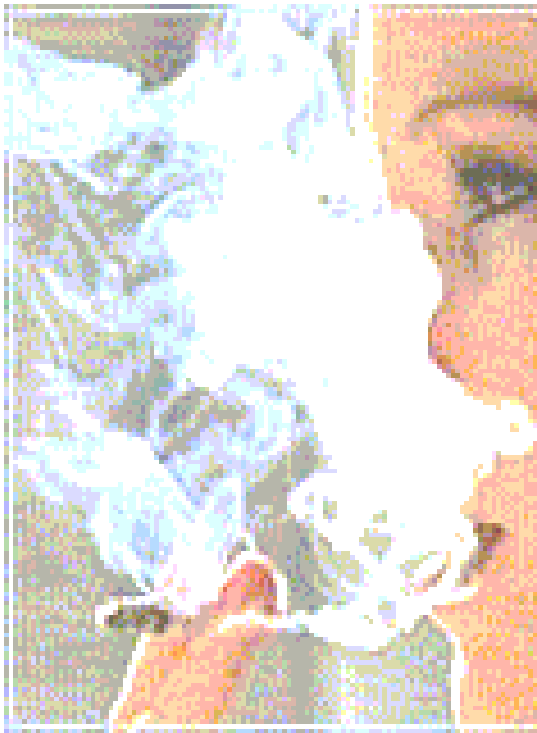


# **Handbook for Creating Local**



CLEAN  
INDOOR  
AIR

**Policies  
&  
Ordinances**

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Hearing-impaired citizens' telephone 1-800-735-2966.  
EEO/AAP services provided on a non-discriminatory basis.

# **Handbook for Creating Local Clean Indoor Air Policies & Ordinances**

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<sup>1</sup>American Cancer Society

[www.cancer.org](http://www.cancer.org)

<sup>2</sup>Americans for Nonsmokers' Rights

[www.no-smoke.org](http://www.no-smoke.org)

<sup>3</sup>California Department of Health Services

Tobacco Control Section

[www.dhs.ca.gov/tobacco/](http://www.dhs.ca.gov/tobacco/)

<sup>4</sup>Campaign for Tobacco Free Kids

[www.tobaccofreekids.org/](http://www.tobaccofreekids.org/)

<sup>5</sup>Centers for Disease Control and Prevention

National Center for Chronic Disease Prevention and Health Promotion

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# Get to Know Your Community

**I**t is important to know your community before you make a decision to work on a policy or ordinance. Although you may have been born and raised in your community, you may not be familiar with the laws and policies concerning it. Often citizens are unaware of laws that are on the books, but are currently not being enforced.

1. Research Local Clean Indoor Air Ordinances – *Contact your local city or county clerk to see what tobacco laws are currently on the books and whether they are enforced.*

2. Know Your Council Members and the Political Process – *Contact a council member or the city secretary to determine protocol for introducing an ordinance.*

3. Attend a City Council Meeting – *Learn how the meetings are conducted and what you can expect before you introduce an ordinance.*

4. Assess Community Readiness – *Examples of assessment and survey forms may be found in the Appendices.*

Measures of community readiness are essential before approaching any policymakers or beginning any campaign. Prematurely initiating a campaign, contacting policymakers or approaching the city council to consider an ordinance without first laying sufficient groundwork is an invitation to disaster. Not only will the ordinance be more likely to fail, but long lasting repercussions could make it much more difficult for city council members and the community at large to even provide serious consideration whenever the issue is brought up again.

Before bringing a proposed ordinance before a city council, it is essential to already have secured a champion on the city council, determined local data and sentiment, conducted a public information campaign, collaborated with other advocacy groups, integrated with law enforcement authorities, sought out business partners, engaged the media, and completed other preliminary tasks. In other words, your “ducks must be in a row” before an ordinance is introduced to the city council.

Assessments can identify current areas of strength and weakness. This can allow the coalition to work on areas of weakness by inviting participation from segments of the population that have unintentionally not been represented and allowing strategies to be developed to overcome identified community shortcomings.

One of the parameters to help improve community readiness is to increase their knowledge base about secondhand smoke and thus, heighten awareness of their personal stake in the issue. They must see how a clean indoor air ordinance benefits themselves, their loved ones, and their community as a whole. Then they must see that they indeed have empowerment to make a change and be equipped with the knowledge of how to effect that change.

## **Make sure you find out:**

- ▼ **when, where, and how often the council meets**
- ▼ **where the agendas are posted in advance of hearings**
- ▼ **who assembles board packets and how you can get a copy**
- ▼ **how many hearings are held before decisions are made**
- ▼ **whether decisions are made in a public forum or a closed study session**
- ▼ **when and how the public can comment**
- ▼ **how the order of speakers is determined and the time limits on testimony at public hearings**
- ▼ **how many votes are needed to pass an ordinance**
- ▼ **what is the process for an initiative petition**
- ▼ **what percentage of votes are necessary to pass an initiative petition**

# What is the Value of a Clean Indoor Air Ordinance?

Smoking is the #1 preventable cause of death in the U.S. (causing 400,000 deaths annually) – the #3 cause is exposure to secondhand smoke. The U.S. Environmental Protection Agency, the Surgeon General, and the World Health Organization have each independently classified secondhand smoke as a known human carcinogen. Secondhand smoke contributes to more than 50,000 deaths each year to nonsmokers in the U.S.

## Dispelling the Myths:

**Myth:** Everyone smokes

**Fact:** About 75% of adults do not smoke. Smoking is not the norm, it is the anomaly.

**Myth:** Most people think secondhand smoke is just an annoyance, there's no real health threat from it.

**Fact:** Secondhand smoke is a threat; it is harmful to the health of the nonsmoker, particularly for lung cancer and emphysema. Everyone should expect to breathe clean air where they work, shop and eat.

**Myth:** An ordinance is won or lost at the hearing.

**Fact:** The ordinance is won or lost before the hearing. The hearing preserves the victory.

**Myth:** An ordinance is won or lost based on scientific evidence, e.g. health effects and economic impact.

**Fact:** An ordinance is won on how issues are framed.

**Myth:** An ordinance is won or lost based on what arguments policymakers find most convincing.

**Fact:** An ordinance is won on what the policymaker perceives as most politically advantageous.

**Myth:** We can't fight Big Tobacco.

**Fact:** Many communities have successfully fought Big Tobacco. You don't have to do it alone.

## Smokefree public places and worksites will:

- ▼ Reduce exposure of nonsmokers to secondhand smoke
- ▼ Reduce cigarette consumption rates
- ▼ Increase successful tobacco quit rates
- ▼ Reinforce efforts to reduce tobacco use among youth by observing behavior modeling
- ▼ Shift community cultural norms away from tobacco use

## Technical assistance is available:

- ▼ Missouri Partnership on Smoking or Health  
[www.smokingorhealth.org](http://www.smokingorhealth.org) (573-634-5165)
- ▼ Missouri Department of Health and Senior Services, Bureau of Health Promotion  
[www.dhss.state.mo.us/SmokingAndTobacco/index.html](http://www.dhss.state.mo.us/SmokingAndTobacco/index.html) (573-522-2820)
- ▼ Americans for Nonsmokers' Rights [www.no-smoke.org](http://www.no-smoke.org)  
(510-841-3032 Pacific Time Zone).

# Build Community Support

Adapted from Information by \*Smoke Free Wisconsin

**L**ocal ordinances are passed because the majority of people in a community want to see a particular behavior curtailed such as restricting smoking in public places, workplaces, restaurants, and parks and recreational facilities. In many communities an ordinance can be implemented by the actions of a few people that represent the majority of the public. This can happen when a majority of the city council supports the ordinance from the beginning. Other communities may need a highly organized and lengthy campaign, with support built gradually through the media and personal contact.

## Develop Meeting Agendas

The first meeting should include discussion of issues and facts including reasons for an ordinance, anticipated arguments against an ordinance, development of an ordinance, assignment of tasks (to be completed before the next meeting), and setting the next meeting date. Sample agendas for the first and subsequent meetings are in the Appendices on pages A-1 and A-2.

## General Infrastructure Nuts and Bolts

- ▼ Identify a field organizer
- ▼ Find a place for the organizer to work
- ▼ Obtain a phone number for the campaign
- ▼ Design letterhead to be used by the campaign
- ▼ Obtain the use of a computer, printer and programmable fax machine
- ▼ Obtain Access to the Internet & e-mail , if possible
- ▼ Create a one or two page fact sheet on a restaurant ordinance
- ▼ Put together a packet of materials for recruiting support

## Develop a Clear Message

The coalition should develop a coherent message which outlines the reasons for enacting a smokefree ordinance and why the public and elected officials should support this effort. That message should be captured in 1) a three-minute explanation, 2) a sound bite, 3) a one or two page fact sheet, and 4) a ten page informational packet.

## The goal is clear :

To protect people's health by reducing exposure to the dangerous and deadly effects of secondhand smoke.

## Speaker Development

Identify a spokesperson(s) for the campaign. A doctor, health expert, a businessperson or a community leader may be considered.

## Keep key messages simple:

- ▼ Secondhand smoke is deadly – it kills 53,000 nonsmoking Americans each year.
- ▼ Ventilation engineers confirm that even the most modern ventilation systems cannot remove the cancer-causing chemicals in secondhand smoke.
- ▼ A smokefree restaurant ordinance just makes sense. We don't allow restaurants to serve food with dangerous chemicals – we shouldn't allow dangerous chemicals in the air.

## Coalition Building

Identify groups, organizations, prominent individuals, business owners, elected officials and others who will support and participate in the ordinance campaign.

Begin by talking with every member of the local coalition and then reach out from there.

### Build Grassroots Support

Compile a list of civic and faith organizations that have meetings and welcome speakers. Recruit several individuals willing to speak about the issue of clean air and smoke free restaurants.

### Beyond the local coalition membership, these are some groups to contact, mobilize, activate and seek endorsement:

Missouri Partnership on Smoking or Health  
Tobacco Free Missouri  
American Cancer Society  
American Heart Association  
American Lung Association  
Local Medical Society Nurses groups  
Academy of Pediatricians  
American College of Surgeons  
American College of Obstetricians and Gynecologists  
Dental Society  
Local Hospitals

Faith-based organizations  
Local teachers groups  
Parent-Teacher Associations  
Youth Groups—  
4-H, Boy Scouts, Girl Scouts, etc.  
Senior Citizen Organizations  
High School Student Government  
Faculty & Academic Staff Organizations  
Health, Physical Education or Recreation Departments (especially coaches)  
Restaurant and bar employees  
Restaurant owners  
Local businesses

Obtain lists of people who are likely to support a restaurant ordinance, i.e. Cancer-Heart-Lung volunteers, other volunteers, members, staff and board members of other coalition partners, recruits from public speaking engagements and others drawn to the effort.

Use petitions or other mechanisms to obtain names and addresses of people interested in tobacco control.

Don't overlook using youth, they can have a strong impact. They can write letters to local officials and newspapers, testify at council meetings, and help gather materials.

Develop a database to enter all supporters, including all relevant information; such as name, address, phone number, councilman district, etc.

### Establish a Timeline and Assign Tasks – Ensure that each member has a function within the committee and understands that function. Allow adequate time at each meeting for members to report on their progress.

[A sample timeline is provided in Appendices page A-3]

- ▼ Solicit support by drafting articles and letters to the editor for the local newspaper
- ▼ Make personal contact with council members
- ▼ Meet with the editorial board of the local newspaper
- ▼ Develop a model ordinance
- ▼ Attend and testify at council meetings
- ▼ Letter writing and phoning
- ▼ Contact nonprofit health agencies for signs, buttons, or other materials
- ▼ Update mailing lists and phone trees
- ▼ Make copies
- ▼ Obtain office supplies

## Media

Assemble a list of all existing media outlets—TV, radio, daily newspapers and weekly papers. Identify individual contacts. At TV stations get names of the assignment editor and health reporter, at radio stations get the news director's name, for newspaper find out who covers health and who covers city government, and for weeklies get their deadline. This topic is covered in greater detail on pages 9-10.

## Community Education

The goal is to create a community debate or discussion around the need for clean indoor air. The target populations are: the general public, restaurant owners, restaurant employees and elected officials. This can be accomplished through public speaking, direct mail, free media and presence at community events. It is important to have fact sheets and information packets.

## Elected Officials

Put together a profile of each councilman, how long they have been on the council, what issues they are associated with, employment, any previous record on health or clean indoor air, connections to the tobacco industry and their allies or public health. Are they approachable, fair-minded, etc.?

Develop a lobbying strategy. Coordinate lobbying by local coalition members and grassroots lobbying from constituents. Lobbying activities must be conducted by coalition members or staff that are not supported by public or governmental funds. This topic is covered in greater detail on pages 6-7.

## Anticipate and Defuse Opposition Arguments

The Smoke-Free Campaign must assume an aggressive counter campaign against opposition from the tobacco industry and from within the community. The industry has been known to use local business groups or to create front groups to deliver their messages opposing clean indoor air policies. The opposition may claim that studies on second hand smoke are flawed, that the dangers of second hand smoke are overstated, and /or that smoke-free restaurant ordinances will drastically harm restaurant business. These arguments and replies are covered in greater detail on pages 11-12.

Community education, direct mail and free media components will promote the local coalition's messages that: (1) smoke is deadly, (2) clean indoor air policies protect both patrons and employees, and (3) legitimate studies of communities with smokefree policies show no economic impact on the restaurants.

A more specific challenge is to activate those who support the coalition. The phoning, direct mail, and petition drive are intended to mobilize the public.

Understanding community perceptions can lead to a better campaign. A recent survey conducted by Campaign for Tobacco Free Kids found seven factors:

- 1) Most people:
  - ▼ view secondhand smoke as a serious health hazard;
  - ▼ prefer the non-smoking sections when at a restaurant; and,
  - ▼ feel separate smoking/non-smoking sections are not enough protection for non-smokers.
- 2) Most people are hesitant to recommend government intervention and are willing to accommodate smokers. But, when put to a vote, most people will choose their self-interest over that of the business owner.
- 3) Most people perceive that restaurant and bar employees knowingly choose to work in jobs where smoking occurs and could work elsewhere if they wanted. However, when asked their reaction if their own workplace would allow smoking, many felt it would not be easy to quit their jobs and find work elsewhere.
- 4) It is better to include bars in initial ordinance proposals, rather than excluding them initially with hopes to include them at a later time.
- 5) Most people think exposure to secondhand smoke causes lung cancer and emphysema, but not heart disease and asthma. Further education about the health effects is necessary.
- 6) Further education is needed that secondhand smoke produces toxic components that cannot be detected by odor or irritation; and that ventilation systems do not adequately remove these toxins.
- 7) Regarding "rights" issues, people were more inclined toward:
  - ▼ Right of non-smokers to breathe clean indoor air over rights of smokers to smoke indoors, and rights of business owners to permit smoking areas.
  - ▼ Government's responsibility to ensure public health over business owner's right to permit smoking areas.
  - ▼ Employees' rights to protection from secondhand smoke over rights of smokers to smoke.
  - ▼ Protecting the more vulnerable (infants, children, health-impaired, elderly) over the general public health.

# Taking It to City Hall

Adapted from <sup>6</sup>Marin County Tobacco Education Program with permission

The cooperation between smokefree coalitions and local officials is a two-way street. Smokefree coalitions can provide local officials with the scientific data, opinion poll results, and economic impact studies. Local officials can teach coalitions a great deal about how their local government works.

Several useful tools are found in the Appendices, pages A-5 – A-8: *Educating Elected Officials*; *Tips for Writing Letters*; *Tips for Educating through Public Testimony*; and *Sample Speaking and Writing Points*.

*Educate, educate,  
educate, educate . . .  
then legislate.*

## Don't Assume that Everyone Knows About the Coalition

Coalitions and health departments must realize that city officials may not know about the local coalition, how to contact them, and what services they can offer. With this lack of knowledge, officials may inadvertently introduce legislation that can actually be counter-productive due to unintentional loopholes, improper wording, or lack of community readiness.

A city or county official may be impatient to introduce an ordinance. By joining forces with their local coalition, such legislators can be provided with a good model ordinance (such as the ANR samples see pages A-43, A-51 and A-59). This will allow time for public education to occur before the first legislative hearing, and time to develop implementation and enforcement plans. Coalitions also can provide the citizen support needed to offset the opposition.

## Determine the Importance of Provisions

You should always start with the strongest version of your ordinance. Determine what elements you can relinquish during the negotiation phase and still maintain a strong impact. It is very important to decide on the “deal breaker.” All coalition members must agree on the minimum acceptable provisions that would cause you to ask the sponsor to “kill” the proposed ordinance. The coalition should then work to overcome the compromises by developing more support, obtaining more data, etc.

## Find a Sponsor to Champion the Cause

Getting a respected local legislator or influential community leader to sponsor a smokefree law can be crucial to winning votes in favor of the legislation.

Do not assume that because a legislator is a smoker that he/she will automatically oppose a smokefree policy. Many smokers are trying to quit. Others will be receptive to efforts to protect children or workers from secondhand smoke.

It may take several months for the champion to educate his/her peers while the coalition works to educate the public. The majority of votes need to be secured before the ordinance is brought for a vote. If the votes aren't there, don't bring the issue to a vote. It is easier to postpone a vote and continue work on securing support than it is to resurrect a failed vote.

## Work with City Staff and Legislative Aides

It is helpful to meet with assistants of elected officials to learn their concerns; city managers to discuss publicity and implementation of the ordinance; and city clerks for help with council packets. In one case, a city clerk became so involved that she alerted a local coalition to the tobacco industry's presence in town, including when court papers were filed to place a referendum on the ballot.

Successful coalitions should also foster a good working relationship with the agencies that have or will be charged with implementation and enforcement of the ordinance.

Don't overlook the importance of support staff. Often they serve as gatekeepers and may prioritize which messages are to be returned. They also sometimes serve as sounding boards for the members. Treating support staff with courtesy and respect is not only good manners, but can pay dividends.

## Educate the Council Members

Make personal visits. Arrange an appointment with either the council member or the council member's aid. State the nature of the issue you are concerned about when you call for the appointment.

Write a letter if you cannot make a personal visit. Discuss only the issue of a local ordinance and limit the letter to one page.

Provide a brief written summary of the issue at hand. Successful coalitions found that a packet comprised of one-page fact sheets supplemented by graphs or other pictorial representations of data was well received.

### Such packets contained:

- ▼ Summaries of studies on health effects of secondhand smoke
- ▼ Summaries of studies on economic effects of smokefree laws
- ▼ Lists of communities that have passed similar laws
- ▼ Facts about the limitations of ventilation systems
- ▼ Local data relating to any aspect of secondhand smoke, such as local heart disease data or numbers of calls to a local complaint line
- ▼ Refutations of tobacco industry arguments
- ▼ Letters from local grass-roots supporters  
(examples are provided in the Appendices on pages A-12 – A-18)

Know your facts and outline what you are going to say. Always be courteous, appreciative, and express your gratitude. Based on the councilperson's reaction to your proposal, decide whether future work needs to be done to gain his/her support.

Continue educating council members before the ordinance hearings through phone and letter writing campaigns. Two or three original letters (not form letters), can have an impact on a councilperson's position on an issue. Include compelling health and economic reasons for the ordinance and counter arguments to statements made by the opposition.

Focus on council members who are undecided or only slightly opposed. Do not waste time on those who are adamantly opposed to the ordinance. Examples include a council member who is an avid smoker or who owns a convenience store and feels threatened by an ordinance.

Have your sponsor (or obtain permission to) submit a draft of the proposed ordinance to the city attorney for his/her review.

## Prepare Thoroughly and Present Thoughtfully

*Detailed information may be found in "Tips for Educating Through Public Testimony" in the appendices on page A-7*

Most people who testify at public hearings either have vested interests or are chronic complainers. Well prepared, articulate presentations that get to the point quickly are greatly appreciated.

### Local legislators have suggested the following:

- ▼ Although letters of support and telephone calls are considered before a vote, it is equally important that city council members see a large turnout of local citizens committed to the issue. Not everyone in the audience needs to speak; many can show their support by wearing buttons, ribbons, or other symbols.
- ▼ Be respectful. Talking in the audience is distracting.
- ▼ Be certain that all information presented in a hearing is accurate.
- ▼ Arrange for a variety of citizens to give testimony at a hearing. Present different viewpoints and experiences that all support a smokefree policy. For example, recruiting a physician, a teacher, and a business owner would be better than three doctors.
- ▼ Remember to thank the council members for the opportunity to testify and be sure to follow up with any additional information requested during the hearing.

### Give Local Legislators Local Information

*The most persuasive data focuses on the legislators' own constituents.*

- ▼ Local public opinion surveys, even informal ones
- ▼ Supportive surveys and interviews of smokefree restaurant owners
- ▼ Local smokefree dining guides or other lists of local smokefree establishments
- ▼ Local statistics about heart disease and cancer
- ▼ Numbers of people in the local hospitality industry who are affected by secondhand smoke (available from a county employment agency or labor department)
- ▼ Petitions with local signatures representing a wide cross-section of the local community
- ▼ Numbers of local coalition supporters (collected from coalition mailing lists, donation lists or people who ordered smokefree dining guides)

# Forging Alliances with the Business Community

*Adapted from <sup>6</sup>Marin County Tobacco Education Program with permission.*

**E**ducating business owners and managers, especially restaurant owners and managers, in the early stages of a campaign can provide large returns later and may even curtail the intensity of opposition.

