
Appendix C
Model Local Ordinances

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**Model Ordinance Eliminating Smoking
In Workplaces and Enclosed Public Places
(100% Smokefree Ordinance)¹**

Sec. 1000. Title

This article shall be known as the Smoking Pollution Control Ordinance.

Sec. 1001. Findings and Purpose

The City Council does hereby find that:

Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution, and that breathing secondhand smoke is a cause of disease, including lung cancer, in nonsmokers. At special risk are elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease; and

Health hazards induced by breathing secondhand smoke include lung cancer, heart disease, respiratory infection, decreased respiratory function, bronchoconstriction, and bronchospasm.

Accordingly, the City 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 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 area which 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 such beverages. Although a restaurant may contain a bar, the term "bar" shall not include the restaurant dining area.
2. "Business" means any 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.

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3. "Employee" means any person who is employed by any employer in the consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services for a non-profit entity.
4. "Employer" means any person, partnership, corporation, including a municipal corporation, or non-profit entity who employs the services of one or more individual persons.
5. "Enclosed Area" means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of door or passageways) which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid, "office landscaping," or similar structures.
6. "Place of Employment" means any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including but not limited to work areas, employee lounges and restrooms, conference and classrooms, employee cafeterias, and hallways. A private residence is not a "place of employment" unless it is used as a child care or health care facility.
7. "Public Place" means any enclosed area to which the public is invited or in which the public is permitted, including but not limited to banks, educational facilities, health facilities, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, theaters, and waiting rooms. A private residence is not a "public place."
8. "Restaurant" means any coffee shop, cafeteria, sandwich stand, private [or] public school cafeteria, and any other eating establishment which gives or offers for sale food to the public, guests, or employees, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities, except that the term "restaurant" shall not include a cocktail lounge or tavern if said cocktail lounge or tavern is a "bar" as defined in Section 1002(1).
9. "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.
10. "Service Line" means any indoor line at which one (1) or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.
11. "Smoking" means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, weed, or other plant in any manner or in any form.
12. "Sports Arena" means sports pavilions, 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 events.

Sec. 1003. Application of Article to City-Owned Facilities

All enclosed facilities owned by the City of _____ shall be subject to the provisions of this article.

Sec. 1004. Prohibition of Smoking in Public Places

A. Smoking shall be prohibited in all enclosed public places within the City of _____, including but not limited to the following places, and with the following exceptions:

1. Elevators.
2. Buses, taxicabs, and other means of public transit under the authority of the City of _____, and ticket, boarding, and waiting areas of public transit depots.
3. Restrooms.
4. Service lines.
5. Retail stores.
6. All areas available to and customarily used by the general public in all businesses and non-profit entities patronized by the public, including but not limited to attorneys offices and other offices, banks, laundromats, hotels, and motels.
7. Restaurants.
8. Public areas of aquariums, galleries, libraries, and museums when open to the public.
9. Any facility which is primarily used for exhibiting any motion picture, stage, drama, lecture, musical recital, or other similar performance, except when smoking is part of a stage production.
10. Sports arenas and convention halls.
11. Every room, chamber, place of meeting or public assembly, including school buildings, under the control of any board, council, commission, committee, including joint committees, or agencies of the City or any political subdivision of the State during such time as a public meeting is in progress, to the extent such place is subject to the jurisdiction of the City.
12. Waiting rooms, hallways, wards and semiprivate rooms of health facilities, including but not limited to hospitals, clinics, physical therapy facilities, doctors' offices, and dentists' offices.

13. Lobbies, hallways, and other common areas in apartment buildings, condominiums, retirement facilities, nursing homes, and other multiple-unit residential facilities.
 14. Lobbies, hallways, and other common areas in multiple-unit commercial facilities.
 15. Polling places.
- B. Notwithstanding any other provision of this section, any owner, operator, manager, or other person who controls any establishment or facility may declare that entire establishment or facility as a nonsmoking establishment.

Sec. 1005. Regulation of Smoking in Places of Employment

- A. It shall be the responsibility of employers to provide a smokefree workplace for all employees, but employers are not required to incur any expense to make structural or other physical modifications.
- B. Within 90 days of the effective date of this article, each employer having an enclosed place of employment located within the city shall adopt, implement, make known, and maintain a written smoking policy which shall contain the following requirements:

Smoking shall be prohibited in all enclosed facilities within a place 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.

