

PUBLIC HEARING
TIME CERTAIN
ITEM NO 8
5:30PM

**CITY OF SAN ANTONIO
INTERDEPARTMENTAL CORRESPONDENCE SHEET
SAN ANTONIO METROPOLITAN HEALTH DISTRICT**

TO: Mayor and City Council

FROM: Fernando A. Guerra, M.D., M.P.H., Director of Health

THROUGH: Terry M. Brechtel, City Manager

COPIES TO: Frances A. Gonzalez, Assistant to the City Manager; File

SUBJECT: SECOND PUBLIC HEARING ON THE NO SMOKING INITIATIVE

DATE: June 12, 2003

SUMMARY AND RECOMMENDATIONS

The purpose of this second requested public hearing is to secure additional citizen input on the possible adoption of an ordinance that would ban smoking in public places.

BACKGROUND INFORMATION

The following is a summary of actions taken by the City Council related to smoking in public places. Since 1986 the City has prohibited smoking in public elevators, common areas of city buildings, enclosed public halls, and buses and taxis. The City also prohibits smoking in businesses that have areas marked non-smoking. Restaurants with over fifty (50) seats must provide smoking and non-smoking areas. The City supports employer's decisions to prohibit smoking in part or all of a workplace.

In 1992, the City further prohibited product sampling, vending machines within a half-mile of public schools, and smoking in shopping malls and municipal airports. By an ordinance passed and approved in 1996, the City further prohibited cigarette vending machines from businesses that admit youths.

The Council considered an ordinance in 1997 that would extend the smoking ban in common indoor work areas, public places, and all eating establishments except those that had separate HVAC systems for both smoking and non-smoking areas. After considerable debate and public input, the proposed revision was not adopted.

Many cities in Texas and throughout the United States have recently adopted more restrictive or total public smoking bans. Attached is a matrix of information regarding large Texas cities.

The first public hearing was held on May 22, 2003 at 5:30 p.m. in City Council Chambers. Issues raised in the hearing included, the right of smokers vs. the rights of non smokers, health

concerns for children with asthma and persons with other health issues, economic costs of a new ordinance, economic impact on the businesses of restaurants and bars, exemptions, employees working in smoking establishments and long term environmental exposure of coal burning electrical plants vs individual smoking. The Public Hearing was adjourned at 9:00 p.m.

POLICY ANALYSIS

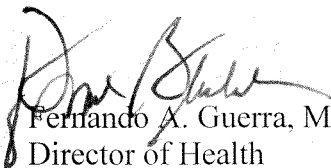
A no smoking ordinance is consistent with the City's legitimate governmental interest in improving and protecting the health of the citizens of San Antonio.


FISCAL IMPACT

The proposed change would have no financial impact on the budget. If a new ordinance were adopted by future Council action, enforcement of the proposed changes to the smoking ordinance would be accomplished with existing staff.


SUPPLEMENTARY COMMENTS

Attached is a copy of a Smoking Ordinance Comparative Table for large Texas cities.


Fernando A. Guerra, M.D., M.P.H.
Director of Health


Frances A. Gonzalez
Assistant to the City Manager

APPROVED BY:


Terry M. Brechtel
City Manager

SMOKING ORDINANCE COMPARATIVE TABLE

Categories	San Antonio 1997	Model Ordinance Revised April 2002	Austin September 2003	Dallas March 2003	El Paso 2001	Houston 2002
<i>City Facilities</i>	No smoking in any conference/meeting room or public service area owned/operated by City	No smoking	No smoking	No smoking	No smoking	No smoking Exception areas may be designated
<i>All Enclosed Public Places**</i>	No smoking in any city owned theater/concert hall or cultural facility	No smoking	No smoking	No smoking	No smoking	No smoking Exceptions apply
<i>Aquariums, Galleries, Libraries, Museums</i>	No smoking in libraries, museums; Exceptions apply	No smoking	No smoking*	No smoking Exceptions apply for administrative offices	No smoking	No smoking Exception areas may be designated smoking
<i>Business: Non-Profit Entities, Banks, Prof. Offices, Laundromats, Hotels/Motels</i>	No smoking in Dept. stores/grocery or drug store, clothing, shoe or hardware store, bank, etc., laundromat, hair salon, barbershops; Exceptions apply	No smoking Exception: Up to 25% hotel and motel rooms	No smoking Exception: Up to 25% hotel and motel rooms	No smoking in retail and service establishments; Exceptions apply for administrative offices	No smoking; Exception: Up to 25% hotel and motel rooms; and motel/hotel conference rooms for private functions	No smoking: Exception areas may be designated
<i>Bars</i>	Smoking permitted, if 70% of gross sales alcohol, or is a physically separated bar area of a food producing establishment or restaurant	No smoking	No smoking	Smoking permitted, if over 75% sales in alcohol	No smoking	Smoking permitted
<i>Tobacco Retail Stores/Tobacco Bars</i>	Smoking permitted	Smoking permitted; provided smoke does not infiltrate other areas	Smoking permitted	Smoking permitted, if 90% of revenue from sale of tobacco	Smoking; Smoking permitted if stand alone physical facility	No Smoking Exceptions apply
<i>Bingo Halls</i>	Smoking permitted*	No smoking	Smoking permitted, if enclosed no smoking area provided; smoking area mechanically ventilated; under 18 not admitted	No smoking Exceptions apply for administrative offices	No smoking	No smoking* Exceptions apply

*not specified in ordinance but covered under other definition or by omission

**definition varies depending on municipality

SMOKING ORDINANCE COMPARATIVE TABLE

Categories	San Antonio 1997	Model Ordinance Revised April 2002	Austin (Proposed) May 2003	Dallas March 2003	El Paso 2001	Houston 2002
<i>Health care facilities**</i>	No smoking in hospital corridors with access to patient rooms or where marked as non-smoking	No smoking; Exception: patient rooms in nursing homes with patient's consent	No smoking; Exception: Patient rooms in nursing homes and LTC facilities	No smoking Exceptions apply for administrative offices	No smoking in waiting rooms, hallways, wards or semi-private rooms	No smoking Exception areas may be designated
<i>Public Transportation facilities: buses, taxis & ticket boarding waiting areas of public train depots.</i>	No smoking in all taxis and buses; Exceptions apply	No smoking	No smoking Exception: Taxis may be designated as smoking	No smoking	No smoking	No smoking Exceptions apply
<i>Private Residences</i>	Not Regulated	Not Regulated	Not Regulated	Not Regulated	Not Regulated	Not Regulated
<i>Restaurants</i>	Must have separate smoking and non-smoking areas if indoor seating for 50 or more patrons	No smoking	No smoking	No smoking Exceptions apply for administrative offices	No smoking; Exception for private functions	May smoke in designated areas with control measures in place- cards indicating smoking/not smoking on each individual table, chart of smoking/non-smoking tables & areas, must ask patrons which section they want to sit in; must be ventilated
<i>Retail Stores</i>	No smoking	No smoking	No smoking*	No smoking Exceptions apply for administrative offices	No smoking	No smoking
<i>Workplace/Employment</i>	Employers are encouraged on a voluntary basis to restrict/eliminate smoking in common areas of workplace and to eliminate it in all public areas of business establishments	No smoking	No smoking Exception outdoor workplace area	Employer must designate non-smoking areas	No smoking	Employers must develop smoking policies and post them. These policies must accommodate non-smokers

*not specified in ordinance but covered under other definition or by omission

**definition varies depending on municipality