## **Don't Assume the Business Community is "Anti-Health"**

Chambers of Commerce may assist the coalition in conducting public opinion surveys or hosting breakfast meetings with members.

Successful coalitions found that creating a smokefree dining guide not only provided information to the diner, but also allowed coalition members to become more knowledgeable about the concerns of restaurant owners and to establish invaluable relationships. Owners of smokefree restaurants as well as diners publicly supported the ordinances.

## **Be prepared for the Battle over the Four B's - Billiards, Bowling, Bingo and Bars -**

Willingness to compromise on one or more of the "Four B's" can make the difference between success and failure. However, none of the Bs should be easily given away. Policymakers need to be reminded that infants and small children can be found in bowling centers, and teenagers are frequent patrons of billiard halls. In addition, those working in these businesses should also be protected from secondhand smoke.

Be prepared to counter the economic opposition with the information that no reliable data has ever shown negative economic impact after enactment of smokefree ordinances.



# Media Advocacy

Adapted from <sup>6</sup>Marin County Tobacco Education Program and <sup>7</sup>Smoke Free Wisconsin with permission

**P**olitics first, then the media. Understandably, legislators do not like to find out about smokefree ordinance campaigns through local media, especially if they are called by a local reporter for comment. First, lay the groundwork in the political arena and educate the public about the effects of secondhand smoke. While the media can be valuable in educating the public, local officials should not be blind-sided with information about a proposed ordinance they weren't aware of.

## Engage the Media

Media coverage is a powerful tool to educate the public and build awareness of the tobacco problem as well as influence public opinion. The tips in this section are designed to provide a coalition with basic communication tools for working with the media.

## Goal and Key Messages

The coalition should agree on the goal and the message before any contacts are made with the media. If the goal is "to protect people from the dangers of second hand", this can be achieved by educating adults, opinion leaders, and public officials that secondhand smoke is fatal, that it causes cancer, heart disease, SIDS, and other life threatening diseases. It is a public health problem with a policy solution.

### The following activities are recommended for a successful media strategy:

- ▼ Meeting with editorial boards early in the campaign
- ▼ Appearing on talk shows
- ▼ Writing editorials and letters to the editor
- ▼ Producing media kits and media releases
- ▼ Furnishing lists of spokespersons to talk with the media
- ▼ Communicating regularly with media representatives

## Communications Tools

The primary audiences to inform about the dangers of secondhand smoke are adults, opinion leaders (teachers, religious leaders, community groups), and elected officials.

### There are many ways to communicate that message:

- ▼ Letters to editor [see more detailed information in Appendices, page A-9]
- ▼ Guest Editorial/column
- ▼ Presentations/public forums
- ▼ Paid advertising (print, radio, TV)
- ▼ Press conference/release [see more detailed information in Appendices, page A-10]
- ▼ Radio and TV interviews
- ▼ Newsletters
- ▼ Booths at local events
- ▼ Displays, signs, and literature at smoke-free restaurants
- ▼ Rallies during special events (e.g., World No Tobacco Day, Great American Smokeout) Calendars of national health observances are available online from the National Health Information Center at [www.healthfinder.gov/library/nho/nho.asp](http://www.healthfinder.gov/library/nho/nho.asp) and the Missouri Hospital Association at [http://web.mhanet.com/asp/publications/promotional\\_calendar.asp](http://web.mhanet.com/asp/publications/promotional_calendar.asp)
- ▼ Awards to smoke-free businesses

### Simple key messages:

- ▼ Secondhand smoke is deadly and kills 53,000 nonsmokers each year – that is one out of every 8 smoking-related deaths
- ▼ Ventilation engineers confirm that even the most modern ventilation systems cannot remove the cancer causing chemicals in secondhand smoke.
- ▼ Smoke-free restaurants and worksites just make sense. It does not mean smokers cannot smoke; they just cannot do it where it will harm other people.

## Connecting with Local Media

Develop a list of reporters, editors, and news directors for the local media. Identify which reporters cover health issues and political stories and which have been favorable on tobacco control in the past. Always keep the contact information current.

### Before an interview:

- ▼ Practice the message
- ▼ Try to humanize the messages
- ▼ Practice the tough questions
- ▼ Practice clear and concise answers
- ▼ Be ready with support and facts
- ▼ Do not use technical language the public does not understand. Use secondhand smoke instead of ETS or quitting smoking instead of cessation.
- ▼ **Stay on message.** Do not get sidetracked or ramble. Being prepared will prevent this from happening.

## Pro-Health, not Anti-smoker

Point out that the campaign is largely about the tobacco industry and the secondhand smoke emitted by their products. Emphasize that smokers need compassion and support, that it often takes practice to quit, and that long-term help is available for smokers who want to reduce their cigarette consumption or quit smoking altogether.

## Educate the Public About Involuntary Smoking Through Media Ads

Media ads can be eye-openers about the impact of secondhand smoke at work and in public places. The CDC has a variety of ads that can be viewed and ordered through their website <http://www.cdc.gov/tobacco/mcrc/index.htm> Note that a talent fee must be paid for these ads. Check with the Public Information Office of DHSS Bureau of Health Promotion for information about a waiver of the talent fee. Ads can deliver a lot of science in 30 to 60 seconds and can help the implementation and enforcement of the ordinance.

The coalition should develop long term working relationships with the media just like with elected officials. A reporter will be more likely to cover a story that is easy and interesting to their readers. Be truthful, available, and helpful. Reporters will then be more likely to cover a coalition's events and seek comments or a local perspective on other stories.

### Tips on Dealing with the Media

- ▼ Call early in the day. Reporters run on deadline. Make sure all callbacks are timely and respectful of the reporter's time constraints.
- ▼ **Be Prepared.** On paper, summarize the story and why it matters to the public. Anticipate questions and formulate answers.
- ▼ Be concise. The more a spokesperson rambles, the less likely the coalition's message will be accurately portrayed in the news story.
- ▼ Designate a key media liaison. Limiting who will speak to the media will allow one person to become polished in this area, and the message will be consistent.
- ▼ Never go "off the record." Reporters will not trust the spokesperson and any item discussed with the media person should be public information.
- ▼ Never lie. If you make a mistake, correct it. If you don't know an answer, find the information and call back. It is important to be helpful but you do not need to feel pressured to answer on the spot.
- ▼ Provide an informational packet that includes fact sheets, background information, studies, and contact information.

## Describe the Physiological Effects of Secondhand Smoke in Terms the Audience Can Understand

### Organize the information as follows:

- ▼ List symptoms of secondhand smoke exposure, e.g. headaches, nausea, allergies and involuntary coughing.
- ▼ Explain the symptoms as the body's way of rejecting secondhand smoke as a physical irritant. Describe some of the changes that occur inside the body: cell walls are damaged, immune system weakened, heart beats faster ("Nicotine is a cardiac poison"). Describe the immediate and substantial effects of secondhand smoke, e.g., 30 minutes of breathing secondhand smoke makes blood platelets sticky and damage the lining of arteries, which leads to heart disease and/or stroke. The drama of first-person testimony can be very effective, e.g. a nonsmoking waitress with health problem caused or aggravated by secondhand smoke.
- ▼ The James Repace report on the limitations of ventilation systems was influential with many local legislators. This report can be found at [www.dhs.ca.gov/tobacco/documents/FedOHSAAets.pdf](http://www.dhs.ca.gov/tobacco/documents/FedOHSAAets.pdf)

# Countering Tobacco Industry Influences

Adapted from <sup>6</sup>Marin County Tobacco Education Program with permission

**D**on't panic when Big Tobacco or their front groups come into the community to undermine a smokefree campaign.

Opposition can actually be helpful – public debate increases public education through the media, which ultimately speeds up the process.

Often tobacco companies come forth to publicly oppose a campaign for a clean indoor air ordinance through **front groups** they may actually create. Existing organizations that traditionally have either been used as front groups or co-opted include restaurant associations and retailers associations.

Anticipating that local industry associations may be tobacco industry front groups, the coalition should prepare city council commission members to query these groups and expose the true affiliations. Learn to take advantage of the publicity generated by tobacco industry front groups, which may be people brought in from outside the community.

One coalition sent a letter to every restaurant owner in the community exposing the tobacco industry's attempts to influence the business community. The coalition provided accurate economic data on smokefree communities and offered to answer questions. After that letter went out, the tobacco industry's influence diminished and several restaurant owners became allies of the coalition.

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## Refuting Tobacco Claims

Adapted from information by <sup>1</sup>Americans for Nonsmokers' Rights and <sup>10</sup>University of North Carolina at Chapel Hill

**Claim:** A smokefree ordinance inconveniences people.

**Reply:** Most people, including smokers, support smokefree ordinances.

**Claim:** Smokefree ordinances represent government interference. Accommodation and simple common courtesy will solve the problem.

**Reply:** Contrary to the argument about government interference local governments have the responsibility to protect the public welfare. Smokefree ordinances protect the public, just as health policies regulate restaurants and traffic laws reduce accidents. We need laws in addition to relying on common courtesy.

**Claim:** These ordinances discriminate against smokers.

**Reply:** Clean indoor air ordinances regulate behavior not people, and therefore are not discriminatory. The American understanding of personal liberty has always taken into account the impact of one person's actions on another. Our democratic society has always condoned the creation of laws to prohibit or restrict public acts that are injurious to others.

**Claim:** Scientists are still debating the effects of environmental tobacco smoke.

**Reply:** Established medical evidence proves that secondhand smoke kills. The Surgeon General, the U.S. Environmental Protection Agency, the National Institute for Occupational Safety and Health, and the World Health Organization each independently have determined that secondhand smoke is a threat to the health of nonsmokers. Secondhand smoke contains more than 4,000 chemicals, at least 43 of which are known to cause cancer. Some of the chemicals are arsenic, carbon monoxide, cyanide, formaldehyde, and tar.

**Claim:** Clean indoor air ordinances are expensive and difficult to enforce.

**Reply:** Studies have found high levels of compliance with local clean indoor air ordinances. Most ordinances are enforced on a complaint basis, and citations rarely need to be issued. Most businesses and smokers are law-abiding and will follow the ordinance requirements as long as they are aware of them. Posting of “No Smoking” signs and removal of ashtrays is the bulk of compliance needed by most businesses.

**Claim:** Smokefree ordinances hurt businesses economically.

**Reply:** Virtually all research shows that smokefree ordinances do not have a negative impact on income and decrease damage and cleaning costs. Information to the contrary is based on flawed analysis and unsubstantiated data.

**Claim:** Ventilation can solve the problem.

**Reply:** In spite of standards cited by the tobacco industry, the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) acknowledges that “with respect to tobacco smoke and other contaminants, this standard does not, and cannot, ensure the avoidance of all possible adverse health effects.” Even Philip Morris uses a disclaimer which states that its ventilation program only addresses odor and irritation.

Only a *separate* ventilation system exhausted directly to the outside can eliminate exposure to harmful chemicals in secondhand smoke.

**Claim:** The forces of free market will protect workers; business owners should be able to decide whether to go smokefree or not. Then, customers would have the choice of whether to patronize the business. In other words, “let the marketplace decide.”

**Reply:** There are at least 7 reasons this is a specious argument:

- 1) The market has created a society in which 145 people a day in the U.S. die from breathing other people’s smoke, and where secondhand smoke is the #1 environmental cause of cancer.
- 2) The market has resulted in secondhand smoke exposure at levels for restaurant workers 1.6 – 2.0 times higher and for bar workers 3.9 – 6.1 times higher than found in typical workplaces.
- 3) The market has forced restaurant workers to be the group most heavily exposed to secondhand smoke, a known cause of cancer in humans.
- 4) The market has forced many restaurant employees to inhale the benzo(a)pyrene equivalent of smoking 1.5 – 2 packs of cigarettes per day.
- 5) The market has resulted in waiters and waitresses having almost twice the risk of lung cancer due to secondhand smoke exposure.
- 6) Studies of the market approach have demonstrated that only about 10% of restaurant owners will choose to protect the public and their employees from secondhand smoke, despite intensive educational programs.
- 7) Unlike restaurant patrons, employees have no choice in the matter. Their exposure to the carcinogens in second-hand smoke is truly involuntary.

# Implementation and Enforcement

Adapted with permission from <sup>6</sup>Marin County Tobacco Education Program and <sup>8</sup>Smoke Free Wisconsin.

**A**fter a campaign of hard work, blood, sweat, and tears an ordinance should pass. After a celebration and a period of recuperation, implementation activities should begin. In order to protect the ordinance and to ensure that the ordinance smoothly goes into effect.

1. Educate the community on the provisions of the ordinance.
2. Watch for repeal efforts and counter any attempts that do arise.
3. Ensure enforcement and compliance.
4. Monitor hardship exemptions.

## Publicize the New Ordinance with an Information Campaign

As the ordinance's effective date approaches, it is important to let the public know what to expect and also to encourage their embracing of the ordinance. Most of the education will actually be done during the campaign itself. It is still important, however, to clearly designate where smoking is not allowed. This is achieved by removing ashtrays and posting "No Smoking" signs in areas where smoking is prohibited.

The business community and health department can both participate in the information campaign. A budget is needed for print ads, public service announcements, street signs, and other materials.

Determine how to use free media exposure.

Ads and public service announcements should have an upbeat, anticipatory theme emphasizing the positive, such as "Our community is becoming free of smoke" rather than "Our community is getting tough on smokers." Emphasize two messages:

- 1 – most public places will be smokefree
- 2 – a telephone number for more information

## Work Closely with City Officials and Staff

It is advantageous for coalitions to work closely with governmental officials to produce and distribute business notification packets.

Prior to the effective date of the ordinance the coalition might sponsor an implementation planning meeting for representatives from law enforcement, fire marshal, restaurant inspection personnel, tobacco education program, other health department personnel, city/county counsel's office, and city/county administrator's office. Notice of the ordinance can be put into various mailings – business license, utility bills, city payroll, etc.

## Other activities might include

- ▼ Send a cover letter from the city manager or other official explaining what the new ordinance requires of businesses. The cover letter must be clear and direct.
- ▼ Arrange for the city/county to provide mailing labels for the business kits.
- ▼ Plan for a hotline to receive complaints and requests.
- ▼ Assemble business kits and arrange for them to be mailed/delivered two weeks prior to the effective date of the ordinance.
- ▼ Post the ordinance and compliance on city/county website, if available.

## The following are some suggested activities:

- ▼ Press releases
- ▼ Meetings with editorial boards of major newspapers.
- ▼ Articles in newsletters of organizations such as the chamber of commerce, local hospitals, utility companies, unions, churches, business associations, schools, and senior citizen organizations.
- ▼ Public service announcements for television and radio.
- ▼ Telephone numbers for the public to obtain more information, as well as to register complaints after the ordinance goes into effect.
- ▼ Websites featuring the ordinance, compliance instructions, frequently asked questions, and the opportunity to order signs and brochures online.
- ▼ Print ads in the entertainment section (especially by the movie listings) and sports section of newspapers just prior to the effective date of the ordinance.
- ▼ Ads placed in neighborhood and ethnic community newspapers that explain the new ordinance and publicize the smokefree hotline telephone number.
- ▼ Multi-lingual brochures.

## Provide Information and Materials to Business Owners

Meet with business owners to determine what they need. Arrange for the city, the coalition or another party to obtain and provide materials, e.g. signs, decals, etc.

### Items in a packet can include:

- ▼ No Smoking decals with instructions on placing decals at entrances
- ▼ Brochure explaining the new ordinance. Consider providing brochures in Spanish and other languages, as needed.
- ▼ A Smokefree Restaurant fact sheet
- ▼ A cover letter from the city/county administrator

## Do Not Provide a Grace Period for Ordinance Compliance

This might be addressed during the preparation of the ordinance and during public or staff testimony at council meetings. Communities that provided a grace period for compliance found that business owners, law enforcement personnel, and the general public were confused by the requirements of the ordinance. The day the ordinance goes into effect should be the day it begins to be enforced.

## Enforcement and Compliance

With proper signage and community education, smokefree ordinances are generally self-enforcing. There are ways to ensure the community's ownership of the ordinance and ensure compliance:

1. Stay in touch with city staff and offer to help them develop enforcement protocols.
2. Encourage cities to include brochures about the ordinance in business license applications and renewals.
3. Use the media when the ordinance goes into effect and during key dates associated with the ordinance.
4. Work with restaurants to ensure there is a smooth transition.

## Watch for Repeal Efforts

This is probably the most important post-ordinance role for the coalition. The tobacco industry does not give up once an ordinance passes so neither should the coalition. They will try various tactics to get the ordinance repealed, sometimes more than once. Some of the tactics used are:

**Referendum-** Sometimes the tobacco industry will coordinate a "local" attempt to force the ordinance to be put to a public vote. Do not be fooled; this is an

expensive tactic used by the tobacco industry and will require a huge amount of resources to counteract. The tobacco industry is usually not successful in referenda, but it takes a coordinated, strategic effort by the coalition to win. The coalition must be prepared and willing to aggressively attack the tobacco industry. Although putting a smokefree issue in front of the voters may seem attractive, it is non-binding and will have to return to the council for a final vote in the end and cost twice the number of resources. A referendum should be avoided at all costs.

**Legal Challenges-** The tobacco industry, through a local business or restaurant, may threaten to sue the city if a smokefree ordinance is enacted. While it has never been successful, the threat has discouraged some councils from enacting an ordinance. It is important to watch for this strategy and support your council to rise to the challenge if the industry attempts to use this tactic. To date, the courts have upheld all ordinances.

**Change in the Council-** Sometimes, the tobacco industry will take advantage of the change in council roster to repeal an ordinance. To protect the ordinance during turnover in the city council, ask candidates to state their position on the ordinance prior to an election and meet with new council members after the elections to show support for the ordinance and answer any questions or concerns. It is essential that the coalition keep their council educated on the benefits of the smokefree ordinance and the dangers of secondhand smoke.

**Preemption-** Preemption is language that removes all local authority by mandating that a state law supercedes all local ordinances. The tobacco industry will lobby at the state level to get local clean indoor air ordinances preempted by weaker, ineffectual state laws. Missouri's clean indoor air law does not have preemption language, so local communities may enact ordinances stronger than the state's. However, preemptive language could be placed in other state bills that relate to tobacco. Tobacco control, on the other hand, is much more effective and has more influence on the local level. Watch for any suspicious tobacco bills with words such as *preempt*, *supersede*, and *uniform statewide standard*. Local coalitions should maintain a long-term working relationship with their state Legislators in order to prevent preemption from suddenly becoming an issue.

## Monitor Hardship Exemptions

Your ordinance may have an exemption clause. Educate council members to not grant exemptions without proper proof of hardship. Hold the council accountable if they grant exemptions without sufficient proof of hardship due to complying with the ordinance. Financial data must be real, accurate, and complete. Do not let restaurateurs bully the council into not enforcing the ordinance or granting exemptions without just cause.

## Revenue Losses

As a possible challenge to the new ordinance, the opposition may produce data to show a drop in sales for restaurants. Factors other than the ordinance may be the cause. For example, with an ordinance that went into effect at the first of the year, comparing the January revenues to December revenues may give an inaccurate accounting. January is typically a slow business month due to weather; while December is typically a high business month due to the holidays. A more accurate measure would be to compare that January with the previous year's January.

## Enforcement Lessons

### —Lessons learned in other communities have been provided for our benefit

*Adapted with permission from "Marin County Tobacco Education Program"*

- ▼Be the "Good Cop." Maintain your roles as helper-educators. Issuing citations conflicts with this role. However, producing written educational warnings is compatible with this role. We want to advise them of the provisions of the ordinance and how they may come into compliance. Citations should be reserved for issuance by law enforcement agencies.
- ▼The enforcement agency should have a part in reviewing the ordinance wording. Arrange for enforcement with other governmental agencies well in advance of the ordinance's effective date.
- ▼Mail or directly deliver signs and materials - Don't rely on businesses picking them up.
- ▼Letters are more useful than site visits. Letters that are well-written and "legal sounding" on health department letterhead are more effective than site visits and help document a good paper trail for legal purposes.
- ▼Don't let the governmental agency charged with implementation and/or enforcement ignore its responsibility. Often, a compliance check is only one more item to a regular inspection visit. Offer to provide staff training, as well as free signs and other materials for them to have readily available when they make their inspections.
- ▼Don't let the few noncompliant businesses consume health department time or undermine the ordinance. After the initial educational warning letter has been sent, the responsibility for enforcement lies with the agency designated in the ordinance.
- ▼Don't be hesitant or intimidated when working with law enforcement agencies. When they realize that the coalition and/or health department is contributing solutions to problems of law enforcement, they usually are very willing to cooperate. Remember to include the city/county prosecutor's office in these discussions. The more mutual communication and problem solving, the better.
- ▼Placing positive themed ads in the media and organization newsletters will ease the implementation and enforcement.
- ▼Timing is critical. Give businesses time to prepare their employees and customers for the upcoming changes before the effective date of the ordinance.
- ▼Include smokefree information with other mailings already scheduled from the city/county, such as business license renewals.
- ▼One year after the ordinance goes into effect, conduct some publicity to congratulate the city/county on its first smokefree year and to remind the public about the requirements of the ordinance. Include information about the complaint/request line.

