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MEMORANDUM

To: Mayor and City Council
From: Madalyn Smith, Senior Planner
Date: April 8th, 2024
Subject: Text Amendment
Chapter 24 – Clean Indoor Air

ITEM DESCRIPTION

This item is a proposed text amendment to the Clean Indoor Air regulations. It updates the definitions section, strengthens prohibitions on smoking indoors, and updates enforcement and fines for violations.

DISCUSSION

The purpose of amending the Clean Indoor Air regulations is to prevent employees and patrons of businesses and public property from inhaling secondhand smoke. The amendment removes the exemption that allows smoking in bars and removes a loophole that allows hookah lounges/establishments.

STAFF RECOMMENDATION

Staff recommends **APPROVAL**.

ATTACHMENTS

- Current and Proposed Chapter 24, Article III Regulations
- Ordinance, Clean Indoor Air

AN ORDINANCE TO AMEND CHAPTER 24 (OFFENSES AND MICELLANEOUS PROVISIONS) OF THE CITY OF DUNWOODY CODE OF ORDINANCES; TO AMEND THE CLEAN INDOOR AIR REGULATIONS;

WHEREAS, the Mayor and Council of the City of Dunwoody are charged with protecting the health, safety and welfare of the citizens of the City of Dunwoody; and

WHEREAS, studies reveal the physical damage caused to the human body by smoking tobacco, exposure to second-hand tobacco smoke, and other related smoke devices and substances; and

WHEREAS, this amendment seeks to remove loopholes that allow smoking indoors, as well clarifies and strengthens existing prohibitions on smoking indoors; and

WHEREAS, the Mayor and Council recognize the importance of a smoke-free environment to health.

NOW, THEREFORE, the Mayor and City Council of the City of Dunwoody HEREBY ORDAIN that Chapter 24, Article III, entitled "Clean Indoor Air", is amended as follows:

ARTICLE III. - CLEAN INDOOR AIR

Section 24-66 - Findings and Intent

The City of Dunwoody does hereby find that:

The 2006 U.S. Surgeon General's Report, The Health Consequences of Involuntary Exposure to Tobacco Smoke, has concluded that (1) secondhand smoke exposure causes disease and premature death in children and adults who do not smoke; (2) children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory problems, ear infections, and asthma attacks, and that smoking by parents causes respiratory symptoms and slows lung growth in their children; (3) exposure of adults to secondhand smoke has immediate adverse effects on the cardiovascular system and causes coronary heart disease and lung cancer; (4) there is no risk-free level of exposure to secondhand smoke; (5) establishing smokefree workplaces is the only effective way to ensure that secondhand smoke exposure does not occur in the workplace, because ventilation and other air cleaning technologies cannot completely control for exposure of nonsmokers to secondhand smoke; and (6) evidence from peer-reviewed studies shows that smokefree policies and laws do not have an adverse economic impact on the hospitality industry.¹ According to the 2010 U.S. Surgeon General's Report, How Tobacco Smoke Causes Disease, even occasional exposure to secondhand smoke is harmful and low levels of exposure to secondhand tobacco smoke lead to a rapid and sharp increase in dysfunction and inflammation of the lining of the blood vessels, which are implicated in heart attacks and stroke.² According to the 2014 U.S. Surgeon General's Report, The Health Consequences of Smoking—50 Years of Progress, secondhand smoke exposure causes stroke in nonsmokers. The report also found

that since the 1964 Surgeon General's Report on Smoking and Health, 2.5 million nonsmokers have died from diseases caused by tobacco smoke.³

Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution, and that breathing secondhand smoke (also known as environmental tobacco smoke) is a cause of disease in healthy nonsmokers, including heart disease, stroke, respiratory disease, and lung cancer. The National Cancer Institute determined in 1999 that secondhand smoke is responsible for the early deaths of approximately 53,000 Americans annually.⁴

The Public Health Service's National Toxicology Program (NTP) has listed secondhand smoke as a known carcinogen.⁵

Based on a finding by the California Environmental Protection Agency in 2005, the California Air Resources Board has determined that secondhand smoke is a toxic air contaminant, finding that exposure to secondhand smoke has serious health effects, including low birth-weight babies; sudden infant death syndrome (SIDS); increased respiratory infections in children; asthma in 2 children and adults; lung cancer, sinus cancer, and breast cancer in younger, premenopausal women; heart disease; and death.⁶

There is indisputable evidence that implementing 100% smoke-free environments is the only effective way to protect the population from the harmful effects of exposure to secondhand smoke.⁷

In reviewing 11 studies concluding that communities see an immediate reduction in heart attack admissions after the implementation of comprehensive smokefree laws, the Institute of Medicine of the National Academies concluded that data consistently demonstrate that secondhand smoke exposure increases the risk of coronary heart disease and heart attacks and that smokefree laws reduce heart attacks.⁸

A significant amount of secondhand smoke exposure occurs in the workplace. Employees who work in smoke-filled businesses suffer a 25-50% higher risk of heart attack and higher rates of death from cardiovascular disease and cancer, as well as increased acute respiratory disease and measurable decrease in lung function.⁹

