

**ORDINANCE PROHIBITING SMOKING IN PUBLIC PLACES IN THE CITY OF MADISON,  
MISSISSIPPI, AND ESTABLISHING PENALTIES FOR VIOLATIONS**

**Sec. 1. Title**

This Article shall be known as the City of Madison, Mississippi Smokefree Air Ordinance

**Sec. 2. Findings and Intent**

The Board of Aldermen of the City of Madison, Mississippi does hereby find that:

The 2006 U.S. Surgeon General's Report, *The Health Consequences of Involuntary Exposure to Tobacco Smoke*, has concluded that (1) secondhand smoke exposure causes disease and premature death in children and adults who do not smoke; (2) children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory problems, ear infections, and asthma attacks, and that smoking by parents causes respiratory symptoms and slows lung growth in their children; (3) exposure of adults to secondhand smoke has immediate adverse effects on the cardiovascular system and causes coronary heart disease and lung cancer; (4) there is no risk-free level of exposure to secondhand smoke; (5) establishing smokefree workplaces is the only effective way to ensure that secondhand smoke exposure does not occur in the workplace, because ventilation and other air cleaning technologies cannot completely control for exposure of nonsmokers to secondhand smoke; and (6) evidence from peer-reviewed studies shows that smokefree policies and laws do not have an adverse economic impact on the hospitality industry. (U.S. Department of Health and Human Services. *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006.)

Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution, and that breathing secondhand smoke (also known as environmental tobacco smoke) is a cause of disease in healthy nonsmokers, including heart disease, stroke, respiratory disease, and lung cancer. The National Cancer Institute determined in 1999 that secondhand smoke is responsible for the early deaths of approximately 53,000 Americans annually. (National Cancer Institute (NCI), "Health effects of exposure to environmental tobacco smoke: the report of the California Environmental Protection Agency. Smoking and Tobacco Control Monograph 10," *Bethesda, MD: National Institutes of Health, National Cancer Institute (NCI)*, August 1999.)

The Public Health Service's National Toxicology Program (NTP) has listed secondhand smoke as a known carcinogen. (Environmental Health Information Service (EHIS), "Environmental tobacco smoke: first listed in the Ninth Report on Carcinogens," *U.S. Department of Health and Human Services (DHHS), Public Health Service, NTP*, 2000; reaffirmed by the NTP in subsequent reports on carcinogens, 2003, 2005.)

Based on a finding by the California Environmental Protection Agency in 2005, the California Air Resources Board has determined that secondhand smoke is a toxic air contaminant, finding that exposure to secondhand smoke has serious health effects, including low birth-weight babies; sudden infant death syndrome (SIDS); increased respiratory infections in children; asthma in children and adults; lung cancer,

sinus cancer, and breast cancer in younger, premenopausal women; heart disease; and death. (Appendix II Findings of the Scientific Review Panel: Findings of the Scientific Review Panel on Proposed Identification of Environmental Tobacco Smoke as a Toxic Air Contaminant as adopted at the Panel's June 24, 2005 Meeting," *California Air Resources Board (ARB)*, September 12, 2005.)

Scientific evidence has firmly established that there is no safe level of exposure to second-hand tobacco smoke, a pollutant that causes serious illness in adults and children. There is also indisputable evidence that implementing 100% smoke-free environments is the only effective way to protect the population from the harmful effects of exposure to secondhand smoke. (World Health Organization (WHO), "Protection from exposure to secondhand smoke: policy recommendations," *World Health Organization (WHO)*, 2007.)

A study of hospital admissions for acute myocardial infarction in Helena, Montana before, during, and after a local law eliminating smoking in workplaces and public places was in effect, has determined that laws to enforce smokefree workplaces and public places may be associated with a reduction in morbidity from heart disease. (Sargent, Richard P.; Shepard, Robert M.; Glantz, Stanton A., "Reduced incidence of admissions for myocardial infarction associated with public smoking ban: before and after study," *British Medical Journal* 328: 977-980, April 24, 2004.) Similar studies have been conducted in Bowling Green, Ohio; Monroe County, Indiana; Pueblo, Colorado; New York State; France; Greece; Italy; and Scotland. All of these studies have reached the conclusion that communities see an immediate reduction in heart attack admissions after the implementation of comprehensive smokefree laws. ([n.a.], "Bibliography of Secondhand Smoke Studies." *American Nonsmokers' Rights Foundation*, February 26, 2008.)

