



ORANGE COUNTY HEALTH DEPARTMENT

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Central Administrative Services

Dental Health Services

Environmental Health Services

Health Promotion and Education Services

Personal Health Services



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March 10, 2008

Kevin Foy, Mayor Town Council Members Town of Chapel Hill 405 Martin Luther King Jr Boulevard Chapel Hill, NC 27514

Dear Mayor and Town Council Members:

I am writing to request that the Town Council consider an item supporting a ban on all tobacco use in government buildings at their earliest convenience. Recently the Orange County Board of Commissioners' passed an ordinance restricting tobacco use in all county buildings and within 50 feet of all buildings housing county health and social services offices and services in accordance with NC Gen. Stat. § 130A-498. Since the county has buildings located within the municipal limits of Chapel Hill, a resolution permitting the proposed ordinance to be enforced within the municipality must be approved by the Town Board of Commissioners. The ordinance was approved with an implementation date of April 1, 2008 to allow for municipal consideration and to ensure that appropriate signage can be in place prior to enforcement.

In addition, both the Orange County Board of Commissioners and the Orange County Board of Health would like to encourage the Town to pass a similar ordinance for all of the town buildings. We understand that you are presently smoke-free but would like you to consider becoming tobacco free. For your convenience and the Board's consideration, I have enclosed the following documents:

- 1) Ordinance approved by Orange County Board of Commissioners on February 19, 2008
2) Draft resolution permitting enforcement in the municipal limits, and a
3) Model ordinance for tobacco free municipal buildings.

Thanks for your consideration and I would appreciate hearing from you when this will be calendared for consideration.

Sincerely,

Rosemary L. Summers (handwritten signature)

Rosemary L. Summers, DrPH Health Director

attachments

**AMENDMENTS TO THE
ORANGE COUNTY ORDINANCE REGULATING SMOKING IN BUILDINGS
OWNED BY OR LEASED TO ORANGE COUNTY AND MOTOR VEHICLES
OWNED BY OR LEASED TO ORANGE COUNTY**

BE IT ORDAINED THAT THE BOARD OF COMMISSIONERS OF ORANGE COUNTY, NORTH CAROLINA, hereby amends its Ordinance Regulating Smoking in Buildings Owned by or Leased to Orange County and Motor Vehicles Owned by or Leased to Orange County by deleting the Ordinance in its entirety and replacing it as follows:

**ORANGE COUNTY ORDINANCE PROHIBITING TOBACCO USE IN BUILDINGS
OWNED BY OR LEASED TO ORANGE COUNTY AND PUBLIC
TRANSPORTATION VEHICLES OWNED BY OR LEASED TO ORANGE COUNTY**

WHEREAS, tobacco use is the number one preventable cause of premature death in North Carolina and the nation; and,

WHEREAS, secondhand smoke has been proven to cause cancer, heart disease, and asthma in both smokers and nonsmokers; and,

WHEREAS, the 2006 Surgeon General's Report on the health consequences of involuntary exposure to tobacco smoke states that the scientific evidence indicates that there is no risk-free level of exposure to secondhand smoke. The 2006 Surgeon General's Report documents that separating smokers from nonsmokers, cleaning the air, and ventilating smoke cannot eliminate exposure to secondhand smoke; and,

WHEREAS, the Centers for Disease Control and Prevention (CDC) advises that all individuals with coronary heart disease or known risk factors for coronary heart disease should avoid all indoor environments that permit smoking; and,

WHEREAS, exposure to secondhand smoke is expensive, costing the nation \$10 billion per year, \$5 billion in direct medical care costs, and \$5 billion in indirect costs according to the 2005 Society of Actuaries; and,

WHEREAS, The 2006 Surgeon General's Report documents that eliminating indoor smoking fully protects nonsmokers from exposure to secondhand smoke; and,

WHEREAS, Orange County provides support to employees who want to quit the use of tobacco products. These employees are also encouraged to talk to their health care provider about quitting; ask about appropriate pharmacotherapy available through the county health insurance plan or employee's insurer and use the free quitting support services of the North Carolina Tobacco Use Quitline at 1-800-QUIT-NOW (1-800-784-8669).

WHEREAS, Orange County recognizes the health risks of tobacco use and secondhand smoke for non-smokers. The County desires to minimize the harmful effects of tobacco use among its staff and to eliminate secondhand smoke exposure for staff and the public in those buildings controlled by the County;

NOW, THEREFORE, BE IT ORDAINED by the Orange County Board of Commissioners:

Section 1. AUTHORIZATION. This Ordinance is enacted pursuant to N.C. General Statute 130A-498 as an exercise of the authority of the Board to regulate the use of County property, and N.C. General Statute 153A-121, as an exercise of the police power to protect, promote and preserve the public health, welfare and safety of:

-Citizens who use County owned buildings;

-Citizens who use buildings leased by the County as lessee (i.e. tenant) and occupied by the County.

