

Springfield Smokefree Air Act of 2011

Smokefree Implementation Resource Guide



Springfield-Greene County
Health Department
Helping people live longer, healthier, happier lives

Dear Manager/Owner,

This letter is to inform you that voters have approved the Springfield Smokefree Air Act of 2011. This ordinance will take effect on June 11, 2011. The new ordinance will supersede all previous smoking ordinances, and will prohibit smoking in all enclosed places of employment, all enclosed public places, and within five feet of outside entrances, operable windows and ventilation systems where smoking is prohibited. Under the new ordinance, smoking is defined as follows:

“Smoking” means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, in any manner or in any form. “Smoking” also includes the use of an e-cigarette which creates vapor, in any manner or form, or the use of any oral smoking device for the purpose of circumventing the prohibition of this Article.

Additionally, this letter is to inform you of your responsibilities under Springfield City Code Chapter 58 – Sections 1000-1020. Your responsibility as a manager/owner/person having control of your business is to:

- Provide a smokefree workplace.
- Not knowingly permit or allow any person to violate the provisions of Chapter 58 – Section 1000-1020 in the location under your authority. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, company vehicles, and all other enclosed facilities.
- Communicate to all employees regarding your businesses compliance with the smoking ordinance.
- Clearly and conspicuously post “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) at every entrance to your building.
- Clearly and conspicuously post on every vehicle operated by your business at least one sign, visible from the exterior of the vehicle, stating that smoking is prohibited.
- Remove all ashtrays from any area where smoking is prohibited except for ashtrays displayed for sale and not for use on the premises.

It is our intention to assist your business in this transition by offering resources and referrals to expert agencies equipped to offer consultation toward compliance with the smokefree ordinance. To view and download the city’s official NO SMOKING sign and to view other resources, please visit <http://www.springfieldmo.gov/smokefree>.

Please be assured that the City of Springfield intends to enforce provisions of this ordinance for both individuals who smoke in a public place and owners and managers who allow smoking in a prohibited area.

Your compliance with this ordinance is greatly appreciated. If you have any questions, please contact (417)864-1010 during normal business hours.

Sincerely,

A handwritten signature in black ink that reads "Kevin Gipson". The signature is written in a cursive, flowing style.

Kevin Gipson, MA, CPHA
Director of Health

Smoking Cessation Resources

It is likely that creating smokefree environments will encourage some of your employees to want to kick the habit! We encourage you to offer the following resources if your employees request information on how to quit smoking:

- Call your health insurance provider and ask them if there are employee-covered benefits for smoking cessation assistance. In some cases, these are covered benefits that can help provide effective products at a free or reduced charged to the covered employee.
- Utilize this list of local and national resources:

The Missouri Tobacco Quitline

1-800-QUIT-NOW

American Lung Association: *Freedom from Smoking Classes*

Contact: Springfield-Greene County Health

Department 417-864-1658

www.ffsonline.org

CoxHealth: *TIPS*

Contact: 417-269-8477

Great Start—Counseling & Information Services for Pregnant Smokers

www.americanlegacy.org/greatstart

1-866-667-8278

The Kitchen Clinic

Smoking cessation resources available for eligible recipients.

417-837-1500

National Cancer Institute

www.smokefree.com

1-877-44U-QUIT

Quitnet

www.quitnet.com

Office of the Surgeon General

www.surgeongeneral.gov/tobacco

Pfizer

www.mytimetoquit.com

Local Smokefree Business Consultation

National Center for Tobacco Policy

Ty Patterson

417.773.4264

Ozarks Public Health Institute

Delores Joyce

417.836.3165

Smokefree Ordinance FAQ

Q: Why did the City of Springfield adopt the Springfield Smokefree Air Act of 2011?

A: On April 5, 2011, the voters of the City of Springfield voted in favor of passing the Springfield Smokefree Air Act of 2011. A group of citizens followed the rules in the city charter and collected the necessary number of signatures required to place the issue on the ballot. The city charter states that City Council must then pass the proposed language or send the issue to ballot and Council elected to allow the voters to decide. Once the ballot language is sent to the ballot, the citizens vote to pass or not pass the proposal. On April 5, 2011, Springfield voters passed the Springfield Smokefree Air Act 2011. Once the ballot measure is voted into law, the language may not be amended.

Q: What does the Springfield Smokefree Air Act of 2011 say?

A: The Springfield Smokefree Air Act of 2011 amends Chapter 58 of the Springfield City Code to remove smoking in enclosed public areas and workplaces.

Q: When does the Springfield Smokefree Air Act of 2011 go into effect?

A: The Springfield Smokefree Air Act of 2011 will go into effect 60 days after the date of adoption which will be midnight on June 11, 2011.

Q: What is the purpose of the Springfield Smokefree Air Act of 2011?