A significant amount of secondhand smoke exposure occurs in the workplace. Employees who work in smoke-filled businesses suffer a 25-50% higher risk of heart attack and higher rates of death from cardiovascular disease and cancer, as well as increased acute respiratory disease and measurable decrease in lung function. (Pitsavos, C.; Panagiotakos, D.B.; Chrysohoou, C.; Skoumas, J.; Tzioumis, K.; Stefanadis, C.; Toutouzas, P., "Association between exposure to environmental tobacco smoke and the development of acute coronary syndromes: the CARDIO2000 case-control study," *Tobacco Control* 11(3): 220-225, September 2002.)

Studies measuring cotinine (metabolized nicotine) and NNAL (metabolized nitrosamine NNK, a tobacco-specific carcinogen linked to lung cancer) in hospitality workers find dramatic reductions in the levels of these biomarkers after a smokefree law takes effect. Average cotinine levels of New York City restaurant and bar workers decreased by 85% after the city's smokefree law went into effect. ([n.a.], "The State of Smoke-Free New York City: A One Year Review," *New York City Department of Finance, New York City Department of Health & Mental Hygiene, New York City Department of Small Business Services, New York City Economic Development Corporation*, March 2004). After the implementation of Ontario, Canada's Smokefree Indoor Air Law, levels of NNAL were reduced by 52% in nonsmoking casino employees and cotinine levels fell by 98%. (Geoffrey T. Fong, et. al., "The Impact of the Smoke-Free Ontario Act on Air Quality and Biomarkers of Exposure in Casinos: A Quasi-Experimental Study," *Ontario Tobacco Control Conference*, Niagara Falls, Ontario, December 2, 2006.)

Following a Health Hazard Evaluation of Las Vegas casino employees' secondhand smoke exposure in the workplace, which included indoor air quality tests and biomarker assessments, the National Institute of Occupational Safety & Health (NIOSH) concluded that the casino employees are exposed to dangerous levels of secondhand smoke at work and that their bodies absorb high levels of tobacco-specific chemicals NNK and cotinine during work shifts. NIOSH also concluded that the "best means of eliminating

workplace exposure to [secondhand smoke] is to ban all smoking in the casinos." (*Health hazard evaluation report: environmental and biological assessment of environmental tobacco smoke exposure among casino dealers*, Las Vegas, NV. By Achutan C, West C, Mueller C, Boudreau Y, Mead K. Cincinnati, OH: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Institute for Occupational Safety and Health, NIOSH HETA No. 2005-0076 and 2005-0201-3080, May 2009.)

Secondhand smoke is particularly hazardous to elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease. (California Environmental Protection Agency (Cal EPA), "Health effects of exposure to environmental tobacco smoke", *Tobacco Control* 6(4): 346-353, Winter, 1997.) The Americans With Disabilities Act, which requires that disabled persons have access to public places and workplaces, deems impaired respiratory function to be a disability. (Daynard, R.A., "Environmental tobacco smoke and the Americans with Disabilities Act," *Nonsmokers' Voice* 15(1): 8-9.)

The U.S. Centers for Disease Control and Prevention has determined that the risk of acute myocardial infarction and coronary heart disease associated with exposure to tobacco smoke is non-linear at low doses, increasing rapidly with relatively small doses such as those received from secondhand smoke or actively smoking one or two cigarettes a day, and has warned that all patients at increased risk of coronary heart disease or with known coronary artery disease should avoid all indoor environments that permit smoking. (Pechacek, Terry F.; Babb, Stephen, "Commentary: How acute and reversible are the cardiovascular risks of secondhand smoke?" *British Medical Journal* 328: 980-983, April 24, 2004.)