Citizens who use County owned or leased public transportation vehicles;

-County employees who work in County owned or leased buildings;

-County employees who use County owned or leased public transportation vehicles used by the public.

Section 2. DEFINITIONS.

a. "Grounds" – The area located within 50 linear feet of a building wherein a local health department or a local department of social services is housed.

b. "Smoker" – A person who is smoking.

c. "Smoking" – The use or possession of a lighted cigarette, lighted cigar, lighted pipe, or any other lighted tobacco product.

d. "Tobacco products" – Any product that contains tobacco and is intended for human consumption.

Section 3. USE OF TOBACCO PRODUCTS IS PROHIBITED IN COUNTY BUILDINGS AND TRANSPORTATION VEHICLES

Use of tobacco products is prohibited in all of the following:

- (a) Buildings that are owned by Orange County.
- (b) Buildings that are leased by Orange County as lessor (i.e. landlord).
- (c) Buildings or areas of buildings that are leased by Orange County as lessee (i.e. tenant) and occupied by Orange County.
- (d) Public transportation vehicles owned or leased by Orange County and used by the public.
- (e) The grounds of any building housing one or more components of Orange County Health Department or the Orange County Department of Social Services.

Section 4. SIGNAGE

- (a) Persons in charge of buildings and/or grounds identified in Section 3 shall post signs at all entrances and exits to the buildings explaining the prohibition of tobacco use. Signs may be posted in other areas of the buildings as well. For example, signs may be posted in other areas in the building where tobacco use is likely, such as bathrooms and dining areas.
- (b) Persons in charge of vehicles identified in Section 3 shall post signs in the vehicles explaining the prohibition. The signs must be displayed in areas where passengers will be able to see the signs but the placement of the signs must not interfere with the safe operation of the vehicle.
- (c) The signs required by subsections (a) and (b) of this Section must use clear and unambiguous language to convey the prohibition. The signs may include language such as "TOBACCO FREE BUILDINGS," "TOBACCO USE PROHIBITED IN THIS BUILDING," "TOBACCO USE NOT PERMITTED IN THIS BUILDING," or "TOBACCO USE NOT PERMITTED IN THIS VEHICLE." If a sign includes the international "No Smoking and Smokeless Tobacco" symbol (which consists of a pictorial representation of a burning cigarette and smokeless tobacco product enclosed in a red circle with a red bar across it), it must also include written text explaining the prohibition.
- (d) Persons in charge of buildings and vehicles identified in Section 3 must determine whether signs should be posted in languages other than English.
- (e) Persons in charge of buildings or grounds where tobacco use is prohibited by this ordinance shall remove all publicly available ashtrays from the buildings and grounds.

Section 5. PUBLIC EDUCATION

The Orange County Health Department and the County Manager shall engage in a continuing program to explain and clarify the purposes and requirements of this ordinance to citizens affected by it, and to guide compliance with it. The program may include publication of a brochure for affected businesses and individuals explaining the provisions of this ordinance.

Section 6. TOBACCO USE PERMITTED OUTSIDE BUILDINGS

Use of tobacco products is permitted outside the buildings identified in Section 3 except for the grounds of any building housing one or more components of Orange County Health Department or the Orange County Department of Social Services, provided that the persons who are smoking do not stand adjacent to a public entrance or air intake vent.

Section 7. ENFORCEMENT AND PENALTIES

(a) Employees: Employees who violate this ordinance shall be subject to sanctions consistent with County policies regulating tobacco use by County employees.

(b) The person in charge of a building or vehicle identified in Section 3 or his or her designee who sees an individual using a tobacco product (other than an employee) who is in violation of this ordinance must ask the individual to stop using the tobacco product. If, after having been asked to stop using the tobacco product, the individual continues to use the tobacco product, he or she shall be in violation of this ordinance. Violators of this ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed \$500.00 in accordance with N.C. General Statute 14-4(a).

Section 8. EFFECTIVE DATE

This ordinance shall become effective upon the 1st day of April, 2008.

Upon motion of Commissioner Frishee, seconded by Commissioner Cary, the foregoing Ordinance amendments were adopted by the Orange County Board of Commissioners on the 19th day of February, 2008.

