

# An overview of the model ordinance

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# International legal context

- International human rights laws and national constitutions
- **WHO Framework Convention on Tobacco Control (FCTC)**  
*Article 8: Protection from exposure to tobacco smoke*
- **Guidelines for implementation of Article 8**  
*Guidelines on the protection from exposure to tobacco smoke*



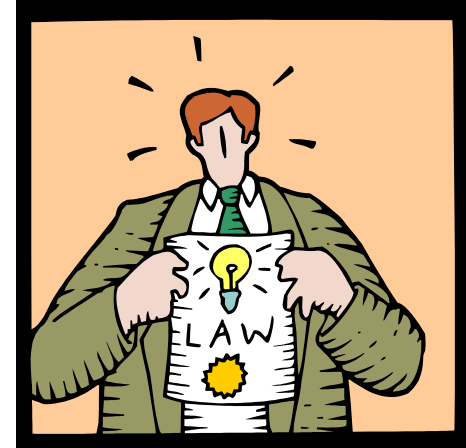
# Model ordinance

- Developed based on the important elements derived from **many municipal ordinances** and the **WHO FCTC Article 8 Guidelines**
- Offers **clear language** with which municipalities can work as a **starting point**
- **Adaption is recommended**
  - Cities may adjust existing local legislation on relevant issues (e.g. smoking, tobacco products, and workers' safety) incorporating the elements of the model ordinance
  - Cities may modify the model ordinance to fit to the existing drafting style of laws



# Essential elements

- Purpose for **public health**
- **Broad and detailed definitions** of key terms determining smoke-free environments
- Provisions on **outdoor smoking**
- **Managers' duties**
- **Fixed penalties** for businesses and individuals
- Explicit **enforcement mechanism**
- Specification for **signage**
- **Grace period** before the full enforcement



# Purpose for public health

- **Purpose/preamble** of the ordinance establishes the **goal** of the ordinance – *What is to be achieved by implementing the ordinance?*
- Ordinance to **safeguard public health**

The purpose may refer to:

- Obligations under existing international/national laws
- International/national standards
- Harm caused by exposure to tobacco smoke
- Need for universal protection of all people in all places

# Definition of key terms

- Definitions of key terms determining smoke-free environments should be **broad and detailed to prevent pitfalls and close loopholes**
  - Smoke-free
  - Enclosed/Indoor
  - Workplaces
  - Public places
- **A list of places** can be provided for clarity, but **does not limit the definition to those places**

For example...

- **Enclosed areas**
  - Covered by a ceiling or roof
  - Enclosed by one or two walls
- **Public places**
  - Accessible to the general public
  - For collective use



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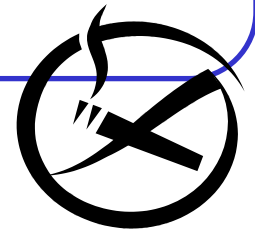
# Smoking ordinance of El Paso, Texas, 2001

## Sec. 9.50.020 Definitions

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

- A. **"Bar"** means an area which 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 such beverages. A "bar" includes those facilities located within a hotel, motel or other similar transient occupancy establishment.
- 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. **"Employee"** means any person who is employed by any employer in consideration for direct or indirect monetary wages or profit, and any persons who volunteers his or her services for a non-profit entity.
- D. **"Employer"** means any person, partnership, corporation, including a municipal corporation, or non-profit entity, which employs the services of one or more individual persons.
- E. **"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 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.
- F. **"Food Establishment"** means food product or food service establishments.
- G. **"Place of Employment"** means any enclosed area under the control of public or private 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" unless it is used as a child care, adult day care or health care facility.

