

MADISON COUNTY, MISSISSIPPI

AN ORDINANCE PROHIBITING SMOKING IN ALL WORKPLACES AND PUBLIC PLACES IN MADISON COUNTY, MISSISSIPPI AND ESTABLISHING PENALTIES FOR VIOLATIONS

SECTION 100 – TITLE

The Ordinance shall be known as the “Madison County, Mississippi Smoke-free Ordinance,” and may be so cited, and further reference elsewhere as “Smoke-free Ordinance,” and herein as “the Ordinance” or “this Ordinance” shall imply the same wording and meaning as the full title.

SECTION 101 – FINDINGS AND INTENT

The Board of Supervisors of the Madison County, 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 smoke-free 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 smoke-free 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.)

According to the 2010 U.S. Surgeon General’s Report, *How Tobacco Smoke Causes Disease*, even occasional exposure to secondhand smoke is harmful and low levels of exposure to secondhand tobacco smoke lead to a rapid and sharp increase in dysfunction and inflammation of the lining of the blood vessels, which are implicated in heart attacks and stroke. (U.S. Department of Health and Human Services. *How Tobacco Smoke Causes Disease: The Biology and Behavioral Basis for Smoking-Attributable Disease: A Report of the Surgeon General*. Atlanta, GA: 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, 2010.)

According to the 2014 U.S. Surgeon General’s Report, *The Health Consequences of Smoking—50 Years of Progress*, secondhand smoke exposure causes stroke in nonsmokers. The report also found that since the 1964 Surgeon General’s Report on Smoking and Health, 2.5 million nonsmokers have died from diseases caused by tobacco smoke. U.S. Department of Health and Human Services. *The Health Consequences of Smoking—50 Years of Progress*. 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, 2014.)

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. (California Air Resources Board (ARB), "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.)

There is 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.)

In reviewing 11 studies concluding that communities see an immediate reduction in heart attack admissions after the implementation of comprehensive smoke-free laws, the Institute of Medicine of the National Academies concluded that data consistently demonstrate that secondhand smoke exposure increases the risk of coronary heart disease and heart attacks and that smoke-free laws reduce heart attacks. (Institute of Medicine (IOM) of the National Academies, Board on Population Health and Public Health Practice, Committee on Secondhand Smoke Exposure and Acute Coronary Events, "Secondhand smoke exposure and cardiovascular effects: making sense of the evidence," *Washington, DC: National Academies Press*, October 2009.)

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 smoke-free law takes effect. Average cotinine levels of New York City restaurant and bar workers decreased by 85% after the city's smoke-free 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 Smoke-free 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.)

Smoke-free indoor air laws result in a significant reduction in fine particulate matter and improved air quality. A Grand Rapids, Michigan study that monitored six restaurants before and after implementation of the state's smoke-free air law found that PM2.5 fine particulate matter was reduced by 92 percent after the law went into effect, indicating that the vast majority of indoor air pollution in all six venues was due to secondhand smoke. The results in Grand Rapids were consistent with results in Wilmington, Delaware; Boston, Massachusetts; and Western New York. (Repace, J.L., "Air quality in Grand Rapids restaurant bars: before and after Michigan's Dr. Ron Davis State Smoke-free Law," *Lansing, MI: Michigan Department of Community Health, Tobacco Section*, June 16, 2011.)

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.) A subsequent study in Nevada, whose Clean Indoor Air Act permits smoking in designated areas of casinos, bars, and taverns, indicates that strong 100% smoke-free laws are the only effective way to protect indoor air quality. The study sampled the air quality in 15 casino gaming areas and corresponding nonsmoking areas, and the results indicated that the Clean Indoor Air Act failed to protect air quality in the nonsmoking areas, including children-friendly areas. (Cochran, C.; Henriques, D.; York, N.; Lee, K., "Risk of exposure to second hand smoke for adolescents in Las Vegas casinos: an evaluation of the Nevada Clean Indoor Air Act," *Journal of Health and Human Services Administration* 35(2): 231-252, Fall 2012.)

