

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. 033-08HR

AN ORDINANCE TO AMEND THE RICHLAND COUNTY CODE OF ORDINANCES; CHAPTER 18, OFFENSES; BY ADDING A NEW SECTION THEREIN FOR THE PURPOSE OF ESTABLISHING REGULATIONS AND REQUIREMENTS RELATING TO SMOKING OF TOBACCO PRODUCTS IN THE UNINCORPORATED AREAS OF RICHLAND COUNTY.

Pursuant to the authority by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY RICHLAND COUNTY COUNCIL:

SECTION I. The Richland County Code of Ordinances; Chapter 18, Offenses; is hereby amended to add a new section, which shall read as follows:

Section 18-6. Smoking of tobacco products.

(a) Findings. As an incident to the adoption of this Section, the County Council ("County Council") of the County of Richland, South Carolina (the "County") makes the following findings:

- (1) Secondhand smoke is the third leading cause of preventable death in the United States, killing 53,000 Americans prematurely each year; and
- (2) The U.S. Environmental Protection Agency, U.S. Centers for Disease Control and Prevention, National Toxicology Program's Report on carcinogens, National Cancer Institute, and the International Agency for Research and cancer have all reported that secondhand smoke is a group A human carcinogen, a cancer causing substance, of which there is no safe level of exposure; and
- (3) The health consequences of involuntary smoking have been reported by the U.S. Surgeon General to be a cause of disease, including lung cancer, in healthy non-smokers; and
- (4) The U.S. Surgeon General has concluded that a simple separation of smokers and non-smokers within the same airspace does not eliminate the exposure of non-smokers; and
- (5) Numerous medical and scientific studies show substantial levels of exposure to secondhand smoke among the United States population, and over the past two decades, the health hazards resulting from exposure to secondhand smoke have been increasingly recognized; and
- (6) Secondhand smoke increases the risk of developing breast cancer in younger, pre-menopausal women; and when inhaled by pregnant women, secondhand smoke increases the risk for low-weight babies, pre-term delivery, and Sudden Infant Death Syndrome (SIDS); and
- (7) Exposure to secondhand smoke by children leads to decreased lung function, asthma, pneumonia, ear infections, bronchitis and even sudden infant death syndrome; and
- (8) Studies of hospital admissions for acute myocardial infarction in Helena, Montana and Pueblo, Colorado before, during, and after a local law eliminating smoking in workplaces and public places was in effect, has determined that laws to enforce smoke-free workplaces and public places may be associated with a reduction in morbidity from heart disease; and

- (9) Workplaces have been shown to be locations of significant exposure to secondhand tobacco smoke by employees working in the unincorporated areas of Richland County; and
- (10) There are laws, ordinances, and regulations in place that protect workers from other environmental hazards, including Class A carcinogens, asbestos, arsenic and benzene, but none which regulate exposure to secondhand smoke; and
- (11) The South Carolina General Assembly at Section 44-95-10 et seq. (the "Clean Indoor Air Act of 1990") imposed certain limitations on smoking. For example, it limited smoking in Government Buildings (the definition of which includes County-owned buildings) except where the owner of such building shall designate smoking areas.

County Council has now determined that additional regulation of smoking in areas beyond those addressed in the Clean Indoor Air Act of 1990 is appropriate in furtherance of its duty to protect the health of its citizens and employees in the workplace and therefore enacts this Section.

(b) Intent. County Council finds that it is in the best interest of the people of the unincorporated areas of the County to protect nonsmokers from involuntary exposure to secondhand smoke in the workplace. Therefore, County Council declares that the purpose of this act is: 1) to preserve and improve the health, comfort, and environment of the people of the unincorporated areas of the County by limiting exposure to secondhand smoke in the workplace; and 2) to guarantee the right of nonsmokers to breathe smoke-free air, and to recognize that the need to breathe smoke-free air shall have priority over the desire to smoke.

(c) Definitions.