Studies measuring cotinine (metabolized nicotine) and NNAL (metabolized nitrosamine NNK, a tobacco-specific carcinogen linked to lung cancer) in hospitality workers find dramatic reductions in the levels of these biomarkers after a smokefree law takes effect. Average cotinine levels of New York City restaurant and bar workers decreased by 85% after the city's smokefree law went into effect.¹⁰ After the implementation of Ontario, Canada's Smokefree Indoor Air Law, levels of NNAL were reduced by 52% in nonsmoking casino employees and cotinine levels fell by 98%.¹¹

Smokefree indoor air laws result in a significant reduction in fine particulate matter and improved air quality. A Grand Rapids, Michigan study that monitored six restaurants before and after implementation of the state's smokefree air law found that PM2.5 fine particulate matter was reduced by 92 percent after the law went into effect, indicating that the vast majority of indoor air pollution in all six venues was due to secondhand smoke. The results in Grand Rapids were consistent with results in Wilmington, Delaware; Boston, Massachusetts; and Western New York.¹²

Following a Health Hazard Evaluation of Las Vegas casino employees' secondhand smoke exposure in the workplace, which included indoor air quality tests and biomarker assessments, the National Institute of Occupational Safety & Health (NIOSH) concluded that the casino employees are exposed to dangerous levels of secondhand smoke at work and that their bodies absorb high levels of tobacco-specific chemicals NNK and cotinine during work shifts. NIOSH also

concluded that the "best means of eliminating workplace exposure to [secondhand smoke] is to ban all smoking in the casinos."¹³ A subsequent study in Nevada, whose Clean Indoor Air Act permits smoking in designated areas of casinos, bars, and taverns, indicates that strong 100% smokefree laws are the only effective way to protect indoor air quality. The study sampled the air quality in 15 casino gaming areas and corresponding nonsmoking areas, and the results indicated that the Clean Indoor Air Act failed to protect air quality in the nonsmoking areas, including children-friendly areas.¹⁴

Secondhand smoke is particularly hazardous to elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease.¹⁵ The Americans with Disabilities Act, which requires that disabled persons have access to public places and workplaces, deems impaired respiratory function to be a disability.¹⁶

The U.S. Centers for Disease Control and Prevention has determined that the risk of acute myocardial infarction and coronary heart disease associated with exposure to tobacco smoke is non-linear at low doses, increasing rapidly with relatively small doses such as those received from secondhand smoke or actively smoking one or two cigarettes a day, and has warned that all patients at increased risk of coronary heart disease or with known coronary artery disease should avoid all indoor environments that permit smoking.¹⁷

Given the fact that there is no safe level of exposure to secondhand smoke, the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) bases its ventilation standards on totally smokefree environments. ASHRAE has determined that there is currently no air filtration or other ventilation technology that can completely eliminate all the carcinogenic components in secondhand smoke and the health risks caused by secondhand smoke exposure, and recommends that indoor environments be smokefree in their entirety. In 2015, ASHRAE amended its ventilation Standard for Acceptable Indoor Air Quality (62.1) to include an environment that is completely free from marijuana/cannabis smoke and emissions from electronic smoking devices.¹⁸

During periods of active smoking, peak and average outdoor tobacco smoke (OTS) levels measured in outdoor cafes and restaurant and bar patios near smokers rival indoor tobacco smoke concentrations.¹⁹ Nonsmokers who spend six-hour periods in outdoor smoking sections of bars and restaurants experience a significant increase in levels of cotinine when compared to the cotinine levels in a smokefree outdoor area.²⁰

Residual tobacco contamination, or "thirdhand smoke," from cigarettes, cigars, and other tobacco products is left behind after smoking occurs and builds up on surfaces and furnishings. This residue can linger in spaces long after smoking has ceased, continuing to expose people to tobacco toxins, which represent an unappreciated health hazard through dermal exposure, dust inhalation, and ingestion.²¹ Sticky, highly toxic particulate matter, including nicotine, can cling to walls and ceilings, and gases can be absorbed into carpets, draperies, and other upholsteries, which can then be reemitted (off-gassed) back into the air and form harmful compounds.²² Tobacco residue is noticeably present in dust throughout places where smoking has occurred.²³ The dangers of residual tobacco contamination are present in spaces that are not 100% smokefree, such as in nonsmoking rooms of hotels that allow smoking in some guest rooms. Partial smoking restrictions in hotels do not protect non-smoking guests from exposure to tobacco smoke and tobacco-specific carcinogens.²⁴

Electronic smoking devices, commonly referred to as electronic cigarettes, or "e-cigarettes," closely resemble and purposefully mimic the act of smoking by having users inhale vaporized liquid that typically contains nicotine, heated

through an electronic ignition system. ESD emissions are made up of a high concentration of ultrafine particles, and the particle concentration is higher than in conventional tobacco cigarette smoke. ²⁵ The January 2018 National Academies of Sciences, Engineering, and Medicine publication states that there is conclusive evidence that in addition to nicotine, most ESDs contain and emit numerous potentially toxic substances and increase airborne concentrations of particulate matter and nicotine in indoor environments. Studies show that people exposed to ESD aerosol absorb nicotine (measured as cotinine) at levels comparable to passive smokers. Many of the elements identified in the aerosol are known to cause respiratory distress and disease. ESD exposure damages lung tissues. Human lung cells that are exposed to ESD aerosol and flavorings — especially cinnamon — show increased oxidative stress and inflammatory responses. ²⁶ Their use in workplaces and public places where smoking of traditional tobacco products is prohibited creates concern and confusion and leads to difficulties in enforcing the smoking prohibitions. The World Health Organization (WHO), the National Institute for Occupational Safety and Health (NIOSH), and the American Industrial Hygiene Association (AIHA) recommend that ESDs not be used in smokefree environments, in order to minimize the risk to bystanders of breathing in the aerosol emitted by the devices and to avoid undermining the enforcement of smokefree laws. ²⁷