Given the fact that there is no safe level of exposure to secondhand smoke, the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) bases its ventilation standards on totally smokefree environments. ASHRAE has determined that there is currently no air filtration or other ventilation technology that can completely eliminate all the carcinogenic components in secondhand smoke and the health risks caused by secondhand smoke exposure, and recommends that indoor environments be smokefree in their entirety. (Samet, J.; Bohanon, Jr., H.R.; Coultas, D.B.; Houston, T.P.; Persily, A.K.; Schoen, L.J.; Spengler, J.; Callaway, C.A., "ASHRAE position document on environmental tobacco smoke," *American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE)*, 2005.)

During periods of active smoking, peak and average outdoor tobacco smoke (OTS) levels measured in outdoor cafes and restaurant and bar patios near smokers rival indoor tobacco smoke concentrations. (Klepeis, N.; Ott, W.R.; Switzer, P., "Real-time measurement of outdoor tobacco smoke particles," *Journal of the Air & Waste Management Association* 57: 522-534, 2007.)

Residual tobacco contamination, or "third hand smoke," from cigarettes, cigars, and other tobacco products is left behind after smoking occurs and builds up on surfaces and furnishings. This residue can linger in spaces long after smoking has ceased and continue to expose people to tobacco toxins. Sticky, highly toxic particulate matter, including nicotine, can cling to walls and ceilings. Gases can be absorbed into carpets, draperies, and other upholsteries, and then be reemitted (off-gassed) back into the air and recombine to form harmful compounds. (Singer, B.C.; Hodgson, A.T.; Nazaroff, W.W., "Effect of sorption on exposures to organic gases from environmental tobacco smoke (ETS)," *Proceedings: Indoor Air 2002*, 2002.)

Tobacco residue is noticeably present in dust throughout places where smoking has occurred. (Matt, G.E.; Quintana, P.J.E.; Hovell, M.F.; Bernert, J.T.; Song, S.; Novianti, N.; Juarez, T.; Floro, J.; Gehrman, C.;

Garcia, M.; Larson, S., "Households contaminated by environmental tobacco smoke: sources of infant exposures," *Tobacco Control* 13(1): 29-37, March 2004.)

The Society of Actuaries has determined that secondhand smoke costs the U.S. economy roughly \$10 billion a year: \$5 billion in estimated medical costs associated with secondhand smoke exposure and \$4.6 billion in lost productivity. (Behan, D.F.; Eriksen, M.P.; Lin, Y., "Economic Effects of Environmental Tobacco Smoke," *Society of Actuaries*, March 31, 2005.)

Numerous economic analyses examining restaurant and hotel receipts and controlling for economic variables have shown either no difference or a positive economic impact after enactment of laws requiring workplaces to be smokefree. Creation of smokefree workplaces is sound economic policy and provides the maximum level of employee health and safety. (Glantz, S.A. & Smith, L. The effect of ordinances requiring smokefree restaurants on restaurant sales in the United States. *American Journal of Public Health*, 87:1687-1693, 1997; Colman, R.; Urbonas, C.M., "The economic impact of smoke-free workplaces: an assessment for Nova Scotia, prepared for Tobacco Control Unit, Nova Scotia Department of Health," *GPI Atlantic*, September 2001.)

Hundreds of communities in the U.S., plus numerous states, including Arizona, Delaware, Illinois, Iowa, Massachusetts, New Jersey, New York, Ohio, Utah, and Washington, have enacted laws requiring all workplaces, restaurants, bars, and other public places to be smokefree, as have numerous countries, including Bhutan, France, Iceland, Ireland, New Zealand, Norway, Singapore, Uruguay, and the United Kingdom constituent countries of England, Northern Ireland, Scotland, and Wales.

There is no legal or constitutional "right to smoke." Business owners have no legal or constitutional right to expose their employees and customers to the toxic chemicals in secondhand smoke. On the contrary, employers have a common law duty to provide their workers with a workplace that is not unreasonably dangerous.