- (1) "Employee" means any person who performs services for an employer in return for wages, profit or other valuable consideration, and/or a person who volunteers his or her services for a non-profit entity.
- (2) "Employer" means any person, partnership, association, corporation, trust, school, college, university or other educational institution, nonprofit entity or other organization, including any public or private employer, any manager, supervisor, and all other persons charged with control, supervision, and operation of any Workplace, Work Space, or Work Spaces as defined herein, that employs one (1) or more persons.
- (3) "Enclosed" means a space bounded by walls (with or without windows), a ceiling or roof, and enclosed by doors, including but not limited to, offices, rooms, foyers, waiting areas and halls.
- (4) "Secondhand smoke" is the complex mixture formed from the escaping smoke of a burning tobacco product (termed as "sidestream smoke") and smoke exhaled by the smoker. Exposure to secondhand smoke is also frequently referred to as "passive smoking," "secondhand smoking" or "involuntary smoking".
- (5) "Retail Tobacco Store" means any establishment which is not required to possess a retail food permit whose primary purpose is to sell or offer for sale to consumers, but not for resale, tobacco products and paraphernalia, in which the sale of other products is merely incidental, and in which the entry of persons under the age of eighteen (18) is prohibited at all times.

- (6) "Smoking" means the inhaling, exhaling, burning, lighting or carrying of a lighted cigarette, cigar, pipe, or similar device or any other lighted tobacco product.
- (7) "Smoking Materials" includes cigars, cigarettes and all other manner of smoking devices intended to be used for the purpose of inhaling, burning, carrying or exhaling lighted tobacco products.
- (8) "Workplace" means any enclosed indoor area, structure, building or facility or any portion thereof at which one (1) or more employee(s) perform services for their employer, including but not limited to: retail food stores, retail stores, restaurants, bars, cabarets, cafes, public or private clubs, pool halls, and bowling alleys.
- (9) "Work space" or "work spaces" means any enclosed area occupied by an employee during the course of his or her employment, including but not limited to: offices, customer service areas, common areas, hallways, waiting areas, restrooms, lounges, and eating areas.

(d) Prohibition of Smoking in the Workplace.

- (1) All employers shall provide a smoke-free environment for all employees working in any work space or workplace as those terms are defined herein. Further, the employer shall prohibit any persons present in any work space or workplace from smoking tobacco products therein.
- (2) No person shall smoke or possess a lighted tobacco product in any work space or workplace.

(e) Exceptions. Notwithstanding the provisions of subsection (d) herein, smoking may be permitted in the following places under the following circumstances:

- (1) Private residences;
- (2) Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided, however, that not more than twenty-five (25%) of rooms rented to guests in a hotel or motel may be so designated. All smoking rooms on the same floor must be contiguous and smoke from these rooms must not infiltrate into areas where smoking is prohibited under the provisions of this Section. The status of rooms as smoking or nonsmoking may not be changed, except to add additional nonsmoking rooms;
- (3) Retail tobacco stores as defined herein; and
- (4) Religious ceremonies where smoking is part of the ritual.

(f) Posting of Signs. The owner, manager or person in control of a Workplace shall post a conspicuous sign at the main entrance to the Workplace, which shall contain the words "No Smoking" and the universal symbol for no smoking.

(g) Reasonable Distance. Smoking outside a Workplace, and any other indoor area where smoking is prohibited, shall be permitted, provided that tobacco smoke does not enter any Work Spaces and/or Workplaces through entrances, windows, ventilation systems, or other means.

(h) Jurisdiction, Enforcement and Penalties.

1) A person who owns, manages, operates, or otherwise controls a Workplace or Work Space and who fails to comply with the provisions of this Section shall be deemed guilty of an infraction.

2) A person smoking or possessing a lighted tobacco product in any Work Space or Workplace shall be guilty of an infraction.

3) An infraction is punishable by a fine of five hundred dollars (\$500). Each day on which a violation of this Section occurs shall be considered a separate and distinct infraction. A violation of this Section is furthermore declared to be a public nuisance.

(i) Governmental Agency Cooperation. The County Administrator shall appropriately request other governmental and educational agencies having facilities with the unincorporated areas of the County to establish local operating procedures in cooperation and compliance with this Section. This includes urging all Federal, State, County, City, and School District agencies to update their existing smoking control regulations to be consistent with the current health findings regarding secondhand smoke.

SECTION II. Severability. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION III. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION IV. Effective Date. This ordinance shall be enforced from and after October 1, 2008.

RICHLAND COUNTY COUNCIL

BY: _____
Joseph McEachern, Chair

ATTEST THIS THE ____ DAY

OF _____, 2008

Michielle R. Cannon-Finch
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only
No Opinion Rendered As To Content

First Reading: May 6, 2008
Second Reading: June 3, 2008
Public Hearing: June 3, 2008
Third Reading: June 17, 2008