

SPONSORED BY: COUNCIL MEMBER MONROE

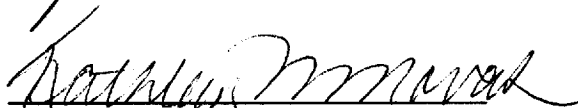
COUNCILMAN'S RESOLUTION

NO. CB-1574
Series of 2006

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

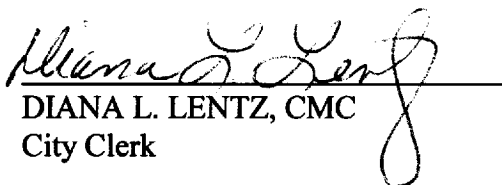
A PUBLIC HEARING WILL BE HELD ON CB-1574, SERIES OF 2006, ENTITLED "A BILL FOR AN ORDINANCE REPEALING AND REENACTING CHAPTER 9.14 OF THE CITY OF NORTHGLENN MUNICIPAL CODE, ENTITLED SMOKING IN PUBLIC PLACES" ON JULY 27, 2006 AT 7:30 P.M., CITY HALL COUNCIL CHAMBERS, 11701 COMMUNITY CENTER DRIVE, NORTHGLENN.

DATED this 13th day of July, 2006.



KATHLEEN M. NOVAK
Mayor

ATTEST:



DIANA L. LENTZ, CMC
City Clerk

AFFIDAVIT OF POSTING:

I, _____, certify that CB-1574 was posted at the authorized posting places in the City of Northglenn this _____ day of _____, 2006.

Deputy City Clerk

EXPLANATORY COVER SHEET

COUNCILMAN'S BILL NO. CB-1574

SPONSOR: COUNCIL MEMBER MONROE

TITLE: A BILL FOR AN ORDINANCE REPEALING AND REENACTING ARTICLE 9.14 OF THE CITY OF NORTHGLENN MUNICIPAL CODE, ENTITLED SMOKING IN PUBLIC PLACES

PURPOSE: TO UPDATE THE NORTHGLENN MUNICIPAL CODE SO THAT ITS PROHIBITIONS AND RESTRICTIONS ON SMOKING IN INDOOR AREAS OPEN TO THE PUBLIC ARE CONSISTENT WITH THE RECENTLY ENACTED COLORADO CLEAN INDOOR AIR ACT

ADDITIONAL EXPLANATORY REMARKS:

SPONSORED BY: COUNCIL MEMBER MONROE

COUNCILMAN'S BILL

ORDINANCE NO.

No. CB-1574
Series of 2006

Series of 2006

A BILL FOR AN ORDINANCE REPEALING AND REENACTING CHAPTER 9.14 OF THE CITY OF NORTHGLENN MUNICIPAL CODE, ENTITLED SMOKING IN PUBLIC PLACES

WHEREAS, pursuant to HB 06-1175, as of July 1, 2006, Colorado state law prohibits smoking in most indoor areas open to the public;

WHEREAS, pursuant to HB 06-1175, a home rule municipality has the authority to enact regulations that cover the same subject matter as the various provisions of HB 06-1175;

WHEREAS, the provisions of the current Northglenn Smoking Ordinance are less stringent and less comprehensive than the provisions of HB 06-1175; and

WHEREAS, the City Council finds and determines that to promote the public health, safety and welfare the Northglenn Smoking Ordinance should be repealed and reenacted so that it is consistent with the smoking prohibitions of state law.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. Chapter 9, Article 14 of the Northglenn Municipal Code, entitled Smoking in Public Places, is hereby repealed in its entirety and amended to read as follows:

Section 9-14-1. Title.

This ordinance shall be known and cited as the Northglenn Smoking Ordinance.

Section 9-14-2. Intent.

It is the intent of this Article to protect the public health, safety and welfare by prohibiting smoking in all indoor areas open to the public, except where specifically allowed under this Article.

Section 9-14-3. Definitions.