A: Research has clearly shown an improvement in public health after implementation of similar smokefree ordinances within communities across the country. The purpose of the Springfield Smokefree Air Act of 2011 is to improve public health by decreasing exposure to secondhand smoke.

Q: What businesses and enclosed public places are impacted by passing the Springfield Smokefree Air Act of 2011?

A: The Springfield Smokefree Air Act of 2011 applies to all workplaces, including any enclosed public place in the City of Springfield. This policy prohibits smoking, except within private vehicles and residences unless residences are used as a day care, adult care, or health care facility. The ordinance also exempts 25% of hotel and motel rooms and outdoor spaces more than 5 feet from doorways. Outdoor patios are exempt from the smoking restrictions and may be utilized as a space for employees and patrons to smoke.

Q: Who will enforce the Springfield Smokefree Air Act of 2011?

A: The Springfield-Greene County Health Department will be enforcing the smoking ordinance through an education process over the course of the 60 days between the adoption of the policy and the implementation. The health department will be working with business owners to bring them into compliance after the effective date occurs and with penalty provisions as necessary. The department will use ongoing inspections and a complaint driven process to address concerns, enforce this policy and use penalties, as necessary.

Q: What should I do if a patron/employee smokes in my establishment?

A: The owner/manager or designee has the responsibility to ensure that employees and patrons are in compliance with this ordinance. If a person is found violating the ordinance within your establishment, you should ask that person to cease the behavior in violation of the ordinance. If the person refuses, you should ask that person to leave the premises. If the person refuses to leave the premises, the owner/manager, operator or employee shall contact law enforcement.

Q: What is the penalty for a violation?

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

A person, who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the ordinance shall be subject to:

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.

In addition to the fines established by the ordinance, a violation of this ordinance 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.

Please refer to the ordinance printed in this guide for more information on violations.

Q: Who should I contact if I have a question or a complaint?

A: For questions or complaints related to the smoking ordinance, please contact the City of Springfield at 417-864-1010.

Q: What is the definition of a 'public place'?

A: "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, gaming facilities, health care facilities, hotels and motels, laundromats, public transportation vehicles and 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.

Q: What is the definition of a 'place of employment'?

A: "Place of Employment" means an enclosed area under the control of a public or private employer, including, but not limited to, work areas, private offices, 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.

Q: Are e-cigarettes allowed in the Springfield Smokefree Air Act of 2011?

A: No. Smoking is prohibited in all enclosed areas of places of employment. The definition of smoking used in the policy includes the use of an e-cigarette. E-cigarettes are not allowed in order to eliminate confusion for individuals and businesses. These products have caused confusion as they are similar in appearance to an actual cigarette. In addition to the confusion they could potentially cause, e-cigarettes are not FDA regulated. Without FDA regulation, there is no data to support the use of these products.

Q: Are private residences affected by the Springfield Smokefree Air Act of 2011?

A: No. Private residences are not considered 'public places' nor a 'place of employment' unless the residence is used as a childcare, adult day care or health care facility.

Q: Where can I find more information about the definitions in the Springfield Smokefree Air Act of 2011?

A: The ordinance has been printed in its entirety in the back of this resource guide. You may also view the ordinance on the web by visiting www.springfieldmo.gov/smokefree.

Q: Are there any other areas where smoking is not regulated?

A: In addition to private residences, the following areas are not subject to this ordinance:

- Private residences, unless used as a childcare, adult day care or health care facility.
- Not more than twenty-five percent (25%) of hotel and motel rooms rented to guests and designated as smoking rooms. All smoking rooms on the same floor must be contiguous and smoke from these rooms must not infiltrate into areas where smoking is prohibited under the provisions of this Article. The status of rooms as smoking or nonsmoking may not be changed, except to add additional nonsmoking rooms.
- Five feet outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited to prevent tobacco smoke from entering those areas.

Q: Do I need to post “No Smoking” signs?

A: Yes. Signs must be posted to indicate that smoking is not allowed inside the establishment. The Springfield Smokefree Air Act of 2011 provides clear instructions that signs should include the international “No Smoking” symbol, a picture of a burning cigarette in a red circle with a red bar across it. These signs must be clearly placed near every entrance. One Air Alliance will provide a limited amount of signs free of charge on a first-come, first-served basis. Additionally, the sign template will be made available on the One Air Alliance website at www.oneairalliance.org, and at www.springfieldmo.gov/smokefree. For questions or more information on the sign requirements, please see the ordinance printed at the end of this resource guide.

Q: Do I need to tell my employees about the Springfield Smokefree Air Act of 2011?

A: Yes. As a business owner/manager or designee, it is recommended that you adopt a formal policy for your establishment and inform your employees of that policy. One Air Alliance has compiled a variety of resources to assist you with this transition. You may find those, as well as a sample “Smokefree Workplace Policy” on their website at www.oneairalliance.com.