Secondhand smoke from combusted marijuana contains fine particulate matter that can be breathed deeply into the lungs, which can cause lung irritation and asthma attacks, thus making respiratory infections more likely. Exposure to fine particulate matter can exacerbate health problems especially for people with respiratory conditions like asthma, bronchitis, or COPD. ^{28, 29} Secondhand smoke from marijuana also has many of the same chemicals as smoke from tobacco, including those linked to lung cancer. ^{30, 31} More research is needed, but the current body of science shows that both tobacco and marijuana smoke may have similar harmful cardiovascular effects. ^{32, 33} Thus, in the interest of public health, the use of combustible or aerosolized marijuana should be prohibited wherever tobacco smoking is prohibited.

The Society of Actuaries has determined that secondhand smoke costs the U.S. economy roughly \$10 billion a year: \$5 billion in estimated medical costs associated with secondhand smoke exposure and \$4.6 billion in lost productivity. ³⁴ Numerous economic analyses examining restaurant and hotel receipts and controlling for economic variables have shown either no difference or a positive economic impact after enactment of laws requiring workplaces to be smokefree. Creation of smokefree workplaces is sound economic policy and provides the maximum level of employee health and safety. ³⁵

There is no legal or constitutional "right to smoke." ³⁶ Business owners have no legal or constitutional right to expose their employees and customers to the toxic chemicals in secondhand smoke. On the contrary, employers have a common law duty to provide their workers with a workplace that is not unreasonably dangerous. ³⁷

Smoking is a potential cause of fires; cigarette and cigar burns and ash stains on merchandise and fixtures causes economic damage to businesses. ³⁸

The smoking of tobacco, hookahs, or marijuana/cannabis and the use of ESDs are forms of air pollution and constitute both a danger to health and a material public nuisance.

Accordingly, the City of Dunwoody finds and declares that the purposes of this ordinance are (1) to protect the public health and welfare by prohibiting smoking in public places and places of employment; and (2) to guarantee the right

of nonsmokers to breathe smokefree air, and to recognize that the need to breathe smokefree air shall have priority over the desire to smoke.

Sec. 24-6724-66.-- Definitions.

The following words, terms and phrases, when used in this article, shall be construed as defined in this Section: have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bar means an establishment that 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 those beverages, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.

Business means a sole proprietorship, partnership, joint venture, corporation, or other business entity, either for-profit or not-for-profit, including retail establishments where goods or services are sold; professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered; and private clubs.

Child care facility means any institution, society, agency, or facility, whether incorporated or not, which either primarily or incidentally provides fulltime care for children under 17 years of age outside of their own homes, subject to such exceptions as may be provided in rules and regulations of the state board of human resources, as defined by O.C.G.A. § 49-5-3, as amended.

Dining area means an interior or exterior (such as porch, patio or courtyard) area containing a counter or tables upon which food is served.

Electronic smoking device means any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person in any manner for the purpose of inhaling vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, dab rig or vape pen, or under any other product name or descriptor. Devices used pursuant to a physician's written prescription shall be excluded from this definition.

Employee means any person who is employed by any employer in consideration for direct or indirect monetary wages or profit or a person who volunteers his or her services for a non-profit entity.

Employer means a person, business, partnership, association, corporation, including a municipal corporation, trust, or non-profit entity that employs the services of one or more individual persons any person who employs the services of an individual person.

Enclosed Area means all space between a floor and a ceiling that is bounded on at least two sides by walls, doorways, or windows, whether open or closed. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent and whether or not containing openings of any kind, closed in by a roof and at least three sides, with appropriate openings for ingress and egress. It includes areas commonly described as public lobbies or lobbies when they are in an area that is enclosed as defined herein.

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 "establishment" includes, but is not limited to, the following:

- (1) Automobile dealerships, furniture showrooms 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 or maintenance of appliances, shoes, motor vehicles or other items or products;

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- (4) Barbershops, beauty shops, cleaners, laundromats and other establishments offering services to the general public;
 - (5) Video arcade, pool hall and other amusement centers;
 - (6) Offices providing professional services such as legal, medical, dental, engineering, and architectural services;
 - (7) Banks, savings and loan offices and other financial establishments;
 - (8) Hotels and motels and other places that provide accommodations to the public;
- and
- (9) Restaurants and cafeterias.

Freestanding bar means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and which derives at least 50 percent of its total annual gross food and beverage sales from the sale of beverages, including, but not limited to, taverns, nightclubs, cocktail lounges and cabarets.

