

ORDINANCE NUMBER 0-04-12

CITY OF DOUGLASVILLE CLEAN INDOOR AIR ORDINANCE

AN ORDINANCE TO AMEND THE CITY CODE OF DOUGLASVILLE, GEORGIA, TO ENACT CHAPTER 38, ARTICLE IV, PERTAINING TO SMOKING IN PUBLIC PLACES AND PLACES OF EMPLOYMENT, AND FOR OTHER PURPOSES.

WHEREAS, the Mayor and Council of the City of Douglasville are authorized to adopt ordinances and regulations for the governing and policing of the City for the purpose of protecting and preserving the health, safety, and welfare of the citizens of the City;

WHEREAS, the Mayor and Council have determined that smoking poses a threat to the health the City, and the safety and welfare of the citizens of Douglasville;

WHEREAS, secondhand smoke causes asthma attacks, heart attacks strokes and lung cancer in adults and Sudden Infant Death Syndrome, middle ear infections, bronchitis, asthma, pneumonia and low birth weight in children;

WHEREAS, separating smokers and non-smokers within the same airspace reduces, but does not eliminate the health risks to non-smokers from exposure to tobacco smoke; and

WHEREAS, the Mayor and Council seek to regulate smoking in public places and places of employment in order to protect the health and welfare of its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DOUGLASVILLE, GEORGIA, AND IT IS HEREBY ORDAINED BY THE AUTHORITY OF SAME AS FOLLOWS:

PART I. ENACTMENT.

Chapter 38, Article IV of the City Code of Douglasville is hereby enacted to read as follows:

Sec. 38-81. TITLE.

This Article shall be known, cited and referred to as the City of Douglasville Clean Indoor Air Ordinance.

Sec. 38-82. FINDINGS AND PURPOSE

(a) The Douglasville Mayor and City Council do hereby find that:

(1) Numerous studies have found that tobacco smoke is a major

contributor to indoor air pollution, and that breathing secondhand smoke is a cause of disease in healthy non-smokers, including heart disease, stroke, respiratory disease, and lung cancer.

- (2) Second-hand smoke is particularly hazardous to elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive disease. Children exposed to secondhand smoke have an increased risk of asthma, respiratory infections, sudden infant death syndrome, developmental abnormalities, and cancer.

(b) Accordingly, the Douglasville Mayor and City Council finds and declares that the purposes of this Ordinance are:

- (1) To protect the public health and welfare by prohibiting smoking in certain indoor public places and in certain public and private places of employment; and
- (2) To balance the need of non-smokers to breathe smoke-free air with the desire of smokers to enjoy tobacco products in public places.

Sec. 38-83. DEFINITIONS.

Bar means an indoor area where alcoholic beverages are poured and served.

Children's daycare facility means as a structure where care and supervision of children is provided, away from their place of residence, for less than 24 hours per day on a regular basis for compensation. For purposes of this Article, the term shall include but not be limited to nursery schools, early learning centers, pre-kindergartens, private kindergartens, play schools, pre-schools and tutoring services.

Designated bar area within a restaurant means an area that has signage specifically informing patrons that smoking is allowed in the area; and the area shall include the bar itself and the immediately adjacent bar service area and shall not include the common areas of the enclosed restaurant.

Dining area means the interior patron portion of a restaurant, containing a counter or tables, upon which food is served.

Employer means any person who employs the services of an individual person.

Employee means any person who is employed by any employer in

consideration for direct or indirect monetary wages or profit.

Establishment means any business, store, office or other place where goods or services are sold or provided as part of a commercial venture. The term includes but is not limited to the indoor building space of the following: (1) automobile dealerships, furniture or other showrooms for the display of merchandise offered for sale; (2) grocery, pharmacy, specialty, department and other stores which sell goods or merchandise; (3) service stations, stores or shops for the repair of maintenance of appliances, shoes, motor vehicles or other items, or products; (4) barber shops, beauty shops, cleaners, laundromats and other establishments offering services to the general public; (5) video arcades, pool halls, and other amusement centers; (6) offices providing professional services such as legal, medical, dental, engineering, or architectural services; (7) banks savings and loan offices, and other financial establishments; (8) restaurants and cafeterias; (9) for hotels, motels and extended-stay residences rented for 14 days or less, all indoor areas except guest rooms for sleeping and the adjoining suite areas; and (10) health care facilities, intermediate care facilities, and personal care homes.

Health care facility means any licensed general or specialized hospital institutional infirmary, public health center or diagnostic and treatment center, as defined by Official Code of Georgia Annotated section 31-7-1 as amended.

Intermediate care (nursing) home means any long-term custodial care facility that provides for the physical and mental welfare of the aged.

Personal care home means a residential facility having at least 25 beds and providing, for compensation, protective care and oversight of ambulatory, non-related persons who need a monitored environment but who do not have injuries or disabilities which require chronic or convalescent care, including medical, nursing, or intermediate care. Personal care homes include those facilities which monitor daily residents' functioning and location, have the capability for crisis intervention, and provide supervision in areas of nutrition, medication and provision of transient medical care. Such term does not include old age residences which are devoted to independent living units with kitchen facilities in which residents have the option of preparing and serving some or all of their own meals, or boarding facilities which do not provide personal care.