Smoking is a potential cause of fires; cigarette and cigar burns and ash stains on merchandise and fixtures causes economic damage to businesses. ("The high price of cigarette smoking," *Business & Health* 15(8), Supplement A: 6-9, August 1997.)

The smoking of tobacco is a form of air pollution, a positive danger to health, and a material public nuisance.

Accordingly, the City of Madison, Mississippi finds and declares that the purposes of this ordinance are (1) to protect the public health and welfare by prohibiting smoking in public places and places of employment; and (2) to guarantee the right of nonsmokers to breathe smokefree air, and to recognize that the need to breathe smokefree air shall have priority over the desire to smoke.

### **Sec. 3. Definitions**

The following words and phrases, whenever used in this Article, shall be construed as defined in this Section:

- A. "Bar" means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.
- B. "Business" means a sole proprietorship, partnership, joint venture, corporation, or other business entity, either for-profit or not-for-profit, including retail establishments where goods or services are sold; professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered; and private clubs.
- C. "Country Club" means a private recreational club containing a golf course and a clubhouse that is available only to the country club membership and their guests, consisting of not less than 15 acres. This club may include additional facilities traditionally associated with country club facilities, but the golf course shall not be a miniature or indoor facility.
- D. "Employee" means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and a person who volunteers his or her services for a non-profit entity.
- E. "Employer" means a person, business, partnership, association, corporation, including a municipal corporation, trust, or non-profit entity that employs the services of one or more individual persons.
- F. "Enclosed Area" means all space between a floor and ceiling that is enclosed on all sides by permanent or temporary walls or windows (exclusive of doorways), which extend from the floor to the ceiling.
- G. "Health Care Facility" means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, long-term care facilities, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, psychiatrists, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.
- H. "Place of Employment" means an area under the control of a public or private employer that employees normally frequent during the course of employment, including, but not limited to, work areas, private offices, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, and vehicles. A private residence is not a "place of employment" unless it is used as a childcare, adult day care, or health care facility.
- I. "Playground" means any park or recreational area designed in part to be used by children that has play or sports equipment installed or that has been designated or landscaped for play or sports activities, or any similar facility located on public or private school grounds or on [City *or* County] grounds.
- J. "Private Club" means an organization, whether incorporated or not, which is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, which is

operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and which only sells alcoholic beverages incidental to its operation. The affairs and management of the organization are conducted by a board of directors, executive committee, or similar body chosen by the members at an annual meeting. The organization has established bylaws and/or a constitution to govern its activities. The organization has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. Section 501.

- K. "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, gaming facilities, health care facilities, hotels and motels, laundromats, public transportation vehicles and facilities, reception areas, restaurants, retail 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 childcare, adult day care, or health care facility.
- L. "Restaurant" means an eating establishment, including but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" shall include a bar area within the restaurant.
- M. "Service Line" means an indoor or outdoor line in which one (1) or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money, including but not limited to, ATM lines, concert lines, food vendor lines, movie ticket lines, and sporting event lines.
- N. "Shopping Mall" means an enclosed public walkway or hall area that serves to connect retail or professional establishments.
- O. "Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe in any manner or in any form.
- P. "Sports Arena" means sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys, and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events.

#### **Sec. 4. Application of Article to City of Madison, Mississippi Facilities**

All enclosed facilities, including buildings and vehicles owned, leased, or operated by the City of Madison, Mississippi shall be subject to the provisions of this Article.

#### **Sec. 1004. Prohibition of Smoking in Enclosed Public Places**

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

- A. Aquariums, galleries, libraries, and museums.
- B. 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, banks, laundromats, professional offices, and retail service establishments.
- C. Bars.
- D. Bingo facilities.
- E. Childcare and adult day care facilities.
- F. Convention facilities.
- G. Educational facilities, both public and private.
- H. Elevators.
- I. Gaming facilities.
- J. Health care facilities.
- K. Hotels and motels.
- L. Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities.
- M. Polling places.
- N. Public transportation vehicles, including buses and taxicabs, under the authority of the City of Madison, Mississippi, and ticket, boarding, and waiting areas of public transportation facilities, including bus, train, and airport facilities.
- O. Restaurants.
- P. Restrooms, lobbies, reception areas, hallways, and other common-use areas.
- Q. Retail stores.
- R. 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 Madison, Mississippi or a political subdivision of the State, to the extent the place is subject to the jurisdiction of the City of Madison, Mississippi.
- S. Service lines.

