

AN ORDINANCE TO REPEAL THE EXISTING PROVISIONS OF CHAPTER 71, TITLE VI OF THE GRAND RAPIDS CITY CODE ENTITLED "GENERAL HEALTH REGULATIONS" BEING SECTIONS 6.1 THROUGH 6.8; AND ADDING NEW CHAPTER 71 ENTITLED "CLEAN INDOOR AIR ORDINANCE."

ORDINANCE NO. 2006 - _____

THE PEOPLE OF THE CITY OF GRAND RAPIDS DO ORDAIN:

SECTION 1. That the existing provisions of Chapter 71, Title VI of the Grand Rapids City Code entitled "General Health Regulations" are hereby repealed.

SECTION 2. That a new Chapter 71 entitled "Clean Indoor Air Ordinance" be added to Title VI of the City Code to read as follows:

"CHAPTER 71 CLEAN INDOOR AIR ORDINANCE

Sec. 6.1. Title

Chapter 71 shall be known as the "Clean Indoor Air Ordinance" of the City of Grand Rapids.

Sec. 6.2. Purpose

This Chapter shall serve to protect the public health, safety and welfare by regulating smoking in public places or public and private worksites except as permitted in this Chapter.

A. The Grand Rapids City Commission hereby finds and declares that:

1. The U.S. Surgeon General, National Research Council, and National Academy of Sciences, report that environmental tobacco smoke causes lung cancer in healthy adult nonsmokers, and can cause lung function and structure alteration to the fetus of pregnant nonsmoking women. Additionally, in utero exposure is known to predispose children to long-term pulmonary risks. Further, these agencies found, separating smokers and nonsmokers within the same air space may reduce but does not eliminate a nonsmoker's exposure to environmental tobacco smoke.
2. The U.S. Environmental Protection Agency (EPA) finds that environmental tobacco smoke is a Group A Carcinogen - a category reserved for known cancer-causing agents in humans.
3. The National Institute for Occupational Safety and Health (NIOSH):
 - (a) finds that secondhand smoke poses an increased risk of lung cancer and, possibly, heart disease to people exposed in the worksite,
 - (b) recommends that nonsmokers should not be exposed to secondhand smoke, and

(c) finds that nonsmokers can be protected by elimination of smoking in the building, or establishing separately ventilated smoking areas that exhaust directly to the outside.

B. These studies find that tobacco smoke is a major contributor to indoor air pollution, and that breathing secondhand smoke is a cause of disease, including cancer, heart disease and stroke in nonsmokers. At special risk are infants, children, teens, pregnant women, elderly people, nonsmokers with long-term exposure to secondhand smoke, individuals with cardiovascular disease, and individuals with impaired respiratory function, including the young, asthmatics and those with obstructive airway disease. Also harmed are those with health conditions induced by breathing secondhand smoke including asthma, lung cancer, heart disease, respiratory infection, decreased respiratory function, including bronchoconstriction and broncho-spasm.

C. Accordingly, the City of Grand Rapids City Commission finds and declares that the purpose of this ordinance is to protect the public health and welfare by regulating smoking in public places and public worksites.

Sec. 6.3. Definitions

A. For purpose of this Chapter, the following definitions will be applicable:

1. "Business" means any sole proprietorship, partnership, joint venture, corporation of any type, or other business entity, including retail establishments where goods or services are sold as well as any other entity where legal, medical, dental, engineering, architectural or other services are delivered.
2. "Business Vehicle" means a car, bus, van or other motorized device which is owned or leased by an employer for the use of employees.
3. "Employee" means any person who works for or under the direction of an employer in consideration for direct or indirect compensation of any kind, and any person who volunteers his or her services for a nonprofit or business entity.
4. "Employer" means any person, business, partnership, corporation, government, or non-profit entity, that employs, the services of one or more individual persons.
5. "Enclosed Area" means all space between a floor and ceiling that is enclosed on all sides by solid walls or windows (exclusive of door or passage ways) which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid, office landscaping or similar structures.
6. "Food Service Establishment" means a fixed or mobile restaurant, coffee shop, cafeteria, short order cafe, luncheonette, grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail lounge, nightclub, drive-in, industrial or commercial feeding establishment, private non-profit or other organization serving the public, rental hall, catering kitchen, delicatessen, theater, commissary, or similar place in which food or drink is prepared for direct consumption through service on the

premises or elsewhere, and any other eating or drinking establishment or operation where food is served or provided for the public. Food service establishment does not include:

- a) a motel that serves continental breakfasts only;
- c) a bed and breakfast that has 15 or fewer sleeping rooms, including sleeping rooms occupied by the innkeeper;
- e) a child care organization regulated by Michigan law unless the establishment is carrying out an operation which is a Food Service Establishment under the laws of the State of Michigan.

- 7. "Place of Assembly" means any enclosed area where public or private groups assemble to engage in business, government or social functions.
- 8. "Public" means the public at large, any portion of the public at large, or any individual member of the public at large.
- 9. "Public Place" means any enclosed area to which the public is invited or in which the public or any portion of the public is permitted, including but not limited to, banks, educational facilities, health facilities, laundromats, public transportation facilities, reception areas, retail food production and marketing establishments, clubs, retail service establishments, retail stores, theaters and waiting rooms. A private home or dwelling unit is not a "public place."
- 10. "Public Transit Vehicles" mean buses, taxicabs, or other means of public transit.
- 11. "Service Line" means any indoor line at which one (1) or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.
- 12. "Smoking" means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe, weed, or plant, except as part of a religious ceremony or observance.
- 13. "Sports Arena" means sport pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, or bowling alleys where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events, excluding such facilities, or portions thereof, licensed as a food service establishment.
- 14. "Tobacco Specialty Store" means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is incidental.
- 15. "Worksite" means any enclosed area under the control of an employer which employees normally frequent or occupy during the course of employment, including, but not limited to, work areas, common use areas, employee lounges and restrooms, conference and class rooms, employee cafeterias, hallways and vehicles owned by an employer. A private home or dwelling unit is not a "worksite"

unless it is used for commercial or industrial purposes, or is a child care facility during its hours of operation, or health care facility.

Sec. 6.4. Prohibition of Smoking in Public Places and Public Worksites

No person shall smoke in any enclosed public or private worksite, or public place within the City of Grand Rapids, including but not limited to, the following places:

- A. All enclosed areas of worksites and public places located within the City of Grand Rapids, including business vehicles that are occupied by more than one person, except as exempted by this regulation.
- B. Restrooms, lobbies, reception halls, hallways and any other common-use areas which are open to the public.
- C. Buses, taxicabs, and other means of public transit, and ticket, boarding, and waiting areas of public transit depots.
- D. Service lines.
- E. Retail stores.
- F. All areas available to and customarily used by the general public in all business and non-profit entities patronized by the public, including but not limited to, attorney's offices and other offices, banks, laundromats, hotels and motels.
- G. All areas located within galleries, libraries and museums.
- H. Any facility which is primarily used for exhibiting any motion picture, stage, drama, lecture, musical recital or other similar performance, except performers when smoking is part of a stage production.
- I. Sports arenas.
- J. Convention halls.
- K. Public and private meeting facilities.
- L. Waiting rooms, hallways, wards and semi-private rooms of health facilities, including but not limited to hospitals, clinics, physical therapy facilities, doctors' offices, and dentists' offices.
- M. Lobbies, hallways, and other common areas in hotels, motels, multiple-tenant office buildings and malls, apartment buildings, condominiums, mobile home parks, retirement facilities, nursing homes, and other multiple-unit residential facilities.
- N. Public places where bingo games are held.

A violation of this section is hereby declared to be a public nuisance.

Sec. 6.5. Owner May Designate Establishment to be Nonsmoking

Notwithstanding any other provision of this ordinance, any owner of any establishment or facility, or a designated representative of the owner of any establishment or facility, may declare that entire establishment or facility to be a nonsmoking establishment.