Place of employment means any enclosed area of a building under the control of a public or private employer which employees frequent during the course of employment including, but not limited to, work areas, restrooms, hallways, employee

lounges, cafeterias and snack bars, conference and meeting rooms, lobbies and reception areas. A motor vehicle is not a place of employment. A private residence is not a place of employment unless it is used as a childcare facility, an adult day care facility, or a health care facility.

Private residence means a privately-owned place of permanent residence. The term includes leased apartments and boarding houses, but does not include motel or hotel rooms, or extended stay residences for rent or lease for periods less than 14 days. The term does not include health care facilities, intermediate care facilities, or personal care homes.

Public place means any enclosed area within a building to which the public is invited or in which the public is permitted, including, but not limited to, restaurants, stores, waiting rooms, lobbies, reception areas, hallways, restrooms, enclosed shopping malls, elevators, indoor service lines, the building interior of service stations, offices providing professional services, banks and other financial institutions, educational, recreational and health care facilities, child care facilities, auditoriums, indoor theaters, meeting rooms, repair shops, indoor automobile dealerships, convention halls, bowling facilities, polling places, and indoor bingo parlors. Porches, courtyards or decks with a contiguous connection to a public place shall not be considered public places. A private residence is not a public place unless it is used as a childcare facility, an adult daycare facility or a healthcare facility.

Restaurant means an indoor eating and/or drinking establishment, including but not limited to, coffee shops, cafeterias, private clubs, sandwich shops, and private school cafeterias, which gives or offers for sale food or drink to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. Food courts within enclosed shopping malls shall be treated as restaurants under this Article.

Smoking means inhaling, exhaling, or carrying any lighted cigar, cigarette, pipe, weed or plant in any manner or in any form.

Sec. 38-84. PROHIBITED SMOKING.

Except as otherwise provided in this Article, smoking is prohibited in all public places, and places of employment within the City of Douglasville.

Sec. 38-85. PROHIBITION OF SMOKING APPLICABLE TO CITY PROPERTY.

This Article shall apply to, and smoking is prohibited in, all enclosed facilities including buildings and vehicles owned, leased or operated by the City of Douglasville.

Sec. 38-86. EXCEPTIONS.

The smoking prohibition shall not apply in the following areas:

- (1) A designated bar area in a restaurant;
- (2) A retail tobacco store;
- (3) Any guest room for sleeping and the adjoining suite areas of any hotels, motels and extended-stay residences rented for 14 days or less;
- (4) Any private residence, including a private residence which may serve as an office workplace (except if used as a children's daycare facility);
- (5) Any property owned, operated or leased by another municipality, any county government, any authority, the State of Georgia, or the federal government; and
- (6) Any outdoor area of any place of employment.

Sec. 38-87. EMPLOYERS' RESPONSIBILITY.

(a) Except as otherwise provided in this Article, it is the responsibility of employers to provide a smoke-free workplace for all employees in public places and places of employment

(b) An owner, manager, operator, or employee of an establishment regulated by this Article shall inform persons violating this Article of the appropriate provisions thereof.

Sec. 38-88. POSTING OF SIGNS AND NOTIFICATION.

(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 inside every building where smoking is prohibited by this Article, by the owner, operator, manager or other person having control of such building or area.

(b) Every public place where smoking is prohibited by this Article shall have posted at the exterior of the main entrance door a conspicuous sign clearly stating that smoking is prohibited, or that smoking is permitted only in designated areas.

(c) Notice of the provisions set forth in this Article shall be given to all applicants for an occupation tax certificate in Douglasville.

Sec. 38-89. INTERPRETATION AND ENFORCEMENT.

(a) The City Building Official shall be responsible for the interpretation of the requirements, standards, definitions or

any other portion of this Article. Interpretations of the Building Official may be appealed to the City Council by written request filed with the City Clerk within 30 days of any interpretation by the Building Official.

(b) Any person smoking in violation of this Article shall be subject to citation.

(c) Any code enforcement officer or any police officer, as defined by Georgia law, may issue a citation for any violation of this Article.

(d) Any citizen who desires to register a complaint under this Article may initiate enforcement with the Douglasville Police Department.

(e) Any owner, operator or manager of any establishment regulated by this Article shall inform persons therein witnessed to be smoking in violation of this Article of the appropriate provisions, and shall request compliance.

Sec. 38-90. VIOLATIONS AND PENALTIES.

Any person who violates any provision of this Article shall be subject to the following penalties:

(a) A fine not exceeding fifty dollars (\$50) for a first violation;

(b) A fine not exceeding seventy-five dollars (\$75) for a second violation of this Article within one year;
and

(c) A fine not exceeding one hundred dollars (\$100) for each additional violation of this Article within one year.

Sec. 38-81. OTHER APPLICABLE LAWS.

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

PART II. EFFECTIVE DATE.

This Article shall become effective on May 1, 2004.

PART III. SEVERABILITY.

Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the Ordinance as a whole nor any part thereof other than the part so declared to be invalid or unconstitutional.

All ordinances or resolutions, or parts thereof, in conflict with this Ordinance are repealed.

Ordained this 19th day of April, 2004.

Bob E. Mims
Councilmember

Charles F. Ford
Councilmember

Henry W. Schell
Councilmember

William H. Hays
Councilmember

J. Mark Lee
Councilmember

Beeth Johnson
Councilmember

Ann M. Thompson
Mayor

Attest:

Gleice Stone
City Clerk

DELIVERED TO MAYOR April 19, 2004 CITY CLERK 96
RECEIVED FROM MAYOR April 20, 2004 CITY CLERK 98