

RESOLUTION NO. 141

WHEREAS, the Sangamon County Board finds that tobacco smoke is dangerous to human beings and a hazard to public health and welfare; and

WHEREAS, numerous scientific studies have shown secondhand smoke is dangerous to all people exposed to it, greatly increasing the risk of heart disease and lung cancer, and devastating to non-smokers with cardiovascular problems or impaired respiratory function; and

WHEREAS, children exposed to secondhand smoke have been shown to be at great risk of asthma, pneumonia, and cancer; and

WHEREAS, the adverse health effects of secondhand smoke are recognized by numerous medical and scientific authorities, including the American Medical Association, the U.S. Surgeon General, the National Institute on Occupational Safety and Health, the National Cancer Institute, the Environmental Protection Agency, the National Academy of Sciences, the National Toxicology Program, the Center of Disease Control and Prevention, and the World Health Organization; and

WHEREAS, Public Act 94-917 effective June 26, 2006 amends the Illinois Indoor Clean Air Act to allow non-home rule counties, within the unincorporated territory of the county, to regulate smoking in public places, and in any enclosed indoor area used by the public or serving as a place of work if the area does not fall within the definition of a public place under the Act; and

NOW THEREFORE, BE IT RESOLVED by the Members of the Board of Sangamon County, Illinois, in session this 8th day of August, 2006, that Chapter 8.18 of Title 8 of the Sangamon County Code, as follows, is hereby enacted:

Chapter 8.18

CLEAN INDOOR AIR ORDINANCE

Sections:

- 8.18.010 Definitions
- 8.18.020 Purpose
- 8.18.030 Smoking prohibited
- 8.18.040 Reasonable distance
- 8.18.050 Exemptions
- 8.18.060 Other non-smoking areas
- 8.18.070 Responsibilities of proprietors
- 8.18.080 Enforcement
- 8.18.090 Non-retaliation
- 8.18.100 Penalties
- 8.18.110 Governmental cooperation
- 8.18.120 Public education
- 8.18.130 Severability
- 8.18.140 Effective date

Section 8.18.010 Definitions. For the purpose of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Bar. An establishment that is devoted to the serving of alcoholic beverages for consumption by guests and patrons on the premises and in which the serving of food is either not done or is only incidental to the consumption of those beverages, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.

Business. Any sole proprietorship, partnership, joint venture, corporation, whether for-profit or not-for-profit, or any other business entity, including but not limited to, retail businesses and service businesses where goods or services are sold to the public; and professional corporations, partnerships or other business entities wherein legal, medical, dental, engineering, architectural or other professional services are provided. A business shall include a private club, as defined in this section, and any government entity subject to Sangamon County ordinances.

Employee. Any person who is employed or contracted by a business in consideration for direct or indirect monetary wages or profit, the owner or operator of a sole proprietorship or other similar business entity, and any person who volunteers his or her services for a non-profit entity.

Employer. Any person, business, partnership, association, corporation, trust, or non-profit entity that employs the services of one or more individual persons.

Enclosed area. All space in any structure, or portion thereof, located between a floor and ceiling that is enclosed on all sides by walls, windows, doorways or combinations thereof that extend from the floor to the ceiling.

Health care facility. 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.

Place of employment. Any enclosed area of a business within Sangamon County where one or more employees are required or permitted by an employer to work in the course of their employment, including without limitation the generality of the foregoing work areas, private offices, auditoriums, classrooms, conference and meeting rooms, cafeterias, employee lounges, stairs, elevators, hallways, restrooms, and the interior of a motor vehicle or public conveyance. A place of employment shall include a private club.

Private club. 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.

Public place. (a) Any enclosed area in a building or structure within unincorporated Sangamon County which members of the public are invited or permitted to visit or use, including lobbies, hallways, stairways, elevators and other common areas of businesses or apartment buildings, condominiums, cooperatives, congregate housing, and other multiple-unit residential structures, including without limitation the following:

