

CLEAN INDOOR AIR

Section 1 – Short Title. This Act shall be known and may be cited as the Clean Indoor Air Ordinance.

Section 2 – Policy. The purpose of this Ordinance is to protect the public health, comfort and environment by prohibiting smoking in restrictive areas and at public meetings, except in designated smoking areas.

Section 3 – Definitions. The following words and phrases, when used in this Ordinance, shall have the meanings given to them in this Section, unless the context clearly indicates otherwise:

1. Bar – A barrier or counter over which liquors are passed to customers and the room where such barrier or counter is located.
2. Board – The Borough Board of Health.
3. Department – The Borough Health Department.
4. Public Meeting – All meetings open to the public, pursuant to the Pennsylvania Act of July 3, 1986 (P.L. 388, No. 84), known as the Sunshine Act.
5. Restrictive Areas – Any enclosed, indoor area used by the general public or serving as a place of work including, but not limited to: restaurants, retail stores, offices and other commercial establishments, public conveyances, education facilities, the Municipal Building, nursing homes, auditoriums, arenas and meeting rooms, but excluding private, enclosed offices.
6. Smoking – The burning of tobacco, tobacco substitutes or tobacco-related products, including the exhalation of smoke derived therefrom and including carrying a lighted cigar, cigarette, pipe or any other lighted smoking equipment.

Section 4 – Prohibitions.

1. General Rule – No person shall smoke in a restrictive area or at a public meeting, except in designated smoking areas.
2. Exceptions – This prohibition shall not apply:
 - a) In cases in which an entire room or hall is used for a private function and seating arrangements are under the control of the sponsor of the function and not of the proprietor or person in charge of the place.

- b) To factories, warehouses and similar places of work not usually frequented by the general public.

Section 5 – Designation of smoking areas.

1. General Rule – Smoking areas may be designated by proprietors or other persons in charge of restrictive areas, except in places in which smoking is prohibited by the Fire Marshall, the Code Administration Department, or by other law, ordinance or regulation.
2. Mitigating Actions Required – Where smoking areas are designated, existing physical barriers and ventilation systems shall be used to minimize the toxic effect of smoke in adjacent non-smoking areas. In the case of restrictive areas consisting of a single room, the provisions of this law shall be considered met if one side of the room is reserved and posted as a non-smoking area. No restrictive area other than a bar shall be designated as a smoking area in its entirety. If a bar is designated as a smoking area in its entirety, this designation shall be posted conspicuously on all entrances normally used by the public.

Section 6 – Responsibilities of Proprietors. The proprietor or other person in charge of a restrictive area shall make reasonable efforts to prevent smoking in the public place by:

1. Posting appropriate signs;
2. Arranging seating to provide a smoke-free area;
3. Asking smokers to refrain from smoking upon request of a client or employee suffering discomfort from the smoke; or
4. Any other means which may be appropriate.

Section 7 – Waivers.

1. Waiver of Requirements Authorized – The Board may upon request, waive the provisions of this Ordinance if it determines there are compelling reasons to do so and such a waiver will not significantly affect the health and comfort of non-smokers.

Section 8 – Penalties and Injunctions

1. Penalties – Any person who shall violate any of the provisions of this Ordinance shall, upon conviction in a summary proceeding before a District Magistrate, be sentenced to pay a fine of not less than \$10.00 nor more than \$300.00, plus costs, to be paid to the Borough. The Department and Bureau of Police Services shall have the power and responsibility to enforce this Ordinance.

2. Injunction – The Department or any affected party may institute an action in any court with jurisdiction to enjoin violations of section 6 of this Ordinance.

This is a sample ordinance. We suggest that it be modified, as appropriate, to fit the needs of your borough. We also suggest that all proposed ordinances be reviewed by your solicitor. Although these are samples of ordinances which have been adopted by other municipalities, the Association cannot assume responsibility for ensuring their legality. We are pleased to provide this service free of charge to our members. If we can be of further assistance, please do not hesitate to contact us: **PENNSYLVANIA STATE ASSOCIATION OF BOROUGHES**, 2941 North Front Street, Harrisburg, PA 17110. 717-236-9526.