## Other Projects

A clean indoor air ordinance is a major step toward protecting public health. However, it is only one step. A coalition may consider other tobacco control related issues. Following are additional projects that other coalitions have addressed:

- ▼ Identify and check on feasibility of tightening any loopholes in the ordinance.
- ▼ Both, six months and a year after passage request that the media run a story on the ordinance and its affect on the community.
- ▼ Maintain surveillance for proposed legislation hinder tobacco control, e.g. preemption of local authority concerning clean indoor air ordinances.
- ▼ Promote youth access ordinances, such as banning self-service (self-shoplifting) displays, licensing tobacco retailers, and requiring conditional use permits for tobacco stores.
- ▼ Encourage local universities and institutions, local governmental investments, and local pension funds to divest their portfolios of tobacco stocks.
- ▼ Encourage local organizations not to accept tobacco industry grants or other funding for sponsorship of local events or programs.
- ▼ Maintain surveillance in the community of compliance of provisions of the MSA. Potential violations can be referred directly to the Attorney General.



## **Sample First Meeting Agenda for a Tobacco Ordinance**

I. Selection of a committee coordinator/spokesperson

II. Discussion of Issues and Facts:

a. Reasons for an ordinance

- i. Hazards of passive smoking
- ii. Lack of adequate current regulations
- iii. Prevalence (nonsmokers outnumber smokers)
- iv. Physical/psychological impact on both smokers and non-smokers
- v. Economic impacts of smoking

b. Anticipated arguments against an ordinance:

- i. Invasion of rights (including parents' right to govern their own children)
- ii. Impossible to enforce
- iii. Detrimental to business
- iv. Expensive to comply with
- v. Inconclusive evidence of dangers of passive smoke

III. Development of an Ordinance:

- a. Determine what the committee wants to accomplish. Sample ordinance may be used as a starting point (see Appendix).
- b. Edit the sample ordinance as necessary so that the committee's objective is met.
- c. Determine how the ordinance will be enforced (see Section VI)

IV. Assignment of committee tasks to be completed before next meeting:

- a. Develop a list of names and addresses of those persons who might support the ordinance.
- b. Ask an attorney to review the ordinance.
- c. Develop fact sheets on what the ordinance will do and why it is important.
- d. Assign a subcommittee to contact local media and develop articles/programs for newspapers, radio, and TV stations.
- e. Ask any council members known to support an ordinance to review the draft and provide feedback.

V. Set next meeting date.

## Agendas For Subsequent Meetings for a Tobacco Ordinance

Report on tasks assigned at previous meetings.

Identify stumbling blocks to establishing an ordinance and develop strategies for overcoming them.

For example, who opposed the ordinances? To what degree do they oppose it? Some opposition may be limited to only certain sections of the ordinance. Opponents may be opposed to any nonsmoking ordinance and therefore might not be worth the time and energy necessary to convince them. How can the opposition be persuaded to support the ordinance? Who among the committee members or volunteers has the expertise to handle the opposition?

Clearly establish the issues related to the ordinance and who speaks for the coalition.

In some communities there have been problems in this area. It is important that everyone speaking for the committee identify themselves as such, and all spokespersons understand the issues related to the ordinance. With detailed fact sheets and a clear understanding of the goal of the coalition, any member should be able to speak for the group. (Tobacco fact sheets are available on various websites including:

- Missouri Partnership on Smoking or Health [www.smokingorhealth.org](http://www.smokingorhealth.org)
- Missouri Department of Health and Senior Services  
[www.dhss.state.mo.us/SmokingAndTobacco](http://www.dhss.state.mo.us/SmokingAndTobacco)
- Campaign for Tobacco Free Kids [www.tobaccofreekids.org](http://www.tobaccofreekids.org)
- Americans for Nonsmokers Rights [www.no-smoke.org](http://www.no-smoke.org)

While these sites will provide state data, local city and county data is more effective (Contact your city and county health departments for data).

Make decisions on best use of time and energy.

Keep in mind that time is limited for most people. Staying in close contact with council members may be more of a priority than getting articles printed in local newspaper.

Devoting time to encourage, praise, and thank members for hard work.

Allow time for socializing among members to relieve the pressure of difficult work and to increase goodwill.

## Sample Timeline for Coalition Activities

[illegible]

## Educating Elected Officials

Developed by 'Americans for Nonsmokers' Rights  
October 15, 1998

Meet with elected officials (federal, state or local) to discuss their vote on a specific piece of legislation, or to educate them about tobacco control issues in general.

*Call the elected official's office to set up an appointment. It is generally easier to meet with state and federal legislators in their district offices.*

### BEFORE THE MEETING

- Research the legislator's support for tobacco control or health issues.
- Ask other supporters to join you, no more than three or four at a time.
- Choose one person to "chair" the meeting. Outline two or three main points to cover during the meeting.
- The ANR fact sheet "[Sample Speaking and Writing Points](#)" may be helpful.
- Put a folder or binder together, include brief fact sheets about tobacco or other materials (e.g., brochures, posters, news articles, etc.).

### DURING THE MEETING

- If the legislator cannot meet with you, or cancels the meeting, ask to meet with staff. Legislative staff often have a great deal of influence.
- Start the meeting by thanking the legislator or staff person for his/her time, introduce yourself, and explain what you want to talk with him/her about.
- Bring a little information to leave, not too much — they won't read stacks of paper.
- If you are asked something you don't know, don't improvise! Say that you will get the information to them after the meeting.
- Always be polite and respectful, even when a legislator is being rude.
- *If you can't meet with your legislative representative, send information (e.g., brochures, news articles, etc.) with a cover letter.*

## Tips for Writing Letters

Developed by 'Americans for Nonsmokers' Rights

June 11, 2002

You can influence elected officials directly by writing letters to them. You can indirectly let them know what you think, and influence your community, by writing letters to the editor of your local paper. Elected officials read letters to the editor to determine what their voters think.

Keep the following points in mind when you write your letter.

- **Keep it short** (no more than 1 page)
- Stick to one point
- Support your position with facts (see "[Sample Speaking and Writing Points](#)")
- Write about your personal experience—tell why you care about the issue
- Be polite

The points below will help you write a letter to an elected official, or to the editor of your local paper. Remember, make your letter personal. *These are just ideas to help you get started.*

### **Explain why you are writing:**

*Example:* "I am writing to encourage the city council to take action to eliminate secondhand smoke in public places and workplaces."

### **Explain what the problem is (this is the place to cite facts):**

*Example:* "Secondhand smoke is a serious problem. Every year, 53,000 nonsmokers die from diseases caused by secondhand smoke. The Surgeon General, Cal-EPA, and National Toxicology Program of the U.S. Department of Health and Human Services have identified secondhand smoke as a cause of cancer, heart disease and other diseases in nonsmokers."

### **Share how you have been personally affected by the problem:**

*Example:* "I have tried for several years to get my workplace to adopt a smokefree policy, with no success. I am afraid that I may risk losing my job if I push this issue any harder with my employer. Only a law requiring all workplaces to be smokefree will end my exposure to secondhand smoke at work."

### **Explain specifically what you are asking for:**

*Example:* "I hope that the city council will pass an ordinance requiring that all public places and workplaces to be smokefree."

## Tips for Educating through Public Testimony

Developed by 'Americans for Nonsmokers' Rights  
June 11, 2002

### Points to Remember:

- Gather relevant information in advance: Must you sign up to testify? What is your time limit? etc. Try to arrange the order so that smokefree supporters can respond to opposition testimony.
- Prepare your testimony in advance, and *keep it brief*. You often have only two or three minutes to speak. Don't feel compelled to use up the whole time — make your point quickly and move on. *Practice your speech beforehand and **time yourself** to ensure that you do not speak too long.*
- Experts and expertise identify the most credible and persuasive speakers on the various topics relating to the clean indoor air policy (e.g., science, personal victim/survivor impacts, workplace production, economic impact, etc.).
- Stick to one or two points. Organize testimony ahead of time so that supporters cumulatively cover all relevant issues.
- Pay attention to what other speakers have said, and avoid being repetitious — both of other speakers and of yourself.
- Pay attention to the elected officials' body language and their comments to one another and to other speakers, you may be able to modify your testimony to address their concerns.
- Whenever possible, use personal anecdotes to illustrate your point. How has secondhand smoke affected you and those around you? *Examples: My daughter has asthma and suffers an attack anytime she is exposed to tobacco smoke. I suffered from a heart attack three years ago and my physicians warned me to stay away from secondhand smoke but that is impossible because smoking is allowed in the city building, my office.*
- Use "soundbites" — elected officials remember them and the press will quote them. (Example: "The nonsmoking section of a restaurant is like the nonchlorinated section of a swimming pool.") Maintain eye contact with the elected officials while testifying.
- Be prepared to answer questions about your topic. If you are asked a question for which you do not know the answer, *don't* speculate or make up an answer. If possible, defer to another speaker or an "expert witness" if you do not know the answer.

### Things to Avoid:

- Avoid testimony on how smoking harms *smokers*, especially in smokefree ordinance campaigns. This information is not directly relevant to clean indoor air legislation.
- If you have prepared written testimony, do *not* simply read it. Summarize your point, and provide copies of your testimony to elected officials. Notecards that summarize your points are better than a full speech.

## Sample Speaking and Writing Points

Developed by 'Americans for Nonsmokers' Rights  
October 15, 1998

### I. SMOKING IS THE #1 PREVENTABLE CAUSE OF DEATH IN THIS COUNTRY

- Smoking kills 420,000 Americans each year, more than alcohol, illegal drugs, homicide, suicide, car accidents, fires and AIDS combined. ("Surveillance for Smoking Attributable Mortality and Years of Potential Life Lost, By State, United States, 1990," *Morbidity and Mortality Weekly Report*, 43(SS-1), June 10, 1994)
- Cigarettes are the only legal product which, when used as intended, kills.
- Passive smoking is the third leading preventable cause of death; for every eight smokers the tobacco industry kills, one nonsmoker will also die from exposure to secondhand smoke. (Glantz, S. & Parmley, W., *AHA Circulation*, 1991; 83:1-12)

### II. NONSMOKERS MUST BE PROTECTED FROM SECONDHAND SMOKE

- Smoke from the burning end of the cigarette contains over 4,000 chemicals, more than 40 of which are cancer-causing including: formaldehyde, cyanide, arsenic, carbon monoxide, methane, & benzene. The smoker, and anyone else nearby, inhales these chemicals. (Environmental Protection Agency, *Indoor Air Facts*, No. 5, 1989)
- Nonsmoking sections do not eliminate nonsmokers' exposure to secondhand smoke, the smoke knows no boundaries. (*The Health Consequences of Involuntary Smoking: A Report of the U.S. Surgeon General*, 1986.)
- The Environmental Protection Agency has classified secondhand smoke as a "Group A" Carcinogen—a substance known to cause cancer in humans. Secondhand smoke joins a list which includes substances such as radon and asbestos. (U.S. Environmental Protection Agency, *Respiratory Health Effects of Involuntary Smoking*, 1993)
- Children are particularly sensitive to the harmful effects of environmental tobacco smoke. Children who are exposed to ETS have higher rates of illness than children who are not exposed. (*The Health Consequences of Involuntary Smoking: A Report of the U.S. Surgeon General*, 1986.)
- When a pregnant woman is exposed to secondhand smoke, her unborn baby is also exposed. Babies of mothers exposed to secondhand smoke have nicotine in their hair at birth. (Eliopoulos, *Journal of the American Medical Association*, 1994;271:621-628)

Smoke-filled rooms can have up to 6 times the air pollution as a busy highway. (Centers for Disease Control, *It's Time to Stop Being a Passive Victim*, 1993)

## Writing a Letter to the Editor

A letter to the editor should state the individual's support for the ordinance and request the support of other citizens and council members.

### Tips for Writing a Letter to the Editor

- a. Focus. Be objective. Write about one topic. Resist the urge to mention several issues.
- b. Write calmly and factually.
- c. Have ideas and suggestions clearly defined.
- d. Make sure facts are correct and correctly attributed.
- e. Write approximately the same length as letters the newspaper prints (Usually no more than 250 words). If editors have to shorten the letter, they may cut key points or they may not bother to run it at all.
- f. Include your full name, address and telephone number. Editors may not print anonymous



letters and often contact the writer to ensure that they are the author of the letter.

## **Checklist for Developing and Implementing A News Conference**

### **Two to Three Weeks Before the News Conference**

- ✓ Identify coalition/committee members to coordinate the news conference.
- ✓ Establish and maintain contact with coordinators.
- ✓ Identify the news site.
  - Ensure that it is accessible and big enough for the public, the media, and the participants.
  - Make sure that it will be open on the day of the event and that it is appropriate for health-related news conference.
  - You may need to arrange for the use of certain key places, such as the front steps of the city/county building, a restaurant, recreation facility or park.
- ✓ Identify the news conference presenters: committee members, local health representatives, supportive local elected officials, and individuals from other communities with successful ordinances.
  - Be sure to obtain correct information on names, titles, etc. of all presenters.
  - Identify when each will be available for an interview.
- ✓ Define the roles and topics for presentations for all presenters.
- ✓ Give the names and phone number of all presenters to committee members so they will be able to assist with presentation content and development.
- ✓ Set the date and time of the news conference and ensure all presenters will be available.
- ✓ Notify local media of news conference and request coverage.
- ✓ Develop the news conference agenda:
  - Topics and speakers scheduled
  - Media question and answer period
  - Allot time for the media to interview presenters
- ✓ Arrange for obtaining tables, chairs, lights, microphones, podium, etc. that are needed for the news conference.
- ✓ Arrange for refreshments (optional).

One Week prior to News Conference:

- ✓ Send written confirmation of news conference plans to all participants.

One Day before the News Conference:

- ✓ Call all news conference participants.

The Day of the Media Conference:

- ✓ Call all local media.
- ✓ Set up site (tables, chairs, etc.) at least one hour before the actual event, if possible.
- ✓ Coordinate the activities and management of those participating in the news conference.
- ✓ Greet the media as they arrive, distribute and explain the agenda, hand out media packets, answer questions, assist with equipment set up.
- ✓ Initiate the news conference, introduce participants, and coordinate presentations.
- ✓ Coordinate interviews between presenters and media.

After the News Conference:

- ✓ Be available by phone or in person for additional information requested by the media.
- ✓ Send out thank-you notes to all participants, as appropriate.

## **Health Effects of Secondhand Smoke**

Secondhand smoke is the third leading cause of preventable death in the U.S.<sup>1</sup>

### **Secondhand Smoke Causes –**

- **Cancer in Nonsmokers** – Secondhand smoke is a complex mixture of nearly 4,000 chemical compounds, including more than 40 known cancer-causing agents. The 1986 U.S. Surgeon General's report on involuntary smoking was the first among many scientific studies to conclude that secondhand smoke is a cause of lung cancer in healthy nonsmokers. Further, the 2000 Environmental Health Information Service's *9th Report on Carcinogens* classified secondhand smoke as a Group A (Human) Carcinogen, a substance known to cause cancer in humans. There is no safe level of exposure for Group A toxins.<sup>2</sup> It is conservatively estimated at least 3,000 nonsmokers die each year from lung cancer alone caused by secondhand smoke.<sup>3</sup>

- **Heart Disease in Nonsmokers** – A number of epidemiological studies reflect an approximate 30% increase in risk of death from heart disease among nonsmokers living with smokers. Even half an hour of secondhand smoke exposure causes heart damage similar to that of habitual smokers. Nonsmokers' heart arteries showed a reduced ability to dilate, diminishing the ability of the heart to get life-giving blood.<sup>4</sup> In addition, the same half hour of secondhand smoke activates blood platelets, which can initiate the process of atherosclerosis (hardening of the arteries) that leads to a heart attack or stroke.<sup>5</sup> An estimated 62,000 nonsmokers die each year from heart disease caused by secondhand smoke.<sup>6</sup>

- **Disease in Children** – Strong evidence has shown that children who are exposed to secondhand smoke are at considerably higher risk for illness since their lungs and respiratory tissues are still developing. Infants and children exposed to secondhand smoke are more likely to develop pneumonia, bronchitis, asthma, and middle ear disease. As many as 300,000 cases of lower respiratory tract infections in children up to 18 months old and up to 2,700 deaths from sudden infant death syndrome (SIDS) each year are attributable to secondhand smoke exposure.<sup>7</sup> Besides inducing new cases of asthma, secondhand smoke also increases the number and severity of asthma attacks in children.<sup>8</sup>

- **Workers to be at Significant Risk** – Virtually everyone is at some risk of harm from exposure to secondhand smoke, but those who work where smoking is allowed are at greater risk. In fact, workplace exposure to secondhand smoke causes more death and disease than all other regulated occupational substances combined.<sup>9</sup> Restaurant and bar employees have been found to be at the highest risk of disease due to their disproportionate exposure to secondhand smoke. There may be a 50% increase in lung cancer risk among food service workers that is attributable to secondhand smoke exposure.<sup>10</sup> Research has also shown that the average exposure level for bar and restaurant workers was sufficient to double the risk of a fatal asthma attack for workers with asthma.<sup>11</sup>

1 U.S. Department of Health and Human Services. The Health Consequences of Involuntary Smoking: A Report of the Surgeon General. 1986.

2 Environmental Health Information Service, "9th Report on Carcinogens," U.S. Department of Health and Human Services, Public Health Service, National Toxicology Program, 2000.

3 Glantz, SA, Parmley, WW. Passive Smoking and Heart Disease: Epidemiology, Physiology, and Biochemistry. *Circulation*. 1991; 83(1): 1-12.

4 Otsuka, R., et al. "Acute Effects of Passive Smoking on the Coronary Circulation in Healthy Young Adults," *Journal of the American Medical Association*, 286: 436-441, 2001.

5 Burghuber, O., et al. "Platelet sensitivity to prostacyclin in smokers and non-smokers," *Chest*, 90: 34-38, 1986.

6 Wells, A.J. "Passive Smoking as a Cause of Heart Disease." *Journal of the American College of Cardiology*. 1994.

7 California Environmental Protection Agency. Health Effects of Exposure to Environmental Tobacco Smoke. 1997.

8 U.S. Environmental Protection Agency. Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders. 1992.

9 Ibid.

10 Siegel, M. Involuntary Smoking in the Restaurant Workplace: A Review of Employees Exposure and Health Effects. *JAMA*. 1993.

11 Hedley AJ, McGhee SM, Repace J, et al. Passive Smoking and Risks For Heart Disease and Cancer in Hong Kong Catering Workers. Hong Kong Council on Smoking and Health. May 2001.

## **Attacks by the Tobacco Industry on the Science of Secondhand Smoke**

### **Why the Tobacco Industry has an Interest –**

The industry has long recognized that the secondhand smoke issue could threaten its financial future if local governments muster the political will to pass clean indoor air ordinances. The following quotes from industry documents show their true interests lay in their pocketbooks.