As used in this Article, the following terms shall have the meanings indicated herein:

~~(1) "Common area" means a contiguous indoor area where people can be expected to gather in close proximity to one another.~~

~~(2) "Place of employment" means any indoor physical setting, whether stationary or mobile, where any person or legal entity employs people, whether for profit or not.~~

~~(3) "Proprietor" means the owner, operator or person in charge of any place regulated by this article.~~

~~(4) "Public place" means any indoor or outdoor place open to the public or open to the public upon payment of a fee, such as but not limited to all or part of an office building, retail store, commercial business, grocery store, movie theater, restaurant, bank, educational facility, recreational facility, hospital, nursing home, health care institution, library, auditorium, arena, meeting room or public conveyance.~~

~~(5) "Restaurant" means any facility licensed to sell food and beverages for consumption on the premises.~~

~~(6) "Smoke" or "smoking" means the lighting of any cigarette, cigar or pipe, or the possession of any lighted cigarette, cigar or pipe, regardless of the composition of the burning material.~~

(1) "AUDITORIUM" MEANS THE PART OF A PUBLIC BUILDING WHERE AN AUDIENCE GATHERS TO ATTEND A PERFORMANCE, AND INCLUDES ANY CORRIDORS, HALLWAYS, OR LOBBIES ADJACENT THERETO.

(2) "BAR" MEANS ANY INDOOR AREA THAT IS OPERATED AND LICENSED UNDER ARTICLE 47 OF TITLE 12, C.R.S., PRIMARILY FOR THE SALE AND SERVICE OF ALCOHOL BEVERAGES FOR ON-PREMISES CONSUMPTION AND WHERE THE SERVICE OF FOOD IS SECONDARY TO THE CONSUMPTION OF SUCH BEVERAGES.

(3) "CIGAR-TOBACCO BAR" MEANS A BAR THAT GENERATED AT LEAST FIVE PERCENT (5%) OR MORE OF ITS TOTAL ANNUAL GROSS INCOME OR FIFTY THOUSAND DOLLARS (\$50,000) IN ANNUAL SALES FROM THE ON-SITE SALE OF TOBACCO PRODUCTS AND THE RENTAL OF ON-SITE HUMIDORS, NOT INCLUDING ANY SALES FROM VENDING MACHINES.

(4) (a) "EMPLOYEE" MEANS ANY PERSON WHO:

(I) PERFORMS ANY TYPE OF WORK FOR BENEFIT OF ANOTHER IN CONSIDERATION

OF DIRECT OR INDIRECT WAGES OR
PROFIT; OR

- (II) PROVIDES UNCOMPENSATED WORK OR
SERVICES TO A BUSINESS OR NONPROFIT
ENTITY.

(b) **“EMPLOYEE”** INCLUDES EVERY PERSON
DESCRIBED IN PARAGRAPH (A) OF THIS SUBSECTION (4),
REGARDLESS OF WHETHER SUCH PERSON IS REFERRED TO AS
AN EMPLOYEE, CONTRACTOR, INDEPENDENT CONTRACTOR, OR
VOLUNTEER OR BY ANY OTHER DESIGNATION OR TITLE.

(5) **“EMPLOYER”** MEANS ANY PERSON, PARTNERSHIP,
ASSOCIATION, CORPORATION, OR NONPROFIT ENTITY THAT EMPLOYS
ONE OR MORE PERSONS. "EMPLOYER" INCLUDES, WITHOUT
LIMITATION, THE LEGISLATIVE, EXECUTIVE, AND JUDICIAL BRANCHES
OF STATE GOVERNMENT; ANY COUNTY, CITY AND COUNTY, CITY, OR
TOWN, OR INSTRUMENTALITY THEREOF, OR ANY OTHER POLITICAL
SUBDIVISION OF THE STATE, SPECIAL DISTRICT, AUTHORITY,
COMMISSION, OR AGENCY; OR ANY OTHER SEPARATE CORPORATE
INSTRUMENTALITY OR UNIT OF STATE OR LOCAL GOVERNMENT.