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 smoke-free 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 smoke-free 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.) Nonsmokers who spend six-hour periods in outdoor smoking sections of bars and restaurants experience a significant increase in levels of cotinine when compared to the cotinine levels in a smoke-free outdoor area. (Hall, J.C.; Bernert, J.T.; Hall, D.B.; St Helen, G.; Kudon, L.H.; Naeher, L.P., "Assessment of exposure to secondhand smoke at outdoor bars and family restaurants in Athens, Georgia, using salivary cotinine," *Journal of Occupational and Environmental Hygiene* 6(11): 698-704, November 2009.)

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.) Given the rapid sorption and persistence of high levels of residual nicotine from tobacco smoke on indoor surfaces, including clothing and human skin, this recently identified process represents an unappreciated health hazard through dermal exposure, dust inhalation, and ingestion.(Sleiman, M.; Gundel, L.A.; Pankow, J.F.; Jacob III, P.; Singer, B.C.; Destailats, H., “Formation of carcinogens indoors by surface-mediated reactions of nicotine with nitrous acid, leading to potential third hand smoke hazards,” *Proceedings of the National Academy of Sciences of the United States of America (PNAS)* 107(15): 6576-6581, February 8, 2010.) The dangers of residual tobacco contamination are present in hotels, even in nonsmoking rooms. Compared with hotels that are completely smokefree, surface nicotine and air 3EP are elevated in nonsmoking and smoking rooms of hotels that allow smoking. Air nicotine levels in smoking rooms are significantly higher than those in nonsmoking rooms of hotels that do and do not completely prohibit smoking. Hallway surfaces outside of smoking rooms also show higher levels of nicotine than those outside of nonsmoking rooms. Partial smoking restrictions in hotels do not protect non-smoking guests from exposure to tobacco smoke and tobacco-specific carcinogens. Matt, G.E.; Quintana, P.J.E.; Fortmann, A.L.; Zakarian, J.M.; Galaviz, V.E.; Chatfield, D.A.; Hoh, E.; Hovell, M.F.; Winston, C., “Third hand smoke and exposure in California hotels: non-smoking rooms fail to protect non-smoking hotel guests from tobacco smoke exposure,” *Tobacco Control* [Epub ahead of print], May 13, 2013.)

Unregulated high-tech smoking devices, commonly referred to as electronic cigarettes, or “e-cigarettes,” closely resemble and purposefully mimic the act of smoking by having users inhale vaporized liquid nicotine created by heat through an electronic ignition system. After testing a number of electronic cigarettes from two leading manufacturers, the Food and Drug Administration (FDA) determined that various samples tested contained not only nicotine but also detectable levels of known carcinogens and toxic chemicals, including tobacco-specific nitrosamines and diethylene glycol, a toxic chemical used in antifreeze. The FDA’s testing also suggested that “quality control processes used to manufacture these products are inconsistent or non-existent.” ([n.a.], “Summary of results: laboratory analysis of electronic cigarettes conducted by FDA,” *Food and Drug Administration(FDA)*, July 22, 2009; <http://www.fda.gov/NewsEvents/PublicHealthFocus/ucm173146.htm> Accessed on: June 2, 2017.) According to a more recent study, electronic cigarette emissions are made up of a high concentration of ultrafine particles, and the particle concentration is higher than in conventional tobacco cigarette smoke.(Fuoco, F.C.; Buonanno, G.; Stabile, L.; Vigo, P., “Influential parameters on particle concentration and size distribution in the mainstream of e-cigarettes,” *Environmental Pollution* 184: 523-529, January 2014.) Electronic cigarettes produce an aerosol or vapor of undetermined and potentially harmful substances, which may appear similar to the smoke emitted by traditional tobacco products. Their use in workplaces and public places where smoking of traditional tobacco products is prohibited creates concern and confusion and leads to difficulties in enforcing the smoking prohibitions. The World Health Organization (WHO) recommends that electronic smoking devices not be used indoors, especially in smokefree environments, in order to minimize the risk to bystanders of breathing in the aerosol emitted by the devices and to avoid undermining the enforcement of smokefree laws. (World Health Organization (WHO), “Electronic nicotine delivery systems,” *World Health Organization (WHO)*, 2014.)

