provision of this Chapter may, in the
9 discretion of the City Attorney, be prosecuted as an infraction or
10 misdemeanor. The City Council shall, by resolution, establish the penalties
11 for a violation of this Chapter, but in no event shall such penalties exceed
12 the maximum penalties permitted under State law.

13 D. Causing, permitting, aiding, abetting, or concealing a violation of
14 any provision of this Chapter shall also constitute a violation of this
15 Chapter.

16 E. Any violation of this Chapter is hereby declared to be a
17 public nuisance. In addition, any violation of this Chapter involving
18 Smoking is hereby declared to be a private nuisance.

19 G. Any person acting for the interests of itself, its members, or the
20 general public may bring a civil action to enforce this Chapter.

21 **§ 9.11.135 CONFLICT OF PROVISIONS.**

22 In the event of any conflict between this Chapter and any other
23 provision of this Code, this Chapter shall control.

24 **SECTION 2.** Sections 9.10.500 through and including 9.10.525 of the Culver
25 City Municipal Code are hereby repealed.

26 **SECTION 3.** Pursuant to Section 619 of the City Charter, this Ordinance
27 shall take effect thirty (30) days after the date of its adoption. Pursuant to Sections 616

1 and 621 of the City Charter, prior to the expiration of fifteen (15) days after the adoption,
2 the City Clerk shall cause this Ordinance, or a summary thereof, to be published in the
3 Culver City News and shall post this Ordinance or a summary thereof in at least three
4 places within the City.

5 **SECTION 4.** The City Council hereby declares that, if any provision, section,
6 subsection, paragraph, sentence, phrase or word of this ordinance is rendered or declared
7 invalid or unconstitutional by any final action in a court of competent jurisdiction or by
8 reason of any preemptive legislation, then the City Council would have independently
9 adopted the remaining provisions, sections, subsections, paragraphs, sentences, phrases
10 or words of this ordinance and as such they shall remain in full force and effect.

11 **APPROVED AND ADOPTED** this ____ day of _____, 2008.

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14 _____
15 D. SCOTT MALSIN, Mayor
16 City of Culver City, California

17 ATTEST:

APPROVED AS TO FORM:

18
19
20 _____
21 MARTIN R. COLE, City Clerk

22
23 _____
24 CAROL A. SCHWAB, City Attorney

CHAPTER 9.11: SMOKING REGULATIONS

Section

- 9.11.005 Definitions
- 9.11.010 City-owned facilities
- 9.11.015 Prohibition of smoking in public places
- 9.11.020 Regulation of smoking in places of employment
- 9.11.025 Optional smoking areas
- 9.11.030 Posting requirements
- 9.11.035 Air circulation in smoking restaurants
- 9.11.040 Certification for smoking restaurants
- 9.11.045 Designation as nonsmoking restaurant
- 9.11.050 Fees for smoking restaurants
- 9.11.055 Register of complaint; notice of provisions
- 9.11.060 Violations; penalties
- 9.11.065 Non-retaliation
- 9.11.070 Exemptions and modifications
- 9.11.075 Public education
- 9.11.080 Governmental agency cooperation
- 9.11.085 Other applicable laws

§ 9.11.005 DEFINITIONS.

The following words and phrases, whenever used in this Chapter, shall be construed as hereafter set out, unless it is apparent from the context they have a different meaning:

BAR. An area which is devoted primarily to the serving of alcoholic beverages and in which the serving of food is only incidental to the consumption of such beverages. "Incidental" shall mean the serving of hors d'oeuvres and snacks, but not including meals.

EMPLOYEE. Any person who is employed by

any employer in consideration for direct or indirect monetary wages or profit.

EMPLOYER. Any person, partnership, corporation, including a municipal corporation or public entity, who has more than three (3) employees.

ENCLOSED. Closed in by a roof and four (4) walls with appropriate openings for ingress and egress.

NON-PROFIT ENTITY. Any corporation, unincorporated association or other entity created for charitable, philanthropic, educational or other similar purposes, the net proceeds from the operation of which are committed to the promotion of the objects or purposes of the organization and not to private financial gain.