***“What the smoker does to himself may be his business, but what the smoker does to the non-smoker is quite a different matter....This we see as the most dangerous development yet to the viability of the tobacco industry that has yet occurred.”<sup>1</sup>***

***“The immediate implication [of smoking bans] for our business is clear: if our consumers have fewer opportunities to enjoy our products, they will use them less frequently and the result will be an adverse impact on our bottom line.”<sup>2</sup>***

***“What do these health claims, the heightened public sentiment for smoking restrictions, increasing non-smoker annoyance toward smokers mean for this industry? Lower sales, of course.”<sup>3</sup>***

### **How the Tobacco Industry Responded –**

The tobacco industry knew the dangers of secondhand smoke for three decades. Big Tobacco considers this data so potentially devastating that it engaged in relentless assaults on the scientific rationale supporting thousands of local clean indoor air ordinances in the U.S.<sup>4</sup>

Upon the British Medical Journal's publication in 1981 of the first scientific paper linking secondhand smoke with lung cancer in nonsmokers, the Tobacco Institute placed full-page newspaper ads challenging the validity of the report. As these ads ran publicly, tobacco industry scientists at Brown & Williamson Tobacco Company privately agreed with the report's findings.<sup>5</sup>

A 1988 tobacco industry memo describes how Big Tobacco spent “vast sums of money” paying researchers to “stimulate controversy” regarding the science of secondhand smoke. The memo summarized a Philip Morris program to recruit scientists “who have no previous record on the primary issues” to conduct research which would then “be ‘filtered’ by lawyers to eliminate areas of sensitivity.”<sup>6</sup>

In January of 1993, the U.S. Environmental Protection Agency issued its landmark report “*Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders*”. This report found that widespread exposure to secondhand smoke presents a serious and substantial public health risk, including determination of secondhand smoke as being a human carcinogen and the cause of more than 3,000 lung cancer deaths a year among nonsmokers in the U.S. A Philip Morris memo, written just four days after the EPA release, outlined the tobacco industry's planned response: “Our overriding objective is to discredit the EPA report...”<sup>7</sup> Internal tobacco industry documents show Tobacco Institute and two law firms managed a project to undermine the EPA report by paying 13 scientists more than \$156,000 to write letters to influential publications criticizing the report. Lawyers edited, and in some instances wrote, the scientists' letters.<sup>8</sup> In 1993, tobacco manufacturers filed suit against the EPA. In July 1998, U.S. District Judge William Osteen – a former tobacco industry lobbyist – ruled the EPA report invalid. The EPA filed an appeal in September 1998, and stood by its conclusions on the health effects of secondhand smoke, which has since been validated by a number of more recent and more comprehensive studies.<sup>9,10</sup> On December 11, 2002, a three-judge panel of the 4<sup>th</sup> U.S. Circuit Court of Appeals made a unanimous decision to vacate Judge Osteen's ruling.<sup>11</sup> On January 14, 2003, Philip Morris announced their decision not to appeal the ruling.<sup>12</sup>

<sup>1</sup>The Roper Organization, *A study of Public Attitudes Towards Cigarette Smoking and the Tobacco Industry in 1978*, Vol. 1, 1978, quoted in S.A. Glantz, J. Slade, L.A. Bero, P. Hanauer, and D.E. Barnes, *The Cigarette Papers*, University of California Press, 1996.

<sup>2</sup>T. Wells, CAC Presentation Number 4, 8 July 1994, Bates Number 2041183751-90.

<sup>3</sup>(*Tobacco Institute, undated*)

<sup>4</sup>Headden, S. “Secondhand Smokescreen: Tobacco Firms Worried for Years about Risks of Passive Smoking,” *U.S. News*, August 3, 1998.

<sup>5</sup>Glantz, S., et al., “The Tobacco Papers,” Berkeley: University of California Press, 1996, pp. 413-416.

<sup>6</sup>“Vast Sums of Money . . . to Keep the Controversy Alive — the 1988 BAT Memo,” *Tobacco Control*, 6(3): 236-239, 1997.

<sup>7</sup>“The Czarina's Edict,” Memorandum from Ellen Merlo, January 11, 1993, BATES No. 2023920140.

<sup>8</sup>Hanners, D. “Scientists Were Paid to Write Letters: Tobacco Industry Sought to Discredit EPA Report,” *Pioneer Planet*, August 4, 1998.

<sup>9</sup>Schlesinger, J.M., “Secondhand-Smoke Study Ruled Invalid: Federal Judge Says EPA Overstated Cancer Link; Agency Likely to Appeal,” *Wall Street Journal*, July 20, 1998.

<sup>10</sup>“Respiratory Health Effects of Passive Smoking,” U.S. Environmental Protection Agency, Office of Air and Radiation, last modified on June 6, 2000.

<sup>11</sup>“Suit on Secondhand Smoke Dismissed, Tobacco Industry Challenged ‘93 EPA Finding on Cancer Risk,” *Washington Post*, December 12, 2002.

<sup>12</sup>“Phillip Morris says it won't appeal ruling on EPA secondhand smoke report” Associated Press, January 14, 2003.

## Ventilation

(Policy Brief issued by <sup>1</sup>American Cancer Society – Midwest Division.  
Adapted and reprinted by permission of  
<sup>8</sup>Smoke Free Wisconsin)

Extensive research has linked secondhand smoke to cancer and heart disease and has shown that ventilation and separation techniques are inadequate in protecting nonsmokers. Smoke-free policies remain the only measure to truly ensure that employees, patrons, and children are adequately protected from the dangers of secondhand smoke.

**Smoking Sections Don't Protect Nonsmokers.** Designated smoking sections within restaurants and workplaces have often been used as a method to address health concerns related to secondhand smoke. In restaurants, these smoking areas are often part of the same room as nonsmoking areas. When there is no physical separation of smokers and nonsmokers, secondhand smoke rapidly diffuses throughout the room resulting in substantial exposure among nonsmokers.<sup>1</sup> In 1986, the U.S. Surgeon General's report on secondhand smoke concluded that separation of smokers and nonsmokers within the same airspace may reduce, but cannot eliminate the exposure of nonsmokers to secondhand smoke.<sup>11</sup>

**Ventilation Simply Recirculates Smokey Air.** In recent years, attempts have been made to establish smoking areas in physically separated rooms on the same ventilation system. Unfortunately, recirculation of air through a building's ventilation systems results in secondhand smoke from a smoking area appearing in nonsmoking areas as well. Ventilation that recirculates rather than exhausts to the outdoors offers no protection against secondhand smoke. This approach assumes that the air volume of the building will dilute the secondhand smoke to an acceptable level. However, it would take approximately one million square feet of building area per smoker to dilute the air enough to achieve minimal, acceptable secondhand smoke exposure levels among nonsmokers.<sup>111</sup>

**New Ventilation Technologies Are A Tobacco Industry Strategy.** As research has shown that secondhand smoke has a serious impact on public health, the tobacco industry has begun to actively promote new ventilation technologies as an optional control measure for secondhand smoke. Unfortunately, ventilation rates would have to be increased more than a thousand-fold in order to reduce health risks from secondhand smoke exposure to an acceptable level. Such tornado-like ventilation rates would create a virtual windstorm indoors.<sup>111</sup> Ventilation technology can help reduce the irritability of smoke, but does not eliminate its poisonous components.<sup>v</sup>

**Separately Ventilated Areas Are Costly and Don't Protect Workers.** In some cases, designated smoking areas have been established in rooms with separate ventilation systems. Air from designated smoking areas is exhausted directly to the outside and not recirculated. The smoking area has negative air pressure that causes air to flow into the smoking room from other parts of the building rather than smoke-filled air escaping out. Unfortunately, installation, maintenance and remodeling costs associated with a proper ventilation system that includes an enclosed smoking area and outside exhaust will be cost-prohibitive for many businesses. Ventilation policies can also be more difficult and more costly for cities to enforce.

In addition, separately ventilated rooms do not take into consideration the health of employees who must enter these rooms. Restaurant and bar employees have been found to be at a higher risk of disease due to their disproportionate exposure to secondhand smoke. One study found that there may be a 50% increase in lung cancer risk among food-service workers that is attributable to tobacco smoke exposure in the workplace.<sup>111</sup>

**Smoke-Free Policies Work!** Smoke-free restaurant policies remain the only measure to truly ensure that all nonsmokers, including children, the elderly and employees, are adequately protected from the dangers of secondhand smoke. The American Cancer Society, Midwest Division actively supports public policies at the local level that protect people from secondhand smoke without relying on ineffective ventilation technologies.

Repace, James. Risk management of passive smoking at work and at home. 1994.

<sup>11</sup> U.S. Department of Health and Human Services. The Health Consequences of Involuntary Smoking: A Report of the Surgeon General. 1986.

<sup>111</sup> Repace, 1994.

<sup>111</sup> Ibid.

<sup>v</sup> World Health Organization. Frequently Asked Questions About Secondhand Smoke. 2001.

<sup>111</sup> Siegel, M. Involuntary Smoking in the Restaurant Workplace: A Review of Employees Exposure and Health Effects. JAMA. 1993.

# Find out more . . .

**Missouri Tobacco Use Prevention Program**  
[www.dhss.state.mo.us/SmokingAndTobacco](http://www.dhss.state.mo.us/SmokingAndTobacco)

or contact us at:

Missouri Department of Health & Senior Services  
Bureau of Health Promotion



P.O. Box 570  
Jefferson City, MO 65102-0570  
(573) 522-2820

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**The American Cancer Society (1-800-ACS-2345)**  
[www.cancer.org](http://www.cancer.org)  
(then enter search for secondhand smoke)

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**The American Heart Association,  
Missouri Affiliate (1-800-323-7883)**  
[www.americanheart.org](http://www.americanheart.org)  
(then enter search for secondhand smoke)

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**The American Lung Association (1-800-LUNG-USA)**  
[www.lungusa.org](http://www.lungusa.org)  
(then enter search for secondhand smoke)

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# Missouri's Clean Indoor Air Law

***"Is it safe  
in there?"***

Secondhand smoke is classified as a Group A Carcinogen by the U.S. Environmental Protection Agency (EPA), meaning it is a known cause of cancer. Secondhand smoke is the third leading cause of preventable death in the U.S. Every year an estimated 1,200 Missourians die from illnesses caused by secondhand smoke. There are more than 4,000 chemicals in secondhand smoke, more than 200 of which are known poisons. Some of these chemicals include arsenic, carbon monoxide, DDT, formaldehyde, and lead.

Secondhand smoke causes many other diseases, including asthma, bronchitis, pneumonia, middle ear infection, chronic respiratory symptoms, low birth weight, and sudden infant death syndrome.



# The Missouri Clean Indoor Air Law, Sections 191.765 - 191.777 RSMo (2002), took effect on August 28, 1992.

## Public Places

The law states that a person shall not smoke in a public place or a public meeting except in a designated smoking area.

The following are examples of public places that must adhere to the law:

- any enclosed indoor workplace (public and private)
- ◆ any enclosed indoor place used for commerce, entertainment or recreation (arenas, concert halls, shopping malls, theaters, etc.)
- retail and commercial establishments
- ◆ health care facilities
- educational facilities
- ◆ child care facilities
- public restrooms
- ◆ buses, taxicabs, and other public transportation
- bus stations and airport terminals
- ◆ most restaurants (see "exemptions" section)

## Exemptions

The law exempts some businesses, including:

- ◆ tobacco stores where more than 50 percent of sales is related to sale of tobacco products
- enclosed indoor arenas or stadiums with seating capacities of more than 15,000 people

- ◆ bars and taverns
- bowling alleys
- ◆ billiard parlors
- restaurants

Only **when** fewer than 50 seats and **with** easily seen signs stating "Non-Smoking Areas Are Unavailable."

## Local Ordinances

This brochure addresses only the state Clean Indoor Air Law. Municipalities and counties may have laws and ordinances with more stringent provisions. Local governmental agencies should be contacted to determine if there are local clean indoor air ordinances.

## Designated Smoking Areas

If not otherwise in violation of a local ordinance, smoking may be allowed if a business, agency or meeting falls under the definition of public meeting only if the following conditions are met.

- ◆ No more than 30% of the total space may be designated as a smoking area.
- If a designated smoking area is established, seating arrangements, available ventilation systems, and physical barriers can be used to isolate designated smoking areas.
- ◆ The proprietor must prominently post appropriate no-smoking or smoking signs.
- Restaurant owners shall provide "an area of sufficient size to accommodate usual and customary demand for non-smoking areas by customers," but this shall not be cause to exceed the 30% space limitation for a smoking area.

## Note

**Smoking areas are not required!**

## Violations and Penalties

Those who smoke in a nonsmoking area and any proprietor or other person in charge who permits smoking in a nonsmoking area are in violation of the law.

- ◆ The maximum fine is \$200 for an individual and \$500 for a corporation.
- Complaints against violators can be made to local law enforcement agencies.



## Position on Smoke-Free Workplace Policies

Issued by <sup>1</sup>American Cancer Society – Midwest Division.

Reprinted by permission of <sup>8</sup>Smoke Free Wisconsin

**Our Position.** The American Cancer Society, Midwest Division supports public policies at the local level that protect people from secondhand smoke. Further, the American Cancer Society, Midwest Division actively supports local policies that do not rely on unproven ventilation technologies.

**Secondhand Smoke Kills.** Secondhand smoke is a complex mixture of chemicals generated during the burning and smoking of tobacco products, including more than 50 known cancer-causing agents. The dangers of secondhand smoke exposure are well established – each year secondhand smoke causes 3,000 deaths from lung cancer and up to 62,000 deaths from heart disease. Infants and children exposed to secondhand smoke are more likely to develop pneumonia, bronchitis, asthma and middle ear infection.<sup>1</sup> As a result, a number of local governments have placed some level of restriction on smoking in workplaces and public places.

**Smoke-Free Workplaces Make Sense.** Extensive research has linked secondhand smoke to cancer and heart disease and has shown that ventilation and separation techniques are inadequate in protecting nonsmokers. Most customers and employees are nonsmoking – more than 70% in Missouri – and employers are expected to provide a work environment reasonably free of recognized hazards. Secondhand smoke harms the health and reduces the productivity of all employees.

**Smoke-Free Workplaces Are Good For Business.** Employers who implement smoke-free policies often experience cost-savings related to fire risk, damage to property and furnishings, cleaning costs, workers' compensation, disability, absenteeism and productivity losses. Health and fire insurance premiums are often lower for smoke-free businesses. To obtain a smoke-free workplace, some workers have resorted to lawsuits and nonsmoking employees have received settlements in cases based on their exposure to secondhand smoke. Research has also shown that policies that prohibit smoking in the workplace can help employees kick the habit.<sup>11</sup>

**Ventilation Doesn't Work.** Some opponents of smoke-free workplace policies argue that ventilation systems provide enough protection for nonsmokers at work. Unfortunately, existing ventilation systems fail to remove all of the dangerous toxins found in secondhand smoke.<sup>12</sup> Ventilation technologies may remove the visible smoke and its smell but they cannot remove the cancer-causing chemicals.

Local smoke-free policies remain the only measure to truly ensure that employees, patrons, and children are adequately protected from the dangers of secondhand smoke.

<sup>1</sup> U.S. Environmental Protection Agency. Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders. 1992.

<sup>11</sup> Moskowitz J, Lin Z, Hudes E. The Impact of Workplace Smoking Ordinances. *American Journal of Public Health*. 2000.

<sup>12</sup> American Society of Heating, Refrigeration and Air Conditioning Engineers. Indoor Air Quality Position Statement. February 2000.



## Check the facts: Allowing smoking in your business simply is not good business.



—Smoking on the job increases absenteeism, property damage, and health and fire insurance costs, and lowers the productivity of non-smoking employees.—

“Passive Smoking: Health Effects and

Workplace Resolutions,” by Philip

Price, at the Canadian

Centre for Occupational Health and

Safety, February,

1989, pp. 3-6.

—When an employee quits smoking, it can save an employer an estimated \$960 in excess illness costs each year.—

“Worksite smoking cessation: A meta-

analysis of long term quit rates from

controlled studies,” by K.J. Fisher, et al., in

*The Journal of Occupational Medicine*,

1993; b 32; 429-439.

**For help in quitting, call 1-800-4-CANCER**

Locally: \_\_\_\_\_

This publication is supported by Cooperative Agreement Number U1A/CCU716957-04 from the Centers for Disease Control and Prevention (CDC). It was produced by the Missouri Department of Health and Senior Services, Tobacco Use Prevention Program—920 Wildwood, Jefferson City, MO, 65102, telephone: (573) 522-2820. Re-printing and distribution is both permitted and encouraged.

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# Is Smoking Good for Business?

**E**stimated costs to employers for secondhand smoke (SHS) effects on non-smoking employees range from \$56 to \$490 per smoker annually.

(Kristen, M.M.  
“How Much Can Business Expect to Profit From Smoking Cessation?” Preventive Medicine, 1983; 12:358-381;  
Jackson & Holle, “Smoking: Perspectives 1985; Primary Care, 1985; 12:197-216)

**S**econdhand smoke (SHS) is by far the most dangerous air pollutant most Americans ever encounter. Workplace exposure to SHS causes more disease and death than workplace exposure to all other toxins combined.

(Environmental Protection Agency, Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders, [EPA/600/6-90/006F] 1993)

**N**on-smoking employees receive workers' compensation, unemployment compensation, disability benefits, and other settlements based on their exposure to secondhand smoke.

“Summary of Legal Cases Regarding Smoking in the Workplace and Other Places,” by E.L. Sweda, from the Boston Tobacco Control Resource Center, December, 1997.

## **Tobacco smoke pollutes the air you breathe . . .**

Arsenic, benzene, formaldehyde, and carbon monoxide are just four of more than 4,000 chemicals found in secondhand tobacco smoke. In fact, the Environmental Protection Agency classifies secondhand tobacco smoke as a class A carcinogen—a definite cancer-causing substance. Allowing people to smoke in your business simply is not good business.

## **Even one-half hour of exposure to** secondhand smoke causes heart

damage similar to that of regular smokers. Secondhand smoke causes the same diseases in non-smokers as in smokers: heart attacks, asthma attacks and other breathing problems (particularly in children), lung and other cancers. Non-smokers regularly exposed to secondhand smoke are 30 percent more likely to develop these diseases.

## **The air in your business is the air you, your employees, and your**

customers breathe. There is no safe level of secondhand smoke. Restaurant, bar, and casino workers involuntarily inhale enough secondhand smoke every day to suffer some of the same health effects observed in pack-a-day smokers. Employees exposed to secondhand smoke on the job are 34% more likely to develop lung cancer than the general population. Secondhand smoke levels in restaurants are 1.6-2.0 times higher than in office workplaces that don't have smoking restrictions; in bars, secondhand smoke levels are 4-6 times higher.

## **Don't waste your money with pricey ventilation systems. Even the most sophisticated** ventilation system cannot

eliminate carcinogens and toxins from secondhand smoke. Ventilation systems are expensive and do not protect you, your employees, and your customers from secondhand smoke. Save your money. The only sure way to eliminate this dangerous pollutant is free—going smoke free.

## Model Policy for a Smokefree University

<sup>2</sup>Americans for Nonsmokers' Rights

Revised October 7, 1999

### ABC University No Smoking Policy

**ABC University is committed to providing a healthy, comfortable, and productive environment for the students, faculty, and staff of this campus.**

The United States Surgeon General in his 1986 report on Involuntary Smoking concluded:

- Involuntary smoking is a cause of disease, including lung cancer, in healthy nonsmokers; and
- The simple separation of smokers and nonsmokers within the same air space may reduce, but does not eliminate, the exposure of nonsmokers to environmental tobacco smoke.

The Environmental Protection Agency has classified secondhand smoke as a Group A carcinogen, a substance known to cause cancer in humans. The EPA does not recognize a safe level of exposure to Group A carcinogens.

**In light of these findings, ABC University shall be completely Smokefree effective (date).**

The Smoke Free Policy applies to all ABC University facilities, owned or leased, regardless of location. Smoking will not be permitted in any enclosed space except private residential space within university housing. No ashtrays will be provided at any location on campus. Cigarettes will not be sold on university grounds, either in vending machines, the student union, or any area on campus. Smoking shall only occur at a reasonable distance (e.g., 20 feet or more) outside any enclosed area where smoking is prohibited to insure that environmental tobacco smoke does not enter the area through entrances, windows, ventilation systems or any other means.

Copies of this policy shall be distributed to all employees and shall be included with information given to all admitted students. Announcements will also be printed in campus newspapers to ensure that everyone understands the new policy. Signs shall be posted at all building entrances.

This policy is being distributed three months prior to its implementation in order to give smokers time to adapt. On-site smoking cessation programs will be made available to assist and encourage individuals who wish to quit smoking. Smokers who want to avail themselves of these programs or seek other smoking cessation assistance of their choosing will be given reasonable leave with pay. Questions and problems regarding this policy should be handled through existing departmental administrative channels and administrative procedures.

The success of this policy will depend on the thoughtfulness, consideration, and cooperation of smokers and nonsmokers. All employees share in the responsibility for adhering to and enforcing this policy.

## Steps for Enacting a Smokefree College Campus Policy

<sup>2</sup>Americans for Nonsmokers' Rights

October 15, 1998

**Determine the decision-making channels on campus.** Who is the chief administrator, and which other administrators are involved in the decision-making process?

- Provide these administrators with information about secondhand smoke and smoking policies on other campuses.
- Request a meeting with the appropriate administrators about enacting a smokefree policy.

**Generate campus support.** Widespread support from students, faculty, and staff will help convince administrators that the policy is wanted and needed.

- Develop a relationship with reporters and editors of the campus newspaper. Articles about secondhand smoke and smoking policies can increase awareness on campus, leading to stronger support for a new policy.
- If possible, get written endorsements from the student government and other student, faculty, and employee organizations.
- Get supporters to send letters of support to the appropriate administrators. Personal letters with anecdotal accounts of problems with the current smoking policy are best.

## Implementing a Smokefree College Campus Policy

<sup>2</sup>Americans for Nonsmokers' Rights

October 15, 1998

**Allow a reasonable time for the policy to be implemented.** Let the campus know about the policy at least three months before it goes into effect. Basing the effective date of the policy on the academic calendar (such as the beginning of the next semester, or the day after Spring Break) can ease implementation.

**Ensure that the entire campus knows about the policy.** This will reduce accidental violations, ensuring easier enforcement.

- Place articles or advertisements in the campus newspaper.
- Adequate signage is critical. Place "no smoking" signs or signs with the international "no smoking" symbol on all entrance doorways in buildings, in lounges and other areas where smokers may congregate, in restrooms, and anywhere else that seems appropriate.
- Explain the policy in materials provided to new students and employees.