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Health care facility means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, long-term care facilities, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, psychiatrists, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities, any licensed general or specialized hospital, institutional infirmary, public health center or diagnostic and treatment center, as defined by O.C.G.A. § 31-7-1(2), as amended.

Hookah means a water pipe and any associated products and devices which are used to produce fumes, smoke, and/or vapor from the burning of material including, but not limited to, tobacco, shisha, or other plant matter.

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.

(1) The term "personal care home" means a residential facility having at least 25 beds and providing, for compensation, protective care and oversight of ambulatory, nonrelated 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. Personal care homes shall also mean residential care facilities for the elderly.

(2) The term "personal care home" 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 under the control of a public or private employer which employees frequent during the course of employment, including, but not limited to, work areas, private offices, construction sites, classrooms, restrooms, temporary offices, vehicles, hallways, employee lounges, employee cafeterias and snack bars, conference and meeting rooms, lobbies and reception areas. A private residence is not a "place of employment" unless it is used as a child care facility, an adult day care facility or a health care facility. The dining area of a restaurant shall be treated as a place of employment under this article.

Playground means any park or recreational area designed in part to be used by children that has play or sports equipment installed or that has been designated or landscaped for play or sports activities, or any similar facility located on public or private school grounds or on City grounds.

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, fraternal, 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.

Public Event means an event which is open to and may be attended by the general public, including but not limited to, such events as concerts, fairs, farmers' markets, festivals, parades, performances, and other exhibitions, regardless of any fee or age requirement.

Public place means any enclosed area to which the public is invited or in which the public is permitted, including, but not limited to, bars, gambling facilities, hotels, motels, laundromats, parking structures, restaurants, retail stores, waiting rooms, lobbies, reception areas, hallways, public transportation vehicles and facilities, reception areas, retail food production and marketing establishments, retail service establishments, it, restrooms, enclosed shopping malls, elevators, service lines, service stations, offices providing professional services, banks and other financial institutions, educational facilities, recreational facilities, health care facilities, child care facilities, auditoriums, theaters, sports arenas, meeting rooms, repair shops, automobile dealerships, convention halls, bowling facilities, polling places and bingo games. Porches, courtyards or decks with a contiguous connection to a public place shall be considered a public place. A private residence is not a "public place" unless it is used as a child care facility, an adult day care facility or a health care facility.

Recreational Area means any public or private area open to the public for recreational purposes, regardless of any fee or age requirement, including but not limited to, amusement parks, playgrounds, athletic fields, beaches, fairgrounds, bike paths, walking paths, gardens, golf courses, parks, plazas, skate parks, swimming pools, trails, and zoos.

Restaurant.

(1) The term "restaurant" means an eating establishment, including but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" includes the bar area within a restaurant, or area which is primarily devoted to the serving of food to the public or guests and which contains a dining area. The term shall include any dining area located within a health care, educational or child care facility. Food courts within enclosed shopping malls shall be treated as restaurants under this article.

(2) The term "restaurant" shall not include a cocktail lounge or tavern if said cocktail lounge or tavern is a freestanding bar area as defined in this section.

Retail tobacco store means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

Service line means any indoor or outdoor line in which one (1) or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money, including but not limited to, ATM lines, concert lines, food vendor lines, movie ticket lines, and sporting event lines. line at which one or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.

Shopping Mall means an enclosed or unenclosed public walkway or hall area that serves to connect retail or professional establishments.

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Smoking means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, hookah, or any other lighted or heated tobacco or plant product intended for inhalation, whether natural or synthetic, including marijuana/cannabis, ~~whether natural or synthetic~~, in any manner or in any form. "Smoking" includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this article.

Sports Arena means a place where people assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events, including sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, and bowling alleys.

Sec. 24-68 Application of Article to City-Owned Facilities and Property

All enclosed areas, including buildings and vehicles owned, leased, or operated by the City of Dunwoody as well as all outdoor property adjacent to such buildings and under the control of the City, shall be subject to the provisions of this Article.

Sec. 24-69 Prohibition of Smoking in Enclosed Public Places

Smoking shall be prohibited in all enclosed public places within the City of Dunwoody including but not limited to, the following places:

A. Aquariums, galleries, libraries, and museums.

B. Areas available to the general public in businesses and non-profit entities patronized by the public, including but not limited to, banks, laundromats, professional offices, and retail service establishments.

C. Bars.

D. Bingo facilities.

E. Child care and adult day care facilities.

F. Convention facilities.

G. Educational facilities, both public and private.

H. Elevators.

I. Gambling facilities.

J. Health care facilities.

K. Hotels and motels.

L. Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities.

M. Parking structures.

N. Polling places.

O. Public transportation vehicles, including buses and taxicabs, under the authority of the City and public transportation facilities, including bus, train, and airport facilities.

P. Restaurants.

Q. Restrooms, lobbies, reception areas, hallways, and other common-use areas.

R. Retail stores, including but not limited to tobacco retailers, marijuana establishments, hookah establishments and vape shops.

S. Rooms, chambers, places of meeting or public assembly, including school buildings, under the control of an agency, board, commission, committee or council of the City or a political subdivision of the State, to the extent the place is subject to the jurisdiction of the City

T. Service lines.

U. Shopping malls.

V. Sports arenas, including enclosed places in outdoor arenas.

W. Theaters and other facilities primarily used for exhibiting motion pictures, stage dramas, lectures, musical recitals, or other similar performances.