- (1) Arcades.
- (2) Aquariums, galleries, libraries, and museums.
- (3) Bars
- (4) Bingo facilities.
- (5) Bowling alleys.
- (6) Convention facilities.
- (7) Day care centers, nursery schools, elementary schools, high schools, community colleges, technical training establishments, specialty schools, colleges and universities.
- (8) Facilities primarily used for exhibiting a motion picture, stage, drama, lecture, musical recital, or other similar performance.
- (9) Gaming facilities.
- (10) Government vehicles used for County business such as maintenance trucks or fleet vehicles. All enclosed vehicles and facilities, including without limitation buildings and vehicles owned, leased, or operated by the County.
- (11) Grocery stores.
- (12) Health care facilities, adult care facilities and nursing homes.
- (13) Lobbies, hallways and other common areas in apartment buildings, condominiums and enclosed common areas in trailer parks.
- (14) Polling places.
- (15) Private clubs.
- (16) Public elevators and all retail stores where merchandise is displayed and offered for sale.
- (17) Public meetings.
- (18) Public transportation facilities under the authority of government agencies, including without limitation buses, trains, taxicabs, and limousines, and ticket, boarding and waiting areas of public transit stations.

- (19) Restaurants, including, a bar attached to or within a restaurant.
- (20) Restrooms, lobbies, reception areas, hallways, and other enclosed common-use areas.
- (21) Rooms, chambers, places of meeting or public assembly, including without limitation school buildings, under the control of an agency, board, commission, committee or council.
- (22) Service lines.
- (23) Shopping malls.
- (24) Sports arenas, gymnasiums, or recreational areas, including without limitation enclosed places in outdoor arenas.

Restaurant. 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 attached to or within the restaurant.

Retail tobacco store. A retail store with the primary business being the sale of tobacco products and accessories and in which the sale of other products is incidental, does not hold a liquor license, and where no one under the age of 18 is permitted.

Service line. 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.

Smoke or Smoking. Inhaling, exhaling, burning or carrying any lighted or burning cigarette, cigar, pipe, hookah pipe, pipe weed, or other lighted tobacco product in any manner or in any form.

Sports Arena. A sports pavilion, stadium, gymnasium, health spa, boxing arena, swimming pool, roller or ice rink, 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.

Tobacco. Any substance containing tobacco leaf, including but not limited to, any cigar, cigarette, leaf tobacco, pipe tobacco, or tobacco in any of its forms.

Section 8.18.020 Purpose. The purpose of this Ordinance is to (1) protect the public health and welfare and better ensure the ability of citizens to breath safe and uncontaminated air by prohibiting smoking in public places and places of employment, (2) affirm the right of nonsmokers to breathe smoke-free air, (3) recognize that the need to breathe smoke-free air shall have priority over the desire to smoke.

It is enacted because Sangamon County recognizes 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 and death in healthy nonsmokers, including heart disease, stroke, respiratory disease, and lung cancer. These studies have been completed by the National Cancer Institute, the California Environmental Protection Agency, and the National Institutes of Health.

Section 8.18.030 Smoking Prohibited in Public Places and Places of Employment.

(a) It shall be unlawful for any person to smoke in any public place or place of employment within the unincorporated area of Sangamon County.

(b) It shall be unlawful for an employer to knowingly permit smoking in any enclosed area in any place of employment.

(c) It shall be unlawful for an employer, owner, occupant or lessee, as the case may be, in control of a public place to knowingly permit smoking in any enclosed area in said public place.

(d) It shall be unlawful for an employer, owner, occupant or lessee, as the case may be, in control of a public place to fail to post signage or remove ash trays, as provided in Section 8.18.070 of this Ordinance.

Section 8.18.040 Reasonable Distance. Smoking is prohibited within ten (10) feet outside the main point of ingress and egress to any enclosed area regulated by this Ordinance. This Section does not apply to vehicles.

Section 8.18.050 Exemptions. The prohibitions on smoking set forth in this Ordinance shall not apply to:

(a) Hotel and motel sleeping rooms that are rented to guests and are designated as smoking rooms; provided that all smoking rooms on the same floor must be contiguous and smoke from these rooms must not infiltrate into nonsmoking rooms or other areas where smoking is prohibited. The status of rooms as smoking or nonsmoking may not be changed, except to add additional nonsmoking rooms.

(b) Private vehicles, not including public transportation facilities or county vehicles.

(c) Private residences or dwelling places, including private residence or dwelling place that is eligible as a home occupation pursuant to the Sangamon County Zoning Ordinance, but excluding a private residence or dwelling place used as a child care, adult day care, or health care facility open to the public.