- C. The smoking policy shall be communicated to all employees within three (3) weeks of its adoption.
- D. All employers shall supply a written copy of the smoking policy upon request to any existing or prospective employee.

Sec. 1006. Where Smoking Not Regulated

- A. Notwithstanding any other provision of this article to the contrary, the following areas shall not be subject to the smoking restrictions of this article:
1. Bars.
 2. Private residences, except when used as child care or health care facilities.
 3. Retail tobacco stores.
 4. Restaurants, hotel and motel conference or meeting rooms, and public and private assembly rooms while these places are being used for private functions.

- B. Notwithstanding any other provision of this section, any owner, operator, manager, or other person who controls any establishment described in this section may declare that entire establishment as a nonsmoking establishment.

Sec. 1007. 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, sufficiently, and conspicuously posted in every building or other place where smoking is regulated by this article, by the owner, operator, manager, or other person having control of such building or other place.
- B. Every restaurant shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.

Sec. 1008. Enforcement

- A. Enforcement of this article shall be implemented by the Department of Health [or the City Manager].
- B. Any citizen who desires to register a complaint under this chapter may initiate enforcement with the Department of Health [or the City Manager].
- C. The Fire Department or the Health Department shall require, while an establishment is undergoing otherwise mandated inspections, a "self-certification" from the owner, manager, operator, or other person having control of such establishment that all requirements of this article have been complied with.
- D. Any owner, manager, operator, or employee of any establishment regulated by this article may inform persons violating this article of the appropriate provisions thereof.
- E. Notwithstanding any other provision of this article, a private citizen may bring legal action to enforce this article.

Sec. 1009. Violations and Penalties

- A. It shall be unlawful for any person who owns, manages, operates, or otherwise controls the use of any premises subject to regulation under this article to fail to comply with any of its provisions.
- B. It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this article.
- C. Any person who violates any provision 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 of this article within one (1) year.
3. A fine not exceeding five hundred dollars (\$500) for each additional violation of this article within one (1) year.

Sec. 1010. Nonretaliation

No person or employer shall discharge, refuse to hire, or in any manner retaliate against any employee or applicant for employment because such employee or applicant exercises any right to a smokefree environment afforded by this article.

Sec. 1011. Public Education

The Department of Health [or City Manager] 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, operators, and managers in their compliance with it. Such program may include publication of a brochure for affected businesses and individuals explaining the provisions of this ordinance.

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, such 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. 1014. Effective Date

This article shall be effective thirty (30) days from and after the date of its adoption and shall be reviewed within one year of its effective date.

**Model Smoking Ordinance
(Partial Ban)²**

Sec. 1000. Title

This article shall be known as the Smoking Pollution Control Ordinance.

Sec. 1001. Findings and Purpose

The City Council does hereby find that:

Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution; and

Reliable studies have shown that breathing secondhand smoke is a cause of disease, including lung cancer, in healthy nonsmokers. At special risk are elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease; and

Health hazards induced by breathing secondhand smoke include lung cancer, heart disease, respiratory infection, decreased respiratory function, bronchoconstriction, and bronchospasm; and

Accordingly, the City 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 except in designated smoking areas, and by regulating smoking in places of employment; and (2) to strike a reasonable balance between the needs of persons who smoke and the need of nonsmokers to breathe smokefree air, and to recognize that, where these needs conflict, the need to breathe smokefree air shall have priority.

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 area which 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 such beverages. Although a restaurant may contain a bar, the term "bar" shall not include the restaurant dining area.
2. "Business" means any 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.

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3. "Employee" means any person who is employed by any employer in the consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services for a non-profit entity.
4. "Employer" means any person, partnership, corporation, including a municipal corporation, or non-profit entity, who employs the services of one or more individual persons.
5. "Enclosed Area" means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of door- or passageways) which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid, "office landscaping," or similar structures.
6. "Place of Employment" means any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference and classrooms, employee cafeterias, and hallways.
 - a. A private residence is not a "place of employment" unless it is used as a child care or health care facility.
 - b. The dining area of a restaurant is not a "place of employment."
7. "Public Place" means any enclosed area to which the public is invited or in which the public is permitted, including but not limited to banks, educational facilities, health facilities, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, theaters, and waiting rooms. A private residence is not a "public place."
8. "Restaurant" means any coffee shop, cafeteria, sandwich stand, private [or] public school cafeteria, and any other eating establishment which gives or offers for sale food to the public, guests, or employees, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities, except that the term "restaurant" shall not include a cocktail lounge or tavern if said cocktail lounge or tavern is a "bar" as defined in section 1002(1).
9. "Service Line" means any indoor line at which one (1) or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.
10. "Smoking" means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, weed, or other plant in any manner or in any form.
11. "Sports Arena" means sports pavilions, 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 events.