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 smoke-free. Creation of smoke-free 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 smoke-free 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.)

There is no legal or constitutional "right to smoke." (Graff, S.K., "*There is No Constitutional Right to Smoke: 2008*," Tobacco Control Legal Consortium, 2d edition, 2008.) 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. (Graff, S.K.; Zellers, L., "*Workplace Smoking: Options for Employees and Legal Risks for Employers*," Tobacco Control Legal Consortium, 2008.)

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, hookahs, or marijuana and the use of electronic cigarettes are forms of air pollution and constitute both a danger to health and a material public nuisance.

Accordingly, the Madison County Board of Supervisors 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 smoke-free air, and to recognize that the need to breathe smoke-free air shall have priority over the desire to smoke.

SECTION 103 - DEFINITIONS

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

- A. "Bars" means any premises where non-alcoholic or alcoholic beverages are sold or consumed.
- B. "Business" means any sole proprietorship, partnership, joint venture, corporation or other business entity formed for profit-making purposes, including retail establishments, where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered.

- C. “Childcare facility” means any state licensed childcare facility including, but not limited to licensed family daycare or licensed group daycare centers, licensed day camps, certified school-age programs and Head Start programs.
- D. “Common areas of buildings” means all areas not part of a tenant’s leased premises, including but not limited to lobbies, community rooms, hallways, laundry rooms, stairwells, elevators, enclosed parking facilities, pool areas, and restrooms contiguous thereto.
- E. “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 county club facilities, but the golf course shall not be a miniature or indoor facility.
- F. “County buildings” means all County-owned and operated buildings and those portions of buildings leased and operated by the County.
- G. “Employee” means any person who is employed by an employer for direct or indirect monetary wages or profit, including those full time, part-time, temporary or contracted for from a third party; employee also means any person who serves as a volunteer for a business or nonprofit entity.
- H. “Employer” means any person, partnership, Limited Liability Company, corporation, or other entity, including a public or non-profit entity that employs the services of one (1) or more individual persons.
- I. “Enclosed Area” means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of door or passage ways) which extend from floor to ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid, ‘other landscaping’ or similar structures.
- J. “Entrance” means a doorway and adjacent area which gives direct access to a building from a contiguous street, plaza, sidewalk or parking lot.
- K. “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 facilities, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, psychiatrist’s, dentists, and all specialists within these professions. This definitions shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.
- L. “Hotel and motel” means any commercial establishment that offers rooms that contain a bed and toilet facilities to the general public for rent that is not an apartment

complex or home. “Mall” means an enclosed, indoor area containing common areas and discrete businesses primarily devoted to the retail sale of goods and services.

- M. “Place of employment” means an enclosed area controlled by the employer, which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference and classrooms, employee cafeterias and hallways. A private residence is not a ‘place of employment’ within the meaning of this ordinance unless used as a childcare facility.
- N. “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 Madison County grounds.
- O. “Private Club” means a facility owned or operated by an association or corporation, which does not operate for pecuniary gain or have regular employees. 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 by laws and/or a constitution to govern its activities. The organization has been granted a Section 501. Exemption from the payment of Federal Income Taxes as a Club under 26 U.S.C. Entry into and use of a private club is restricted to members only. When a private club is open to the public. It does not meet this definition.
- P. “Private residence” means premises owned, rented or leased for temporary or permanent habitation.
- Q. “Public place” means any enclosed area in which invited members of the public gather or that is used by the general public.
- R. “Restaurants” means any eating establishment 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 shall include a bar area within the restaurant.
- S. “Service Line” means an indoor line in which one (1) or more persons are waiting for or receiving service of any kinds whether or not the service involves exchange of money.
- T. “Smoking” means to smoke or carry a lighted pipe, cigarette or cigar, tobacco-related products in any form.
- U. “Sports Arena or Venue” means sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and indoor ice rinks, and bowling centers.