PLACE OF EMPLOYMENT. Any enclosed area under control of an employer which employees normally frequent during the course of employment, including but not limited to work areas, employee lounges, conference rooms and employee cafeterias. A private residence is not a place of employment.

PUBLIC PLACE. Any area to which the public is generally invited or in which the public is generally permitted.

RESTAURANT. Any publicly or privately owned coffee shop, cafeteria, short order cafe, luncheonette, sandwich shop, soda fountain, or other eating establishment which gives or offers for sale food to the public, guests, patrons or employees as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities, except the term **RESTAURANT** shall not include any area within the facility containing the restaurant if such area is non-contiguous to the eating area and otherwise meets the definition of **BAR** as set forth in Subsection A. above.

RESTAURANT, NONSMOKING. Any restaurant with a seating capacity of twenty-five (25) or more persons throughout which the owner, operator or manager who controls the restaurant has elected to prohibit smoking, or a restaurant with a seating capacity of fewer than twenty-five (25) persons.

RESTAURANT, SMOKING. Any restaurant with a seating capacity of twenty-five (25) or more persons in which the owner, operator or manager who controls the restaurant has elected to permit smoking.

SERVICE LINES. Any indoor line in which one (1) or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money or other consideration.

SMOKING. The inhaling, exhaling, burning or carrying of any lighted pipe, cigar, cigarette, weed, plant or other combustible substance in any manner or in any form.
('65 Code, § 27-1) (Ord. No. 87-022 § 2; Ord. No. 91-004 § 1)

§ 9.11.010 CITY-OWNED FACILITIES.

To the extent allowed by law, all enclosed facilities owned by the City of Culver City shall be subject to the provisions of this Chapter.
('65 Code, § 27-2) (Ord. No. 87-022 § 2)

§ 9.11.015 PROHIBITION OF SMOKING IN PUBLIC PLACES.

Smoking shall be prohibited in all enclosed public places within the City of Culver City during any time they are open for use by members of the public, including, but not limited to, the following places:

- A. Passenger elevators;
- B. Buses, taxicabs and other means of public transit under the authority of the City of Culver City, and ticket, boarding, and waiting areas of public

transit depots; provided, however, this prohibition does not prevent:

- 1. The establishment of two (2) separate waiting areas for smokers and nonsmokers; or

- 2. The establishment of a maximum of fifty percent (50%) of a single given waiting area as a smoking area.

- C. Restrooms;

- D. Service lines;

- E. Retail stores, except areas not open to the public and all areas within a retail store the primary purpose of which is to sell tobacco products;

- F. All areas available to and customarily used by the general public in all businesses and non-profit entities patronized by the public, including but not limited to all offices, banks, hotels and motels;

- G. Waiting rooms, hallways, wards, and semi-private rooms of health facilities, including, but not limited to, hospitals, clinics, physical therapy facilities, doctors' offices and dentists offices, except that health facilities shall also be subject to the provisions of § 9.11.020 regulating smoking in places of employment;

- H. A building or hall used for entertainment, including theater, auditorium and sports arena, except any lobby and any area which is not open to the public;

- I. In any enclosed theater, auditorium and/or hall which is used for motion pictures, stage dramas and musical performances, ballets or other exhibition, except when smoking is part of such production;

- J. Retail food marketing establishments, including grocery stores and supermarkets, except those areas of such establishments set aside for the serving of food and drink, restrooms and offices and areas thereof not open to the public, which may otherwise be regulated by other sections of this Chapter;

K. Public schools and other public facilities under the control of another public agency, which are available to and customarily used by the general public, to the extent that the same are subject to the jurisdiction of the City of Culver City;

L. Any restaurant; provided that any owner, operator or manager of a restaurant regulated by this Chapter shall, by signs, designate no more than thirty-four percent (34%) of the total eating area seating capacity as a smoking area.