- Provided an **extensive list** of places that fall under each type of establishments
- **Left scope to include other spaces not specifically listed**
- Definition of other terms: private place, public place, retail tobacco store, service line, smoking and sports arena are also provided
- Further details of the places where smoking ban applies, using these defined terms, are provided in another section



Source: Ordinance No. 014878: An ordinance amending chapter 9.50 (smoking in public places), by adopting a comprehensive revision of chapter 9.50 (public and workplace smoking restrictions).  
[http://www.elpasotexas.gov/muni\\_clerk/\\_documents/ord\\_smoking.pdf](http://www.elpasotexas.gov/muni_clerk/_documents/ord_smoking.pdf)

# Outdoor smoking

- Covering **outdoor areas** is a key to achieve **universal protection**



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- Outdoor areas popular with **children and families**
  - Sports stadiums
  - Playgrounds
  - Parks
- Within certain distance from any **entry, window or intake** of smoke-free venues
  - Provide **distance**; e.g. *smoking is prohibited **within four metres** from entry to the building*
- **Outdoor seating areas** of smoke-free venues i.e. restaurants and bars



# New York City smoke-free air act 2002

c. Smoking is prohibited in the following **outdoor areas** of public places, except as otherwise restricted in accordance with the provisions below:

1. Outdoor dining areas of restaurants with no roof or other ceiling enclosure; provided, however, that smoking may be permitted in a contiguous outdoor area designated for smoking so long as such area: (i) constitutes no more than twenty-five percent of the outdoor seating capacity of such restaurant; (ii) is at least three feet away from the outdoor area of such restaurant not designated for smoking; and (iii) is clearly designated with written signage as a smoking area.
2. Outdoor seating or viewing areas of open-air motion picture presentations or open-air concert, stage, dance, lecture or recital presentations or performances or other similar open-air presentations or performances, when seating or standing room is assigned by issuance of tickets.
3. Outdoor seating or viewing areas of sports arenas and recreational areas, when seating or standing room is assigned by issuance of tickets.
4. Outdoor areas of all children's institutions.
5. Playgrounds.

Prohibited smoking in **outdoor areas** of public places, including:

- **Outdoor dining areas with no roof**
- **Outdoor seating/viewing areas** of recreational activities such as concert, cinema, sports, etc.
- **Outdoor areas of children's institutions**
- **Playgrounds**



Source: Smoke-Free Air Act of 2002. <http://www.nyc.gov/html/doh/downloads/pdf/smoke/tc7.pdf>

# Managers' duties

- Establish **legal responsibility** of employers and businesses
- Lead to **better compliance**
- The duties should include:
  - Posting signs
  - Removing ashtrays
  - Ensuring that no one smokes on the premises
- In case of failure to perform duty, **penalties** should be imposed.



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# Penalties

## Fines

- Fines that deter violations:
  - Sufficiently high to **discourage individuals/businesses to break the law and simply pay the fines**
  - **Larger for institutions** than for individuals
  - **Increases with inflation** – Use an indicator such as the **average daily wage** (for an individual) and **% of daily earnings** (for a business)

## Other sanctions

- Licence suspension
- Disciplinary action
- Criminal penalties
- **Penalties should be increased for repeated violations**

# The comprehensive anti-smoking ordinance of Davao 2002

**SECTION 7.** Violators of this Ordinance shall be subject to a fine of not less than Php 500.00 nor more than Php 2,000.00 or imprisonment of not less than one (1) month nor more than six (6) months or both, at the discretion of the Court, except for Paragraphs 2 & 3 hereunder.

- 1.) In case of establishment which do not opt to declare their establishment as totally free from smoking but fails to provide the appropriate designated smoking areas as certified by the City Health Office and City Engineer's Office within the 60-day period specified in Section 6 hereof, their business permit may be revoked;
- 2.) In case where there is failure to warn or advised would-be violators of this Ordinance, or failure to report violators as required in Section 5 (c) hereof or smoking is allowed, abetted or tolerated in establishment in violation of this Ordinance, a penalty shall be imposed upon the President or Manager in case of corporations, partnerships or associations, or the owner, proprietor or operator in case of single proprietorship, whether tourism-accredited or not as follows:

**First Offense** PhP 300.00 or 1 month imprisonment or both at the discretion of the court

**Second Offense** PhP 500.00 2 month imprisonment or both at the discretion of the court

**Third and subsequent offenses** PhP 1,000.00 or 4 months imprisonment or both at the discretion of the court

3.) For drivers/ passengers of Public Utility Vehicles (PUVs)

**First Offense** PhP 100.00 or 1 month imprisonment or both at the discretion of the court

**Second Offense** PhP 300.00 or 2 months imprisonment or both at the discretion of the court

**Third Offense** PhP 500.00 or 3 months imprisonment or both at the discretion of the court

4.) Three (3) violation of this Ordinance shall be ground for cancellation the establishment's business permit

