



Smoke-Free Cities: Template for a Smoke-Free Environments Ordinance

International Legal Consortium, Campaign for Tobacco-Free Kids

Introduction

This resource provides a template for municipalities interested in drafting legal measures to create smoke-free environments that are consistent with legal obligations and global best practices established under the

WHO Framework Convention on Tobacco Control (WHO FCTC), its implementation guidelines, and decisions adopted by the Convention's governing body, the Conference of the Parties (COP).

Legal Considerations

Prior to drafting an ordinance, it is critical to determine whether your city has the authority to regulate the use of tobacco and nicotine products in workplaces, public places and on public transport differently or more stringently than provisions in the national or regional

(e.g., regions, provinces, states) law. Further, a thorough review of additional laws that could impact regulating the use of these products in public places should be reviewed. Finally, local lawyers should be consulted in drafting any ordinance creating smoke-free environments.

Tailoring the Template

This template is intended to be adapted to a municipality's legislative drafting practices, local and national context, and unique circumstances.

- **Notes for drafters.** [Bracketed text highlighted in yellow] appears in the template to indicate where information should be inserted based on local context or policy decisions. Explanatory notes to drafters appear as ***[bracketed bold and italicized text]*** throughout the template to elaborate on certain provisions. These notes to drafters should be removed after tailoring the template ordinance to fit a city's circumstances.
- **Amendments to your current ordinance.** While this template contains text for drafting a new ordinance, municipalities that are able to amend their current smoke-free measures can also benefit from reviewing this template with the understanding that definitions or certain provisions may not be applicable.

Please contact us at LegalSupport@TobaccoFreeKids.org to discuss how best to tailor this template to your specific needs.

Template

Ordinance No. [___/___] on Smoke-free Environments [or other name for the Ordinance] (“Ordinance”)

CHAPTER I. Preliminary

[or other customary terminology generally used]

[Note: Preliminary matters might include a short title, objectives/purpose and findings statement(s), and similar matters as appropriate and customary in the jurisdiction.]

1. The purpose of this Ordinance is to protect the people and the environment in [City] from the adverse effects of the exposure to tobacco smoke and other product emissions in indoor public places, indoor workplaces, and on public transport; reduce such product use and exposure among children and young people; advance health equity by reducing tobacco-related health disparities and ensuring the protection of vulnerable and historically marginalized populations; prevent or reduce tobacco and nicotine product waste and environmental pollution; and affirm the highest standards in the right to a healthy environment by creating completely smoke-free public spaces consistent with the WHO Framework Convention on Tobacco Control, its implementation guidelines and decisions by its governing body.
2. The [City council/legal body] adopts the following findings to support the purpose of this Ordinance:

The World Health Organization (WHO) reports that tobacco is responsible for more than 8 million deaths annually with over 7 million deaths due to direct tobacco use and approximately 1.3 million deaths as a result of exposure to secondhand smoke. [Consider including national or sub-national data, where available]

Secondhand smoke poses a serious health risk, containing more than 7,000 chemicals—at least 250 of which are known to be harmful, and around 70 of which are carcinogenic. Exposure to secondhand smoke increases the risk of cardiovascular disease, stroke, respiratory illness, and lung cancer in non-smokers, as well as complications for pregnant women and children.

A comprehensive approach to tobacco control includes a range of measures aimed at promoting the right to health and a healthy environment, such as the establishment of clean air. This includes prohibiting the use of tobacco and nicotine products in indoor public places, indoor workplaces, on public transport and, as appropriate, outdoor places.

Electronic nicotine delivery systems (such as electronic cigarettes) emit nicotine and other toxic substances, posing health risks to both users and bystanders. Additionally, nicotine-free electronic delivery systems contain harmful toxins that may adversely affect health.

Cigarette filter pollution is among the most prevalent and harmful forms of environmental pollution. It is estimated that approximately 4.5 trillion cigarette filters are discarded worldwide each year, containing toxic substances such as nicotine, tar, arsenic, lead, and polycyclic aromatic hydrocarbons. The filters, made of cellulose acetate, can take up to 25 years to degrade, contributing significantly to microplastic pollution. Studies have shown that a single cigarette filter can contaminate up to 50 liters of drinking water, posing risks to aquatic life and human health.

Waste from electronic cigarettes and other electronic nicotine and non-nicotine delivery systems also contains toxic substances, including plastics, nicotine salts, heavy metals, and batteries. These materials do not biodegrade and break down into microplastics and chemicals that pollute water bodies, soil, and the broader environment.

Prohibiting smoking and the use of other tobacco and nicotine products in outdoor environments is an effective public health measure that not only prevents or reduces exposure to tobacco smoke and other product emissions, but also prevents or reduces litter and denormalizes smoking, which is particularly important for children and youth. Various international studies demonstrate that prohibiting smoking in outdoor public spaces, such as parks, beaches, and the terraces of bars and restaurants, promotes healthier environments.

