

ORDINANCE PROHIBITING SMOKING IN ALL WORKPLACES
(100% SMOKE FREE)

Sec. 1. Title

This Ordinance shall be known as the _____ [name of City or County] Smoke free Air Ordinance of _____ [year].

Sec. 2. Findings and Intent

The _____ [City or County Governing Body] does hereby find that:

A. The 2006 U.S. Surgeon General's Report, The Health Consequences of Involuntary Exposure to Tobacco Smoke, has concluded that secondhand smoke exposure causes disease and premature death in children and adults who do not smoke. For more information, please see www.surgeongeneral.gov.

B. Accordingly, the _____ [City or County Governing Body] finds and declares that the purposes of this ordinance are (1) to protect the public health and welfare by prohibiting smoking in workplaces; and (2) to guarantee the right of nonsmokers to breathe smoke free air, and to recognize that the need to breathe smoke free air shall have priority over the desire to smoke.

Sec. 3. Definitions

The following words and phrases, whenever used in this Ordinance, shall be construed as defined in this Section:

A. "E-cigarette" means any electronic oral device, such as one composed of a heating element, battery, and/or electronic circuit, which provides a vapor of nicotine or any other substances, and the use or inhalation of which simulates smoking. The term shall include any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-cigarillo, e-pipe, or under any other product name or descriptor.

B. "Enclosed Area" means all space between a floor and a ceiling that is bounded on all sides by walls, doorways, or windows, whether open or closed. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent.

C. "Workplace" means an enclosed area under the control of an employer, including, but not limited to, retail stores, restaurants, bars, work areas, private offices, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, and vehicles. A private residence is not a "workplace" unless it is used as a child care, adult day care, or health care facility.

D. "Smoking" means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, or pipe, or any other lighted tobacco or plant product intended for inhalation, in any manner or in any form. "Smoking" also includes the use of an e-cigarette which creates a vapor, in any manner or

in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Ordinance.

Sec. 4. Prohibition of Smoking in Enclosed Workplaces

A. Without exception, smoking shall be prohibited in all enclosed workplaces within the _____ [City or County] of _____.

Sec. 5. Prohibition of Smoking in Outdoor Areas

Smoking shall be prohibited in the following outdoor places:

A. Within a reasonable distance of _____ [*recommended 10-20*] feet outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited, so as to prevent tobacco smoke from entering those areas.

B. In, and within _____ [*recommended 10-20*] feet of, outdoor seating or serving areas of restaurants and bars; all outdoor arenas, stadiums, and amphitheatres; all outdoor public transportation stations, platforms, and shelters under the authority of the _____ [City or County]; and outdoor playgrounds.

Sec. 6. Where Smoking Not Regulated

Notwithstanding any other provision of this Ordinance to the contrary, the following areas shall be exempt from the provisions of Sections 4 and 5:

A. Private residences, unless used as a childcare, adult day care, or health care facility, and except as provided in Section 4.

B. Outdoor areas of places of employment except those covered by the provisions of Section 5.

Sec. 7. Posting of Signs and Removal of Ashtrays

A. The prohibition on smoking in any workplace shall be communicated by all employers to all existing employees by the effective date of this ordinance, and to all prospective employees upon their application for employment.

B. The person having control of the workplace shall place "NO SMOKING" signs in conspicuous areas at the workplace.

C. All ashtrays shall be removed from inside the building, and smoking receptacles may be provided outside the building.

Sec. 8. Enforcement

A. This Ordinance shall be enforced by the _____ [City Manager or County Administrator] or an authorized designee.

B. Notice of the provisions of this Ordinance shall be given to all applicants for a business license in the _____ [City or County] of _____.

C. Any citizen who desires to register a complaint under this Ordinance may initiate enforcement with the _____ [City Manager or County Administrator].

D. The designated enforcement authority shall inspect randomly for compliance with this Ordinance.

E. An owner, manager, operator, or employee of an establishment shall inform persons violating this Ordinance of the appropriate provisions thereof.

Sec. 9. Violations and Penalties

A. A person who smokes in an area where smoking is prohibited by the provisions of this Ordinance shall be guilty of an infraction, punishable by a fine of up to one hundred dollars (\$100).

B. A person who owns, manages, operates, or otherwise controls a workplace and who fails to comply with the provisions of this Ordinance shall be guilty of an infraction, punishable by a fine of up to one hundred dollars (\$100). In addition, violation of this Ordinance by a person who owns, manages, operates, or otherwise controls a workplace may result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.

C. Each violation of this Ordinance shall be considered a separate and distinct violation.

Sec. 10. Effective Date

This Ordinance shall be effective thirty (30) days from and after the date of its adoption.