**Penalty varies** depending on the type of violation:

- Fine: Php 500 up to Php 2,000 max. (approx. US\$12 – 47)
- Imprisonment: 1-6 months
- Cancellation of business permit



Source: Ordinance No. 043-02, Series of 2002: The Comprehensive Anti-Smoking Ordinance of Davao City. Davao 13<sup>th</sup> City Council, Series of 2002. <http://www.davaocity.gov.ph/Files/Anti-Smoking-Ordinance.doc>

# Enforcement mechanism

- **Explicit enforcement mechanism**

- Specify **responsible authorities**
- Cover **monitoring compliance** and **issuing penalties to violators**
  - Give authority to inspectors to enter and inspect public places
  - Prohibit businesses to obstruct the inspectors
  - Authorize inspectors to issue fines

- Enforcement activities can be **integrated into existing inspections**

In addition...

- Establish a **toll-free complaint line** to encourage **public involvement** in enforcement
- **Explicit statement of powers to issue additional regulations** facilitates the municipality to **close loopholes** and **strengthen** the implementation

# Smoking Police in Yokohama, Japan



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# Specification for signage

- Size
- Location
- Design
- Language
  
- **Visual example** may be included for clarity



**NO SMOKING**

Smoking is prohibited in these premises  
under the Smoke-Free Ordinance of  
[Name of Municipality].

Violators are subject to penalties.

Please report any suspected violations of the  
law to the enforcement authorities by calling,  
toll-free, 0-800-123-4567.

**THANK YOU FOR RESPECTING  
OUR SHARED AIR.**

## Smokefree England: Guidance and no-smoking signage

- ['in this bus shelter' A5 no-smoking sign \(PDF, 50KB\)](#)
- ['in this cafe' A5 no-smoking sign \(PDF, 50KB\)](#)
- ['in this doorway' A5 no-smoking sign \(PDF, 50KB\)](#)
- ['in this hotel' A5 no-smoking sign \(PDF, 50KB\)](#)
- ['in this pub' A5 no-smoking sign \(PDF, 50KB\)](#)

The following bilingual versions of the smokefree premises signs are also available:

- |  |                                      |
|--|--------------------------------------|
| <a href="#">Arabic (PDF, 453KB)</a>            | <a href="#">Polish (PDF, 443KB)</a>  |
| <a href="#">Bengali (PDF, 442KB)</a>           | <a href="#">Punjabi (PDF, 444KB)</a> |
| <a href="#">Classical Chinese (PDF, 502KB)</a> | <a href="#">Turkish (PDF, 443KB)</a> |
| <a href="#">Gujurati (PDF, 444KB)</a>          | <a href="#">Urdu (PDF, 465KB)</a>    |

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## Supporting materials

The materials below were developed to assist businesses and organisations to prepare for the new law and ensure compliance post July 1st.

### Smokefree policy

Businesses may wish to introduce a smokefree policy to ensure that employees are aware of the new law and that they now work in a smokefree environment. It will also advise them on what they should be doing to comply with the new law.

[Smokefree policy \(PDF, 408KB\)](#)

### Smokefree flowchart

Anyone in charge of smokefree premises and vehicles needs to be prepared to take action if someone smokes in an enclosed or substantially enclosed area. This flowchart suggests steps that could be taken to deal with smoking in any smokefree premises or vehicle.

[How to deal with smoking in a smokefree place \(PDF, 48KB\)](#)

### Stopping smoking

A range of support and advice is available to help smokers who want to give up.

Visit [www.nhs.uk/gosmokefree](http://www.nhs.uk/gosmokefree) for more information (new window)





# Smoking ban signs



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# Grace period

- **Full enforcement** should begin after a **sufficient grace period**
  - Increase **public awareness**
  - **Prepare establishments** for implementation
- **90 days (or three months)** after publication of the law
- **Never allow too much time**
  - Delays
  - Loss of momentum
  - Interference by tobacco industry



**Thank you.**

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**[http://www.who.int/kobe\\_centre/en/](http://www.who.int/kobe_centre/en/)**