[City] has a fundamental and non-delegable obligation to actively intervene through policies that protect, promote, and preserve public health.

The WHO Framework Convention on Tobacco Control (WHO FCTC) is the world's first global public health treaty aimed at preventing and reducing tobacco consumption and exposure to tobacco smoke. It was unanimously adopted on May 21, 2003, in Geneva by all 192 WHO Member States and entered into force on February 27, 2005. Its objective is to protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke by providing a framework for tobacco control measures to be implemented by Parties in order to reduce continually and substantially the prevalence of tobacco use and exposure to tobacco smoke. [Country] became a Party to the Convention on [Date].

Article 5.2 (b) of the WHO FCTC requires Parties to adopt and implement effective measures for preventing and reducing tobacco consumption, nicotine addiction, and exposure to tobacco smoke.

Article 8 of the WHO FCTC obligates Parties to actively promote at all jurisdictional levels the adoption and implementation of effective measures providing for the protection from exposure to tobacco smoke in indoor public places, indoor workplaces, on public transport, and in other public places, as appropriate.

3. In accordance with [legal authority], the [City] hereby adopts this Ordinance.

CHAPTER II. Interpretation

4. In this Ordinance, unless the context otherwise requires:

“Authorized officer” includes any individual, appointed by [relevant municipal authority], who shall undertake investigations of supposed violations of this Ordinance.

“Electronic nicotine delivery system” means:

- a. an electronic device that heats a substance to produce an emission for inhalation; and
- b. a substance that contains nicotine in any form, whether synthetically or naturally derived, or a nicotine analog but does not contain tobacco, and is for use with the device in subsection (a).

“Enclosed” means any space covered by a roof or having one or more walls or sides, regardless of the type of material used for the roof, walls, or sides, and regardless of whether the structure is permanent or temporary.

“Heated tobacco product” means:

- a. an electronic device manufactured for consuming a tobacco product by producing an emission for inhalation; and
- b. a tobacco product for use with the device in subsection (a).

“Electronic non-nicotine delivery system” means an electronic nicotine delivery system, as that term is defined in this Ordinance, that does not contain any form or derivation of nicotine.

“Outdoor space” means any space that is not “enclosed”, as that term is defined in this Ordinance.

“Person” includes a natural or juridical person.

“Person responsible for the premises” means the owner, manager, or other person in charge of a public place, workplace, or public transport vehicle.

“Public transport” means all vehicles used for carriage of members of the public, usually for reward or commercial gain.

“Public place” means any place accessible to the general public and any place for collective use, regardless of ownership or right to access.

“Related product” means any inhalable product that resembles a heated tobacco product, electronic nicotine delivery system, or electronic non-nicotine delivery system.

“Smoking” or “smoke” means being in possession or control of a lit or activated tobacco product, heated tobacco product, an electronic nicotine delivery system, electronic non-nicotine delivery system, or related product regardless of whether the emissions are being actively inhaled or exhaled.

“Tobacco product” means a product made entirely or partly from any part of a tobacco plant as raw material manufactured to be used for consumption by any means.

“Workplace” means any place used by people during their paid or unpaid employment or work, including all associated or attached areas commonly used in or incidental to the course of work, as well as work vehicles.

CHAPTER III. Smoke-Free Environments

5. No person shall smoke –

- a. in any enclosed workplace;
- b. in any enclosed public place;
- c. on any means of public transport;
- d. anywhere on the entire premises, including in all enclosed and outdoor spaces, of any –
 - i. childcare facility or educational or vocational facility at any level of instruction;
 - ii. health care facility;
 - iii. playground or amusement park;
 - iv. public park;
 - v. beach;
 - vi. area designated for sports and aerobic exercise in public squares, parks, and promenades;
 - vii. property owned, operated, or controlled in any way by [City], excluding public streets and, unless otherwise prohibited in this Ordinance, sidewalks; or
 - viii. area designated as a no-smoking area by the person responsible for the premises; or
- e. in any outdoor space that is –
 - i. within [] meters of a doorway, operable window, or air intake mechanism of any enclosed public place or workplace;
 - ii. an area for the service or consumption of food or drink, and within [] meters of that area;
 - iii. a stadium, arena, or other performance space, and within [] meters of that space;
 - iv. a waiting area or queue, including but not limited to public transport stops, and within [] meters of that waiting area or queue; or
 - v. a sidewalk immediately adjacent to any premises listed in Sections 5(a), (b), (d), (e)(ii), (e)(iii), or (e)(iv).

[Note: Although this template provides for some smoke-free outdoor spaces, these public places will likely be specific to your municipality and care should be taken to include the appropriate places.]

