

# SAMPLE CUSTOMIZABLE CLEAN INDOOR AIR COMMUNITY AGREEMENT TEMPLATE

## Section 100. Title

**An Ordinance Relating to Smoking Within the City of \_\_\_\_\_.**

## Section 101.

### Findings and Intent

The \_\_\_\_\_ [City Council or Village Council] does hereby find that:

1. Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution, and that breathing secondhand smoke (also know 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 about 50,000 Americans annually.
2. The Public Health Service's National Toxicology Program has listed secondhand smoke as a known carcinogen (U.S. DHHS, 2000, citing Cal. EPA, 1997).
3. 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.
4. 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.
5. 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 business 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.
6. 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.

7. 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.

8. 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 Village Council] 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 smoke free air, and to recognize that the need to breathe smoke free air shall have priority over the desire to smoke.

### **Section 102. Prohibition of Smoking in City/Village Council Facilities**

Because we recognize the hazards caused by exposure to secondhand smoke, it shall be the policy of \_\_\_\_\_[City or Village Council] to provide a smoke free environment for all employees and visitors. This policy covers the smoking of any tobacco products and applies to both employees and non-employee visitors to the city/village council facilities.

### **Section 103. Prohibition of Smoking in Places of Employment**

Smoking shall be prohibited in all enclosed facilities within places of employment without exception. This includes common work areas, meeting rooms, private offices, hallways, stairs, restrooms, vehicles and all other enclosed facilities.

### **Section 104. Application of Article to (City-Owned) Facilities**

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

### **Section 105. Prohibition of Smoking in Public Places**

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

1. Areas available to and customarily used by the general public in businesses and non-profit entities patronized by the public.
2. Bingo facilities when a bingo game is in progress.
3. Facilities primarily used for exhibiting a motion picture or other performance.
4. Health care facilities
5. Licensed childcare and adult day care facilities.
6. Polling places
7. Restaurants, including attached bars.
8. 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.

### **Section 106. Reasonable Distances**

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

### **Section 107. Where Smoking is Not Regulated**

Unless other provisions of this Article address them the following areas shall be exempt from the provisions of section 105:

1. Private residences, except when used as a licensed childcare, adult day care, or health care facility.

### **Section 108. Enforcement**

A. This Article shall be enforced by \_\_\_\_\_[City Manager/ or Village Council President] or an authorized designee.

B. Any citizen who desires to register a complaint under this Article may initiate enforcement with \_\_\_\_\_[City Manager/or Village Council President or an authorized designee].

C. An owner, manager, operator, or employee of an establishment regulated by this Article shall inform persons violating this Article of the appropriate provisions.

## **Section 109. Definitions**

1. “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 other professional services are delivered.
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 nonprofit 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 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.
5. “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, clinics, homes for the aging or chronically ill, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, and semiprivate rooms within health care facilities.
6. “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, hallways, and vehicles. A private residence is not a “place of employment” unless it is used as a children care, adult day care, or health care facility.
7. “Public Place” means an enclosed area to which the public is invited or in which the public is permitted, including but not limited to, educational facilities, health care facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, and waiting rooms. A private residence is not a “public place” unless it is used as a childcare, adult day care, or health care facility.
8. “Restaurant” means an eating establishment, including but not limited to, coffee shops or sandwich stands; 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.

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.

**Section 110. Posting of Signs**

A. "No Smoking" signs or the international "No Smoking" symbol shall be clearly posted in every public places 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 sign clearly stating that smoking is prohibited.