**Provide cessation resources.** Most smokers want to quit, and many will use the new policy as an opportunity to do so. Policies established by some campuses include:

- Providing referral list of cessation programs;
- Offering on-site cessation classes in the campus health clinic;
- Providing employees with self-help materials, and allowing release time to attend smoking cessation classes;
- Offering equitable incentives for employees to quit. (Reward those who quit without punishing nonsmokers; e.g., offer a bonus to all employees who are nonsmoking six months after the policy takes effect.)

**Provide an equitable complaint procedure.**

- Ensure that the entire campus know where to register complaints about violations, and that all smokers know the penalty for violating the policy.
- Set up a progressive disciplinary process (i.e., do not fire or expel smokers for the first violation).
- Where possible, use existing enforcement and disciplinary channels.

**Enforce the policy in a nondiscriminatory manner.**

## Model Policy for a Smokefree Workplace

<sup>2</sup>Americans for Nonsmokers' Rights

Revised October 7, 1999

### ABC Company No Smoking Policy

**ABC Company is dedicated to providing a healthy, comfortable and productive work environment for our employees.**

The United States Surgeon General, in his 1986 report on Involuntary Smoking, concluded:

- Involuntary Smoking is a cause of disease, including lung cancer, in healthy nonsmokers;
- The simple separation of smokers and nonsmokers within the same air space may reduce, but does not eliminate, the exposure of nonsmokers to environmental tobacco smoke.

In 1993, the Environmental Protection Agency (EPA) classified environmental tobacco smoke as a Group A carcinogen, that is, a substance known to cause cancer in humans. The EPA recognizes no safe level of exposure for Group A carcinogens.

**In light of these findings, ABC Company shall be entirely smokefree effective (date).**

Smoking will be strictly prohibited within company buildings including offices, hallways, waiting rooms, restrooms, lunch rooms, elevators, meeting rooms and all community work areas. This policy applies to all employees, clients, contractors and visitors. Smoking shall only occur at a reasonable distance (e.g., 20 feet or more) outside any enclosed area where smoking is prohibited to insure that environmental tobacco smoke does not enter the area through entrances, windows, ventilation systems or any other means.

Copies of this policy shall be distributed to all employees. Signs shall be posted at all building entrances.

This policy is being announced 3 months in advance in order to facilitate a smooth transition. Those employees who smoke and would like to take this opportunity to quit are invited to participate in the cessation program being offered by this company.

The success of this policy will depend upon the thoughtfulness, consideration and cooperation of smokers and nonsmokers. All employees share in the responsibility for adhering to and enforcing this policy.

---

Signature of CEO or President

## Steps for Enacting a Smokefree Airport Policy

<sup>2</sup>Americans for Nonsmokers' Rights

October 15, 1998

1. **Determine the decision-making channels for the airport.** Airports policies can be adopted by a variety of decision-makers: administrators and managers, airport commissions, and city councils or county supervisors. Airline officials and food service companies also often have the power to eliminate smoking in their areas.

Determine which decision-makers are most likely to have the ability to make the airport smokefree and take action to do so.

Provide these officials with information about secondhand smoke, the Americans with Disabilities Act, and smoking policies in other airports.

Request a meeting with the appropriate administrators about enacting a smokefree policy.

2. **Generate support.** Widespread support from airport and airline employees, airport patrons, and members of the public will help provide momentum for the policy to be adopted. Local voluntary health associations or nonsmokers' rights groups may be able to help with this.

If possible, get supportive local organizations to send an announcement to their members.

Get supporters to send letters of support to the appropriate administrators. Personal letters with anecdotal accounts of problems with the current smoking policy are best.

3. **Be prepared for controversy.** Sometimes these policies are adopted without fanfare or controversy — but sometimes, especially if the tobacco industry becomes mobilized, there can be considerable debate.

Make sure you have provided information about secondhand smoke, other airport policies, and the tobacco industry to decision-makers before the opposition gets to them. The correct information provided in advance can inoculate decision-makers against the tobacco industry's lies .

4. **Advocate for the strongest policy possible.** A totally-smokefree policy — including restaurants and bars — is the only way to protect nonsmokers. Smokers will congregate in bars and restaurants if they are not covered under the policy, exposing restaurant and bar employees to even more secondhand smoke.

If a smoking lounge is created, it must be completely enclosed and separately-ventilated so that air is exhausted directly outdoors rather than recirculated into the rest of the airport. The cost should be borne by the tobacco industry or by smokers through a user-fee, not by taxpayers or airline passengers.

## Model Policy for a Smokefree Condominium or Apartment

<sup>2</sup>Americans for Nonsmokers' Rights

June, 2002

The following language can be used to implement a smokefree policy in a multiunit dwelling. In apartment complexes, the provisions can be added to the lease. This is most easily done gradually, as new individuals apply to become tenants. For condominiums, the language can be added to the Conditions, Covenants, and Restrictions (CC&Rs) and implemented immediately or at a specified future date.

Include in the "Definitions" section of the lease or CC&Rs:

**SMOKING:** The term "Smoking" means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, or other tobacco product in any manner or in any form.

Include in the restrictions section of the lease or CC&Rs:

**SMOKING:** Due to the increased risk of fire, and the known adverse health effects of secondhand smoke, smoking is prohibited in any area of the property, both private and common, whether enclosed or outdoors. This policy applies to all owners, tenants, guests, employees, and servicepersons.



# Communities of Excellence in Tobacco Control

## Community Indicators

### Priority Area: Eliminate Secondhand Smoke Exposure

Eliminate Secondhand Smoke Exposure Indicators

**Definition:** Address efforts to reduce and eliminate tobacco smoke in various locations-workplaces, public places, day care centers, schools, private homes, autos and outdoor areas.

Community Indicator	Continuum of Strategies to Address the Community Indicator	Example Outcomes
<p>1. Proportion of local communities with clean indoor air policies for public buildings, private worksites, restaurants and day care centers</p> <p>-or-</p> <p>Extent of enforcement/compliance with state, local or tribal clean indoor air policies</p>	<p>Education/Awareness Campaign</p> <ul style="list-style-type: none"> <li>· Voluntary Policy</li> <li>· Legislated Policy</li> <li>· Enforcement</li> </ul>	<ul style="list-style-type: none"> <li>· Increase the number of restaurants that voluntarily adopt smoke-free policies</li> <li>· Increase the number of city, county or tribal governments that adopt clean indoor air policies</li> <li>· Facilitate designation of an enforcement agency that systematically tracks and responds to complaints</li> <li>· Increase compliance with state, local or tribal clean indoor air laws</li> </ul>
<p>2. Proportion of public school districts with smoke-free or tobacco-free campuses</p>	<ul style="list-style-type: none"> <li>· Education/Awareness Campaign</li> <li>· Voluntary Policy</li> <li>· Legislated Policy</li> <li>· Enforcement</li> </ul>	<ul style="list-style-type: none"> <li>· Increase the number of public school districts that adopt and enforce a policy prohibiting any use of tobacco on school campuses</li> </ul>
<p>3. Proportion of private elementary, middle and high school campuses designated as smoke-free or tobacco-free</p>	<ul style="list-style-type: none"> <li>· Education/Awareness Campaign</li> <li>· Voluntary Policy</li> <li>· Legislated Policy</li> <li>· Enforcement</li> </ul>	<ul style="list-style-type: none"> <li>· Increase the number of private schools that adopt and enforce a policy prohibiting any use of tobacco on school campuses</li> </ul>
<p>4. Proportion of homes with a smoker in the household who report their home is smoke-free</p>	<ul style="list-style-type: none"> <li>· Education/Awareness Campaign</li> <li>· Voluntary Policy</li> </ul>	<ul style="list-style-type: none"> <li>· Increase the number of households, with a smoker, that report the household is smoke-free</li> <li>· Decrease the number of households, with children, that report smoking is permitted in the home</li> </ul>

5. Proportion of families with a smoker who report their personal vehicles are smoke-free	<ul style="list-style-type: none"> <li>· Education/Awareness Campaign</li> <li>· Voluntary Policy</li> </ul>	<ul style="list-style-type: none"> <li>· Increase the number of households, with a smoker, that report their personal vehicles are smoke-free</li> <li>· Decrease the number of households, with children, that report smoking is permitted in personal vehicles</li> </ul>
6. Extent of smoke-free units within multi-housing complexes (e.g., apartments, public housing, student housing)	<ul style="list-style-type: none"> <li>· Education/Awareness Campaign</li> <li>· Voluntary Policy</li> <li>· Legislated Policy</li> <li>· Enforcement</li> </ul>	<ul style="list-style-type: none"> <li>· Increase the number of apartment complexes listed in weekly apartment rental listings that are designated as smoke-free</li> <li>· Facilitate adoption of smoke-free apartment policies by the local housing authority</li> <li>· Increase the number of college campus student housing complexes listed as smoke-free</li> </ul>
7. Extent of outdoor recreational facilities (e.g., fairgrounds, amusement parks, playgrounds, sport stadiums, etc.) that have policies designating a portion or all the outdoor areas as smoke-free	<ul style="list-style-type: none"> <li>· Education/Awareness Campaign</li> <li>· Voluntary Policy</li> <li>· Legislated Policy</li> <li>· Enforcement</li> </ul>	<ul style="list-style-type: none"> <li>· Increase the number of major outdoor amusement parks that voluntarily designate waiting lines and eating areas as smoke-free and post signage</li> </ul>
8. Extent of public and private worksites that designate smoke-free entrances within 15 feet or more of the outside doorways -or- Proportion of communities with policies that designate smoke-free entrances within 15 feet or more of the outside doorways	<ul style="list-style-type: none"> <li>· Education/Awareness Campaign</li> <li>· Voluntary Policy</li> <li>· Legislated Policy</li> <li>· Enforcement</li> </ul>	<ul style="list-style-type: none"> <li>· Increase the number of business that voluntarily designate smoke-free entrances</li> <li>· Facilitate adoption of city, county, or tribal policies that designate doorway entrances smoke-free as part of comprehensive clean indoor air policies</li> </ul>

# Is Your Community Ready?

## A Community Assessment Checklist for Smoke-Free Dining

Used by permission of <sup>8</sup>Smoke Free Wisconsin

Completing this assessment before you begin building a coalition to move forward with a smoke-free policy change will provide you with an analysis of how your community and elected officials stand on tobacco control issues.

1. Does the community have a history and base of support in tobacco control?
  - Is there a coalition with a mix of local and state partners?
  - Does the coalition include political insiders, health experts, and dedicated workers?
  - Who is the coalition missing?
  - Is there an organizer?
  - Is there a list of grassroots supporters and a mechanism to communicate with them?
  - Has there been work on voluntary smoke-free policies?
  - What is the history of secondhand smoke awareness efforts?
  - What is the status of local smoking rates and the burden of tobacco use?
  - What are the existing local tobacco education and prevention services?
  - What has been done to educate the community on tobacco, secondhand smoke and clean indoor air?
2. What are the local tobacco control policies?
  - Has there been any effort on municipal tobacco policies?
  - Are the government buildings smoke-free?
  - How many restaurants and worksites are voluntarily smoke-free?
  - What is the local enforcement, compliance, and regulation record for any tobacco laws?
  - What is the current license fee for tobacco retailers?
  - What other public health policies have been implemented in the community (sanitation restrictions, advertisement restrictions, alcohol license free, water fluoridation, etc.)?
3. What are the expectations of the elected officials?
  - What is the assessment of the mayor, city council, and staff?
  - What are their positions on tobacco control issues?
  - What connections do elected officials have to tobacco and their allies or to public health and their allies?
  - Who are your allies/opposition?
  - How are other elected officials (county, commissions, state)?
  - What is the political climate (voter trends, political history, demographics)?
  - How many votes are needed to pass policy?
  - What are the current controversial issues?
  - What is the council structure and procedure (mayor/council president)?
  - Who enforces local tobacco control?

4. Who are the allies and opinion shapers?
  - Which elected officials are the targets?
  - Who are the community leaders who shape local policy?
  - Who or what organizations have influence over elected officials?
  - What connections do members of the Coalition have?
  - Are the public health, medical, and hospital communities involved in the Coalition or tobacco control?
  - Are non-traditional partners involved in tobacco control (religious, school, labor, business, youth, and service groups)?
  
5. What is the basic demographic make-up of the community?
  - What is the population?
  - What is the racial/ethnic diversity?
  - Is the community aged or young?
  - What is the major type of workforce and economic level of the community?
  - What are the voting trends for partisan and nonpartisan elections?
  
6. How does the local media cover tobacco control issues?
  - What are the local media outlets (TV, daily and weekly newspapers, radio)?
  - Which reporters cover health related issues and which reporters cover political issues?
  - How much coverage on tobacco issues is there in the news and on the editorial page?
  - What relationship with media does the coalition have?
  - What is the local vs. national slant in coverage?
  - Do state partners help the coalition with the local media?
  - Are there any nontraditional media outlets (websites, newsletters)?
  
7. Where does the coalition expect to have the strongest opposition?
  - Which organizations are active in the community (Restaurant Assoc, Tavern League, Innkeepers, Chamber)?
  - Which elected officials have close ties to the opposition?
  - What steps can be taken to neutralize or reduce the effects of opposition?
  - How has the tobacco industry been active in your community (industry programs, charities, front groups, ties to community and youth organizations)?
  - What are the difficulties in tobacco policy changes in the past?

## Dialing for Data

### Using Telephone Surveys for Local Opinion and Support

*Adapted from information by the <sup>5</sup>Centers for Disease Control and Prevention and the <sup>10</sup>University of North Carolina at Chapel Hill. Used with permission.*

Surveys get politicians' attention. They reflect the opinions of local businesses, leaders, and communities – groups politicians care about most. Surveys provide *local* information which is otherwise unknown. This information gives health advocates a crucial advantage in defining the debate. For example, one local restaurant survey found that 60% of restauranteurs supported 100% smokefree policies. With this information, strong, pro-ordinance arguments *based on local realities* were developed. Local information can also be used to counter rumors and distortions. It can also be used to confirm studies of other cities with smokefree policies. Conducted early on, surveys help lay the groundwork for organizing communities to fight for stronger legislation.

Telephone surveys are inexpensive, flexible, and timely. They eliminate the need to mail out hundreds of questionnaires and wait weeks for responses. Telephone contact connects health advocates directly with individuals who support their goals. Conducting a survey is an exciting, team-building experience. It can draw together agencies and individuals with common concerns. Telephone surveys are relatively easy to organize and carry out. The process is outlined in the following steps.

#### 1. Assemble the Team

Invite a cross-section of public health agencies, labor unions, community-based and voluntary organizations to participate in the process. In the very beginning, identify a researcher with experience conducting and analyzing surveys. This person will play a critical role in all aspects of the survey.

#### 2. Develop the Questionnaire

Take advantage of surveys other groups have already carried out (an example for a city-wide survey and another for restaurant owners follow this section). Adapt them to your particular situation. Add questions that gather information of special interest to your community. Keep the questionnaire brief. Conclude with an open-ended question, like, "Is there anything you would like to add?" This allows the respondent to ask questions, or speak his mind. If the survey will reach non-English speakers, prepare a translated version of the questionnaire.

#### 3. Determine the Survey Methodology

The methodology include the number of interviews to be conducted, the way the interviewees are selected, and how the questions are worded. An impartial methodology is crucial to the credibility of your findings. Opposition groups are likely to claim the survey is biased. A carefully chosen approach is your best defense against such assaults. Work closely with your researcher to maximize the survey's validity and reliability.

Define your target group, and obtain a complete list of contacts and phone numbers. If the survey concerns restaurants, the county office of environmental health may have a complete list. The Yellow Pages of your local phone book may also be useful. If you are reaching employers, contact local libraries or chambers of commerce. A random sample will help ensure that the data collected is representative of the larger group.

#### 4. Conduct the Survey

If you conduct the survey as a group, in an office with multiple phone lines, you will build team spirit and enthusiasm. Review the questionnaire, and answer any questions. Include bi-lingual interviewers for non-English speaking respondents, or have bi-lingual interviewers call these respondents later. Provide the group with a pizza or snacks.

One of the most valuable advantages of a telephone survey is direct contact with supportive individuals. Note the names of enthusiastic respondents. You may decide to invite them to appear at City Council meetings, speak at the press conferences and seminars, or sign petitions.

#### 5. Analyze the Results

Once the interviews are complete, the researcher can analyze the data. The researcher should review the initial findings with the team, and explore ways information can be used most persuasively. The researcher and other members should draft a written report on the survey's findings. Keep the language clear and understandable. Include graphics which support your conclusions. Try to concentrate on a few key issues that support ordinance reform, rather than discussing all the information collected.

#### 6. Disseminate the Report

To be most effective, survey's results must reach those with the power to enact new legislation. Present your findings at city council hearings, and in meetings with local leaders. Conduct press conferences and prepare press releases highlighting new information. Share your experiences with other tobacco control advocates. You can be a valuable source of assistance to others interested in conducting their own survey.

#### 7. Publicize Smokefree Groups

Your survey will identify businesses or organizations that have already adopted progressive policies. Give these groups favorable publicity. This will encourage their continuing support, and reinforce smokefree community norms. Examples of publicity for smokefree restaurants include: distributing smokefree restaurant guides, placing advertisements in newspapers recognizing these restaurants, and awarding certificates of appreciation to smokefree establishments. Many of these same strategies also apply to businesses and schools.

In conclusion, telephone surveys are a powerful tool in the hands of public health advocates. With information gathered directly from the community, reformers can demonstrate extensive public support for stronger legislation. The survey process strengthens relationships between organizations and individuals. This process can empower individuals to make their communities healthier places to live.

Adapted from information by the <sup>5</sup>Centers for Disease Control & Prevention and the  
<sup>10</sup>University of North Carolina at Chapel Hill. Used with permission.

## City Wide Telephone Survey Form

DATE \_\_\_\_\_

**Hello, this is (your name) with (name of coalition).**

**May I please speak to (name on list)?**

**We are conducting a public opinion study of people's attitude towards secondhand smoke.**

**There are only 10 quick questions, so the survey will only take a couple of minutes.**

- 1) Do you favor or oppose a city ordinance that would make all enclosed public places smokefree?  
☐ Favor   ☐ Oppose   ☐ Don't Know/Won't Say
- 2) If you knew a restaurant was non-smoking only, would you be MORE or LESS LIKELY to go to that restaurant or would it make NO DIFFERENCE?  
☐ More Likely   ☐ Less Likely   ☐ No Difference   ☐ Don't Know/Won't Say
- 3) If you knew that a bar was non-smoking only, would you be MORE or LESS LIKELY to go to that restaurant or would it make NO DIFFERENCE?  
☐ More Likely   ☐ Less Likely   ☐ No Difference   ☐ Don't Know/Won't Say

**I am going to read you a list of statements. For each one please tell me whether you strongly agree, agree, disagree or strongly disagree.**

- 4) Kids shouldn't be exposed to other people's cigarette smoke in restaurants, malls and other public places where they get together.  
☐ Strongly Agree   ☐ Disagree   ☐ Dont' Know/Won't Say  
☐ Agree   ☐ Strongly Disagree
- 5) People with breathing problems such as asthma, allergies and other lung diseases need to be protected from other people's cigarette smoke.  
☐ Strongly Agree   ☐ Disagree   ☐ Dont' Know/Won't Say  
☐ Agree   ☐ Strongly Disagree
- 6) A city ordinance is needed so non-smokers don't have to be exposed to the hazards of other people's cigarette smoke at work or in other public places.  
☐ Strongly Agree   ☐ Disagree   ☐ Dont' Know/Won't Say  
☐ Agree   ☐ Strongly Disagree

7) Do you feel that secondhand smoke is harmful to your health?

- ☐ Strongly Agree      ☐ Disagree      ☐ Don't Know/Won't Say  
☐ Agree      ☐ Strongly Disagree

8) Do you feel that government has a responsibility to promote public health?

- ☐ Strongly Agree      ☐ Disagree      ☐ Don't Know/Won't Say  
☐ Agree      ☐ Strongly Disagree

9) If you knew that a candidate for your local city council favored banning smoking in public restaurants would this make you MORE LIKELY to vote for them, LESS LIKELY to vote for them or would it make NO DIFFERENCE?

- ☐ More Likely    ☐ Less Likely    ☐ No Difference    ☐ Don't Know/Won't Say

10) Do you yourself smoke?

- ☐ Yes    ☐ No    ☐ Don't Know/Won't Say

**I would like to verify your telephone number. I have read it as (read number).  
Is this correct? Great.**

**Thank you for your help and for your time.**

City Council District

- ☐ District 1    ☐ District 2    ☐ District 3    ☐ District 4

Poller: \_\_\_\_\_

Telephone: \_\_\_\_\_



Reprinted with permission from \*Smoke Free Wisconsin

## Smoke-Free Workplace Survey

Workplace Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Person Interviewed: \_\_\_\_\_

Manager or Owner Name (If different from Interviewee): \_\_\_\_\_

### Script:

May I speak with the manager or owner, please? Hi, my name is \_\_\_\_\_. Is this a good time for you to talk for a few minutes? I am a volunteer with \_\_\_\_\_ (name of organization/coalition), and I have a short survey to ask you. I will only take a few minutes. May I ask you a few questions? Thank you.