WITNESS my hand this the 19th day of February, 2008



[Signature]
Clerk to the Board of Commissioners

SAMPLE RESOLUTION PERMITTING ORANGE COUNTY'S
ORDINANCE PROHIBITING TOBACCO USE TO BE APPLICABLE
WITHIN THE TOWN

WHEREAS, tobacco use is the number one preventable cause of premature death in North Carolina and the nation; and

WHEREAS, secondhand smoke has been proven to cause cancer, heart disease, and asthma in both smokers and nonsmokers; and

WHEREAS, the 2006 Surgeon General's Report on the health consequences of involuntary exposure to tobacco smoke states that the scientific evidence indicates that there is no risk-free level of exposure to secondhand smoke. The 2006 Surgeon General's Report documents that separating smokers from nonsmokers, cleaning the air, and ventilating smoke cannot eliminate exposure to secondhand smoke; and

WHEREAS, the Centers for Disease Control and Prevention (CDC) advises that all individuals with coronary heart disease or known risk factors for coronary heart disease should avoid all indoor environments that permit smoking; and

WHEREAS, Orange County has the authority to regulate tobacco use on County Property pursuant to N.C. General Statute 130A-498, and N.C. General Statute 153A-121, as an exercise of the police power to protect, promote and preserve the public health, welfare and safety of its citizens; and

WHEREAS, on February 19, 2008, the Orange County Board of Commissioners adopted an ordinance titled "Orange County Ordinance Prohibiting Tobacco Use in buildings Owned By or Leased To Orange County and Public Transportation Vehicles Owned By Or Leased To Orange County" (the "Tobacco Use Ordinance"); and

WHEREAS, pursuant to N.C. General Statute 153A-122, the Town may permit the Tobacco Use Ordinance to be applicable within the Town.

NOW, THEREFORE, BE IT RESOLVED by the Town Board/Council that Orange County's Tobacco Use Ordinance shall hereinafter be applicable within the Town.

THIS THE ____ DAY OF _____, 2008.

CHAIR, TOWN BOARD/COUNCIL

Sample Model Ordinance

Option 1

Local County/Municipal Buildings

AN ORDINANCE PROHIBITING TOBACCO USE IN COUNTY/MUNICIPAL BUILDINGS

WHEREAS, tobacco use is the number one preventable cause of premature death in NC and the nation; and,

WHEREAS, local governments now have clear authority under G.S. 130A-498 to restrict smoking in buildings owned, leased as lessor, or the area leased as lessee and occupied by local government; buildings and grounds wherein local health departments and departments of social services are housed; and any place on a public transportation vehicle owned or leased by local government and used by the public; and,

WHEREAS, secondhand smoke has been proven to cause cancer, heart disease, and asthma in both smokers and nonsmokers; and,

WHEREAS, the 2006 Surgeon General's Report on the health consequences of involuntary exposure to tobacco smoke states that the scientific evidence indicates that there is no risk-free level of exposure to secondhand smoke. The 2006 Surgeon General's Report documents that separating smokers from nonsmokers, cleaning the air, and ventilating smoke cannot eliminate exposure to secondhand smoke; and,

WHEREAS, the Centers for Disease Control and Prevention (CDC) advises that all individuals with coronary heart disease or known risk factors for coronary heart disease should avoid all indoor environments that permit smoking; and,

WHEREAS, exposure to secondhand smoke is expensive, costing the nation \$10 billion per year, \$5 billion in direct medical care costs, and \$5 billion in indirect costs according to the 2005 Society of Actuaries; and,

WHEREAS, The 2006 Surgeon General's Report documents that eliminating indoor smoking fully protects nonsmokers from exposure to secondhand smoke; and,

WHEREAS, the County/City/Town of _____ provides support to employees who want to quit the use of tobacco products. These employees are also encouraged to talk to their health care provider about quitting; ask about appropriate pharmacotherapy available through the county/city/town health insurance plan or employee's insurer and use the free quitting support services of the North Carolina Tobacco Use Quitline at 1-800-QUIT-NOW (1-800-784-8669).

WHEREAS, the County/City/Town of _____ recognizes the health risks of tobacco use and secondhand smoke for non-smokers. The aim is to minimize the harmful effects of tobacco use among staff and eliminate secondhand smoke exposure for staff and the public in those buildings controlled by the County/City/Town;

NOW, THEREFORE , the County/City/Town of _____ enacts:

Section 1. Definitions

“Grounds” – The area located within 50 linear feet of a building wherein a local health department or a local department of social services is housed.

“Smoker” – A person who is smoking.