(6) **“ENTRYWAY”** MEANS THE OUTSIDE OF THE FRONT OR
MAIN DOORWAY LEADING INTO A BUILDING OR FACILITY THAT IS NOT
EXEMPTED UNDER SECTION 9-14-5. "ENTRYWAY" ALSO INCLUDES THE
AREA OF PUBLIC OR PRIVATE PROPERTY WITHIN A FIFTEEN FOOT
RADIUS OUTSIDE OF THE DOORWAY.

(7) **“ENVIRONMENTAL TOBACCO SMOKE,” “ETS,”** OR
“SECONDHAND SMOKE” MEANS THE COMPLEX MIXTURE FORMED
FROM THE ESCAPING SMOKE OF A BURNING TOBACCO PRODUCT, ALSO
KNOWN AS "SIDESTREAM SMOKE," AND SMOKE EXHALED BY THE
SMOKER.

(8) **“FOOD SERVICE ESTABLISHMENT”** MEANS ANY INDOOR
AREA OR PORTION THEREOF IN WHICH THE PRINCIPAL BUSINESS IS
THE SALE OF FOOD FOR ON-PREMISES CONSUMPTION. THE TERM
INCLUDES, WITHOUT LIMITATION, RESTAURANTS, CAFETERIAS,
COFFEE SHOPS, DINERS, SANDWICH SHOPS, AND SHORT-ORDER CAFES.

(9) **“INDOOR AREA”** MEANS ANY ENCLOSED AREA OR
PORTION THEREOF. THE OPENING OF WINDOWS OR DOORS, OR THE
TEMPORARY REMOVAL OF WALL PANELS, DOES NOT CONVERT AN
INDOOR AREA INTO AN OUTDOOR AREA.

(10) **“PLACE OF EMPLOYMENT”** MEANS ANY INDOOR AREA OR PORTION THEREOF UNDER THE CONTROL OF AN EMPLOYER IN WHICH EMPLOYEES OF THE EMPLOYER PERFORM SERVICES FOR, OR ON BEHALF OF, THE EMPLOYER.

(11) **“PROPRIETOR”** MEANS THE OWNER, OPERATOR OR PERSON IN CHARGE OF ANY PLACE REGULATED BY THIS ARTICLE.

(12) **“PUBLIC BUILDING”** MEANS ANY BUILDING OWNED OR OPERATED BY:

(A) THE STATE, INCLUDING THE LEGISLATIVE, EXECUTIVE, AND JUDICIAL BRANCHES OF STATE GOVERNMENT;

(B) THE CITY OF NORTHGLENN OR AN INSTRUMENTALITY THEREOF; OR

(C) ANY OTHER SEPARATE CORPORATE INSTRUMENTALITY OR UNIT OF STATE OR LOCAL GOVERNMENT.

(13) **“PUBLIC MEETING”** MEANS ANY MEETING OPEN TO THE PUBLIC PURSUANT TO SECTION 24-6-4, C.R.S., OR ANY OTHER LAW OF THIS STATE.

(14) **“SMOKE-FREE WORK AREA”** MEANS AN INDOOR AREA IN A PLACE OF EMPLOYMENT WHERE SMOKING IS PROHIBITED.

(15) **“SMOKING”** MEANS THE BURNING OF A LIGHTED CIGARETTE, CIGAR, PIPE, OR ANY OTHER MATTER OR SUBSTANCE THAT CONTAINS TOBACCO.

(16) **“TOBACCO”** MEANS CIGARETTES, CIGARS, CHERROOTS, STOGIES, AND PERIQUES; GRANULATED, PLUG CUT, CRIMP CUT, READY RUBBED, AND OTHER SMOKING TOBACCO; SNUFF AND SNUFF FLOUR; CAVENDISH; PLUG AND TWIST TOBACCO; FINE-CUT AND OTHER CHEWING TOBACCO; SHORTS, REFUSE SCRAPS, CLIPPINGS, CUTTINGS, AND SWEEPINGS OF TOBACCO; AND OTHER KINDS AND FORMS OF TOBACCO, PREPARED IN SUCH MANNER AS TO BE SUITABLE FOR CHEWING OR FOR SMOKING IN A CIGARETTE, PIPE, OR OTHERWISE, OR BOTH FOR CHEWING AND SMOKING. "TOBACCO" ALSO INCLUDES CLOVES AND ANY OTHER PLANT MATTER OR PRODUCT THAT IS PACKAGED FOR SMOKING.