Q: What are the benefits of a smokefree workplace?

A: Now that a comprehensive smokefree ordinance has been adopted, there are many benefits that businesses and the community will experience. A smokefree workplace will reduce fire hazards, create a cleaner environment, and improve the health of your staff and patrons at the same time as reducing health care costs. For more information on the benefits of a smokefree workplace, please visit www.oneairalliance.org.

Springfield Smokefree Air Act 2011

Ordinance Language

Section 1 – The City Council of the City of Springfield hereby adopts the following ordinance language as submitted through the initiative process:

Sec. 1000. Title

This Article shall be known as the Springfield Smokefree Air Act of 2011.

Sec. 1001. Findings and Intent

Be it ordained by the people of the city of Springfield, Missouri as follows:

The 2006 U.S. Surgeon General's Report, *The Health Consequences of Involuntary*

Exposure to Tobacco Smoke, has concluded that (1) secondhand smoke exposure causes disease and premature death in children and adults who do not smoke; (2) children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory problems, ear infections, and asthma attacks, and that. Smoking by parents causes respiratory symptoms and slows lung growth in their children; (3) exposure of adults to secondhand smoke has immediate adverse effects on the cardiovascular system and causes coronary heart disease and lung cancer; (4)

there is no risk-free level of exposure to secondhand smoke; (5) establishing smokefree workplaces is the only effective way to ensure that secondhand smoke exposure does not occur in the workplace, because ventilation and other air cleaning technologies cannot completely control for exposure of nonsmokers to secondhand smoke; and (6) evidence from peer-reviewed studies shows that smoke-free policies and laws do not have an adverse economic impact on the hospitality industry. (U.S. Department of Health and Human Services. *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006.) Given the fact that there is no safe level of exposure to secondhand smoke, the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) bases its ventilation standards on totally smoke-free environments. ASHRAE has determined that there is currently no air filtration or other ventilation technology that can completely eliminate all the carcinogenic components in secondhand smoke and the health risks caused by secondhand smoke exposure, and recommends that indoor environments be smoke-free in their entirety. (Samet, J.; Bohanon, Jr., H.R.; Coultas, D.B.; Houston, T.P.; Persily, A.K.; Schoen, L.J.; Spengler, J.; Callaway, C.A., "ASHRAE

position document on environmental tobacco smoke," *American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE)*, 2005.) Accordingly, the city of Springfield, Missouri finds and declares that the purpose of this ordinance is to protect the public health and welfare by prohibiting smoking in public places and places of employment.

Sec. 1002. Definitions

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

- A. "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.
- B. "Business" means a sole proprietorship, partnership, joint venture, corporation, or other business entity, either for-profit or not-for-profit, including retail establishments where goods or services are sold; professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered; and private clubs.
- C. "E-cigarette" means any electronic oral device, such as one composed of a heating element, battery, and/or electronic circuit, which provides a vapor of nicotine or any other substances, and the use or inhalation of which simulates smoking. The term shall include any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, or under any other product name or descriptor.
- D. "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.
- E. "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.
- F. "Enclosed Area" means all space between a floor and a ceiling that is bounded on all sides by walls, doorways, or windows, whether open or closed. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent.
- G. "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, long term care facilities, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, psychiatrists, 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.
- H. "Place of Employment" means an enclosed area under the control of a public or private employer, including, but not limited to, work areas, private offices, 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.
- I. "Playground" means any recreational area designed in part to be used by children that has play or sports equipment installed or that has been designated or landscaped for play or sports activities, or any similar facility located on public or private school grounds or on city grounds.
- J. "Private Club" means an organization, whether incorporated or not, which is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and which only sells alcoholic beverages incidental to its operation. The affairs and management of the organization are conducted by a board of directors, executive committee, or similar body chosen by the members at an annual meeting. The organization has established bylaws and/or a constitution to govern its activities. The organization has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. Section 501.
- K. "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, gaming facilities, health care facilities, hotels and motels, laundromats, public transportation vehicles

and 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.

L. "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.

M. "Shopping Mall" means an enclosed public walkway or hall area that serves to connect retail or professional establishments.

N. "Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, in any manner or in any form. "Smoking" also includes the use of an e-cigarette which creates a vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Article.

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

All enclosed areas, including buildings and vehicles owned, leased, or operated by the City of Springfield, shall be subject to the provisions of this Article.

Sec. 1004. Prohibition of Smoking in Enclosed Public Places

Smoking shall be prohibited in all enclosed public places within the City of Springfield, including but not limited to, the following enclosed places:

A. Aquariums, galleries, libraries, and museums.

B. Areas available to the general public in businesses and non-profit entities patronized by the public, including but not limited to, banks, laundromats, professional offices, and retail service establishments.

