

# Ordinance Prohibiting Smoking in Public Places and Places of Employment

**1. What does the Independence Clean Indoor Air Act of 2006 do?**

The Independence Clean Indoor Air Act of 2006 prohibits smoking within enclosed areas of public places and places of employment.

**2. When does the Independence Clean Indoor Air Act of 2006 go into effect?**

The ordinance will be effective on March 17, 2007.

**3. How does the Clean Indoor Air Act Impact businesses or places of employment?**

All enclosed areas of businesses or places of employment are required to be smoke free.

**4. What is an “enclosed area?”**

“Enclosed Area” means all space between a floor and ceiling that is enclosed on all sides by walls or windows (exclusive of doorways).

**5. What is a “public place?”**

“Public Place” means an enclosed area to which the public is invited or in which the public is permitted, including but not limited to, banks, bars, educational facilities, health care facilities, laundromats, public transportation facilities, reception areas, restaurants, casinos, food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A private residence is not a “public place” unless it is used as a child care, adult day care, or health care facility.

**6. What type of places is smoking prohibited?**

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

- Aquariums, galleries, libraries, and museums.
- Areas available to and customarily used by the general public in businesses and non profit entities patronized by the public including but not limited to professional offices, banks, laundromats, hotels, and motels.
- Bars.
- Bingo facilities.
- Convention facilities.
- Elevators.
- Facilities primarily used for exhibiting a motion picture, stage, drama, lecture, musical recital, or other similar performance.
- Health care facilities.
- Licensed child care and adult day care facilities.
- Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities.
- Polling places.
- Public transportation facilities, including buses and taxicabs, under the authority of the City of Independence and ticketing, boarding, and waiting areas of public transit depots.
- Restaurants.
- Restrooms, lobbies, reception areas, hallways, and other common-use areas.
- Retail stores.
- Rooms, chambers, places of meeting or public assembly, including school buildings, under the control of an agency, board, commission, committee or council of the City of Independence or a political subdivision of the State when a public meeting is in progress, to the extent the place is subject to the jurisdiction of the City of Independence.

# Ordinance Prohibiting Smoking in Public Places and Places of Employment

- Service lines.
- Shopping malls.
- Sports arenas, including enclosed places in outdoor arenas.
- Private clubs.
- Pool halls and billiard parlors.

## 7. What is a “place of employment?”

Smoking shall be prohibited in all enclosed facilities within places 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.

## 8. Where is smoking not regulated?

Notwithstanding any other provision of this ordinance to the contrary, the following areas shall be exempt from the provisions of Sections 11.02.005 and 11.02.006:

- Private residences, except when used as a licensed child care, adult day care, or health care facility.
- Private vehicles.
- Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided, however, that not more than twenty percent (20%) of rooms rented to guests in a hotel or motel may be so designated.
- Private and semiprivate 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 to the management thereof in writing to be placed in a room where smoking is permitted.
- Outdoor areas of places of employment.
- Certain areas of fire stations as defined by City written policy.

## 9. Are City-Owned Facilities covered by the law?

Yes, all enclosed facilities, including buildings and vehicles owned, leased, or operated by the City of Independence shall be subject to the provisions of this ordinance, except for certain areas of fire stations as defined by City written policy.

## 10. Can outdoor areas or places of exception be designated as nonsmoking?

Yes, notwithstanding any other provision of this ordinance, an owner, operator, manager or other person in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place in which a sign is posted.

## 11. How close to a building can smoking take place?

There is no language in the ordinance addressing the smoking within a certain space from the building.

## 12. If I operate a business, are there things I need to do?

- “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 and conspicuously posted in every public place and place of employment where smoking is prohibited by this ordinance, by the owner, operator, manager, or other person in control of that place.
- Every public place and place of employment where smoking is prohibited by this ordinance shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.
- All ashtrays and other smoking paraphernalia shall be removed from any area where smoking is prohibited by this ordinance by the owner, operator, manager, or other person having control of the area.

# Ordinance Prohibiting Smoking in Public Places and Places of Employment

- 13. Who is responsible for enforcing the provisions of the Independence Clean Indoor Air Act of 2006?**
- Any citizen who desires to register a complaint under this ordinance may initiate enforcement with the City Manager or an authorized designee.
  - While an establishment is undergoing otherwise mandated inspections, the City Manager or an authorized designee shall inspect the premises for compliance with this ordinance.
  - An owner, manager, operator, or employee of an establishment regulated by this ordinance shall inform persons violating this ordinance of the appropriate provisions thereof.
- 14. What are the penalties for violating the ordinance?**
- A person who smokes in an area where smoking is prohibited by the provisions of this ordinance, upon being advised that smoking is prohibited and refuses to comply, shall be guilty of an infraction, punishable by a fine not exceeding fifty dollars (\$50) for each infraction.
  - A person who owns, managers, operates, or otherwise controls a public place or place of employment and who fails to comply with the provisions of this ordinance or fails to notify any person or persons who are in violation of this ordinance, shall be guilty of an infraction, punishable by:
    - A fine not exceeding One Hundred Dollars (\$100) for a first violation.
    - A fine not exceeding Two Hundred Dollars (\$200) for a second violation within one (1) year.
    - A fine not exceeding Five Hundred Dollars (\$500) for a third violation within one (1) year and for any additional violations during the year.
  - In addition to the fines established, 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 by the City for the premises on which the violation occurred.
  - Each day on which a violation of this ordinance occurs shall be considered a separate and distinct violation.
- 15. Where can I get a copy of the Independence Clean Indoor Air Act of 2006?**
- Copies of the ordinance may be found on the City's website at [www.independencemo.org](http://www.independencemo.org) or may be obtained from the City Clerk's office located in City Hall at 111 E. Maple.
- 16. May pipes or other smoking materials be displayed in an office?**
- If the display is for historic or artistic purposes and not for use, it could be argued that the display does not fall within the purview of the ordinance.