(17) **“TOBACCO BUSINESS”** MEANS A SOLE PROPRIETORSHIP, CORPORATION, PARTNERSHIP, OR OTHER ENTERPRISE ENGAGED PRIMARILY IN THE SALE, MANUFACTURE, OR PROMOTION OF TOBACCO, TOBACCO PRODUCTS, OR SMOKING DEVICES OR

ACCESSORIES, EITHER AT WHOLESALE OR RETAIL, AND IN WHICH THE SALE, MANUFACTURE, OR PROMOTION OF OTHER PRODUCTS IS MERELY INCIDENTAL.

(18) “**WORK AREA**” MEANS AN AREA IN A PLACE OF EMPLOYMENT WHERE ONE OR MORE EMPLOYEES ARE ROUTINELY ASSIGNED AND PERFORM SERVICES FOR OR ON BEHALF OF THEIR EMPLOYER.

Section 9-14-4. General Smoking Restrictions.

~~(1) Except when permitted by Sections 9-14-5 and 9-14-6, smoking in a public place, place of employment or restaurant, is regulated as follows:~~

~~(a) No person shall smoke in an indoor public place;~~

~~(b) No person shall smoke in the following outdoor public places: within the seating areas, access aisles, restrooms and food concession areas of a sports facility.~~

~~(c) No person shall smoke in a place of employment.~~

~~(d) No person shall smoke in a restaurant.~~

~~(2) Notwithstanding section 9-14-5, if a "No Smoking" sign(s) conforming to section 9-14-7 is posted, no person shall smoke in any place designated by the proprietor as a no smoking area.~~

(1) EXCEPT AS PROVIDED IN SECTION 9-14-5, AND IN ORDER TO REDUCE THE LEVELS OF EXPOSURE TO ENVIRONMENTAL TOBACCO SMOKE, SMOKING SHALL NOT BE PERMITTED AND NO PERSON SHALL SMOKE IN ANY INDOOR AREA, INCLUDING, BUT NOT LIMITED TO:

a. PUBLIC MEETING PLACES;

b. ELEVATORS;

c. GOVERNMENT-OWNED OR OPERATED MEANS OF MASS TRANSPORTATION, INCLUDING, BUT NOT LIMITED TO, BUSES, VANS, AND TRAINS;

d. TAXICABS AND LIMOUSINES;

e. GROCERY STORES;

f. GYMNASIUMS;

- g. JURY WAITING AND DELIBERATION ROOMS;
- h. COURTROOMS;
- i. CHILD DAY CARE FACILITIES;
- j. HEALTH CARE FACILITIES INCLUDING HOSPITALS, HEALTH CARE CLINICS, DOCTOR'S OFFICES, AND OTHER HEALTH CARE RELATED FACILITIES;
- k. (I) ANY PLACE OF EMPLOYMENT THAT IS NOT EXEMPTED;

(II.) IN THE CASE OF EMPLOYERS WHO OWN FACILITIES OTHERWISE EXEMPTED, EACH SUCH EMPLOYER SHALL PROVIDE A SMOKE-FREE WORK AREA FOR EACH EMPLOYEE REQUESTING NOT TO HAVE TO BREATHE ENVIRONMENTAL TOBACCO SMOKE. EVERY EMPLOYEE SHALL HAVE A RIGHT TO WORK IN AN AREA FREE OF ENVIRONMENTAL TOBACCO SMOKE;