- T. Shopping malls.
- U. Sports arenas, including enclosed places in outdoor arenas.
- V. Theaters and other facilities primarily used for exhibiting motion pictures, stage dramas, lectures, musical recitals, or other similar performances.

**Sec. 6. Prohibition of Smoking in Places of Employment**

- A. 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.
- B. This prohibition on smoking shall be communicated to all existing employees by the effective date of this Article and to all prospective employees upon their application for employment.

**Sec. 7. Prohibition of Smoking in Private Clubs**

Smoking shall be prohibited in all private clubs.

**Sec. 8. Prohibition of Smoking in Enclosed Residential Facilities**

Smoking shall be prohibited in the following enclosed residential facilities:

- A. All private and semi-private rooms in nursing homes.
- B. All hotel and motel rooms.

**Sec. 9. Prohibition of Smoking in Outdoor Areas**

Smoking shall be prohibited in the following outdoor places:

- A. Within a reasonable distance of twenty (20) feet outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited, so as to insure that tobacco smoke does not enter those areas.
- B. In, and within twenty (20) feet of, outdoor seating or serving areas of restaurants.
- C. In all outdoor arenas, stadiums, and amphitheaters. Smoking shall also be prohibited in, and within twenty (20) feet of, bleachers and grandstands for use by spectators at sporting and other public events.



- D. In, and within twenty (20) feet of, all outdoor public transportation stations, platforms, and shelters under the authority of the City of Madison, Mississippi.
- E. In all outdoor service lines.
- F. In outdoor common areas of apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities, except in designated smoking areas, not to exceed twenty-five percent (25%) of the total outdoor common area, which must be located at least twenty (20) feet outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited.
- G. In, and within twenty (20) feet of, outdoor playgrounds.

**Sec. 10. Where Smoking Not Regulated**

- A. Notwithstanding any other provision of this Article to the contrary, the following areas shall be exempt from the provisions of Sections 5 and 6:
  - B. Private residences, except when used as a childcare, adult day care, or health care facility, and except as provided in Section 8.
  - C. Outdoor areas of places of employment except those covered by the provisions of Section 9.
  - D. Country clubs, as the term is defined above.

**Sec. 11. Declaration of Establishment as Nonsmoking**

Notwithstanding any other provision of this Article, 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 conforming to the requirements of Section 12(A) is posted.

**Sec. 12. Posting of Signs**

- A. "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 Article, by the owner, operator, manager, or other person in control of that place.
- B. Every public place and place of employment where smoking is prohibited by this Article shall have posted, by the owner, operator, manager, or other person in control of that place, at every entrance a conspicuous sign clearly stating that smoking is prohibited. Every vehicle that constitutes a place of employment under this Article shall have at least one conspicuous sign, visible from the exterior of the vehicle, clearly stating that smoking is prohibited.

### **Sec. 13. Nonretaliation; Nonwaiver of Rights**

- A. No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or customer because that employee, applicant, or customer exercises any rights afforded by this Article or reports or attempts to prosecute a violation of this Article. Notwithstanding Section 15, violation of this Subsection shall be a misdemeanor, punishable by a fine not to exceed \$1000 for each violation.
- B. An employee who works in a setting where an employer allows smoking does not waive or otherwise surrender any legal rights the employee may have against the employer or any other party.

### **Sec. 14. Enforcement**

- A. This Article shall be enforced by the in the manner provided by law for enforcement of any municipal ordinance.
- B. Notice of the provisions of this Article shall be given to all applicants for a business license in the City of Madison, Mississippi.
- C. Any citizen who desires to file a complaint under this Article may initiate enforcement by filing an affidavit with the City of Madison, Mississippi Municipal Court.
- D. Any department or official of the City of Madison, Mississippi, or their designees shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this Article.
- E. An owner, manager, operator, or employee of an establishment regulated by this Article shall inform persons violating this Article of the appropriate provisions thereof.
- F. Notwithstanding any other provision of this Article, an employee or private citizen may bring legal action to enforce this Article.
- G. This ordinance is in addition to and does not preclude the use of any other remedy afforded to the City or any private citizen by law.