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

(e) Smoking by a cast member as part of a performance in a stage production, ballet, or similar exhibition.

(f) Any retail tobacco store; provided that smoke does not infiltrate into an area where smoking is otherwise prohibited under this Ordinance.

(g) Private clubs, at such times that the facility is being used exclusively by club members and the general public is not invited, served, or allowed on premises; or at such times the club is rented to private individuals for private functions such as, but not limited to, wedding receptions, anniversary parties, and banquets.

Section 8.18.060 Designation of other no smoking areas. This Ordinance does not limit the existing right of any employer, owner, occupant, lessee, manager or other person in control of any public place or place of employment to designate a non-enclosed area, including outdoor areas, as an area where smoking is prohibited.

Section 8.18.070 Responsibilities of Proprietors Each owner, lessee, occupant, employer or other person in control of a public place or a place of employment shall be responsible for all the following:

(a) Post conspicuous signs in the enclosed area and the entrance or vestibule to the public place, place of employment or the building wherein they are located, as the case may be, bearing the text "No Smoking" or the international "No Smoking" symbol, which consists of a pictorial representation of a cigarette enclosed in a circle with a bar across it.

(b) Remove ash trays or other similar containers intended for the deposit of tobacco ash, cigarettes, cigars or other tobacco products from public places.

(c) Request any person who smokes in an area where smoking is prohibited to refrain from smoking, and if the person continues to smoke, request the person to leave and use other means which may be appropriate to obtain compliance.

(d) Notify employees regarding the requirements of this Ordinance.

Section 8.18.080 Enforcement.

(a) This Ordinance shall be enforced by the Sangamon County Department of Public Health.

(b) Notice of the provisions of this Ordinance shall be given to all applicants for a business license in unincorporated Sangamon County.

(c) Any citizen who desires to register a complaint under this Ordinance may initiate enforcement with the Department of Public Health.

(d) An employer, owner, lessee, manager, operator, or employee of an establishment regulated by this Ordinance shall inform persons violating this Ordinance of the appropriate provisions thereof.

Section 8.18.090 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, or customer because that employee, applicant, or customer exercises any rights afforded by this Ordinance or reports or attempts to prosecute a violation of this Ordinance.

(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.

Section 8.18.100 Noncompliance and penalties.

(a) Any person who violates Section 8.18.030 (a) of this Ordinance shall be punished by a fine of \$50 for each violation.

(b) Any person who shall violate Section 8.18.030(c) or 8.18.030(d) of this Ordinance shall, on conviction thereof, be punished by a fine of \$100 for each violation provided that for the second conviction of any violation of Section 8.18.030(c) or 8.18.030(d) within one year, the fine shall be \$200 and for the third or subsequent conviction of any violation of Section 8.18.030(c) or 8.18.030(d) within one year, the fine shall be \$500. Each day during which a violation of Section 8.18.030(c) or 8.18.030(d) continues beyond the specified time for correction shall constitute a separate punishable violation.

(c) Any person who shall violate Section 8.18.030(e) shall, on conviction thereof, be punished by a fine of \$50 for each violation. Each day during which a violation of Section 8.18.030(e) continues beyond the specified time for correction shall constitute a separate punishable offense.

(d) In addition to the fines established by this Section, 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.

(e) In addition to the remedies provided by the provisions of this Section, the Department of Public Health or any person aggrieved by the failure of the employer, owner, occupant, lessee, or other person in control of a public place or a place of employment, including an operator or manager, to comply with the provisions of this Ordinance may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction.

Section 8.18.110 Governmental Agency Cooperation. The Chairman of the Board shall annually request other governmental and educational agencies having facilities within unincorporated Sangamon County to establish local operating procedures in cooperation and compliance with this Ordinance. This includes but is not limited to requesting all Federal, State, County, School District, and Park District agencies to update their existing smoking control regulations to be consistent with the current health findings regarding secondhand smoke.

Section 8.18.120 Public Education. The Department of Public Health shall engage in a continuing program to explain and clarify the purposes and requirements of this Ordinance to citizens affected by it, and to guide owners, lessees, occupants, 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.

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

8.18.140 Effective Date. This Ordinance shall become effective at 3:00 a.m. on September 17, 2006.

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