- l. FOOD SERVICE ESTABLISHMENTS;
- m. BARS;
- n. INDOOR SPORTS ARENAS;
- o. RESTROOMS, LOBBIES, HALLWAYS, AND OTHER COMMON AREAS IN PUBLIC AND PRIVATE BUILDINGS, CONDOMINIUMS, AND OTHER MULTIPLE-UNIT RESIDENTIAL FACILITIES;
- p. RESTROOMS, LOBBIES, HALLWAYS, AND OTHER COMMON AREAS IN HOTELS AND MOTELS, AND IN AT LEAST SEVENTY-FIVE PERCENT (75%) OF THE SLEEPING QUARTERS WITHIN A HOTEL OR MOTEL THAT ARE RENTED TO GUESTS;
- q. BOWLING ALLEYS;
- r. BILLIARD OR POOL HALLS;
- s. FACILITIES IN WHICH GAMES OF CHANCE ARE CONDUCTED;
- t. THE COMMON AREAS OF RETIREMENT FACILITIES, PUBLICLY OWNED HOUSING FACILITIES, AND NURSING HOMES,

NOT INCLUDING ANY RESIDENT'S PRIVATE RESIDENTIAL QUARTERS;

u. PUBLIC BUILDINGS;

v. AUDITORIA;

w. THEATERS;

x. MUSEUMS;

y. LIBRARIES;

z. TO THE EXTENT NOT OTHERWISE PROVIDED IN SECTION 25-14-103.5, C.R.S., PUBLIC AND NONPUBLIC SCHOOLS;

aa. OTHER EDUCATIONAL AND VOCATIONAL INSTITUTIONS; AND

bb. THE ENTRYWAYS OF ALL BUILDINGS AND FACILITIES LISTED IN PARAGRAPHS (a) TO (aa) OF THIS SUBSECTION.

(2) A CIGAR-TOBACCO BAR SHALL NOT EXPAND ITS SIZE OR CHANGE ITS LOCATION FROM THE SIZE AND LOCATION IN WHICH IT EXISTED AS THE TIME THIS ORDINANCE WAS ENACTED. A CIGAR-TOBACCO BAR SHALL DISPLAY SIGNAGE IN AT LEAST ONE CONSPICUOUS PLACE AND AT LEAST FOUR INCHES BY SIX INCHES IN SIZE STATING: "SMOKING ALLOWED, CHILDREN UNDER EIGHTEEN YEARS OF AGE MUST BE ACCOMPANIED BY A PARENT OR GUARDIAN."

Section 9-14-5. Exceptions to Smoking Restrictions.

~~(1) A business that employs fewer than five full or part-time employees, including the owner.~~

~~(2) A restaurant with a seating capacity of 30 or fewer persons.~~

~~(3) An establishment in which malt, vinous, or spirituous liquors, or fermented malt beverages are sold for consumption on the premises pursuant to a license other than an arts license, except for those areas within such establishments which are utilized primarily for restaurant purposes.~~

~~(4) A fully enclosed office or room occupied exclusively by smokers, even though the offices or rooms may be visited by non-smokers. However, an office work area with a cash register, service counter, or waiting area open to the public is not excluded.~~

~~(5) — A room or hall being used for a social or business function, including a regularly conducted activity such as bingo or other similar diversion, where the seating arrangements are under control of the sponsor or manager of the function.~~

~~(6) — A retail store primarily engaged in the sale of tobacco or tobacco products.~~

(1) THE FOLLOWING ARE EXEMPT FROM THE SMOKING PROHIBITIONS IN SECTION 9-14-4(1):

a. PRIVATE HOMES, PRIVATE RESIDENCES, AND PRIVATE AUTOMOBILES; EXCEPT THAT THIS EXCEPTION SHALL NOT APPLY IF ANY SUCH HOME, RESIDENCE, OR VEHICLE IS BEING USED FOR CHILD CARE OR DAY CARE OR IF A PRIVATE VEHICLE IS BEING USED FOR THE PUBLIC TRANSPORTATION OF CHILDREN OR AS PART OF HEALTH CARE OR DAY CARE TRANSPORTATION;

b. LIMOUSINES UNDER PRIVATE HIRE;

c. A HOTEL OR MOTEL ROOM RENTED TO ONE OR MORE GUESTS IF THE TOTAL PERCENTAGE OF SUCH HOTEL OR MOTEL ROOMS IN SUCH HOTEL OR MOTEL DOES NOT EXCEED TWENTY-FIVE PERCENT (25%);

