

AN ORDINANCE TO AMEND THE TOWN OF SPRINGDALE CODE OF ORDINANCES, CHAPTER 5, BUILDING AND BUILDING REGULATIONS; BY ADDING A NEW ARTICLE THEREIN FOR THE PURPOSE OF ESTABLISHING REGULATIONS AND REQUIREMENTS RELATED TO SMOKING IN THE TOWN OF SPRINGDALE.

Pursuant to the authority of the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY TOWN OF SPRINGDALE TOWN COUNCIL:

Section I. The Town Council has determined that additional regulation of smoking in areas beyond those addressed in the Clean Indoor Air Act of 1990 is appropriate in the furtherance of its duty to protect the health of its citizens and employees in the workplace and therefore enacts this Article. The Town of Springdale Code of Ordinances; Chapter 5, Buildings and Building Regulations; is hereby amended to add a new article, which shall read as follows:

Article XI. Smoking in Public Places and Places of Employment

Chapter 5, Article XI Smoking of Tobacco products.

- (a) Findings. As an incident of the adoption of this Article, the Town Council of the Town of Springdale, South Carolina 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 On 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, premenopausal 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 Town of Springdale; 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 except where the owner of such building shall designate smoking areas.
- (b) Intent. Town Council finds that it is in the best interest of the people of the Town of Springdale to protect nonsmokers from involuntary exposure to secondhand smoke in the workplace. Therefore, Town Council declares that the purpose of this act is: (1) to preserve and improve the health, comfort, and environment of the people of the Town of Springdale 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 (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) “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, 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. Establishments which are in fact operating as bars, restaurants, or entertainment venues primary for the pecuniary benefit of the owner or chief operating officer shall not be treated as private clubs under this definition. A

private club will not be considered a private club for the purposes of this definition when being used for a function to which the general public is allowed to enter.

- (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) "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."
 - (7) "Smoking" means the inhaling, exhaling, burning, lighting or carrying of a lighted cigarette, cigar, pipe, or similar device or any other lighted tobacco product.
 - (8) "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.
 - (9) "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.
 - (10) "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. The following apply to The Town of Springdale:
- (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.
 - (3) Notwithstanding any other provision in this article, an owner, operator, manager, or other person in control of an establishment, facility or outdoor area may declare the entire establishment, facility or outdoor area may declare the entire establishment, facility or outdoor area as a nonsmoking location. Smoking shall then be prohibited in any place in which a sign conforming to the requirements of section 11 is posted.
- (e) Exceptions. Notwithstanding the provisions of subsection (d) herein, smoking may be permitted in the following places in the Town of Springdale 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 percent (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 areas where smoking is

- prohibited under 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) Private clubs that have no employees, except when being used for a function to which the general public is admitted; and
 - (5) 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. In the Town of Springdale, smoking is prohibited within a distance of ten (10) feet from any door which is used as an entrance to or exit from an enclosed area where smoking is prohibited so as to insure that tobacco smoke does not enter the area through the entry. This distance shall be measured from the center of the door in question.
- (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 twenty five dollars (\$25). 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.
 - (4) In addition to the fines established by this section, four (4) or more violations 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 occupancy permit or business license issued to the person for the premises on which the violation occurred.
- (i) Governmental Agency Cooperation. The Town Administrator shall request other governmental and educational agencies having facilities within the Town of Springdale 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 January 1, 2010.

DULY ADOPTED THIS 6th day of October 2009 under the corporate seal of the Town of Springdale.

First Reading: September 1, 2009
Final Reading: October 6, 2009
Introduced by: Councilmember Wilkerson
Ordinance No.: O-09-05

Pat G. Smith
Mayor

Attest:

Natalie A. McKelvey

Town Administrator