Sec. 24-70 Prohibition of Smoking in Enclosed Places of Employment

Commented [JH4]: When you remove the exemption for bars, that would capture Hookah lounges as well.

Commented [JH5R5]: If a business comes in and wants to sell hookah and food - they would not be allowed because the ordinance does not allow smoking in restaurants.

If a business comes in and ONLY sells hookah then they might be considered a "Tobacco retailer" however, there is no exemption for retailers also.

A. Smoking shall be prohibited in all enclosed areas of places of employment without exception. This includes, without limitation, common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles, and all other enclosed facilities.

B. This prohibition on smoking shall be communicated to all existing employees by the effective date of this Article and to all prospective employees upon their application for employment.

Sec. 24-71 Prohibition of Smoking in Private Clubs

Smoking shall be prohibited in all private clubs.

Sec. 24-72 Prohibition of Smoking in Enclosed Residential Facilities

Smoking shall be prohibited in the following enclosed residential facilities:

A. All private and semi-private rooms in nursing homes.

B. All hotel and motel guest rooms.

Sec. 24-73 Prohibition of Smoking in Outdoor Public Places

Smoking shall be prohibited in the following outdoor places:

A. Within a reasonable distance of 20 feet outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited, so as to prevent tobacco smoke from entering those areas.

B. On all outdoor property that is adjacent to buildings owned, leased, or operated by the City of Dunwoody and that is under the control of the City.

C. In, and within 20 feet of, outdoor seating or serving areas of restaurants, bars, and gambling facilities.

D. In outdoor shopping malls, including parking structures.

E. In all outdoor arenas, stadiums, and amphitheatres. Smoking shall also be prohibited in, and within 20 feet of, bleachers and grandstands for use by spectators at sporting and other public events.

F. In outdoor recreational areas, including parking lots.

G. In, and within 20 feet of, all outdoor playgrounds.

H. In, and within 20 feet of, all outdoor public events.

I. In, and within 20 feet of, all outdoor public transportation stations, platforms, and shelters under the authority of the City.

J. In all outdoor service lines, including lines in which service is obtained by persons in vehicles, such as service that is provided by bank tellers, parking lot attendants, and toll takers. In lines in which service is obtained by persons in vehicles, smoking is prohibited by both pedestrians and persons in vehicles, but only within 20 feet of the point of service.

K. In outdoor common areas of apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities, except in designated smoking areas, not to exceed twenty-five percent (25%) of the total outdoor common area, which must be located at least 20 feet outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited.

Sec. 24-74 Prohibition of Smoking in Outdoor Places of Employment

A. Smoking shall be prohibited in all outdoor places of employment where two or more employees are required to be in the course of their employment. This includes, without limitation, work areas, construction sites, and temporary offices such as trailers, restroom facilities, and vehicles.

B. This prohibition on smoking shall be communicated to all existing employees by the effective date of this Article and to all prospective employees upon their application for employment.

Sec. 24-75 Where Smoking Not Regulated

Notwithstanding any other provision of this Article to the contrary, smoking shall not be prohibited in private residences, unless used as a childcare, adult day care, or health care facility.

Sec. 24-76 Declaration of Establishment or Outdoor Area as Nonsmoking

Notwithstanding any other provision of this Article, an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area may declare that an entire establishment, facility, or outdoor area is a nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of Section 1012(A) is posted.

(Comp. Ords. 2008, ch. 16, art. 6, § 3; Ord. No. 2019-12-19, § 1, 12-9-2019)

Sec. ~~24-77~~ 24-67.- Violations and penalties.

A. A person who refuses to comply with a request to stop smoking in an area where smoking

is prohibited by the provisions of this Article shall be civilly liable, subject to an administrative citation not exceeding fifty dollars (\$50). No person shall be liable

under

this section unless said person shall have been previously been given a warning by a person authorized to enforce this ordinance or who exercises legal or actual control

over

the premises where smoking is prohibited.

B. Except as otherwise provided in Section 1013(A), a person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails

to

comply with the provisions of this Article shall be guilty of an infraction, punishable

by:

1. A fine not exceeding one hundred dollars (\$100) for a first violation.

2. A fine not exceeding two hundred dollars (\$200) for a second violation within one (1) year.

3. A fine not exceeding five hundred dollars (\$500) for each additional violation

within

one (1) year.

C. In addition to the fines established by this Section, violation 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 permit or license issued to the

person

for the premises on which the violation occurred.

D. Any violation of this article may be remedied by a civil action brought by the city Attorney, including, but not limited to, administrative or judicial nuisance

abatement proceedings, civil code enforcement proceedings, and suits for injunctive relief.

E. Violation of this Article is hereby declared to be a public nuisance, which may be

abated

by the City Manager by

restraining order, preliminary and permanent injunction, or other means provided for

by

law, and the City may take action to recover the costs of the nuisance abatement.

F. Each day on which a violation of this Article occurs shall be considered a separate

and

distinct violation.