d. ANY RETAIL TOBACCO BUSINESS;

e. A CIGAR-TOBACCO BAR;

f. THE OUTDOOR AREA OF ANY BUSINESS;

g. A PLACE OF EMPLOYMENT THAT IS NOT OPEN TO THE PUBLIC AND THAT IS UNDER THE CONTROL OF AN EMPLOYER THAT EMPLOYS THREE OR FEWER EMPLOYEES; AND

h. A PRIVATE, NONRESIDENTIAL BUILDING ON A FARM OR RANCH, AS DEFINED IN SECTION 39-1-102, C.R.S., THAT HAS ANNUAL GROSS INCOME OF LESS THAN FIVE HUNDRED THOUSAND DOLLARS (\$500,000).

Section 9-14-6. Allowable Smoking Areas.

~~(1) — Notwithstanding section 9-14-4(1), smoking is permitted in:~~

~~(a) — A fully enclosed smoking area (walls, ceiling and floor) where smoke does not drift into non-smoking areas, which may be established in any place regulated under this article provided it does not exceed 25% of the~~

~~area of the regulated place and access to adjacent no-smoking areas is available without going through the smoking areas.~~

~~(b) — A designated smoking area (which may contaminate the no-smoking areas with tobacco smoke), which may be established only:~~

~~(i) — in restaurants, including dinner theaters, with a seating capacity of thirty (30) persons or more, the owner, operator, or person in charge shall designate a no-smoking area of sufficient size to accommodate, without unreasonable delay, patrons who request to be seated in such an area. The delay shall be deemed reasonable if it is equal for smokers and non-smokers. Smoking shall be prohibited in the waiting areas of all food service establishments with a seating capacity of thirty (30) persons or more. This paragraph shall apply only to fully enclosed areas within food service establishments and not to open-air areas.~~

~~(ii) — a common area exceeding 5,000 square feet, provided that no more than 25% of the total area is designated as a smoking area, and provided further that any area so designated is located such that it is not necessary for non-smokers to pass through such areas to reach other non-smoking areas or is fully enclosed or independently ventilated by a separate ventilation system. In no event shall the common areas in any nursing home, hospital or health care facility be designated as smoking areas.~~

~~(2) — In no event shall the proprietor of any nursing home, hospital or health care facility fail to provide no-smoking rooms for non-smokers or require a non-smoker to share a room or other facility with a person who smokes, except with the express written consent of the non-smoker.~~

Section 9-14-6. ADDITIONAL PROHIBITIONS.

(1) THE OWNER OR MANAGER OF ANY PLACE NOT SPECIFICALLY LISTED IN SECTION 9-14-4 INCLUDING A PLACE OTHERWISE EXEMPTED UNDER SECTION 9-14-5, MAY POST SIGNS PROHIBITING SMOKING OR PROVIDING SMOKING AND NONSMOKING AREAS. SUCH POSTING SHALL HAVE THE EFFECT OF INCLUDING SUCH PLACE, OR THE DESIGNATED NONSMOKING PORTION THEREOF, IN THE PLACES WHERE SMOKING IS PROHIBITED OR RESTRICTED PURSUANT TO SECTION 9-14-4.

(2) IF THE OWNER OR MANAGER OF A PLACE NOT SPECIFICALLY LISTED IN SECTION 9-14-4, INCLUDING A PLACE OTHERWISE EXEMPTED UNDER SECTION 9-14-5, IS AN EMPLOYER AND RECEIVES A REQUEST FROM AN EMPLOYEE TO CREATE A SMOKE-FREE WORK AREA AS CONTEMPLATED BY SECTION 9-14-4 (1) (k) (II), THE OWNER OR MANAGER SHALL POST A SIGN OR SIGNS IN THE SMOKE-FREE WORK AREA AS PROVIDED IN SUBSECTION (1) OF THIS SECTION.

Section 9-14-7. Signs Required to be Posted.