(Check the appropriate answer):

- 1) Declined to participate.
- 2) Does your workplace have a smoke-free policy?  
 Yes (if yes, go to # 3)                      b. No (If no, go to #6)

### If Question 2 is YES:

- 3) According to the policy, are employees allowed so smoke in the following areas?

	No	Yes	Not Addressed	Not Applicable
a. Work areas (i.e. offices, copy rooms, etc)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Common areas? (i.e. lunchrooms, break rooms, lobby, restrooms)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Other areas inside building?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Immediately outside the entrance or backdoors of the building?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. The rest of the grounds outside the building?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



Reprinted with permission from  
 Springfield-Greene County Public Health Center, Springfield, Missouri

### Smoke-Free Restaurant Survey

**SCRIPT:**

**May I speak with the person in charge or manager, please? Hi, my name is \_\_\_\_\_ and I represent the Springfield-Greene County Health Dept. Is this a good time for you to talk for a few minutes? I'm working on a health project about smoking and I have a short survey to ask you. It will only take a few minutes.**

**May I ask you a few questions? Thank you.**

---

(Please fill out as much of the following information as possible before you enter the establishment )

**Restaurant Name:** \_\_\_\_\_

**Person interviewed:** \_\_\_\_\_ (Person In Charge)

**Owner or manager name (if different from interviewee)** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Interview conducted by:** \_\_\_\_\_

\*\*\*\*\*

(Please Check the Appropriate Circle)

1. Declined to participate today, requested alternative meeting date and time.

☐ Date & time of meeting \_\_\_\_\_.

2. Is your restaurant smoke-free?

☐ Yes (Go to Q. 3)      ☐ No (Go to Q. 6)

**If Question 2 is YES:**

3. How long has your restaurant been smoke-free? \_\_\_\_\_

4. Please tell me why you decided to go smoke-free?

☐ Demands from customers.

☐ Store opened that way (chain or corporate policy).

☐ Costs of cleaning (or cost in general).

☐ Concerned about people's health.

☐ Other \_\_\_\_\_

5. Have you noticed a financial impact since going smoke-free?

☐ Has had positive financial impact or business has improved (revenue has gone up).

☐ Business has stayed the same (no change or no big difference in revenue).

☐ Has had negative financial impact or business has decreased (revenue has gone down).

☐ Comments \_\_\_\_\_

**If Question 2 is NO.**

6. Would you be interested in becoming a smoke-free restaurant?

☐ Yes (Go to Q. 7)

☐ No (Go to Q. 8)

7. What do you need to transition to a smoke-free restaurant?

*(Do not read responses, only check if stated.)*

☐ Need more information about the benefits of becoming smoke-free.

☐ Will only become smoke-free if a local ordinance or state law is passed.

☐ Will only become smoke-free if other restaurants in the area become smoke-free.

☐ Don't know

☐ Other \_\_\_\_\_

8. What reasons prevent your restaurant from going smoke-free?

*(Do not read responses, only check if stated)*

☐ Don't want to be the only one going smoke-free.

☐ All my customers smoke.

☐ All my employees smoke.

☐ Company policy states that the restaurant cannot go smoke-free.

☐ Don't have a lot of demand for seating in non-smoking area.

☐ Will only become smoke-free if a local ordinance or state law is passed.

☐ Will only become smoke-free if other restaurants in the area become smoke-free.

☐ Need more information about the benefits of becoming smoke-free.

☐ Small restaurant size

☐ Remodeling costs

---

☐ Don't know

---

☐ Other, please explain:

---

9. Would you support a city ordinance requiring restaurants to be smoke-free?

☐ Yes

☐ No

(note any comments):

---

10. Would you consider participating in Smoke-Free Sundays - a voluntary program to keep restaurants smoke-free one day a week?

☐ Yes

☐ No

11. Are you aware of your liability regarding employees working in a second hand smoke environment?

☐ Yes

☐ No

**End Script:**

I would like to thank you very much for taking the time to share this information with me. We appreciate your input.

Would you like a copy of the final report? ☐es ☐o

**Follow –up: (check all that are appropriate)**

☐Requested material or more information. — Information sent ☐Date sent \_\_\_\_\_.

Type of information requested \_\_\_\_\_  
\_\_\_\_\_

☐Referred request to: ☐BES ☐AHA ☐ACA ☐ALA ☐health education

☐Final report requested

Please put any further correspondence on back of form. Thank you!

Date survey data entered into computer \_\_\_\_\_

Signature \_\_\_\_\_

**Position on Smoke-Free Restaurant Ordinances**

## Preferred Terminology

Used with permission from <sup>6</sup>Marin County Tobacco Education Program

Avoid using . . .	Instead use . . .
Smoking prohibitions	Smokefree environments
Smoking bans	Clean indoor air environments
Anti-Smoking	For clean indoor air or tobacco use prevention
Ventilation discussions	100% smokefree provisions
Environmental Tobacco Smoke (ETS) (acceptable if in scientific documents)	Secondhand smoke Involuntary smoke
Economic impact	Economic effects
Tough smoking regulations	Comprehensive smokefree provisions
Tough on smoking / tough on smokers	Free from smoking pollution
Tobacco cop / Smoking police	Self-enforcing laws
Enforcement operations	Compliance checks

Issued by <sup>1</sup>American Cancer Society – Midwest Division.  
Reprinted by permission of <sup>8</sup>Smoke Free Wisconsin

**Our Position.** The American Cancer Society, Midwest Division supports public policies at the local level that protect people from secondhand smoke. Further, the American Cancer Society, Midwest Division actively supports local ordinances that do not rely on unproven ventilation technologies.

**Secondhand Smoke Kills.** Secondhand smoke is a complex mixture of chemicals generated during the burning and smoking of tobacco products, including more than 50 known cancer-causing agents. The dangers of secondhand smoke exposure are well established – each year secondhand smoke causes 3,000 deaths from lung cancer and up to 62,000 deaths from heart disease. Infants and children exposed to secondhand smoke are more likely to develop pneumonia, bronchitis, asthma and middle ear infection.<sup>1</sup> As a result, a number of local governments have placed some level of restriction on smoking in public places.

**Smoke-Free Ordinances Make Sense.** Laws enacted at the state level benefit the public health by implementing statewide standards. Ideally, these laws set minimum requirements and allow the continued passage and enforcement of local ordinances that may establish a greater level of protection of public health. Extensive research has linked secondhand smoke to cancer and heart disease and has shown that ventilation and separation techniques are inadequate in protecting nonsmokers.

**Smoke-Free Ordinances Don't Hurt the Bottom Line.** Contrary to some claims, smoke-free ordinances do not adversely affect restaurant sales or tourism business. Economic studies using objective sales tax data from nearly 100 different communities across the country have shown that smoke-free regulations do not have an adverse economic impact on restaurants. One such study analyzed sales tax data for 15 cities with smoke-free restaurant ordinances and found that the regulations had no negative effect on restaurant sales.<sup>11</sup>

**Ventilation Doesn't Work.** Some opponents of smoke-free ordinances argue that ventilation systems provide enough protection for nonsmokers in restaurants. Unfortunately, existing ventilation systems fail to remove all of the dangerous toxins found in secondhand smoke.<sup>12</sup> Ventilation technologies may remove the smell of smoke in the air but they cannot remove the cancer-causing chemicals.

Local smoke-free policies remain the only measure to truly ensure that employees, patrons, and children are adequately protected from the dangers of secondhand smoke.

<sup>1</sup> U.S. Environmental Protection Agency. Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders. 1992.

<sup>11</sup> Glantz, S, Smith L. The Effect of Ordinances Requiring Smoke-Free Restaurants and Bars on Revenue: A Follow-Up. American Journal of Public Health. October 1997.

<sup>12</sup> American Society of Heating, Refrigeration and Air Conditioning Engineers. Indoor Air Quality Position Statement. February 2000.

## What To Look For In An Economic Impact Study

<sup>2</sup>Americans for Nonsmokers' Rights

June 22, 2001

### What evidence does the study use?

*Is the information anecdotal, or is it based on hard data?* Sales tax receipts, from the state Board of Equalization, or equivalent state agency, are the only data which measure restaurant sales in an unbiased, accurate fashion. Surveys measure restaurant owners' impressions; they generally do not provide data to back up those impressions. Although restaurant owners may perceive a downturn in sales, only sales tax receipts tell the real story.

### Are sales figures for more than one quarter analyzed?

To identify underlying trends in restaurant sales that occur each year (such as slumps during the cold winter months), economic impact studies should include restaurant sales data for several years before an ordinance is enacted, as well as for all quarters after enactment. An observed decrease in sales data for one or two quarters may simply be the typical downward trend in restaurant sales that occurs every year.

Delays in filing statements with the Board of Equalization artificially decrease the sales figures for any one quarter.

### Comparison? Figures in a vacuum tell little.

*Compare restaurant sales with total retail sales*—what's going on in the general economy of the city?

*Compare restaurant sales to comparable cities' restaurant sales*—what's going on in the restaurant economy in the area?

The least useful comparison is previous quarters before ordinance passed with same quarters after ordinance passed—the general economy may have changed from one year to the next.

### Did the tobacco industry really conduct the study?

*Was the economic impact study conducted by a tobacco industry front group?* Check the American Nonsmokers' Rights Foundation's [Tobacco Industry Tracking Database®](#), or call us for assistance at 510-841-3032.



## Economic Impacts

As the public has become more aware of the dangers of secondhand smoke, many U.S. communities have implemented ordinances to regulate smoking in workplaces and public places, including restaurants. In a challenge to these new ordinances, restaurateurs, restaurant associations and the tobacco industry have claimed that smoke-free ordinances cause economic damage to businesses.

**Smokefree Ordinances Do Not Hurt Restaurants.** Economic studies using objective sales tax data from hundreds of different communities across the country have shown that smoke-free regulations do not have an adverse economic impact on restaurants. Comparison of 239 communities in Massachusetts revealed that local smokefree ordinances do not harm businesses. The study also showed no significant effect to communities with comprehensive ordinances compared to bordering towns without smoking restrictions.<sup>1</sup> A study of bars in Corvallis, Oregon, concluded a smokefree ordinance did not harm business. Sales data was collected and compared to data collected in nearby communities where smokefree laws were not in place. Data showed that smokers did not abandon Corvallis bars and restaurants nor did beer sales decline compared to neighboring communities, and that revenues from the non-smoking majority replaced any loss of business from smokers.<sup>2</sup> Even in North Carolina, top tobacco producing state in the U.S., smokefree ordinances have not shown any adverse economic impact.<sup>3</sup> Additional case histories of studies may be found at the website of Americans for Nonsmokers' Rights at: [www.no-smoke.org/econcia.html](http://www.no-smoke.org/econcia.html)

**Smokefree Ordinances Do Not Hurt Tourism.** Despite arguments from the tobacco industry that smokefree ordinances will destroy a community's tourism business, studies have found no change in tourist business and even some instances where business has increased after ordinance passage. An analysis of sales tax revenues and hotel visitors in three states and six cities with 100 percent smoke-free restaurant ordinances found that none experienced a drop in hotel visitors and some registered increases after smoke-free laws went into effect.<sup>4</sup> Similarly, tobacco industry predictions of economic ruin for the California tourism industry when restaurants became smoke-free in 1994 have not materialized. In fact, destination spending by visitors to California had increased by 9% every year between 1995 to 2000.<sup>5</sup>

**Adverse Economic Impact Research is Flawed.** There is currently no valid evidence that smoke-free ordinances decrease restaurant sales. Research that has been used to convince policymakers and the public of an adverse economic impact has been based on evaluation approaches that are methodologically flawed. Reports of decreases in restaurant sales following the enactment of a smoke-free ordinance have been based on anecdotal information, restaurant owners' self-reports instead of validated sales data, and on studies of tax data from only one or two quarters following implementation of the ordinance.<sup>6</sup>

**Restaurants Can Save Money By Going Smoke-Free.** Employers who implement smoke-free policies often experience cost-savings related to fire risk, damage to property and furnishings, cleaning costs, workers' compensation, disability, absenteeism and productivity losses. Secondhand smoke harms the health and productivity of nonsmokers and was estimated in 1983 to cost employers \$56 to \$490 per smoker per year.<sup>7</sup> Workplace smoking also increases an employer's potential legal liability. Nonsmoking employees have received settlements in cases based on their exposure to secondhand smoke.<sup>8</sup> What restaurateurs across the nation are saying publicly about their establishments being smokefree can be found the website of Americans for Nonsmokers' Rights at: <http://www.no-smoke.org/econquotes.html>

1 Bartosch, William, and Pope, Gregory, (2000), *The Economic Effect of Restaurant Smoking Restrictions on Restaurant Business in Massachusetts 1992-1998: Final Report*, Center for Health Economics Research, submitted to Massachusetts Department of Public Health, November 27, 2000.

2 Dresser, Boles, Lichtenstein and Strycker, "Multiple Impacts of a Bar Smoking Prohibition Ordinance in Corvallis, Oregon" Pacific Research Institute, Eugene Oregon. n.d.

3 Goldstein A, Sobel R. *Environmental Tobacco Smoke Regulations Have Not Hurt Restaurant Sales in North Carolina*. *North Carolina Medical Journal*. 1998.

4 Glantz S, Charlesworth A. *Tourism and Hotel Revenues Before and After Passage of Smoke-Free Restaurant Ordinances*. *Journal of the American Medical Association*. May 1999.

5 California Trade and Commerce Agency, Division of Tourism, October, 2001.

6 U.S. Centers for Disease Control and Prevention. *Assessment of the Impact of a 100% Smoke-Free Ordinance on Restaurant Sales – West Lake Hills, Texas, 1992-1994*. *Morbidity and Mortality Weekly Report*, 44:370-372, 1995.

7 Kristein. *How Much Can Business Expect to Profit From Smoking Cessation?* *Preventive Medicine*. 1983.

8 Sweda, E.L. *Summary of Legal Cases Regarding Smoking in the Workplace and Other Places*. Boston: Tobacco Control Resource Center, December 1997.

# MODEL ORDINANCE ELIMINATING SMOKING IN ALL WORKPLACES AND PUBLIC PLACES (100% SMOKEFREE)

*provided by Americans for Nonsmokers' Rights*

*Revised January 2003*

## **Sec. 1000. Title**

This Article shall be known as the \_\_\_\_\_ [name of City or County] Smokefree Air Act of \_\_\_\_\_ [year].

## **Sec. 1001. Findings and Intent**

The \_\_\_\_\_ [City Council or Board of Supervisors] does hereby find that:

Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution, and that breathing secondhand smoke (also known as environmental tobacco smoke) is a cause of disease in healthy nonsmokers, including heart disease, stroke, respiratory disease, and lung cancer. The National Cancer Institute determined in 1999 that secondhand smoke is responsible for the early deaths of up to 65,000 Americans annually. (National Cancer Institute (NCI), "Health effects of exposure to environmental tobacco smoke: the report of the California Environmental Protection Agency. Smoking and Tobacco Control Monograph 10," Bethesda, MD: National Institutes of Health, National Cancer Institute (NCI), August 1999.)

The Public Health Service's National Toxicology Program has listed secondhand smoke as a known carcinogen. (Environmental Health Information Service (EHIS), "Environmental tobacco smoke: first listed in the Ninth Report on Carcinogens," U.S. Department of Health and Human Services (DHHS), Public Health Service, National Toxicology Program, 2000.)

Secondhand smoke is particularly hazardous to elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease. Children exposed to secondhand smoke have an increased risk of asthma, respiratory infections, sudden infant death syndrome, developmental abnormalities, and cancer. (California Environmental Protection Agency (Cal EPA), "Health effects of exposure to environmental tobacco smoke", Tobacco Control 6(4): 346-353, Winter, 1997.)

The Americans With Disabilities Act, which requires that disabled persons have access to public places and workplaces, deems impaired respiratory function to be a disability. (Daynard, R.A., "Environmental tobacco smoke and the Americans with Disabilities Act," *Nonsmokers' Voice* 15(1): 8-9.)

The U.S. Surgeon General has determined that the simple separation of smokers and nonsmokers within the same air space may reduce, but does not eliminate, the exposure of nonsmokers to secondhand smoke. (Department of Health and Human Services. *The Health Consequences of Involuntary Smoking: A Report of the Surgeon General*. Public Health Service, Centers for Disease Control, 1986.) The Environmental Protection Agency has determined that secondhand smoke cannot be reduced to safe levels in businesses by high rates of ventilation. Air cleaners, which are only capable of filtering the particulate matter and odors in smoke, do not eliminate the known toxins in secondhand smoke. (Environmental Protection Agency (EPA), "Indoor air facts no. 5: environmental tobacco smoke," Washington, D.C.: Environmental Protection Agency (EPA), June 1989.)

A significant amount of secondhand smoke exposure occurs in the workplace. Employees who work in smoke-filled businesses suffer a 25-50% higher risk of heart attack and higher rates of death from cardiovascular disease and cancer, as well as increased acute respiratory disease and measurable decrease in lung function. (Pitsavos, C.; Panagiotakos, D.B.; Chrysoshoou, C.; Skoumas, J.; Tzioumis, K.; Stefanadis, C.; Toutouzas, P., "Association between exposure to environmental tobacco smoke and the development of acute coronary syndromes: the CARDIO2000 case-control study," *Tobacco Control* 11(3): 220-225, September 2002.)

Smoke-filled workplaces result in higher worker absenteeism due to respiratory disease, lower productivity, higher cleaning and maintenance costs, increased health insurance rates, and increased liability claims for diseases related to exposure to secondhand smoke. ("The high price of cigarette smoking," *Business & Health* 15(8), Supplement A: 6-9, August 1997.)

Numerous economic analyses examining restaurant and hotel receipts and controlling for economic variables have shown either no difference or a positive economic impact after enactment of laws requiring workplaces to be smokefree. Creation of smokefree workplaces is sound economic policy and provides the maximum level of employee health and safety. (Glantz, S.A. & Smith, L. The effect of ordinances requiring smokefree restaurants on restaurant sales in the United States. *American Journal of Public Health*, 87:1687-1693, 1997; Colman, R.; Urbonas, C.M., "The economic impact of smoke-free workplaces: an assessment for Nova Scotia, prepared for Tobacco Control Unit, Nova Scotia Department of Health," *GPI Atlantic*, September 2001.)

Smoking is a potential cause of fires; cigarette and cigar burns and ash stains on merchandise and fixtures causes economic damage to businesses. ("The high price of cigarette smoking," *Business & Health* 15(8), Supplement A: 6-9, August 1997.)

Accordingly, the \_\_\_\_\_ [City Council or Board of Supervisors] finds and declares that the purposes of this ordinance are (1) to protect the public health and welfare by prohibiting smoking in public places and places of employment; and (2) to guarantee the right of nonsmokers to breathe smokefree air, and to recognize that the need to breathe smokefree air shall have priority over the desire to smoke.

## **Sec. 1002. Definitions**

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

1. "Bar" means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.
2. "Business" means a sole proprietorship, partnership, joint venture, corporation, or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered.
3. "Employee" means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and a person who volunteers his or her services for a non-profit entity.

4. “Employer” means a person, business, partnership, association, corporation, including a municipal corporation, trust, or non-profit entity that employs the services of one or more individual persons.
5. “Enclosed Area” means all space between a floor and ceiling that is enclosed on all sides by solid walls or windows (exclusive of doorways), which extend from the floor to the ceiling.
6. “Health Care Facility” means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.
7. “Place of Employment” means an area under the control of a public or private employer that employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, and vehicles. A private residence is not a “place of employment” unless it is used as a child care, adult day care, or health care facility.
8. “Public Place” means an enclosed area to which the public is invited or in which the public is permitted, including but not limited to, banks, bars, educational facilities, health care facilities, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A private residence is not a “public place” unless it is used as a child care, adult day care, or health care facility.
9. “Restaurant” means an eating establishment, including but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term “restaurant” shall include a bar area within the restaurant.
10. “Retail Tobacco Store” means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.
11. “Service Line” means an indoor line in which one (1) or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money.
12. “Shopping Mall” means an enclosed public walkway or hall area that serves to connect retail or professional establishments.
13. “Smoking” means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, weed, plant, or other combustible substance in any manner or in any form.
14. “Sports Arena” means sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys, and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events.

**Sec. 1003. Application of Article to [City-Owned or County-Owned] Facilities**

All enclosed facilities, including buildings and vehicles owned, leased, or operated by the \_\_\_\_\_ [City or County] of \_\_\_\_\_, shall be subject to the provisions of this Article.