M. Any non-smoking restaurant.
(‘65 Code, § 27-3) (Ord. No. 87-022 § 2; Ord. No. 90-032 § 1; Ord. No. 91-004 §§ 2, 3)

§ 9.11.020 REGULATION OF SMOKING IN PLACES OF EMPLOYMENT.

A. It shall be the responsibility of employers to provide smoke free areas for nonsmokers within existing facilities to the maximum extent possible, but employers are not required to incur any expense to make structural or other physical modifications in providing these areas.

B. Within ninety (90) days of the effective date of this Chapter, each employer and each place of employment located within the City of Culver City shall adopt, implement and make known and maintain a written smoking policy which shall contain at a minimum the following requirements:

1. Prohibition of smoking within any employee's immediate work area if requested by the employee and designated by signs provided by the employer; provided that, the employer may reasonably define the "immediate work area."

2. Prohibition of smoking in conference and meeting rooms, classrooms, auditoriums, restrooms, medical facilities, hallways and elevators.

3. An annual poll of all employees shall be conducted to determine the percentage of smokers and nonsmokers. The employer shall then establish smoking and nonsmoking areas within lunchrooms, cafeterias and employee lounges in proportion to these

percentages. In lieu of conducting such a poll, an employer may establish nonsmoking areas of not less than fifty percent (50%) of the seating capacity and floor space in lunch rooms, cafeterias and employee lounges.

4. In any dispute arising under the smoking policy, the health concerns of the nonsmoker shall be given precedence.

C. The smoking policy shall be communicated to all employees within three (3) weeks of its adoption and at least annually thereafter.

D. All employers shall supply a written copy of the smoking policy upon request to any existing or prospective employee.

E. Notwithstanding any other provision of this Section, every employer shall have the right to prohibit smoking in all areas of the place of employment.

(‘65 Code, § 27-4) (Ord. No. 87-022 § 2)

§ 9.11.025 OPTIONAL SMOKING AREAS.

A. Notwithstanding any other provisions of this Chapter to the contrary, the following areas shall not be subject to the smoking restrictions of this Chapter:

1. Private residences, except when used as a child care or health care facility;

2. Bars;

3. Hotel rooms and motel rooms rented to guests;

4. Retail stores the primary purpose of which is to sell tobacco products;

5. Restaurant, hotel and motel conference and meeting rooms and public and private assembly rooms while these places are being used for private functions open only to invitees or members of the organization and their guests;

6. A private enclosed office workplace occupied exclusively by smokers, even though such an office workplace may be visited by non-smokers. Nothing contained herein shall permit smoking where it is otherwise prohibited by other applicable laws;

B. Notwithstanding any other provision of this Section, any owner, operator, manager, or other person who controls any establishment described in this Section may prohibit smoking in all areas of the establishment.

('65 Code, § 27-5) (Ord. No. 87-022 § 2; Ord. No. 90-032 § 2)

§ 9.11.030 POSTING REQUIREMENTS.

A. Every owner, operator, manager or person having control of a building or place where smoking is regulated by this Chapter shall clearly and conspicuously post or cause to be posted in every such building or place "Smoking" or "No Smoking" signs, whichever are appropriate, with letters of not less than three (3) inches in height or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it).

B. Every theater owner, manager or operator subject to this Chapter shall clearly and conspicuously post or cause to be posted signs in the lobby stating smoking is prohibited within the theater or auditorium, and in the case of motion picture theaters, such information shall be shown on the screen for at least five (5) seconds prior to the showing of each feature motion picture.

C. Every restaurant subject to this Chapter shall have, at its entrance or in its reception area, signs designating smoking and nonsmoking areas which clearly direct patrons to the correct area of the restaurant. In any restaurant where smoking is entirely prohibited, there shall be a sign to that effect at its entrance or reception area.

('65 Code, § 27-6) (Ord. No. 87-022 § 2)

§ 9.11.035 AIR CIRCULATION IN SMOKING RESTAURANTS.