To advise persons of the existence of "No Smoking" or "~~Smoking Permitted~~" areas, signs with letters no less than one inch high or symbols no less than five inches high shall be posted as follows:

(1) No proprietor or person in charge of any place specifically listed in Section 9-14-4 shall fail to post a sign using the words "No Smoking" or the international no-smoking symbol conspicuously at eye level either on all public entrances or in a position clearly visible on entry into the public place, with letters no less than one inch high or symbols no less than five (5) inches high. Other signs may be used if approved by the City Manager.

~~(2) No proprietor of a public place where certain areas are designated as smoking areas pursuant to this Article shall fail to post a sign using the words "No Smoking Except in Designated Areas" conspicuously either on all public entrances or in a position clearly visible on entry into the public place.~~

Section 9-14-8. Responsibilities of Proprietors. ~~No proprietor of a public place, restaurant, place of employment or common area shall fail to make reasonable efforts to obtain compliance with this Article in such places by:~~

~~(1) Posting appropriate signs, as required by this Article.~~

~~(2) Arranging work areas to provide a no-smoking work area, as required by this Article.~~

~~(3) Asking smokers to refrain from smoking upon request of a client or an employee suffering discomfort from the smoke.~~

~~(4) Affirmatively directing smokers to designated smoking areas.~~

~~(5) Using existing physical barriers and ventilation systems to minimize the toxic effect or transient smoke in adjacent non-smoking areas.~~

~~(6) Using any other means which may be appropriate to further the intent of this Article.~~

Section 9-14-8. PENALTY.

(1) IT IS UNLAWFUL FOR A PERSON WHO OWNS, MANAGES, OPERATES, OR OTHERWISE CONTROLS THE USE OF A PREMISES SUBJECT TO THIS ARTICLE TO VIOLATE ANY OF ITS PROVISIONS.

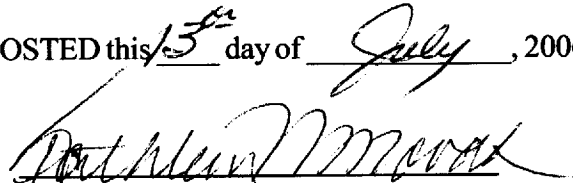
(2) IT IS UNLAWFUL FOR A PERSON TO SMOKE IN AN AREA WHERE SMOKING IS PROHIBITED PURSUANT TO SECTION 9-14-4.

(3) THE PENALTY FOR A VIOLATION OF ANY PROVISION OF THIS ARTICLE IS A FINE OF NOT MORE THAN FOUR HUNDRED NINETY-NINE DOLLARS (\$499). IN DETERMINING THE SENTENCE TO BE IMPOSED, THE MUNICIPAL JUDGE SHALL CONSIDER THE FREQUENCY AND DURATION OF THE VIOLATION, THE SIZE OF THE ESTABLISHMENT, WHETHER IT WAS KNOWINGLY MADE OR NOT, AND OTHER RELEVANT FACTORS. EACH DAY OF A CONTINUING VIOLATION SHALL BE DEEMED TO BE A SEPARATE VIOLATION.

Section 9-14-9. Penalty. ~~It is unlawful for any person to violate any of the provisions of this Article. The penalty for violation of any provision of this Article is a fine of not more than \$300.00. In determining the sentence to be imposed, the municipal judge shall consider the frequency and duration of the violation, the size of the establishment, whether it was knowing or not, and other relevant factors. Each day of continuing violation shall be deemed to be a separate violation.~~

Section 9-14-10. Effective Date. ~~This Article shall take effect on November 1, 1994.~~

INTRODUCED, READ AND ORDERED POSTED this 15th day of July, 2006.


KATHLEEN M. NOVAK
Mayor

ATTEST:


DIANA L. LENTZ, CMC
City Clerk

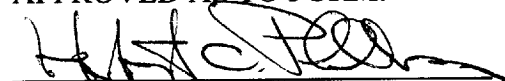
PASSED ON SECOND AND FINAL READING this ____ day of _____, 2006.

KATHLEEN M. NOVAK
Mayor

ATTEST:

DIANA L. LENTZ, CMC
City Clerk

APPROVED AS TO FORM: ²



City Attorney