Sec. 6.6. Responsibilities of Employers in Public Worksites

A. It shall be the responsibility of employers to provide a smoke-free worksite as set forth in this ordinance.

B. Upon the effective date of this ordinance, each employer having an enclosed place of employment shall adopt, implement, make known and maintain a written smoking policy. The policy shall contain, at a minimum, the following wording and requirements:

Smoking is prohibited in all enclosed areas within this worksite that are open to the public. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, employer owned or leased vehicles, and all other enclosed facilities.

C. The smoking policy shall be communicated to all current employees prior to its effective date, and at the time of employment for all other employees.

D. All employers shall supply a written copy of the smoking policy upon request to any existing or prospective employee.

Sec. 6.7. Prohibition of Smoking near Entrances, Windows and Ventilation Systems

Smoking shall be prohibited within ten (10) feet of any entrances, windows and ventilation systems of all worksites and public places where smoking is prohibited by this ordinance. Any individual who owns, manages, operates or otherwise controls the use of any premises subject to this ordinance shall establish a no smoking area which extends ten (10) feet from any entrances, windows and ventilation systems to any enclosed areas where smoking is prohibited. All receptacles for extinguishing smoking materials shall be placed outside of the no smoking area.

Sec. 6.8. Where Smoking is Not Regulated

A. Notwithstanding any other provision of this ordinance to the contrary, the following areas shall not be subject to the smoking restrictions of this ordinance;

1. Food service establishments.
2. Private home or dwelling units, except when used for commercial or industrial purposes or as a child care facility, health care facility or adult day care facility.
3. Tobacco specialty stores.

4. Hotel and motel rooms rented to guests.
5. Hotel and motel meeting rooms or places of assembly while these are being used for private functions. Private functions shall be functions where admission is by personal invitation only.

Sec. 6.9. Posting of Signs

- A. As of the effective date of this ordinance, "This Building is Smoke-Free" signs, "No Smoking" signs, 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) or other appropriate signs shall be clearly, sufficiently and conspicuously posted in every establishment or facility where smoking is prohibited by this ordinance, or at the direction of the owner. The signage shall be posted by the owner, operator, manager or other person having control of such establishment or facility.
- B. Every public place where smoking is prohibited shall have signs conspicuously posted at every entrance clearly stating that smoking is prohibited.
- C. All ashtrays or ash receptacles shall be removed from any area where smoking is prohibited by this ordinance by the owner, operator, manager or other person having control of such area.

Sec. 6.10. Enforcement

- A. Enforcement of this ordinance shall be implemented by the City Manager, or his or her designee.
- B. Any citizen who observes a violation of this ordinance may report such violation to the City Manager, or his or her designee.
- C. Any owner, manager, operator or employee of any establishment regulated by this Chapter shall inform persons who are in violation of this Chapter of the appropriate provisions thereof.

Sec. 6.11. Violations and Penalties

- A. No person who owns, manages, operates or otherwise controls the use of any premises subject to this ordinance shall fail to comply with any of its provisions. The owner, operator and manager of such premises are jointly and severally responsible for a municipal civil infraction whether present or not.
- B. It shall be unlawful for any individual to smoke in any area where smoking is prohibited by the provisions of this ordinance. Any individual violating this section shall be subject to a warning. Upon being warned, the individual shall extinguish smoking materials or to leave the premises. If she or he refuses either to leave the premises or to extinguish smoking materials, he or she shall be responsible for a municipal civil infraction.

C. Any individual who owns, manages, operates or otherwise controls the use of any premises subject to jurisdiction under this ordinance is required to take all necessary steps to enforce the provisions of this ordinance. In the event that these steps are not taken, should a violation of any provision of this ordinance occur, that individual who owns, manages, operates, or otherwise controls the use of any premises shall be responsible for a municipal civil infraction.

Sec. 6.12. Other Applicable Laws

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

Sec. 6.13. Severability

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

Sec. 6.14. Effective Date

A. This ordinance shall be effective October 1, 2007.”