C. Bars.

D. Bingo facilities.

E. Child care and adult day care facilities.

F. Convention facilities.

G. Educational facilities, both public and private.

H. Elevators.

I. Gaming facilities.

J. Health care facilities.

K. Hotels and motels.

L. Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities.

M. Polling places.

N. Public transportation vehicles, including buses and taxicabs, under the authority of the City, and ticket, boarding, and waiting areas of public transportation facilities, including bus, train, and airport facilities.

O. Restaurants.

P. Restrooms, lobbies, reception areas, hallways, and other common-use areas.

Q. Retail stores.

R. 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 a political subdivision of the State, to the extent the place is subject to the jurisdiction of the City.

S. Service lines.

T. Shopping malls.

U. Sports arenas, including enclosed places in outdoor arenas.

V. Theaters and other facilities primarily used for exhibiting motion pictures, stage dramas, lectures, musical recitals, or other similar performances.

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

A. Smoking shall be prohibited in all enclosed areas of 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. Prohibition of Smoking in Private Clubs

Smoking shall be prohibited in all private clubs.

Sec. 1007. Prohibition of Smoking in Enclosed Residential Facilities

Smoking shall be prohibited in the following enclosed residential facilities:

A. All private and semi-private rooms in nursing homes.

B. At least 75% of hotel and motel rooms that are rented to guests.

Sec. 1008. Prohibition of Smoking in Outdoor Areas

Smoking shall be prohibited in the following outdoor places:

A. Within a reasonable distance of five feet outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited, so as to prevent tobacco smoke from entering those areas.

B. In, and within five feet of, outdoor playgrounds

Sec. 1009. 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:

A. Private residences, unless used as a childcare, adult day care, or health care facility, and except as provided in Section 1007.

B. Not more than twenty-five percent (25%) of hotel and motel rooms rented to guests and designated as smoking rooms. All smoking rooms on the same floor must be contiguous and smoke from these rooms must not infiltrate into areas where smoking is prohibited

under the provisions of this Article. The status of rooms as smoking or nonsmoking may not be changed, except to add additional nonsmoking rooms.

C. Outdoor areas of places of employment except those covered by the provisions of Section 1008.

Sec. 1010. 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 1011(A) is posted.

Sec. 1011. Posting of Signs and Removal of Ashtrays

The owner, operator, manager, or other person in control of a public place or place of employment where smoking is prohibited by this Article shall:

A. Clearly and conspicuously post "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) in that place.

B. Clearly and conspicuously post at every entrance to that place a sign stating that smoking is prohibited.

C. Clearly and conspicuously post on every vehicle that constitutes a place of employment under this Article at least one sign, visible from the exterior of the vehicle, stating that smoking is prohibited.

D. Remove all ashtrays from any area where smoking is prohibited by this Article, except for ashtrays displayed for sale and not for use on the premises.

Sec. 1012. Nonretaliation; Nonwaiver of Rights

A. No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, customer, or resident of a multiple-unit residential facility because that employee, applicant, customer, or resident exercises any rights afforded by this Article or reports or attempts to prosecute a violation of this Article. Notwithstanding Section 1014, violation of this Subsection shall be a misdemeanor, punishable by a fine not to exceed \$1000 for each violation.

B. An employee who works in a setting where an employer allows smoking does not waive or otherwise surrender any legal rights the employee may have against the employer or any other party.

Sec. 1013. Enforcement

A. This Article shall be enforced by the City Manager 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 of Springfield

C. Any citizen who desires to register a complaint under this Article may initiate enforcement with the City Manager.

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 direct a person who is smoking in violation of this Article to extinguish the product being smoked. If the person does not stop smoking, the owner, manager, operator, or employee shall refuse service and shall immediately ask the person to leave the premises. If the person in violation refuses to leave the premises, the owner, manager, operator, or employee shall contact a law enforcement agency.

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 City

Manager 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. 1014. 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. Except as otherwise provided in Section 1012(A), 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. Violation of this Article is hereby declared to be a public nuisance, which may be abated by the City Manager by restraining order, preliminary and permanent injunction, or other means provided for by law, and the City may take action to recover the costs of the nuisance abatement.

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

Sec. 1015. Public Education

The City Manager 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. 1016. Governmental Agency Cooperation

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

Sec. 1017. Other Applicable Laws

This Article will repeal and replace any and all existing city ordinance regarding smoking. This Article shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

Sec. 1018. Construction

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

Sec. 1019. 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. 1020. Effective Date

This Article shall be effective sixty (60) days from and after the date of its adoption.

Section 2 - The City Attorney and City Clerk shall number and place the above-adopted sections in the City Code at appropriate locations.