Sec. 1003. Application of Article to City-Owned Facilities

All enclosed facilities owned by the City of _____ shall be subject to the provisions of this article.

Sec. 1004. Prohibition of Smoking in Public Places

A. Smoking shall be prohibited in all enclosed public places within the City of _____, including, but not limited to, the following places, and with the following exceptions:

1. Elevators.
2. Buses, taxicabs, and other means of public transit under the authority of the City of _____, and ticket, boarding, and waiting areas of public transit depots.
3. Restrooms.
4. Service lines.
5. Retail stores, except areas in said stores not open to the public and all areas within retail tobacco stores.
6. All areas available to and customarily used by the general public in all businesses and non-profit entities patronized by the public, including but not limited to attorneys offices and other offices, banks, laundromats, hotels, and motels.
7. Restaurants [provided, however, that this prohibition does not prevent (a) the designation of a contiguous area within a restaurant that contains a maximum of twenty-five percent (25%) of the seating capacity of the restaurant as a smoking area or (b) the providing of separate rooms for smokers and nonsmokers so long as the rooms designated for smoking do not contain more than twenty-five percent (25%) of the seating capacity of the restaurant].
8. Public areas of aquariums, galleries, libraries, and museums when open to the public.
9. Any building not open to the sky which is primarily used for exhibiting any motion picture, stage, drama, lecture, musical recital, or other similar performance, except when smoking is part of a stage production.
10. Sports arenas and convention halls.
11. Every room, chamber, place of meeting or public assembly, including school buildings under the control of any board, council, commission, committee, including joint committees, or agencies of the City or any political subdivision of the State, during such time as a public meeting is in progress, to the extent such place is subject to the jurisdiction of the City.

12. Waiting rooms, hallways, wards, and private or semiprivate rooms of health facilities, including but not limited to hospitals, clinics, physical therapy facilities, doctors' offices, and dentists' offices.
 13. Lobbies, hallways, and other common areas in apartment buildings, condominiums, retirement facilities, nursing homes, and other multiple-unit residential facilities.
 14. Lobbies, hallways, and other common areas in multiple-unit commercial facilities.
 15. Polling places.
- B. Notwithstanding any other provision of this section, any owner, operator, manager, or other person who controls any establishment or facility described in this section may declare that entire establishment or facility as a nonsmoking establishment.

Sec. 1005. Regulation of Smoking in Places of Employment

- A. It shall be the responsibility of employers to provide smokefree areas for nonsmoking employees within existing facilities to the maximum extent possible, but employers are not required to incur any expense to make structural or other physical modifications in providing these areas.
- B. Within 90 days of the effective date of this article, each employer having an enclosed place of employment located within the City shall adopt, implement, make known, and maintain a written smoking policy which shall contain at a minimum the following requirements:
1. Any employee in a place of employment shall have the right to designate his or her work area as a nonsmoking area and to post the same with an appropriate sign or signs, to be provided by the employer.
 2. Smoking shall be prohibited in all common work areas in a place of employment, unless every person who works in that area agrees in writing that a smoking area will be designated.
 3. Prohibition of smoking in auditoriums, classrooms, conference and meeting rooms, elevators, hallways, medical facilities, lounges, cafeterias, and restrooms.
 4. In any dispute arising under the smoking policy, the health concerns of the nonsmoker shall be given precedence.
- C. The smoking policy shall be communicated to all employees within three (3) weeks of its adoption.
- D. All employers shall supply a written copy of the smoking policy upon request to any existing or prospective employee.

- E. Notwithstanding any other provision of this section, every employer shall have the right to designate any place of employment, or any portion thereof, as a nonsmoking area.