A. The City Council shall, by resolution, establish standards applicable to smoking restaurants which are required, pursuant to § 9.11.015 L., to designate no more than thirty-four percent (34%) of the total eating area capacity as a smoking area. These standards shall provide for segregation of the smoking and nonsmoking air streams or for removal of smoke and its products from the atmosphere prior to recirculation into a nonsmoking area.

B. Prior to issuance of a building permit for construction of a new or significant remodelling or repair of an existing restaurant with a seating capacity of twenty-five (25) or more persons, the Building Official shall determine whether the restaurant is a smoking restaurant or a nonsmoking restaurant. As used herein, the remodelling or repair is "significant" if the value of work, as determined by the City, is at least One Hundred Thousand Dollars (\$100,000.00).

C. The Building Official shall not issue a building permit for a smoking restaurant unless the restaurant shall contain either dual fresh air circulation, or ventilation systems with negative pressure in smoking areas, or floor-to-ceiling physical barriers segregating "smoking" and "nonsmoking" areas, or an alternate system reviewed and approved by the Building Official; provided that the means which are chosen to separate smoke-free air from air which contains tobacco smoke must meet or exceed the standards.

('65 Code, § 27-6.1) (Ord. No. 91-004 § 4)

§ 9.11.040 CERTIFICATION FOR SMOKING RESTAURANTS.

A. No Certificate of Occupancy for a newly constructed smoking restaurant shall be issued until the Building Official has tested and approved the installation of the air circulation system.

B. Whenever a building permit is issued for an existing restaurant to be significantly remodeled as defined in this Chapter, the Building Official shall revoke the Certificate of Occupancy for such restaurant and concurrently issue a temporary Certificate of Occupancy for the period of construction, and issue a new Certificate of Occupancy for the remodeled smoking restaurant only after the Building Official has approved and tested the installation of the air circulation system.

C. No application for business tax certificate for a smoking restaurant shall be considered complete unless the Building Official approves, after review and testing of the ventilation systems required by the standards, the issuance of such business tax certificate.

D. The owner, operator or manager of a smoking restaurant shall be required to submit to the Building Official annually a certified report of a licensed contractor stating that the ventilation systems are in proper operating order.

E. The application for renewal of a business tax certificate shall not be complete until a copy of the certified report, in compliance with Subsection D., has been submitted to the Tax Collector.
(‘65 Code, § 27-6.2) (Ord. No. 91-004 § 5)

§ 9.11.045 DESIGNATION AS NONSMOKING RESTAURANT.

A. If the owner, operator or manager of a restaurant with a seating capacity of twenty-five (25) or more persons and the land owner elect to prohibit smoking throughout the restaurant, and execute land-use restriction(s) so to prohibit smoking throughout the restaurant in a form approved by the City Attorney and recorded with the County Recorder, the Building Official shall issue a building permit for the proposed new construction or significant remodeling without certifying that the air circulation, filtration, ventilation or other systems meet the special standards adopted by resolution of the City Council to implement these §§ 9.11.035 through 9.11.050.

B. The Building Official shall not issue a Certificate of Occupancy for a nonsmoking restaurant until the land use restriction required by Subsection A. has been recorded, and no application for a business tax certificate for a nonsmoking restaurant shall be considered complete until the Building Official has issued the Certificate of Occupancy.

C. If the owner, operator or manager of the restaurant and the property owner elect to permit smoking in a restaurant previously designated as nonsmoking pursuant to Subsection A., the restaurant shall be made to conform to the provisions of § 9.11.040 prior to the change of use.

D. No Certificate of Occupancy for a smoking restaurant shall be issued unless and until the Building Official has certified that the restaurant has installed and tested a system which meets or exceeds the standards.

E. The Building Official shall cause to be recorded a release of the land use restrictions in a form approved by the City Attorney as soon as practicable after the Certificate of Occupancy for the smoking restaurant has been issued.
(‘65 Code, § 27-6.3) (Ord. No. 91-004 § 6)

§ 9.11.050 FEES FOR SMOKING RESTAURANTS.

