

63-O-04

**AN ORDINANCE
Amending Chapter 21 of Title 8
of the Evanston City Code
Pertaining to Indoor Clean Air**

WHEREAS, the City of Evanston currently has an Indoor Clean Air Act codified in Chapter 21 of Title 8 of the Evanston City Code; and

WHEREAS, the Human Services Committee has recommended that said Act be amended, specifically as to prohibiting smoking in places of employment;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:

SECTION 1: That Section 8-21-3 of the Evanston City Code, 1979, as amended, is hereby further amended by deleting said Section in its entirety and substituting in lieu thereof the following new Section:

8-21-3: PROHIBITION OF SMOKING IN PUBLIC PLACES:

(A) Smoking shall be prohibited in all enclosed public places within the City, including but not limited to, the following places.

- (1) Elevators:
- (2) Ticket, boarding, and waiting areas of public transit depots.
- (3) Restrooms.
- (4) Any service line in any establishment or portion thereof.
- (5) Retail stores, except all areas within retail tobacco stores.
- (6) All areas available to, and customarily used by, the general public in all businesses and nonprofit entities patronized by the public including but not limited to, attorneys' offices and other offices, banks, hotels, and motels.

- (7) Galleries, libraries, and museums.
- (8) Any building not open to the sky which is primarily used for, or designed for the primary purpose of, exhibiting any motion picture, stage play, drama, lecture, musical recital, or other similar performance, except when smoking is part of a stage production.
- (9) Sports arenas and convention halls.
- (10) Every room, chamber, place of meeting or public assembly, including those in school buildings, and including public meetings of boards, committees, or agencies of the City or political subdivisions of the State.
- (11) Health facilities, including, but not limited to, hospitals, clinics, physical therapy facilities, doctors' offices, and dentists' offices. For purposes of this Chapter, a facility licensed as a long term care facility shall not be considered a health facility.
- (12) Polling places.
- (13) Governmental buildings where the public is invited, has access to, or must visit in order to conduct business or to participate in programs or services offered therein.
- (B) Smoking is prohibited: (1) within twenty-five (25) feet of an area where smoking is prohibited, and (2) any distance beyond twenty-five (25) feet of an enclosed area where smoking is prohibited, so as to insure that tobacco smoke does not enter the enclosed area through entrances, windows, ventilation systems or other means.
- (C) 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.

SECTION 2: That Section 8-21-6 of the Evanston City Code, 1979, as amended, is hereby further amended by deleting said Section in its entirety and substituting in lieu thereof the following new Section:

8-21-6: PROHIBITION OF SMOKING IN PLACES OF EMPLOYMENT.

- (A) This Section shall apply to places of employment employing one or more employees.

(B) Smoking in all enclosed facilities at places of employment shall be prohibited. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, and all other enclosed facilities.

(C) Smoking is prohibited: (1) within twenty-five (25) feet of an area where smoking is prohibited, and (2) any distance beyond twenty-five (25) feet of an enclosed area where smoking is prohibited, so as to insure that tobacco smoke does not enter the enclosed area through entrances, windows, ventilation systems or other means.

(D) Each employer and place of employment shall adopt, implement, make known and maintain a written smoking policy prohibiting smoking in all enclosed places. This prohibition on smoking shall be communicated to all existing employees and to all prospective employees upon their application for employment.

SECTION 3: That Section 8-21-7 of the Evanston City Code, 1979, as amended, is hereby further amended by deleting said Section in its entirety and substituting in lieu thereof the following new Section:

8-21-7: WHERE SMOKING IS NOT REGULATED:

(A) Notwithstanding any other provision of this Chapter to the contrary, the following areas shall not be subject to the smoking restrictions of this Chapter:

- (1) Bars.
- (2) Private residences, except when used as a child day care home.
- (3) Hotel and motel rooms rented to guests.
- (4) Retail tobacco shops.
- (5) Restaurants, hotel and motel conference or meeting rooms and private assembly rooms while these places are being used for private functions.
- (6) Establishments which devote all or part of their space on a full or part-time basis to meetings or activities the primary purpose of which is therapy for alcoholism, other types of substance abuse, and the like, during such time and in that portion of the premises where such meetings or activities are being conducted.

- (7) Long term care facilities.
 - (8) Restaurants which seat fewer than forty (40) persons.
 - (9) Apartment and condominium buildings except for common areas.
- (B) Notwithstanding any other provisions of this Section, any owner, operator, manager, or other person who controls any establishment described in this Section may declare that establishment as a nonsmoking establishment.

SECTION 4: That Section 8-21-10 of the Evanston City Code, 1979, as amended, is hereby further amended by deleting said Section in its entirety and substituting in lieu thereof the following new Section:

8-21-10: VIOLATIONS AND PENALTIES:

- (A) It shall be unlawful for any person who owns, operates, or otherwise controls any premises subject to regulation under this Chapter 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 Chapter.
- (C) Any person who violates any provision of this Chapter shall be guilty of an infraction, punished by:
 - (1) A minimum fine of one hundred dollars (\$100.00) for a first violation.
 - (2) A minimum fine of two hundred dollars (\$200.00) for a second violation of this Chapter in one year.
 - (3) A minimum fine of five hundred dollars (\$500.00) for each additional violation of this Chapter in one year.

SECTION 4: Severability. If any Section, 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.

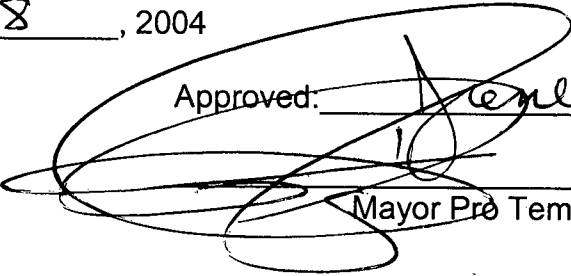
SECTION 5: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 6: This Ordinance shall be in full force and effect from and after its approval in the manner provided by law.

Introduced: June 14, 2004

Adopted: June 28, 2004

Approved: June 30, 2004



Mayor Pro Tem

Attest:

Mary P. Morris
Mary P. Morris, City Clerk

Approved as to form: [Signature]

Corporation Counsel