**Sec. 1004. Prohibition of Smoking in Public Places**

Smoking shall be prohibited in all enclosed public places within the \_\_\_\_\_ [City or County] of \_\_\_\_\_, including but not limited to, the following places:

1. Aquariums, galleries, libraries, and museums.
2. Areas available to and customarily used by the general public in businesses and non-profit entities patronized by the public, including but not limited to, professional offices, banks, laundromats, hotels, and motels.
3. Bars.
4. Bingo facilities.
5. Convention facilities.
6. Elevators.
7. Facilities primarily used for exhibiting a motion picture, stage, drama, lecture, musical recital, or other similar performance.
8. Health care facilities.
9. Licensed child care and adult day care facilities.
10. Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities.
11. Polling places.
12. Public transportation facilities, including buses and taxicabs, under the authority of the \_\_\_\_\_ [City or County] of \_\_\_\_\_, and ticket, boarding, and waiting areas of public transit depots.
13. Restaurants.
14. Restrooms, lobbies, reception areas, hallways, and other common-use areas.
15. Retail stores.
16. Rooms, chambers, places of meeting or public assembly, including school buildings, under the control of an agency, board, commission, committee or council of the \_\_\_\_\_ [City or County] or a political subdivision of the State when a public meeting is in progress, to the extent the place is subject to the jurisdiction of the \_\_\_\_\_ [City or County].

17. Service lines.
18. Shopping malls.
19. Sports arenas, including enclosed places in outdoor arenas.

#### **Sec. 1005. Prohibition of Smoking in Places of Employment**

- A. Smoking shall be prohibited in all enclosed facilities within places of employment without exception. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles, and all other enclosed facilities.
- B. This prohibition on smoking shall be communicated to all existing employees by the effective date of this Article and to all prospective employees upon their application for employment.

#### **Sec. 1006. Reasonable Distance**

Smoking is prohibited within a reasonable distance of 25 feet outside an enclosed area where smoking is prohibited, so as to insure that tobacco smoke does not enter the area through entrances, windows, ventilation systems, or other means.

#### **Sec. 1007. Where Smoking Not Regulated**

Notwithstanding any other provision of this Article to the contrary, the following areas shall be exempt from the provisions of Sections 1004 and 1005:

1. Private residences, except when used as a licensed child care, adult day care, or health care facility.
2. Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided, however, that not more than twenty percent (20%) of rooms rented to guests in a hotel or motel may be so designated.
3. Retail tobacco stores; provided that smoke from these places does not infiltrate into areas where smoking is prohibited under the provisions of this Article.
4. Private and semiprivate rooms in nursing homes and long-term care facilities that are occupied by one (1) or more persons, all of whom are smokers and have requested in writing to be placed in a room where smoking is permitted.
5. Outdoor areas of places of employment except those covered by the provisions of Section 1006.

### **Sec. 1008. Declaration of Establishment as Nonsmoking**

Notwithstanding any other provision of this Article, an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of Section 1009(A) is posted.

### **Sec. 1009. Posting of Signs**

- A. “No Smoking” signs 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) shall be clearly and conspicuously posted in every public place and place of employment where smoking is prohibited by this Article, by the owner, operator, manager, or other person in control of that place.
- B. Every public place and place of employment where smoking is prohibited by this Article shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.
- C. All ashtrays and other smoking paraphernalia shall be removed from any area where smoking is prohibited by this Article by the owner, operator, manager, or other person having control of the area.

### **Sec. 1010. Nonretaliation**

No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or customer because that employee, applicant, or customer exercises any rights afforded by this Article or reports or attempts to prosecute a violation of this Article.

### **Sec. 1011. Enforcement**

- A. This Article shall be enforced by the \_\_\_\_\_ [Department of Health *or* City Manager *or* County Administrator] or an authorized designee.
- B. Notice of the provisions of this Article 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 Article may initiate enforcement with the \_\_\_\_\_ [Department of Health *or* City Manager *or* County Administrator].
- D. The Health Department, Fire Department, or their designees shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this Article.
- E. An owner, manager, operator, or employee of an establishment regulated by this Article shall inform persons violating this Article of the appropriate provisions thereof.
- F. Notwithstanding any other provision of this Article, an employee or private citizen may bring legal action to enforce this Article.

- G. In addition to the remedies provided by the provisions of this Section, the \_\_\_\_\_ [Department of Health *or* City Manager *or* County Administrator] or any person aggrieved by the failure of the owner, operator, manager, or other person in control of a public place or a place of employment to comply with the provisions of this Article may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction.

### **Sec. 1012. Violations and Penalties**

- A. A person who smokes in an area where smoking is prohibited by the provisions of this Article shall be guilty of an infraction, punishable by a fine not exceeding fifty dollars (\$50).
- B. A person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the provisions of this Article shall be guilty of an infraction, punishable by:
1. A fine not exceeding one hundred dollars (\$100) for a first violation.
  2. A fine not exceeding two hundred dollars (\$200) for a second violation within one (1) year.
  3. A fine not exceeding five hundred dollars (\$500) for each additional violation within one (1) year.
- C. In addition to the fines established by this Section, violation of this Article by a person who owns, manages, operates, or otherwise controls a public place or place of employment may result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.
- D. Each day on which a violation of this Article occurs shall be considered a separate and distinct violation.

### **Sec. 1013. Public Education**

The \_\_\_\_\_ [Department of Health *or* City Manager *or* County Administrator] shall engage in a continuing program to explain and clarify the purposes and requirements of this Article to citizens affected by it, and to guide owners, operators, and managers in their compliance with it. The program may include publication of a brochure for affected businesses and individuals explaining the provisions of this ordinance.

### **Sec. 1014. Governmental Agency Cooperation**

The \_\_\_\_\_ [City Manager *or* County Administrator] shall annually request other governmental and educational agencies having facilities within the \_\_\_\_\_ [City *or* County] to establish local operating procedures in cooperation and compliance with this Article. This includes urging all Federal, State, \_\_\_\_\_ [County *or* City], and School District agencies to update their existing smoking control regulations to be consistent with the current health findings regarding secondhand smoke.



**Sec. 1015. Other Applicable Laws**

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

**Sec. 1016. Liberal Construction**

This Article shall be liberally construed so as to further its purposes.

**Sec. 1017. Severability**

If any provision, clause, sentence, or paragraph of this Article or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are declared to be severable.

**Sec. 1018. Effective Date**

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

**MODEL ORDINANCE ELIMINATING SMOKING  
IN ALL WORKPLACES AND PUBLIC PLACES EXCEPT  
FREESTANDING BARS  
(100% SMOKEFREE)**

*Provided by <sup>2</sup>Americans for Nonsmokers' Rights  
Revised January 2003*

**Sec. 1000. Title**

This Article shall be known as the \_\_\_\_\_ [*name of City or County*] Smokefree Air Act of \_\_\_\_\_ [*year*].

**Sec. 1001. Findings and Intent**

The \_\_\_\_\_ [*City Council or Board of Supervisors*] does hereby find that:

Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution, and that breathing secondhand smoke (also known as environmental tobacco smoke) is a cause of disease in healthy nonsmokers, including heart disease, stroke, respiratory disease, and lung cancer. The National Cancer Institute determined in 1999 that secondhand smoke is responsible for the early deaths of up to 65,000 Americans annually. (National Cancer Institute (NCI), "Health effects of exposure to environmental tobacco smoke: the report of the California Environmental Protection Agency. Smoking and Tobacco Control Monograph 10," *Bethesda, MD: National Institutes of Health, National Cancer Institute (NCI)*, August 1999.)

The Public Health Service's National Toxicology Program has listed secondhand smoke as a known carcinogen. (Environmental Health Information Service (EHIS), "Environmental tobacco smoke: first listed in the Ninth Report on Carcinogens," *U.S. Department of Health and Human Services (DHHS), Public Health Service, National Toxicology Program*, 2000.)

Secondhand smoke is particularly hazardous to elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease. Children exposed to secondhand smoke have an increased risk of asthma, respiratory infections, sudden infant death syndrome, developmental abnormalities, and cancer. (California Environmental Protection Agency (Cal EPA), "Health effects of exposure to environmental tobacco smoke", *Tobacco Control* 6(4): 346-353, *Winter*, 1997.)

The Americans With Disabilities Act, which requires that disabled persons have access to public places and workplaces, deems impaired respiratory function to be a disability. (Daynard, R.A., "Environmental tobacco smoke and the Americans with Disabilities Act," *Nonsmokers' Voice* 15(1): 8-9.)

The U.S. Surgeon General has determined that the simple separation of smokers and nonsmokers within the same air space may reduce, but does not eliminate, the exposure of nonsmokers to secondhand smoke. (Department of Health and Human Services. *The Health Consequences of Involuntary Smoking: A Report of the Surgeon General*. Public Health Service, Centers for Disease Control, 1986.) The Environmental Protection Agency has determined that secondhand smoke cannot be reduced to safe levels in businesses by high rates of ventilation. Air cleaners, which are only capable of filtering the particulate matter and

odors in smoke, do not eliminate the known toxins in secondhand smoke. (Environmental Protection Agency (EPA), "Indoor air facts no. 5: environmental tobacco smoke," *Washington, D.C.: Environmental Protection Agency (EPA)*, June 1989.)

A significant amount of secondhand smoke exposure occurs in the workplace. Employees who work in smoke-filled businesses suffer a 25-50% higher risk of heart attack and higher rates of death from cardiovascular disease and cancer, as well as increased acute respiratory disease and measurable decrease in lung function. (Pitsavos, C.; Panagiotakos, D.B.; Chrysoshoou, C.; Skoumas, J.; Tzioumis, K.; Stefanadis, C.; Toutouzas, P., "Association between exposure to environmental tobacco smoke and the development of acute coronary syndromes: the CARDIO2000 case-control study," *Tobacco Control* 11(3): 220-225, September 2002.)

Smoke-filled workplaces result in higher worker absenteeism due to respiratory disease, lower productivity, higher cleaning and maintenance costs, increased health insurance rates, and increased liability claims for diseases related to exposure to secondhand smoke. ("The high price of cigarette smoking," *Business & Health* 15(8), Supplement A: 6-9, August 1997.)

Numerous economic analyses examining restaurant and hotel receipts and controlling for economic variables have shown either no difference or a positive economic impact after enactment of laws requiring workplaces to be smokefree. Creation of smokefree workplaces is sound economic policy and provides the maximum level of employee health and safety. (Glantz, S.A. & Smith, L. The effect of ordinances requiring smokefree restaurants on restaurant sales in the United States. *American Journal of Public Health*, 87:1687-1693, 1997; Colman, R.; Urbonas, C.M., "The economic impact of smoke-free workplaces: an assessment for Nova Scotia, prepared for Tobacco Control Unit, Nova Scotia Department of Health," *GPI Atlantic*, September 2001.)

Smoking is a potential cause of fires; cigarette and cigar burns and ash stains on merchandise and fixtures causes economic damage to businesses. ("The high price of cigarette smoking," *Business & Health* 15(8), Supplement A: 6-9, August 1997.)

Accordingly, the \_\_\_\_\_ [City Council or Board of Supervisors] finds and declares that the purposes of this ordinance are (1) to protect the public health and welfare by prohibiting smoking in public places and places of employment; and (2) to guarantee the right of nonsmokers to breathe smokefree air, and to recognize that the need to breathe smokefree air shall have priority over the desire to smoke.

## **Sec. 1002. Definitions**

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

1. "Attached Bar" means a bar area of a restaurant.
2. "Bar" means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.
3. "Business" means a sole proprietorship, partnership, joint venture, corporation, or other business entity formed for profit-making purposes, including retail establishments where goods or services

are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered.

4. “Employee” means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and a person who volunteers his or her services for a non-profit entity.
5. “Employer” means a person, business, partnership, association, corporation, including a municipal corporation, trust, or non-profit entity that employs the services of one or more individual persons.
6. “Enclosed Area” means all space between a floor and ceiling that is enclosed on all sides by solid walls or windows (exclusive of doorways), which extend from the floor to the ceiling.
7. “Health Care Facility” means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.
8. “Place of Employment” means an area under the control of a public or private employer that employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, and vehicles. A private residence is not a “place of employment” unless it is used as a child care, adult day care, or health care facility.
9. “Public Place” means an enclosed area to which the public is invited or in which the public is permitted, including but not limited to, banks, educational facilities, health care facilities, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A private residence is not a “public place” unless it is used as a child care, adult day care, or health care facility.
10. “Restaurant” means an eating establishment, including but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term “restaurant” shall include an attached bar.
11. “Retail Tobacco Store” means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.
12. “Service Line” means an indoor line in which one (1) or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money.
13. “Shopping Mall” means an enclosed public walkway or hall area that serves to connect retail or professional establishments.
14. “Smoking” means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, weed, plant, or other combustible substance in any manner or in any form.

15. "Sports Arena" means sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys, and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events.

**Sec. 1003. Application of Article to [City-Owned or County-Owned] Facilities**

All enclosed facilities, including buildings and vehicles owned, leased, or operated by the \_\_\_\_\_ [City or County] of \_\_\_\_\_, shall be subject to the provisions of this Article.

**Sec. 1004. Prohibition of Smoking in Public Places**

Smoking shall be prohibited in all enclosed public places within the \_\_\_\_\_ [City or County] of \_\_\_\_\_, including but not limited to, the following places:

1. Aquariums, galleries, libraries, and museums.
2. Areas available to and customarily used by the general public in businesses and non-profit entities patronized by the public, including but not limited to, professional offices, banks, laundromats, hotels, and motels.
3. Bingo facilities.
4. Convention facilities.
5. Elevators.
6. Facilities primarily used for exhibiting a motion picture, stage, drama, lecture, musical recital, or other similar performance.
7. Health care facilities.
8. Licensed child care and adult day care facilities.
9. Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities.
10. Polling places.
11. Public transportation facilities, including buses and taxicabs, under the authority of the \_\_\_\_\_ [City or County] of \_\_\_\_\_, and ticket, boarding, and waiting areas of public transit depots.
12. Restaurants, including attached bars.
13. Restrooms, lobbies, reception areas, hallways, and other common-use areas.
14. Retail stores.

15. Rooms, chambers, places of meeting or public assembly, including school buildings, under the control of an agency, board, commission, committee or council of the \_\_\_\_\_ [City or County] or a political subdivision of the State when a public meeting is in progress, to the extent the place is subject to the jurisdiction of the \_\_\_\_\_ [City or County].
16. Service lines.
17. Shopping malls.
18. Sports arenas, including enclosed places in outdoor arenas.

#### **Sec. 1005. Prohibition of Smoking in Places of Employment**

- A. Smoking shall be prohibited in all enclosed facilities within places of employment without exception. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles, and all other enclosed facilities.
- B. This prohibition on smoking shall be communicated to all existing employees by the effective date of this Article and to all prospective employees upon their application for employment.

#### **Sec. 1006. Reasonable Distance**

Smoking is prohibited within a reasonable distance of 25 feet outside an enclosed area where smoking is prohibited, so as to insure that tobacco smoke does not enter the area through entrances, windows, ventilation systems, or other means.

#### **Sec. 1007. Where Smoking Not Regulated**

Notwithstanding any other provision of this Article to the contrary, the following areas shall be exempt from the provisions of Sections 1004 and 1005:

1. Bars other than attached bars.
2. Private residences, except when used as a licensed child care, adult day care, or health care facility.
3. Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided, however, that not more than twenty percent (20%) of rooms rented to guests in a hotel or motel may be so designated.
4. Retail tobacco stores; provided that smoke from these places does not infiltrate into areas where smoking is prohibited under the provisions of this Article.
5. Private and semiprivate rooms in nursing homes and long-term care facilities that are occupied by one (1) or more persons, all of whom are smokers and have requested in writing to be placed in a room where smoking is permitted.
6. Outdoor areas of places of employment except those covered by the provisions of Section 1006.

### **Sec. 1008. Declaration of Establishment as Nonsmoking**

Notwithstanding any other provision of this Article, an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of Section 1009(A) is posted.

### **Sec. 1009. Posting of Signs**

- A. "No Smoking" signs 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) shall be clearly and conspicuously posted in every public place and place of employment where smoking is prohibited by this Article, by the owner, operator, manager, or other person in control of that place.
- B. Every public place and place of employment where smoking is prohibited by this Article shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.
- C. All ashtrays and other smoking paraphernalia shall be removed from any area where smoking is prohibited by this Article by the owner, operator, manager, or other person having control of the area.

### **Sec. 1010. Nonretaliation**

No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or customer because that employee, applicant, or customer exercises any rights afforded by this Article or reports or attempts to prosecute a violation of this Article.

### **Sec. 1011. Enforcement**

- A. This Article shall be enforced by the \_\_\_\_\_ [Department of Health *or* City Manager *or* County Administrator] or an authorized designee.
- B. Notice of the provisions of this Article 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 Article may initiate enforcement with the \_\_\_\_\_ [Department of Health *or* City Manager *or* County Administrator].
- D. The Health Department, Fire Department, or their designees shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this Article.
- E. An owner, manager, operator, or employee of an establishment regulated by this Article shall inform persons violating this Article of the appropriate provisions thereof.
- F. Notwithstanding any other provision of this Article, an employee or private citizen may bring legal action to enforce this Article.
- G. In addition to the remedies provided by the provisions of this Section, the \_\_\_\_\_ [Department of Health *or* City Manager *or* County Administrator] or any person aggrieved by the failure of the owner, operator, manager, or other person in control of a public place or a place of employment to

comply with the provisions of this Article may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction.

**Sec. 1012. Violations and Penalties**

- A. A person who smokes in an area where smoking is prohibited by the provisions of this Article shall be guilty of an infraction, punishable by a fine not exceeding fifty dollars (\$50).
- B. A person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the provisions of this Article shall be guilty of an infraction, punishable by:
  - 1. A fine not exceeding one hundred dollars (\$100) for a first violation.
  - 2. A fine not exceeding two hundred dollars (\$200) for a second violation within one (1) year.
  - 3. A fine not exceeding five hundred dollars (\$500) for each additional violation within one (1) year.
- C. In addition to the fines established by this Section, violation of this Article by a person who owns, manages, operates, or otherwise controls a public place or place of employment may result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.
- D. Each day on which a violation of this Article occurs shall be considered a separate and distinct violation.

**Sec. 1013. Public Education**

The \_\_\_\_\_ [Department of Health *or* City Manager *or* County Administrator] shall engage in a continuing program to explain and clarify the purposes and requirements of this Article to citizens affected by it, and to guide owners, operators, and managers in their compliance with it. The program may include publication of a brochure for affected businesses and individuals explaining the provisions of this ordinance.

**Sec. 1014. Governmental Agency Cooperation**

The \_\_\_\_\_ [City Manager *or* County Administrator] shall annually request other governmental and educational agencies having facilities within the \_\_\_\_\_ [City *or* County] to establish local operating procedures in cooperation and compliance with this Article. This includes urging all Federal, State, \_\_\_\_\_ [County *or* City], and School District agencies to update their existing smoking control regulations to be consistent with the current health findings regarding secondhand smoke.

**Sec. 1015. Other Applicable Laws**

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



**Sec. 1016. Liberal Construction**

This Article shall be liberally construed so as to further its purposes.

**Sec. 1017. Severability**

If any provision, clause, sentence, or paragraph of this Article or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are declared to be severable.

**Sec. 1018. Effective Date**

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

**MODEL ORDINANCE ELIMINATING SMOKING  
IN ALL WORKPLACES AND PUBLIC PLACES  
EXCEPT RESTAURANTS AND BARS  
(100% SMOKEFREE)**

*Provided by <sup>2</sup>Americans for Nonsmokers' Rights  
Revised April 2002*

**Sec. 1000. Title**

This Article shall be known as the \_\_\_\_\_ [name of City or County] Smokefree Air Act of \_\_\_\_\_ [year].

**Sec. 1001. Findings and Intent**

The \_\_\_\_\_ [City Council or Board of Supervisors] does hereby find that:

Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution, and that breathing secondhand smoke (also known as environmental tobacco smoke) is a cause of disease in healthy nonsmokers, including heart disease, stroke, respiratory disease, and lung cancer. The U.S. Surgeon General has determined that secondhand smoke is responsible for the early deaths of 65,000 Americans annually.

The Public Health Service's National Toxicology Program has listed secondhand smoke as a known carcinogen (U.S. DHHS, 2000, citing Cal. EPA, 1997).

Secondhand smoke is particularly hazardous to elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease. Children exposed to secondhand smoke have an increased risk of asthma, respiratory infections, sudden infant death syndrome, developmental abnormalities, and cancer.

The Americans With Disabilities Act, which requires that disabled persons have access to public places and workplaces, deems impaired respiratory function to be a disability.

The U.S. Surgeon General has determined that the simple separation of smokers and nonsmokers within the same air space may reduce, but does not eliminate, the exposure of nonsmokers to secondhand smoke. The Environmental Protection Agency has determined that secondhand smoke cannot be reduced to safe levels in businesses by high rates of ventilation. Air cleaners, which are only capable of filtering the particulate matter and odors in smoke, do not eliminate the known toxins in secondhand smoke.