The City Council shall, by resolution, establish fees to be paid to the Building Department to cover the cost of inspections and testing of air segregation systems.
(‘65 Code, § 27-6.4) (Ord. No. 91-004 § 7)

§ 9.11.055 REGISTER OF COMPLAINT; NOTICE OF PROVISIONS.

A. Any person who desires to register a complaint under this Chapter may do so with the Parks, Recreation and Community Services Department.

B. Any owner, manager, operator or employee of any establishment regulated by this Chapter may inform persons violating this Chapter of the appropriate provisions thereof.

('65 Code, § 27-17) (Ord. No. 87-022 § 2; Ord. No. 2002-005 § 1 (part))

§ 9.11.060 VIOLATIONS; PENALTIES.

A. It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation under this Chapter to fail to comply with any of its provisions. The owner, manager or operator of a restaurant shall not be deemed in violation of § 9.11.030 if the host or hostess of the restaurant fails to ask the seating preference of patrons, but shall be deemed in violation thereof if the restaurant has no stated policy requiring patrons be asked their preference.

B. It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this Chapter.

C. Any person who violates any provision of this Chapter shall be guilty of an infraction, punishable by:

1. A fine not exceeding One Hundred Dollars (\$100.00) for the first violation;

2. A fine not exceeding Two Hundred Dollars (\$200.00) for a second violation of this Chapter within one year;

3. A fine not exceeding Five Hundred Dollars (\$500.00) for each additional violation of this Chapter within one year.

('65 Code, § 27-8) (Ord. No. 87-022 § 2; Ord. No. 90-032 § 3)

§ 9.11.065 NON-RETALIATION.

No person or employer shall discharge, refuse to hire, or in any manner retaliate against any employee

or applicant for employment because such employee or applicant exercises any rights afforded by this Chapter.

('65 Code, § 27-9) (Ord. No. 87-022 § 2)

§ 9.11.070 EXEMPTIONS AND MODIFICATIONS.

A. Any owner, operator or manager of a business or other establishment subject to this Chapter may apply to the City of Culver City for an exemption or modification to any provision of this Chapter due to financial impracticability, based on the cost of complying with the requirements of this Chapter.

B. Such exemption shall be granted only upon a finding, from the evidence presented by the applicant for exemption at a public hearing before the Parks and Recreation Commission, that it is financially impracticable for the applicant to comply with the requirements of this Chapter, based upon the actual costs to be incurred in order to make physical modifications to a facility.

C. The applicant for an exemption shall be required to pay a reasonable fee to cover the costs of the hearing. Said fee shall be established by the City Council by resolution. Notice of the time and place of said hearing shall be mailed to the applicant and published in a newspaper of general circulation within the City of Culver City not less than ten (10) days prior to said hearing.

D. The Parks and Recreation Commission shall be empowered to grant such an exemption.

E. Any decision regarding exemptions by the Parks and Recreation Commission shall be appealable to the City Council by any interested person, within fifteen (15) days of the date of the decision. The appellant shall be required to pay a reasonable fee to cover the costs of the appeal. The fee shall be established by the City Council by resolution.

('65 Code, § 27-10) (Ord. No. 87-022 § 2; Ord. No. 2002-005 § 3 (part))

§ 9.11.075 PUBLIC EDUCATION.

The Parks, Recreation and Community Services Department shall leave the responsibility of conducting a public education campaign regarding the health consequences of smoking to other governmental and health agencies equipped to conduct such campaigns.

('65 Code, § 27-11) (Ord. No. 87-022 § 2; Ord. No. 2002-005 § 1 (part))

§ 9.11.080 GOVERNMENTAL AGENCY COOPERATION.

The City Manager shall annually request other governmental and educational agencies having facilities within the City of Culver City to establish local operating procedures in cooperation and compliance with this Chapter.

('65 Code, § 27-12) (Ord. No. 87-022 § 2; Ord. No. 2006-009 § 22 (part))

§ 9.11.085 OTHER APPLICABLE LAWS.

This Chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

('65 Code, § 27-13) (Ord. No. 87-022 § 2)