G. The remedies provided in this article are cumulative and in addition to any other remedies

available at law or in equity. Any person who violates any provision of this article shall be subject to the following penalties:

- (1) A fine not exceeding \$50.00 for a first violation;
 - (2) A fine not exceeding \$75.00 for a second violation within one year; and
 - (3) A fine not exceeding \$100.00 for each additional violation within one year.
- (Comp. Ords. 2008, ch. 16, art. 6, § 12)
 (Comp. Ords. 2008, ch. 16, art. 6, § 2; Ord. No. 2019-12-19, § 1, 12-9-2019)
 Sec. 24-7869. - Other applicable laws; disclaimer.

This article shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws. By regulating smoking, the city is assuming an undertaking only to promote the general health and welfare of its citizens. By this enactment, neither the city, its officers nor its employees are liable in money damages to any person who claims that any breach of this article caused injury.

(Comp. Ords. 2008, ch. 16, art. 6, § 13)

Sec. 24-70. - Prohibited smoking.

Except as otherwise provided in this article, smoking is prohibited in all public places and places of employment within the city.

(Comp. Ords. 2008, ch. 16, art. 6, § 4)

Sec. 24-71. - Prohibition of smoking applicable to city property.

This article shall apply to all enclosed facilities including buildings and vehicles owned or operated by the city.

(Comp. Ords. 2008, ch. 16, art. 6, § 5)

Sec. 24-72. - Reasonable distance.

Smoking may occur outdoors but no less than 20 feet from any entrance to any public place or place of employment where smoking is prohibited.

(Comp. Ords. 2008, ch. 16, art. 6, § 6)

Sec. 24-73. - Exceptions.

(a) The smoking prohibition shall not apply in the following areas:

- (1) Freestanding bar areas;
- (2) Retail tobacco stores;
- (3) Adult cabarets and adult motion picture theaters, as defined by this Code;
- (4) Private residences, including private residences which may serve as an office workplace, except if used as a child care, adult day care or health care facility;
- (5) Any property owned or leased by counties, the state or the federal government;
- (6) Designated smoking rooms in hotels and motels rented by guests, provided that such designated smoking rooms shall not comprise more than 25 percent of the total number of rooms available for rent; and
- (7) Outdoor areas of places of employment, except where an owner or employer declares that the outdoor area is a smokefree environment, as provided in this article.

(b) Notwithstanding any other provision of this article, any owner, operator, manager or other person who controls any establishment described in this article may declare that the entire establishment is a nonsmoking establishment.

(Comp. Ords. 2008, ch. 16, art. 6, § 7)

Sec. 24-74. - Employer's responsibility.

(a) It is the responsibility of employers to provide a smoke-free workplace for all employees of public places and places of employment, but employers are not required to make expenditures or structural changes to create a smoke-free work area.

Commented [JH6]: Keep or remove?

Commented [JH7]: Keep or remove?

(b) Each employer having an enclosed place of employment located within the city is encouraged to adopt, implement, make known and maintain a written smoking policy that incorporates the smoking prohibitions of this article.

(c) The written smoking policy should be provided to all employees.
(Comp. Ords. 2008, ch. 16, art. 6, § 8)

Sec. 24-8024-75.- Posting of Signs and Removal of Ashtray signs and notification.

The owner, operator, manager, or other person in control of a place of employment, public place,

private club, or residential facility where smoking is prohibited by this Article shall:

A. Clearly and conspicuously post "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) in that place.

B. Clearly and conspicuously post at every entrance to that place a sign stating that smoking

is prohibited or, in the case of outdoor places, clearly and conspicuously post "No Smoking" signs in appropriate locations as determined by the City Manager or an authorized designee.

C. Clearly and conspicuously post on every vehicle that constitutes a place of employment

under this Article at least one sign, visible from the exterior of the vehicle, stating that

smoking is prohibited.

D. Remove all ashtrays from any area where smoking is prohibited by this Article, except for

ashtrays displayed for sale and not for use on the premises. (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 in 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 every entrance into a public place and place of employment a conspicuous sign clearly stating that smoking is prohibited.

(c) Notice of the provisions set forth in this article shall be given to all applicants for a business license in the city.

(Comp. Ords. 2008, ch. 16, art. 6, § 9)

Sec. 24-8124-76.- Enforcement.

A. This Article shall be enforced by the City Manager or an authorized designee.

B. Notice of the provisions of this Article shall be given to all applicants for a business license in the City of Dunwoody.

C. Any citizen who desires to register a complaint under this Article may initiate enforcement with the City Manager.

D. The Health Department, Fire Department, or their designees shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this Article.

E. An owner, manager, operator, or employee of an area regulated by this Article shall direct a person who is smoking in violation of this Article to extinguish or turn off the product being smoked. If the person does not stop smoking, the owner, manager, operator, or employee shall refuse service and shall immediately ask the person to leave the premises. If the person in violation refuses to leave the premises, the owner, manager, operator, or employee shall contact the enforcing agency.

Commented [JH8]: Keep or remove?

Commented [OS9R9]: I suggest removing this section. It might otherwise create confusion and give the impression that complain is negotiable based on existing structures; and the language "is encouraged to adopt..." also sounds voluntary.

F. Notwithstanding any other provision of this Article, an employee or private citizen may bring legal action to enforce this Article.