SECTION 104 – APPLICATION TO COUNTY-OWNED FACILITIES

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

SECTION 105 – SMOKING PROHIBITED IN INDOOR PUBLIC PLACES

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

- A. Childcare facilities.
- B. County buildings.
- C. Common areas in bed and breakfast establishments, hotels and motels.
- D. Educational facilities, both public and private.
- E. Elevators and enclosed stairwells.
- F. Health care facilities.
- G. Indoor shopping malls.
- H. Places of employment, this included 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.
- I. Polling places.
- J. Public forms of transportation, including but not limited to motor buses, taxicabs, or other public passenger vehicles.
- K. Public bus and transfer point shelters.
- L. Restrooms, reception areas, hallways, and other common-use areas.
- M. Retail stores.
- N. Rooms, chambers, places of meeting or public assembly, under the authority of the County of Madison, Mississippi.
- O. Enclosed, indoor areas of restaurants and bars.
- P. Self-service laundry facilities.
- Q. Service lobbies, waiting areas, and the common areas open to the public of financial institutions, businesses and professional offices, and multi-unit commercial facilities, indoor sports arenas, and venues.

- R. Theaters and other facilities primarily used for exhibiting motion pictures, stage dramas, lectures, musical recitals, or other similar performance.
- S. Waiting rooms, hallways, rooms in offices of any physician, dentist, psychologist, chiropractor, optometrist or optician, or other medical services providers.

SECTION 106 – WHERE SMOKING NOT REGULATED

The following areas shall not be subject to the smoking restrictions of this Ordinance:

- A. Hunting Clubs
- B. Private residences, except when used as a childcare, adult day care, or health care facility.
- C. Private Clubs, as the term is defined above.

SECTION 107 – PROHIBITION OF SMOKING IN OUTDOOR AREAS

Smoking shall be prohibited in the following outdoor places:

- A. Immediately preceding or blocking the entrance and/or exit of an area where smoking is prohibited.
- B. Attached areas of restaurants that are covered or partially covered with more than 50% of the perimeter of the outside area walled or otherwise closed to the outside.
- C. Seating areas of outdoor sports arenas and venues.

SECTION 108 – DECLARATION OF ESTABLISHMENT AS NONSMOKING

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 conforming to the requirements of Section 109 is posted.

SECTION 109 - SIGNAGE

- A. Signs prohibiting smoking shall be posted conspicuously at the primary entrance of the premises by the proprietor, employer or other person in charge of the building.
- B. Signage shall include the international no smoking symbol and be no smaller than 2”x2”.

- C. It shall be unlawful for any person to remove, deface, or destroy any sign required by this ordinance, or to smoke in a place where any such sign is posted.

SECTION 110 – NONRETALIATION; NONWAIVER OF RIGHTS

- A. No person or employers 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 Ordinance or reports or attempts to prosecute a violation of this Ordinance. Notwithstanding Section 112, 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.

SECTION 111 – ENFORCEMENT

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

SECTION 112- VIOLATIONS AND PENALTIES

- A. Any person who violates any provision of this ordinance may be subject to a fine of no more than fifty dollars (\$50) for the first offense and no more than two hundred and fifty dollars (\$250) for the second and subsequent offenses.
- B. The Board of Supervisors may suspend or revoke any business license or permit issued by the County for 3 or more violations of this Ordinance involving license premises within a twelve (12) month period.

SECTION 113 – JURISDICTION CLAUSE

This ordinance shall be subject to all other governmental jurisdictions rules and regulations and laws pertaining to smoking.

SECTION 114 – SEVERABILITY

The provisions of this Ordinance shall be separable and the invalidity of any of its sections shall not affect the remaining sections.

SECTION 115 – EFFECTIVE DATE

This Ordinance shall be in full force and effect thirty (30) days after its passage.