



## Ordinance No. 2023-02

### Frequently Asked Questions

**1. When does the new ordinance take effect?**

The new smoking ordinance takes effect on Tuesday, July 11. Until then, smoking is still prohibited at, or within 20 feet of any City-owned and/or maintained and operated beach, park or trail or within 20 feet of any outdoor/patio dining area of an eating establishment.

**2. Where is smoking or vaping prohibited?**

- In public places.
- Places of employment.
- Within 20 feet of a public place, except private residential property.

**3. Where is smoking or vaping allowed?**

- On private property that is not considered a public place, including residential homes.
- Within a motor vehicle that is being actively driven.
- In up to 20% of rooms at a hotel or motel.

**4. Can I smoke on my private balcony or yard in a multi-unit residential complex?**

Yes, under the new smoking laws, smoking is still allowed on any private property, which includes the private portion of multi-family homes like condos and apartments. However, smoking is prohibited in multi-family common areas because this is considered a public place.

**5. Can my business apply to provide a designated smoking area?**

A smoking area may be designated as long as it is at least 20 feet from any portion of the business that is considered a public place and also meets all [statewide smoke-free air laws and restrictions](#). It is recommended that any business considering establishment of a designated smoking area consult with the City and the California Department of Public Health prior to doing so to ensure the area would be in compliance with all regulations.

**6. What does smoking include?**

Smoking is defined to include cigarettes, cigars, electronic smoking or "vaping" devices, used to smoke tobacco, nicotine, or cannabis. Read [Ordinance No. 2023-02](#) for a comprehensive definition.

**7. What if I am driving through town and stop at a stoplight while smoking, is this breaking the law?**

No, this is not against municipal code because you are still driving through the city. However, smoking or vaping in your motor vehicle is prohibited if you are pulled over on the side of the road or in a parking lot.



**8. How will the ordinance be enforced?**

The City of Encinitas and San Diego County Sheriff Department will use verbal warnings and public education as the primary means of enforcement. It is up to members of the public to understand the law and smoke away from public areas. The Sheriff Department and the City's code enforcement officers will have the authority to issue citations for violating the ordinance. Citations can range from \$50 to \$1,000, depending on the nature of the violation.

**9. Where can I report those violating the new smoking ordinance?**

To report a violation of the new smoking ordinance, you can call the non-emergency Sheriff number at 858-565-5200 or file a complaint using the City's code complaint form, [here](#). Complaints may also be filed using the MyEncinitas app, which can be downloaded [here](#).

**10. If I operate/own a hotel or motel, can I choose to have 100% of the rooms smoke-free?**

Yes, all hotel or motel operators can elect to keep their hotels 100% smoke-free, rather than dedicating 20% of the rooms as smoking rooms.

**11. Who do I contact for more information or questions about the law?**

More information is available on the City's website page at <https://www.encinitasca.gov/smoking>. For further questions, please contact Crystal Najera, Sustainability Manager, at 760-943-2285 or email [cnajera@encinitasca.gov](mailto:cnajera@encinitasca.gov).