G. In addition to the remedies provided by the provisions of this Section, the City Manager or any person aggrieved by the failure of the owner, operator, manager, or other person in control of a public place or a place of employment to comply with the provisions of this Article may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction. (a) Any police officer, as defined by state law, or city code enforcement officer may issue a citation for any violation of this article.

(b) Any citizen who desires to register a complaint under this article may initiate enforcement with the chief of police or designee or the city code enforcement.

(c) Any owner, operator or manager of any establishment regulated by this article shall inform persons whom they witness violate this article of the appropriate provisions, and request compliance. In the event persons violating this article refuse to comply with this article after being informed by such owner, operator or manager, the person smoking, and not the owner, operator or manager, shall be subject to an action for violation of this article.

(Comp. Ords. 2008, ch. 16, art. 6, § 10)

Sec. ~~24-82~~24-77. - Nonretaliation.

No person or employer shall discharge, refuse to hire or in any manner retaliate against any employee, applicant for employment or customer because such employee, or resident of a multiple-unit residential facility because that employee, applicant, customer, or resident exercises any rights afforded by this Article or reports or attempts to prosecute a violation of this Article. Notwithstanding Section 1015, violation of this Subsection shall be a misdemeanor, punishable by a fine not to exceed \$1000 for each violation. applicant or customer exercises any right to a smoke-free environment as afforded by this article.

(Comp. Ords. 2008, ch. 16, art. 6, § 11)

Sec. ~~24-83~~24-78.- Public education.

The city manager or his designee shall engage in a continuing program to explain and clarify the purposes and requirements of this article 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.

(Ord. No. 2019-12-19, § 1, 12-9-2019)

Sec. ~~24-84~~ Governmental Agency Cooperation

The City Manager shall annually request other governmental and educational agencies having facilities within the City to establish local operating procedures in cooperation and compliance with this Article. This includes urging all Federal, State, City and School District agencies to update their existing smoking control regulations to be consistent with the current health findings regarding secondhand smoke.

Sec. ~~24-85~~ Other Applicable Laws

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

Sec. ~~24-86~~ Liberal Construction

This Article shall be liberally construed so as to further its purposes.

Sec. ~~24-87~~ Severability

If any provision, clause, sentence, or paragraph of this Article or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are declared to be severable.

Sec. ~~24-88~~ Effective Date

This Article shall be effective thirty (30) days from and after the date of its adoption.

Secs. 24-79—24-97. - Reserved.
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SO ORDAINED, this ____ day of _____, 2024.

Approved:

Lynn P. Deutsch, Mayor

STATE OF GEORGIA
CITY OF DUNWOODY

ORDINANCE 2024-XX-XX

ATTEST:

Approved as to Form and Content:

Sharon Lowery, City Clerk (Seal)

City Attorney

ARTICLE III. - CLEAN INDOOR AIR

Section 24-66 - Findings and IntentThe City of Dunwoody does hereby find that:

The 2006 U.S. Surgeon General's Report, The Health Consequences of Involuntary Exposure to Tobacco Smoke, has concluded that (1) secondhand smoke exposure causes disease and premature death in children and adults who do not smoke; (2) children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory problems, ear infections, and asthma attacks, and that smoking by parents causes respiratory symptoms and slows lung growth in their children; (3) exposure of adults to secondhand smoke has immediate adverse effects on the cardiovascular system and causes coronary heart disease and lung cancer; (4) there is no risk-free level of exposure to secondhand smoke; (5) establishing smokefree workplaces is the only effective way to ensure that secondhand smoke exposure does not occur in the workplace, because ventilation and other air cleaning technologies cannot completely control for exposure of nonsmokers to secondhand smoke; and (6) evidence from peer-reviewed studies shows that smokefree policies and laws do not have an adverse economic impact on the hospitality industry.¹ According to the 2010 U.S. Surgeon General's Report, How Tobacco Smoke Causes Disease, even occasional exposure to secondhand smoke is harmful and low levels of exposure to secondhand tobacco smoke lead to a rapid and sharp increase in dysfunction and inflammation of the lining of the blood vessels, which are implicated in heart attacks and stroke.² According to the 2014 U.S. Surgeon General's Report, The Health Consequences of Smoking—50 Years of Progress, secondhand smoke exposure causes stroke in nonsmokers. The report also found that since the 1964 Surgeon General's Report on Smoking and Health, 2.5 million nonsmokers have died from diseases caused by tobacco smoke.³

Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution, and that breathing secondhand smoke (also known as environmental tobacco smoke) is a cause of disease in healthy nonsmokers, including heart disease, stroke, respiratory disease, and lung cancer. The National Cancer Institute determined in 1999 that secondhand smoke is responsible for the early deaths of approximately 53,000 Americans annually.⁴

The Public Health Service's National Toxicology Program (NTP) has listed secondhand smoke as a known carcinogen.⁵

Based on a finding by the California Environmental Protection Agency in 2005, the California Air Resources Board has determined that secondhand smoke is a toxic air contaminant, finding that exposure to secondhand smoke has serious health effects, including low birth-weight babies; sudden infant death syndrome (SIDS); increased respiratory infections in children; asthma in 2 children and adults; lung cancer, sinus cancer, and breast cancer in younger, premenopausal women; heart disease; and death.⁶