### **Sec. 15. Violations and Penalties**

- A. A person who smokes in an area where smoking is prohibited by the provisions of this Article shall be guilty of an infraction, punishable by a fine not exceeding one hundred dollars (\$100.00). Said fine shall be in addition to any costs or assessments otherwise provided by law. Any person who appears at the Municipal Court Clerk's office at or prior to the court date and time specified on his or her citation may have his first offense reduced to a warning, but that action shall be noted

in the court records and no person shall be eligible to have his or her second or subsequent offense reduced in such a manner.

- B. Except as otherwise provided in Section 13(A), a person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the provisions of this Article shall be guilty of an infraction, punishable by:
  - 1. A fine not exceeding one hundred dollars (\$100) for a first violation.
  - 2. A fine not exceeding two hundred dollars (\$200) for a second violation within one (1) year.
  - 3. A fine not exceeding five hundred dollars (\$500) for each additional violation within one (1) year.
- C. Provided however, nothing in this ordinance shall be construed to hold a person who owns, manages, operates or otherwise controls a public place or place of employment responsible for the actions of third party smokers on his or her establishment if signage and other notification requirements are met.
- D. In addition to the fines established by this Section, violation of this Article 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 for the premises on which the violation occurred, to the extent such permit is issued pursuant to any regulatory enactment of the City of Madison, Mississippi.
- E. Violation of this Article is hereby declared to be a public nuisance, which may be abated in the manner provided by law.
- F. Each day on which a violation of this Article occurs shall be considered a separate and distinct violation.

#### **Sec. 16. Public Education**

The City of Madison, Mississippi shall engage in a continuing program to explain and clarify the purposes and requirements of this Article to citizens affected by it, and to guide owners, operators, and managers in their compliance with it. The program may include publication of a brochure for affected businesses and individuals explaining the provisions of this ordinance. However, neither the manner in which this educational effort is conducted nor any failure to conduct such campaign shall constitute a defense any offense charged under this ordinance.

#### **Sec. 17. Governmental Agency Cooperation**

The City may annually request other governmental and educational agencies having facilities within the City to establish local operating procedures in cooperation and compliance with this Article.

#### **Sec. 18. Other Applicable Laws**

This Article shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

**Sec. 19. Liberal Construction**

This Article shall be liberally construed so as to further its purposes.

**Sec. 20. Severability**

If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are declared to be severable.

**Sec. 21. Effective Date**

This Article shall be effective thirty (30) days from and after the date of its adoption.

\* \* \* \* \*

The above and foregoing Ordinance having previously been reduced to writing, a motion was made by Alderman \_\_\_\_\_ and a second by Alderman \_\_\_\_\_ to approve and adopt the Ordinance and no request having been made by the Mayor or any member of the Board of Aldermen that said Resolution be read by the City Clerk before a vote was taken. Said Ordinance was adopted by the Board of Aldermen with results being as follows:

- Alderman Clingan-Smith voted: \_\_\_\_\_
- Alderman Tatum voted: \_\_\_\_\_
- Alderman Peeler voted: \_\_\_\_\_
- Alderman Jacobs voted: \_\_\_\_\_
- Alderman Hickok voted: \_\_\_\_\_
- Alderman Hudgins voted: \_\_\_\_\_
- Alderman Bowering voted: \_\_\_\_\_

The motion having received the affirmative vote of \_\_\_\_\_ members of the Board of Aldermen present, the Mayor declared the motion so carried and this Ordinance adopted on this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

CITY OF MADISON, MISSISSIPPI

BY: \_\_\_\_\_

Mary Hawkins Butler, Mayor

ATTEST:

\_\_\_\_\_

Susan Crandall  
City Clerk/Administrative Director