Sec. 1006. Where Smoking Not Regulated

- A. Notwithstanding any other provision of this article to the contrary, the following areas shall not be subject to the smoking restrictions of this article:
 - 1. Bars.
 - 2. Private residences, except when used as child care or health care facilities.
 - 3. Hotel and motel rooms rented to guests.
 - 4. Retail tobacco stores.
 - 5. Restaurants, hotel and motel conference or meeting rooms, and public and private assembly rooms while these places are being used for private functions.
- B. Notwithstanding any other provision of this section, any owner, operator, manager, or other person who controls any establishment described in this section may declare that entire establishment as a nonsmoking establishment.

Sec. 1007. Posting of Signs

- A. "Smoking" or "No Smoking" signs, whichever are appropriate, with letters of not less than one inch (1") in height 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, sufficiently, and conspicuously posted in every building or other place where smoking is regulated by this article, by the owner, operator, manager, or other person having control of such building or other place.
- B. Every restaurant shall have posted at every entrance a conspicuous sign clearly stating that a nonsmoking section is available, and every patron shall be asked his or her preference.

Sec. 1008. Enforcement

- A. Enforcement of this article shall be implemented by the Department of Health [or the City Manager].
- B. Any citizen who desires to register a complaint under this chapter may initiate enforcement with the Department of Health [or the City Manager].
- C. The Fire Department or the Health Department shall require, while an establishment is undergoing otherwise mandated inspections, a "self-certification" from the owner, manager, operator, or other person having control of such establishment that all requirements of this article have been complied with.

- D. Any owner, manager, operator, or employee of any establishment regulated by this article may inform persons violating this article of the appropriate provisions thereof.
- E. Notwithstanding any other provision of this article, a private citizen may bring legal action to enforce this article.

Sec. 1009. Violations and Penalties

- A. It shall be unlawful for any person who owns, manages, operates, or otherwise controls the use of any premises subject to regulation under this article to fail to comply with any of its provisions. The owner, manager, or operator of a restaurant shall not be deemed in violation of Sec. 1007 (B) if the host or hostess of the restaurant fails to ask the seating preference of patrons, but shall be deemed in violation thereof if the restaurant has no stated policy requiring that patrons be asked their preference.
- B. It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this article.
- C. Any person who violates any provision 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 of this article within one (1) year.
 - 3. A fine not exceeding five hundred dollars (\$500) for each additional violation of this article within one (1) year.

Sec. 1010. Nonretaliation

No person or employer shall discharge, refuse to hire, or in any manner retaliate against any employee or applicant for employment because such employee or applicant exercises any right to a smokefree environment afforded by this article.

Sec. 1011. Governmental Agency Cooperation

The City Manager shall annually request other governmental and educational agencies having facilities within the City of _____ to establish local operating procedures in cooperation and compliance with this article.

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, such 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. 1014. Effective Date

This article shall be effective thirty (30) days from and after the date of its adoption, and shall be reviewed within one year of its effective date.

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Model Tobacco Vending Machine Ordinance³

Sec. 1000. Title

This ordinance shall be known as the Tobacco Vending Machine Ordinance.

Sec. 1001. Findings and Purpose

The City Council does hereby find that:

Smoking is responsible for the premature deaths of 434,000 Americans each year from lung cancer, heart disease, respiratory illness, and other diseases; and

The U.S. Surgeon General has declared that nicotine is as addictive as cocaine or heroin, and children can become addicted to these products through easy purchase from tobacco vending machines;

Accordingly, the City Council finds that prohibiting tobacco vending machines is necessary to protect the health and welfare of the public.

Sec. 1002. Definitions

“Tobacco Vending Machine” means any machine or device designated for or used for the vending of cigarettes, cigars, tobacco, or tobacco products upon the insertion of coins, trade checks, or slugs.

Sec. 1003. Tobacco Vending Machines Prohibited

No cigarette or other tobacco product may be sold, offered for sale, or distributed by or from a vending machine or other appliance, or any other device designed or used for vending purposes.

Sec. 1004. Enforcement

Violations of this ordinance are subject to a fine of \$1,000 per day for each violation. The City Manager and City Attorney shall enforce this ordinance.

Sec. 1005. Severability

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

Sec. 1006. Effective Date

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

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Model Tobacco Free Sampling Ordinance⁴

Sec. 1000. Title

This ordinance shall be known as the Tobacco Free Sampling Ordinance.

Sec. 1001. Findings and Purpose

The City Council does hereby find that:

Smoking is responsible for the premature deaths of 434,000 Americans each year from lung cancer, heart disease, respiratory illness, and other diseases; and

The U.S. Surgeon General has declared that nicotine is as addictive as cocaine or heroin, and children can become addicted to these products through the use of free tobacco samples;

Accordingly, the City Council finds that prohibiting the distribution of free cigarette samples or coupons is essential to protect the health and welfare of the public.