A significant amount of secondhand smoke exposure occurs in the workplace. Employees who work in smoke-filled businesses suffer a 25-50% higher risk of heart attack and higher rates of death from cardiovascular disease and cancer, as well as increased acute respiratory disease and measurable decrease in lung function.

Smoke-filled workplaces result in higher worker absenteeism due to respiratory disease, lower

productivity, higher cleaning and maintenance costs, increased health insurance rates, and increased liability claims for diseases related to exposure to secondhand smoke.

Smoking is a potential cause of fires; cigarette and cigar burns and ash stains on merchandise and fixtures causes economic damage to businesses.

Accordingly, the \_\_\_\_\_ [City Council *or* Board of Supervisors] finds and declares that the purposes of this ordinance are (1) to protect the public health and welfare by prohibiting smoking in public places and places of employment; and (2) to guarantee the right of nonsmokers to breathe smokefree air, and to recognize that the need to breathe smokefree air shall have priority over the desire to smoke.

## **Sec. 1002. Definitions**

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

1. “Bar” means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.
2. “Business” means a sole proprietorship, partnership, joint venture, corporation, or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered.
3. “Employee” means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and a person who volunteers his or her services for a non-profit entity.
4. “Employer” means a person, business, partnership, association, corporation, including a municipal corporation, trust, or non-profit entity that employs the services of one or more individual persons.
5. “Enclosed Area” means all space between a floor and ceiling that is enclosed on all sides by solid walls or windows (exclusive of doorways), which extend from the floor to the ceiling.
6. “Health Care Facility” means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.

7. "Place of Employment" means an area under the control of a public or private employer that employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, and vehicles. A private residence is not a "place of employment" unless it is used as a child care, adult day care, or health care facility.
8. "Public Place" means an enclosed area to which the public is invited or in which the public is permitted, including but not limited to, banks, educational facilities, health care facilities, laundromats, public transportation facilities, reception areas, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A private residence is not a "public place" unless it is used as a child care, adult day care, or health care facility.
9. "Private Function" means a gathering of persons for the purpose of deliberation, education, instruction, entertainment, amusement, or dining, where membership or specific invitation is a prerequisite to entry and where the event is not intended to be open to the public.
10. "Restaurant" means an eating establishment, including but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" shall include a bar area within the restaurant.
11. "Retail Tobacco Store" means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.
12. "Service Line" means an indoor line in which one (1) or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money.
13. "Shopping Mall" means an enclosed public walkway or hall area that serves to connect retail or professional establishments.
14. "Smoking" means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, weed, plant, or other combustible substance in any manner or in any form.
15. "Sports Arena" means sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys, and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events.

### **Sec. 1003. Application of Article to [City-Owned or County-Owned] Facilities**

All enclosed facilities, including buildings and vehicles owned, leased, or operated by the \_\_\_\_\_ [City or County] of \_\_\_\_\_, shall be subject to the provisions of this Article.

## Sec. 1004. Prohibition of Smoking in Public Places

Smoking shall be prohibited in all enclosed public places within the \_\_\_\_\_ [City or County] of \_\_\_\_\_, including but not limited to, the following places:

1. Aquariums, galleries, libraries, and museums.
2. Areas available to and customarily used by the general public in businesses and non-profit entities patronized by the public, including but not limited to, professional offices, banks, laundromats, hotels, and motels.
3. Bingo facilities.
4. Convention facilities.
5. Elevators.
6. Facilities primarily used for exhibiting a motion picture, stage, drama, lecture, musical recital, or other similar performance.
7. Health care facilities.
8. Licensed child care and adult day care facilities.
9. Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities.
10. Polling places.
11. Public transportation facilities, including buses and taxicabs, under the authority of the \_\_\_\_\_ [City or County] of \_\_\_\_\_, and ticket, boarding, and waiting areas of public transit depots.
12. Restrooms, lobbies, reception areas, hallways, and other common-use areas.
13. Retail stores.
14. Rooms, chambers, places of meeting or public assembly, including school buildings, under the control of an agency, board, commission, committee or council of the \_\_\_\_\_ [City or County] or a political subdivision of the State when a public meeting is in progress, to the extent the place is subject to the jurisdiction of the \_\_\_\_\_ [City or County].
15. Service lines.
16. Shopping malls.
17. Sports arenas, including enclosed places in outdoor arenas.

**Sec. 1005. Prohibition of Smoking in Places of Employment**

A. Smoking shall be prohibited in all enclosed facilities within places of employment without exception. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles, and all other enclosed facilities.

B. This prohibition on smoking shall be communicated to all existing employees by the effective date of this Article and to all prospective employees upon their application for employment.

**Sec. 1006. Reasonable Distance**

Smoking is prohibited within a reasonable distance of 25 feet outside an enclosed area where smoking is prohibited, so as to insure that tobacco smoke does not enter the area through entrances, windows, ventilation systems, or other means.

**Sec. 1007. Where Smoking Not Regulated**

Notwithstanding any other provision of this Article to the contrary, the following areas shall be exempt from the provisions of Sections 1004 and 1005:

1. Bars.
2. Restaurants.
3. Private residences, except when used as a licensed child care, adult day care, or health care facility.
4. Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided, however, that not more than twenty-five percent (25%) of rooms rented to guests in a hotel or motel may be so designated.
5. Retail tobacco stores; provided that smoke from these places does not infiltrate into areas where smoking is prohibited under the provisions of this Article.
6. Hotel and motel conference or meeting rooms and public and private assembly rooms when these places are being used for private functions; provided that smoke from these places does not infiltrate into areas where smoking is prohibited under the provisions of this Article.
7. Private and semiprivate rooms in nursing homes and long-term care facilities that are occupied by one (1) or more persons, all of whom are smokers and have requested in writing to be placed in a room where smoking is permitted.
8. Outdoor areas of places of employment except those covered by the provisions of Section 1006.

## **Sec. 1008. Declaration of Establishment as Nonsmoking**

Notwithstanding any other provision of this Article, an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of Section 1009(A) is posted.

## **Sec. 1009. Posting of Signs**

- A. "No Smoking" signs 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) shall be clearly and conspicuously posted in every public place and place of employment where smoking is prohibited by this Article, by the owner, operator, manager, or other person in control of that place.
- B. Every public place and place of employment where smoking is prohibited by this Article shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.
- C. All ashtrays and other smoking paraphernalia shall be removed from any area where smoking is prohibited by this Article by the owner, operator, manager, or other person having control of the area.

## **Sec. 1010. Nonretaliation**

No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or customer because that employee, applicant, or customer exercises any rights afforded by this Article or reports or attempts to prosecute a violation of this Article.

## **Sec. 1011. Enforcement**

- A. This Article shall be enforced by the \_\_\_\_\_ [Department of Health *or* City Manager *or* County Administrator] or an authorized designee.
- B. Notice of the provisions of this Article 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 Article may initiate enforcement with the \_\_\_\_\_ [Department of Health *or* City Manager *or* County Administrator].
- D. The Health Department, Fire Department, or their designees shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this Article.
- E. An owner, manager, operator, or employee of an establishment regulated by this Article shall inform persons violating this Article of the appropriate provisions thereof.
- F. Notwithstanding any other provision of this Article, an employee or private citizen may bring legal action to enforce this Article.

G. In addition to the remedies provided by the provisions of this Section, the \_\_\_\_\_ [Department of Health *or* City Manager *or* County Administrator] or any person aggrieved by the failure of the owner, operator, manager, or other person in control of a public place or a place of employment to comply with the provisions of this Article may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction.

### **Sec. 1012. Violations and Penalties**

A. A person who smokes in an area where smoking is prohibited by the provisions of this Article shall be guilty of an infraction, punishable by a fine not exceeding fifty dollars (\$50).

B. A person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the provisions of this Article shall be guilty of an infraction, punishable by:

1. A fine not exceeding one hundred dollars (\$100) for a first violation.
2. A fine not exceeding two hundred dollars (\$200) for a second violation within one (1) year.
3. A fine not exceeding five hundred dollars (\$500) for each additional violation within one (1) year.

C. In addition to the fines established by this Section, violation of this Article by a person who owns, manages, operates, or otherwise controls a public place or place of employment may result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.

D. Each day on which a violation of this Article occurs shall be considered a separate and distinct violation.

### **Sec. 1013. Public Education**

The \_\_\_\_\_ [Department of Health *or* City Manager *or* County Administrator] shall engage in a continuing program to explain and clarify the purposes and requirements of this Article to citizens affected by it, and to guide owners, operators, and managers in their compliance with it. The program may include publication of a brochure for affected businesses and individuals explaining the provisions of this ordinance.

### **Sec. 1014. Governmental Agency Cooperation**

The \_\_\_\_\_ [City Manager *or* County Administrator] shall annually request other governmental and educational agencies having facilities within the \_\_\_\_\_ [City *or* County] to establish local operating procedures in cooperation and compliance with this Article. This includes urging all Federal, State, \_\_\_\_\_ [County *or* City], and School District agencies to update their existing smoking control regulations to be consistent with the current health findings regarding secondhand smoke.



**Sec. 1015. Other Applicable Laws**

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

**Sec. 1016. Liberal Construction**

This Article shall be liberally construed so as to further its purposes.

**Sec. 1017. Severability**

If any provision, clause, sentence, or paragraph of this Article or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are declared to be severable.

**Sec. 1018. Effective Date**

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

# MODEL ORDINANCE ELIMINATING SMOKING IN ALL MUNICIPAL FACILITIES (100% SMOKEFREE)

*Provided by <sup>2</sup>Americans for Nonsmokers' Rights  
Revised April 2002*

## **Sec. 1000. Title**

This Article shall be known as the \_\_\_\_\_ [name of City or County] Smokefree Air Act of \_\_\_\_\_ [year].

## **Sec. 1001. Findings and Intent**

The \_\_\_\_\_ [City Council or Board of Supervisors] does hereby find that:

Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution, and that breathing secondhand smoke (also known as environmental tobacco smoke) is a cause of disease in healthy nonsmokers, including heart disease, stroke, respiratory disease, and lung cancer. The U.S. Surgeon General has determined that secondhand smoke is responsible for the early deaths of 65,000 Americans annually.

The Public Health Service's National Toxicology Program has listed secondhand smoke as a known carcinogen (U.S. DHHS, 2000, citing Cal. EPA, 1997).

Secondhand smoke is particularly hazardous to elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease. Children exposed to secondhand smoke have an increased risk of asthma, respiratory infections, sudden infant death syndrome, developmental abnormalities, and cancer.

The Americans With Disabilities Act, which requires that disabled persons have access to public places and workplaces, deems impaired respiratory function to be a disability.

The U.S. Surgeon General has determined that the simple separation of smokers and nonsmokers within the same air space may reduce, but does not eliminate, the exposure of nonsmokers to secondhand smoke. The Environmental Protection Agency has determined that secondhand smoke cannot be reduced to safe levels by high rates of ventilation. Air cleaners, which are only capable of filtering the particulate matter and odors in smoke, do not eliminate the known toxins in secondhand smoke.

A significant amount of secondhand smoke exposure occurs in the workplace. Employees who work in smoke-filled offices suffer a 25-50% higher risk of heart attack and higher rates of death from cardiovascular disease and cancer, as well as increased acute respiratory disease and measurable decrease in lung function.

Smoke-filled workplaces result in higher worker absenteeism due to respiratory disease, lower productivity, higher cleaning and maintenance costs, increased health insurance rates, and increased liability claims for diseases related to exposure to secondhand smoke.

Accordingly, the \_\_\_\_\_ [City Council or Board of Supervisors] finds and declares that the purposes of this ordinance are (1) to protect the public health and welfare by prohibiting smoking in all public facilities in the \_\_\_\_\_ [City or County] of \_\_\_\_\_; and (2) to guarantee the right of nonsmokers to breathe smokefree air, and to recognize that the need to breathe smokefree air shall have priority over the desire to smoke.

## Sec. 1002. Definitions

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

1. "Dining Area" means any enclosed area containing a counter or tables upon which food or snacks are served.
2. "Employee" means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and a person who volunteers his or her services for a non-profit entity.
3. "Employer" means a person, business, partnership, association, corporation, including a municipal corporation, trust, or non-profit entity that employs the services of one or more individual persons.
4. "Enclosed" means all space between a floor and ceiling that is enclosed on all sides by solid walls or windows (exclusive of doorways), which extend from the floor to the ceiling.
5. "Health Care Facility" means an institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals or other clinics, nursing homes, homes for the aging or chronically ill, and laboratories. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.
6. "Place of Employment" means an area under the control of a public employer that employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, and vehicles.
7. "Public Facility" means a building, including a part of a building, or vehicle owned, leased, or operated by the \_\_\_\_\_ [City or County] of \_\_\_\_\_.
8. "Service Line" means an indoor line in which one (1) or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money.
9. "Smoking" means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, weed, plant, or other combustible substance in any manner or in any form.
10. "Sports Arena" means sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition or witness sports or other events.

## Sec. 1003. Prohibition on Smoking in Public Facilities

Smoking shall be prohibited in all enclosed public facilities in the \_\_\_\_\_ [City or County] of \_\_\_\_\_. This prohibition shall apply to all areas in those facilities, whether used as a place of employment or as a place for the conduct of public business, and shall include, without limitation, the following places:

1. Aquariums, galleries, libraries, and museums.
2. Child care and adult day care facilities.
3. Convention facilities.

4. Dining areas.
5. Elevators.
6. Facilities primarily used for exhibiting a motion picture, stage, drama, lecture, musical recital, or other similar performance.
7. Health care facilities.
8. Polling places.
9. Public transportation facilities, including buses and taxicabs, under the authority of the \_\_\_\_\_ [City or County] of \_\_\_\_\_, and ticket, boarding, and waiting areas of public transit depots.
10. Restrooms, lobbies, reception areas, hallways, and other common-use areas.
11. Rooms, chambers, places of meeting or public assembly, including school buildings, under the control of an agency, board, commission, committee or council of the \_\_\_\_\_ [City or County] or a political subdivision of the State when a public meeting is in progress, to the extent the place is subject to the jurisdiction of the \_\_\_\_\_ [City or County].
12. Service lines.
13. Sports arenas, including enclosed places in outdoor arenas

#### **Sec. 1004. Reasonable Distance**

Smoking is prohibited within a reasonable distance of 25 feet outside an enclosed area where smoking is prohibited, so as to insure that tobacco smoke does not enter the area through entrances, windows, ventilation systems, or other means.

#### **Sec. 1005. Where Smoking Not Regulated**

Notwithstanding any other provision of this Article to the contrary, the following areas shall be exempt from the provisions of Section 1003:

1. Private residences.
2. Private and semiprivate rooms in nursing homes and long-term care facilities that are occupied by one (1) or more persons, all of whom are smokers and have requested in writing to be placed in a room where smoking is permitted.

#### **Sec. 1006. Posting of Signs**

A. "No Smoking" signs 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) shall be clearly and conspicuously posted in every public facility where smoking is prohibited by this Article, by the owner, operator, manager or other person in control of that facility.

B. Every public facility where smoking is prohibited by this Article, including every dining area within such a facility, shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.

C. All ashtrays and other smoking paraphernalia shall be removed from any area where smoking is prohibited by this Article by the owner, operator, manager or other person having control of the area.

#### **Sec. 1007. Nonretaliation**

No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or customer because that employee, applicant, or customer exercises any rights afforded by this Article or reports or attempts to prosecute a violation of this Article.

#### **Sec. 1008. Enforcement**

A. This Article shall be enforced by the \_\_\_\_\_ [Department of Health or City Manager or County Administrator] or an authorized designee.

B. Any citizen who desires to register a complaint under this Article may initiate enforcement with the \_\_\_\_\_ [Department of Health or City Manager or County Administrator].

C. An owner, manager, operator, or employee of a public facility regulated by this Article shall inform persons violating this Article of the appropriate provisions thereof.

D. Notwithstanding any other provision of this Article, an employee or private citizen may bring legal action to enforce this Article.

#### **Sec. 1009. Violations and Penalties**

A. A person who smokes in an area where smoking is prohibited by the provisions of this Article shall be guilty of an infraction, punishable by a fine not exceeding fifty dollars (\$50).

B. A person who owns, manages, operates, or otherwise controls a public facility and who fails to comply with the provisions of this Article shall be guilty of an infraction, punishable by:

1. A fine not exceeding one hundred dollars (\$100) for a first violation.
2. A fine not exceeding two hundred dollars (\$200) for a second violation within one (1) year.
3. A fine not exceeding five hundred dollars (\$500) for each additional violation within one (1) year.

C. Each day on which a violation of this Article occurs shall be considered a separate and distinct violation.

#### **Sec. 1010. Public Education**

The \_\_\_\_\_ [Department of Health or City Manager or County Administrator] shall engage in a continuing program to explain and clarify the purposes and requirements of this Article to citizens affected by it, and to

guide owners, operators, and managers in their compliance with it. The program may include publication of a brochure explaining the provisions of this ordinance.

#### **Sec. 1011. Governmental Agency Cooperation**

The \_\_\_\_\_ [City Manager or County Administrator] shall annually request other governmental and educational agencies having facilities within the \_\_\_\_\_ [City or County] to establish local operating procedures in cooperation and compliance with this Article. This includes urging all Federal, State, \_\_\_\_\_ [County or City], and School District agencies to update their existing smoking control regulations to be consistent with the current health findings regarding secondhand smoke.

#### **Sec. 1012. Other Applicable Laws**

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

#### **Sec. 1013. Severability**

If any provision, clause, sentence, or paragraph of this Article or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are declared to be severable.

#### **Sec. 1016. Liberal Construction**

This Article shall be liberally construed so as to further its purposes.

#### **Sec. 1014. Effective Date**

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

## Online Resources

### **Clean Air Advocates**

Action on Smoking and Health

<http://ash.org/etsreports.html>

American Cancer Society

1-800-ACS-2345

[http://www.cancer.org/eprise/main/docroot/PED/content/  
PED\\_10\\_2X\\_Environmental\\_Tobacco\\_Smoke-Clean\\_Indoor\\_Air?sitearea=PED](http://www.cancer.org/eprise/main/docroot/PED/content/PED_10_2X_Environmental_Tobacco_Smoke-Clean_Indoor_Air?sitearea=PED)

American Heart Association

1-800-242-9236

[www.americanheart.org](http://www.americanheart.org)

American Lung Association

1-800-LUNG-USA

[www.lungusa.org/tobacco/](http://www.lungusa.org/tobacco/)

Americans for Nonsmokers' Rights

510-841-3032

[www.no-smoke.org](http://www.no-smoke.org)

California Department of Health Services

Tobacco Control Section

916-327-5425

[www.dhs.ca.gov/tobacco/](http://www.dhs.ca.gov/tobacco/)

Campaign for Tobacco Free Kids

202-296-5469

<http://tobaccofreekids.org/>

Centers for Disease Control & Prevention

Office on Smoking and Health

1-800-CDC-1311

[www.cdc.gov/tobacco/ets.htm](http://www.cdc.gov/tobacco/ets.htm)

Legal Resources for Tobacco Control: A Newly Released Guide

[www.tcsg.org/sfelp/LegalRsrc\\_01.pdf](http://www.tcsg.org/sfelp/LegalRsrc_01.pdf)

Minnesota Smoke-Free Coalition

651-641-1223

<http://www.smokefreecoalition.org/index.asp>

Missouri Department of Health & Senior Services

Bureau of Health Promotion

1-866-726-9926 (toll free)

[www.dhss.state.mo.us/SmokingAndTobacco/SAndT.html](http://www.dhss.state.mo.us/SmokingAndTobacco/SAndT.html)

[www.dhss.state.mo.us/KidsAndTobacco-MO02-20-02/](http://www.dhss.state.mo.us/KidsAndTobacco-MO02-20-02/)

**Clean Air Advocates (continued)**

Missouri Partnership on Smoking or Health  
573-634-5165  
[www.smokingorhealth.org](http://www.smokingorhealth.org)

Smoke-Free Environments Law Project  
414-541-9474  
[www.wish-wi.org](http://www.wish-wi.org)

Smoke Free Wisconsin  
608-268-2620  
<http://www.smokefreewi.org/>

Smokeless States  
[www.ama-assn.org/ama/pub/category/3229.html](http://www.ama-assn.org/ama/pub/category/3229.html)

Tobacco Free Missouri  
[www.breatheeasy.mo.org/](http://www.breatheeasy.mo.org/)

**Tobacco Advocates**

Brown & Williamson  
[www.bw.com/index\\_sub2.cfm?ID=22](http://www.bw.com/index_sub2.cfm?ID=22)

Forces International  
[www.forces.org/index.htm](http://www.forces.org/index.htm)

Philip Morris  
[www.philipmorrisusa.com/DisplayPageWithTopicId1fd.asp](http://www.philipmorrisusa.com/DisplayPageWithTopicId1fd.asp)  
[www.pmoptions.com/](http://www.pmoptions.com/)

R J Reynolds  
[www.rjrt.com/TI/TIsecondhand\\_smoke.asp](http://www.rjrt.com/TI/TIsecondhand_smoke.asp)