

**DRAFT ORDINANCE**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ATASCADERO, CALIFORNIA, ADDING SECTION 8 TO TITLE 6, CHAPTER 6 OF THE ATASCADERO MUNICIPAL CODE, PROVIDING FOR THE PROHIBITION OF SMOKING AT THE ATASCADERO STATE HOSPITAL**

**WHEREAS**, the City of Atascadero has adopted a prohibition against smoking (including but not limited to the smoking of tobacco and tobacco products) in designated public places throughout the City; and,

**WHEREAS**, the Executive Director of the Atascadero State Hospital requested that the City expand its smoking prohibition to all interior areas of the Atascadero State Hospital, and, at the discretion of the Executive Director, exterior areas of the Atascadero State Hospital; and,

**WHEREAS**, the City recognizes that smoking tobacco, including the breathing of sidestream or secondhand smoke, remains a proven danger to the health of human beings; and

**WHEREAS**, the City recognizes that the residents and employees of the Atascadero State Hospital may be subjected to involuntary breathing of sidestream or secondhand smoke while in that facility or on its grounds.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ATASCADERO HEREBY ORDAINS AS FOLLOWS:**

**SECTION 1. Findings**

The City Council hereby incorporates the foregoing recitals and in addition finds as follows:

1. There may be Federal or State of California laws or regulations applicable to the smoking of tobacco or other products in or on the grounds of the Atascadero State Hospital.
2. The Executive Director of the Atascadero State Hospital is in the best position to learn and interpret the laws and regulations applicable to the smoking of tobacco or other products in or on the grounds of the Atascadero State Hospital.
3. Courts in the State of California have recognized that while there is no statewide ban on smoking in mental health or correctional facilities, a municipal ordinance allowing for the prohibition of smoking at a mental health or correctional facility will provide for equal health benefits for the residents and employees of the facility as are provided for the public at large.

**SECTION 2. Adoption.** Section 6-6.08 (Prohibition at the Atascadero State Hospital) of the Atascadero Municipal Code is added to read in whole as follows:

**6-6.08 Prohibition at the Atascadero State Hospital.**

The Executive Director of the Atascadero State Hospital may declare the entire hospital, including indoor and outdoor areas, to be a nonsmoking establishment, provided such declaration is consistent with any applicable Federal and State laws and regulations. The Executive Director or his or her designee shall have the primary responsibility for enforcement of this Section at the hospital.

**SECTION 3.** A summary of this ordinance, approved by the City Attorney, together with the ayes and noes, must be published twice: at least five (5) days prior to its final passage in the *Atascadero News* or other newspaper of general circulation in the City of Atascadero, and before the expiration of fifteen (15) days after its final passage in the *Atascadero News* or other newspaper of general circulation in the City of Atascadero. A copy of the full text of this ordinance must be on file in the City Clerk's Office on and after the date following introduction and passage and must be available to any interested member of the public.

INTRODUCED at a regular meeting of the City Council held on \_\_\_\_\_, and PASSED and ADOPTED by the City Council of the City of Atascadero, State of California, on \_\_\_\_\_, by the following roll call vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

CITY OF ATASCADERO

\_\_\_\_\_  
Marcia McClure Torgerson, C.M.C.,  
City Clerk

\_\_\_\_\_  
Mike Brenner, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Brian A. Pierik, City Attorney