“Smoking” – The use or possession of a lighted cigarette, lighted cigar, lighted pipe, or any other lighted tobacco product.

“Tobacco products” – Any product that contains tobacco and is intended for human consumption.

Section 2. Use of Tobacco Products is Prohibited in County/Municipal Buildings and Transportation Vehicles

Use of tobacco products is prohibited in all of the following:

- (a) Buildings that are owned by the County/City/Town.
- (b) Buildings that are leased by the County/City/Town as lessor.
- (c) Buildings or areas of buildings that are leased by the County/City/Town as lessee and occupied by the County/City/Town.
- (d) Public transportation vehicles owned or leased by County/City/Town and used by the public.

[FOR COUNTIES ONLY: (e) The grounds of any building housing one or more components of _____ County Health Department or the _____ County Department of Social Services.

Section 3. Signage

- (a) Persons in charge of buildings identified in Section 2 shall post signs at all entrances and exits explaining the prohibition of tobacco use. Signs may be posted in other areas of the buildings as well. For example, signs may be posted in other areas in the building where tobacco use is likely, such as bathrooms and dining areas.

(b) Persons in charge of vehicles identified in Section 2 shall post signs in the vehicles explaining the prohibition. The signs must be displayed in areas where passengers will be able to see the signs but the placement of the signs must not interfere with the safe operation of the vehicle.

(c) The signs required by subsections (a) and (b) of this Section must use clear and unambiguous language to convey the prohibition. The signs may include language such as "TOBACCO FREE BUILDINGS," "TOBACCO USE PROHIBITED IN THIS BUILDING," "TOBACCO USE NOT PERMITTED IN THIS BUILDING," or "TOBACCO USE NOT PERMITTED IN THIS VEHICLE." If a sign includes the international "No Smoking and Smokeless Tobacco" symbol (which consists of a pictorial representation of a burning cigarette and smokeless tobacco product enclosed in a red circle with a red bar across it), it must also include written text explaining the prohibition.

(d) Persons in charge of buildings and vehicles identified in Section 2 must determine whether signs should be posted in languages other than English.

(e) Persons in charge of buildings or grounds where tobacco use is prohibited by this ordinance shall remove all publicly available ashtrays from the buildings and grounds.

Section 4. Public Education

The _____ [Health Department *or* City Manager *or* County Manager] shall engage in a continuing program to explain and clarify the purposes and requirements of this ordinance to citizens affected by it, and to guide owners, operators, and managers in their compliance with it. The program may include publication of a brochure for affected businesses and individuals explaining the provisions of this ordinance.

Section 5. Tobacco Use Permitted Outside Buildings

Use of tobacco products is permitted outside the buildings identified in Section 2, provided that the persons who are smoking do not stand adjacent to a public entrance or air intake vent.

Section 6. Enforcement and Penalties

(a) Employees: Employees who violate this ordinance may be subject to sanctions consistent with County/City human resources policies.

(b) Others: [to be added based on options below]

Option 1:

The person in charge of a building or vehicle identified in Section 2 or his or her designee who sees an individual using a tobacco product (other than an employee) who is in violation of this ordinance must ask that individual to stop using the tobacco product. If, after having been asked to stop using the tobacco product, the individual continues to use the tobacco product, the person in charge shall issue a formal warning and must ask the individual to leave the building.

Option 2

The person in charge of a building or vehicle identified in Section 2 or his or her designee who sees an individual using a tobacco product (other than an employee) who is in violation of this ordinance must ask the individual to stop using the tobacco product. If, after having been asked to stop using the tobacco product, the individual continues to use the tobacco product, he or she will be first giving a formal warning. Future violations are subject to graduated civil penalties in amounts of \$25 for first violation, \$50 for second violation and \$100 for third and subsequent violations to be recovered by the County/City/Town. Violators shall be issued a written citation which must be paid to the County/City/Town within ten (10) days. Violation of this ordinance shall not constitute a misdemeanor or an infraction punishable under N.C.G.S. 14-4.

Option 3

The person in charge of a building or vehicle identified in Section 2 or his or her designee who sees an individual using a tobacco product (other than an employee) who is in violation of this ordinance must ask the individual to stop using the tobacco product. If, after having been asked to stop using the tobacco product, the individual continues to use the tobacco product, he or she shall be given a formal warning. Future violations shall constitute a misdemeanor, punishable by a fine not to exceed \$200.00 per violation.

Section 7. Effective Date. This ordinance shall be effective [no earlier than January 1, 2008].

Adopted this _____ day of _____, 20__.