CHAPTER IV. Duties of Persons Responsible for the Premises

6. Persons responsible for the premises or the means of public transport shall ensure that –
 - a. signs are displayed notifying persons on the premises or the means of public transport of the prohibitions on smoking, in the manner prescribed below;
 - b. ashtrays are not present within the enclosed public place, workplace, public transport or in any outdoor area where smoking is prohibited; and
 - c. reasonable steps are taken to stop a person from smoking where prohibited, including any or all of the following:
 - i. directing the person to stop smoking and if the person refuses, discontinuing service to that person;
 - ii. directing the person to leave the premises and, in the case of a public transport vehicle, to leave the vehicle when it is safe to do so;
 - iii. contacting [the appropriate authority/ies] if the person refuses; and
 - iv. investigating complaints by workers or members of the public and taking the necessary actions.
7. The signage required in Section 6(a) shall –
 - a. state in [language] the following message: “Smoking and the use of similar products are prohibited.”;
 - b. include a graphic representation of a no smoking symbol;
 - c. not display elements that encourage smoking (ashtrays, lighters, etc.);
 - d. measure no less than twenty (20) centimeters by ten (10) centimeters for signs posted on means of public transport, and sixty (60) centimeters by forty (40) centimeters for signs posted in all other premises where smoking is prohibited;
 - e. be in black letters on a white background, without prejudice to other characteristics that may be established in the regulations of this Ordinance, if necessary;
 - f. be posted –
 - i. in the enclosed public place, workplace, and any outdoor area where smoking is prohibited, at the main entrance, secondary entrances, and other locations so as to be easily visible to those who enter or spend time in the premises;
 - ii. on means of public transport, in a place visible to passengers in each compartment and that does not interfere with the visibility of the driver or operator; and
 - g. include a phone number and/or website where violations can be reported.

CHAPTER V. Inspection and Enforcement

8. The [relevant authority or authorities] may designate as authorized officers any persons or categories of persons for the purposes of this Ordinance.
9. At minimum, an authorized officer shall have the power to:
 - a. enter and inspect, at any reasonable time:
 - i. any public place, workplace, or means of public transport where smoking is prohibited under the Ordinance; and
 - ii. any other place the authorized officer reasonably believes a violation of this Ordinance is occurring;
 - b. stop, search, or detain any means of public transport in which the authorized officer reasonably believes a violation of this Ordinance is occurring or has very recently occurred;
 - c. examine any operation or process which is being carried out on any premises within the municipality's jurisdiction, which the authorized officer reasonably believes is being used to further, support, or facilitate a violation of this Ordinance;
 - d. examine and make copies of or from any documents, notes, photographs, electronic files, or other records that the authorized officer reasonably believes might contain information relevant to determining compliance with this Ordinance;
 - e. interview any person the authorized officer believes may have information relevant to making a compliance determination; and
 - f. post no-smoking signs in any public place, workplace, or on means of public transport and remove ashtrays where such ashtrays are in violation of this Ordinance.
10. In exercising their functions under this Ordinance, all authorized officers shall, if requested, present proof of identity.
11. A person shall not interfere with, obstruct, attempt to obstruct, or fail to cooperate with an authorized officer in the exercise of his or her functions under this Ordinance.
12. No action or other proceeding may be brought against an authorized officer for an investigation, undertaken competently and in good faith, to determine compliance with this Ordinance.
13. No action or other proceeding may be brought against a person who provides information, in good faith, to an authorized officer for the purposes of determining compliance with this Ordinance.

CHAPTER VI. Penalties

[Note: This template does not provide recommendations for specific penalties for violations of the Ordinance because the types and amounts of penalties are specific to the practices and customs of any given jurisdiction. See Smoke-Free Cities: Framework for Smoke-Free Legal Measures for further guidance.]

CHAPTER VII. Presenting and Acting upon Complaints

14. The [City] government shall establish institutional channels for the presentation of and action upon complaints regarding violation of this Ordinance.

CHAPTER VIII. Evaluation

15. The [relevant authority or authorities] shall periodically evaluate the effectiveness of the Ordinance, including the effectiveness of the inspection and enforcement program. Evaluation information shall be readily accessible to the public.

CHAPTER IX. Public Education

16. The [City] shall engage in a continuing program to educate the public about the purpose and requirements of this Ordinance to affected citizens, communities, and city employees.

CHAPTER X. Authority to Make Regulations

17. The [relevant authority] may make regulations or further rules –
- a. necessary or appropriate to further the purpose of the Ordinance;
 - b. for any consequential, incidental, supplementary, or transitional provisions relating to the provisions of the Ordinance; and
 - c. for the effective administration of the Ordinance.

CHAPTER X. Effective Date

18. This Ordinance shall enter into force [30 days] following its adoption by the [City].

ADOPTED by the [] on [].