

ORDINANCE NO. 918

AN ORDINANCE OF THE MONTEREY PENINSULA
AIRPORT DISTRICT REGULATING ELECTRONIC SMOKING DEVICES ON
MONTEREY PENINSULA AIRPORT DISTRICT

THE BOARD OF DIRECTORS OF MONTEREY PENINSULA AIRPORT DISTRICT DO
ORDAIN AS FOLLOWS:

Section 1. Findings and Purpose. The Board of Directors finds and declares as follows:

A. Electronic smoking devices, commonly known as “electronic cigarettes,” “ecigarettes,” “e-cigars,” “e-cigarillos,” “e-pipes,” “e-hookahs,” “electronic nicotine delivery systems,” etc., are battery operated devices designed to deliver nicotine, flavor, and/or other substances through a vapor inhaled by the user. (U.S. Food and Drug Administration. (2001). Electronic Cigarettes. Retrieved on September 22, 2015 from <http://www.fda.gov/NewsEvents/PublicHealthFocus/ucm172906.htm>).

B. In 2009, the Food and Drug Administration issued a warning about the potential health risks associated with e-cigarettes, saying laboratory studies of some samples had found the presence of toxic chemicals, including diethylene glycol, which is used in antifreeze. (David Barboza, China’s E-Cigarette Boom Lacks Oversight for Safety, The New York Times, December 13, 2014.)

C. The U.S. Surgeon General concluded that there is no safe level of exposure to secondhand smoke. (US Department of Health and Human Services, Office of the Surgeon General, Secondhand Smoke- What it Means to You (2006) available at: <http://www.surgeongeneral.gov/library/reports/secondhandsmoke/secondhandsmoke.pdf>

D. In 2006, the California Air Resources Board identified secondhand smoke (environmental tobacco smoke) as toxic air contaminant for which there is no safe level. (Available at <http://www.arb.ca.gov/newsrel/nr012606.htm>)

E. It is the intent of the Board of Directors, in adopting this ordinance to regulate electronic smoking devices, to provide further protections for the public health, safety, and welfare by discouraging the behavior of smoking around non-smokers, especially children; by protecting the public from exposure to secondhand smoke; by reducing the potential for children to wrongly associate smoking with a healthy lifestyle; and by affirming and promoting a healthy environment.

Section 2. Definition. “Electronic Smoking Device” means an electronic device that can be used to deliver an inhaled dose of nicotine, or other substances, including any such device that is manufactured, distributed, marketed, or sold as an electronic cigarette, e-cigarette, electronic cigar, electronic cigarillo, electronic pipe, electronic hookah or by any other product name or descriptor. “Electronic cigarette” does not include any inhaler prescribed by a licensed physician.

Section 3. Regulation of Electronic Smoking Devices. Electronic Smoking Devices shall be treated as tobacco products for all purposes. The use of Electronic Smoking Devices shall be prohibited in any location where the use of tobacco products is prohibited pursuant to state and/or federal law.

Section 4. Violations and Public Nuisance. Any person smoking a tobacco product, including but not limited to an Electronic Smoking Device, where smoking is prohibited by this Ordinance shall constitute a public nuisance. Causing, permitting, aiding, abetting, or concealing a violation of any provision of this Ordinance shall also constitute a violation of this Ordinance.

Section 5. CEQA. The Board of Directors has determined that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA)(CCR, Title 14, Chapter 3 ("CEQA Guidelines), Article 20, Section 15378). In addition, CEQA Guidelines Section 15061 includes the general rule that CEQA applies only to activities which have the potential for causing a significant effect on the environment. Because the Ordinance has no potential to cause any effect on the environment, and because it falls within a category of activities excluded as projects pursuant to CEQA Guidelines section 15378, this matter is not a project. Because the matter does not cause a direct or any reasonably foreseeable indirect physical change on or in the environment, this matter is not a project.

Section 6. Severability. If any section, subsection, subdivision, sentence, clause, phrase or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Directors hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

Section 7. Effective Date. This ordinance shall take effect 30 days from and after the date of its adoption.

ADOPTED BY THE BOARD OF DIRECTORS OF THE MOTNEREY PENINSULA AIRPORT DISTRICT: This 11th day of May, 2016, by the following roll call vote:

AYES:	DIRECTORS:	Miller, Sabo, Searle, Chair Leffel
NOES:	DIRECTORS:	None
ABSTAIN:	DIRECTORS:	None
ABSENT:	DIRECTORS:	Nelson

Signed this 11th day of May, 2016


Mary Ann Leffel, Chair

ATTEST



Michael La Pier, A.A.E.
Executive Director