Sec. 1002. Definitions

1. "Public Place" means any area to which the public is invited or in which the public is permitted, including but not limited to any right-of-way, mall or shopping center, park, playground, and any other property owned by the City, any school district, or any park district.
2. "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.

Sec. 1003. Tobacco Samples Prohibited

No person shall knowingly distribute or furnish without charge, or cause to be furnished or distributed without charge, cigarettes or other tobacco products, or coupons for cigarettes or other tobacco products, in any public place or at any event open to the public, except in retail tobacco stores.

Sec. 1004. Enforcement

Violations of this ordinance are subject to a fine of \$1,000 per day for each violation. The City Manager and City Attorney may enforce this ordinance, and the Police Department shall also have the authority to issue citations for violations.

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Sec. 1005. Severability

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

Sec. 1006. Effective Date

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

Model Sale of Tobacco to Minors Ordinance⁵

Section 1000. Title

This ordinance shall be known as the Sale of Tobacco to Minors Ordinance.

Section 1001. Purpose

The City Council [or Board of Supervisors] finds cigarette smoking and other tobacco use by minors to be a continuing problem with grave public health consequences. In recognition of the Surgeon General's conclusion that nicotine is as addictive as cocaine or heroin, action is needed to curtail the easy access of minors to cigarettes and other tobacco products. Therefore, the purpose of this ordinance is to implement a strict and enforceable system to prevent the illegal sale of cigarettes and other tobacco products to minors.

Section 1002. Definitions

- A. "Public Place" means any area to which the public is invited or in which the public is permitted, including but not limited to any right-of-way, mall or shopping center, park, playground, and any other property owned by the City, and any school district, or any park district.
- B. "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.
- C. "Tobacco Vending Machine" means any machine or device designated for or used for the vending of cigarettes, cigars, tobacco, or tobacco products upon the insertion of coins, trade checks, or slugs.

Section 1003. Identification Required

No retailer shall sell or permit to be sold cigarettes or other tobacco products to an individual without requesting and examining identification establishing the purchaser's age as 18 years or greater, unless the seller has some other conclusive basis for determining the buyer's age.

Section 1004. License Required

After [specify date], it shall be unlawful for a retailer to sell cigarettes or other tobacco products unless that retailer holds and maintains a valid license from the City [or County] for each location in which tobacco products are sold. The term of the license shall be three years if the licensee complies with the provisions of this chapter.

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Section 1005. Revocation of License

A license shall be suspended after notice and opportunity to be heard as follows:

- A. In the case of a first violation, the licensee shall be fined two hundred dollars (\$200) and shall be notified in writing of penalties levied for further violations.
- B. In the case of a second violation, the licensee shall be fined five hundred dollars (\$500) and the license shall be suspended for not less than ninety consecutive business days nor more than six months.
- C. In the case of three or more violations, the licensee shall be fined one thousand dollars (\$1,000) and the license shall be revoked not less than nine months nor more than eighteen months from the date of revocation.

Section 1006. Fee

The fee for a three-year tobacco retailer's license is three hundred dollars (\$300) for each tobacco retail location.

Section 1007. Non-transferability

A tobacco retail license is non-transferable, except a new license will be issued to a tobacco retailer who changes location.

Section 1008. Vending Machines

After [specify date], cigarette vending machines or any other devices for the sale or distribution of tobacco products are prohibited.

Section 1009. Out-of-Package Sales Prohibited

It is unlawful to sell cigarettes out of the manufacturer's package with required health warnings.

Section 1010. Tobacco Samples Prohibited

No person shall knowingly distribute or furnish without charge, or cause to be furnished or distributed without charge, cigarettes or other tobacco products, or coupons for cigarettes or other tobacco products, in any public place or at any event open to the public, except in retail tobacco stores.

Section 1011. Enforcement

Violations of Sections 1008, 1009, [or] 1010 of this ordinance are subject to a fine of \$1,000 per day for each violation. The City Attorney and City Manager may enforce this ordinance, and the Police Department shall also have the authority to issue citations for violations of Section 1010.

Section 1012. Severability

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

Section 1013. Effective Date

This chapter shall take effect on [specify date].