There is indisputable evidence that implementing 100% smoke-free environments is the only effective way to protect the population from the harmful effects of exposure to secondhand smoke.⁷

In reviewing 11 studies concluding that communities see an immediate reduction in heart attack admissions after the implementation of comprehensive smokefree laws, the Institute of Medicine of the National Academies concluded that data consistently demonstrate that secondhand smoke exposure increases the risk of coronary heart disease and heart attacks and that smokefree laws reduce heart attacks.⁸

A significant amount of secondhand smoke exposure occurs in the workplace. Employees who work in smoke-filled businesses suffer a 25-50% higher risk of heart attack and higher rates of death from cardiovascular disease and cancer, as well as increased acute respiratory disease and measurable decrease in lung function.⁹

Studies measuring cotinine (metabolized nicotine) and NNAL (metabolized nitrosamine NNK, a tobacco-specific carcinogen linked to lung cancer) in hospitality workers find dramatic reductions in the levels of these biomarkers after a smokefree law takes effect. Average cotinine levels of New York City restaurant and bar workers decreased by 85% after the city's smokefree law went into effect.¹⁰ After the implementation of Ontario, Canada's Smokefree Indoor Air Law, levels of NNAL were reduced by 52% in nonsmoking casino employees and cotinine levels fell by 98%.¹¹

Smokefree indoor air laws result in a significant reduction in fine particulate matter and improved air quality. A Grand Rapids, Michigan study that monitored six restaurants before and after implementation of the state's smokefree air law found that PM2.5 fine particulate matter was reduced by 92 percent after the law went into effect, indicating that the vast majority of indoor air pollution in all six venues was due to secondhand smoke. The results in Grand Rapids were consistent with results in Wilmington, Delaware; Boston, Massachusetts; and Western New York.¹²

Following a Health Hazard Evaluation of Las Vegas casino employees' secondhand smoke exposure in the workplace, which included indoor air quality tests and biomarker assessments, the National Institute of Occupational Safety & Health (NIOSH) concluded that the casino employees are exposed to dangerous levels of secondhand smoke at work and that their bodies absorb high levels of tobacco-specific chemicals NNK and cotinine during work shifts. NIOSH also concluded that the "best means of eliminating workplace exposure to [secondhand smoke] is to ban all smoking in the casinos."¹³ A subsequent study in Nevada, whose Clean Indoor Air Act permits smoking in designated areas of casinos, bars, and taverns, indicates that strong 100% smokefree laws are the only effective way to protect indoor air quality. The study sampled the air quality in 15 casino gaming areas and corresponding nonsmoking areas, and the results indicated that the Clean Indoor Air Act failed to protect air quality in the nonsmoking areas, including children-friendly areas.¹⁴

Secondhand smoke is particularly hazardous to elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease.¹⁵ The Americans with Disabilities Act, which requires that disabled persons have access to public places and workplaces, deems impaired respiratory function to be a disability.¹⁶

The U.S. Centers for Disease Control and Prevention has determined that the risk of acute myocardial infarction and coronary heart disease associated with exposure to tobacco smoke is non-linear at low doses, increasing rapidly with relatively small doses such as those received from secondhand smoke or actively smoking one or two cigarettes a day, and has warned that all patients at increased risk of coronary heart disease or with known coronary artery disease should avoid all indoor environments that permit smoking.¹⁷

Given the fact that there is no safe level of exposure to secondhand smoke, the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) bases its ventilation standards on totally smokefree environments. ASHRAE has determined that there is currently no air filtration or other ventilation technology that can completely eliminate all the carcinogenic components in secondhand smoke and the health risks caused by secondhand smoke exposure, and recommends that indoor environments be smokefree in their entirety. In 2015, ASHRAE amended its ventilation Standard for Acceptable Indoor Air Quality (62.1) to include an environment that is completely free from marijuana/cannabis smoke and emissions from electronic smoking devices.¹⁸

During periods of active smoking, peak and average outdoor tobacco smoke (OTS) levels measured in outdoor cafes and restaurant and bar patios near smokers rival indoor tobacco smoke concentrations.¹⁹ Nonsmokers who spend six-hour periods in outdoor smoking sections of bars and restaurants experience a significant increase in levels of cotinine when compared to the cotinine levels in a smokefree outdoor area.²⁰

Residual tobacco contamination, or “thirdhand smoke,” from cigarettes, cigars, and other tobacco products is left behind after smoking occurs and builds up on surfaces and furnishings. This residue can linger in spaces long after smoking has ceased, continuing to expose people to tobacco toxins, which represent an unappreciated health hazard through dermal exposure, dust inhalation, and ingestion.²¹ Sticky, highly toxic particulate matter, including nicotine, can cling to walls and ceilings, and gases can be absorbed into carpets, draperies, and other upholsteries, which can then be reemitted (off-gassed) back into the air and form harmful compounds.²² Tobacco residue is noticeably present in dust throughout places where smoking has occurred.²³ The dangers of residual tobacco contamination are present in spaces that are not 100% smokefree, such as in nonsmoking rooms of hotels that allow smoking in some guest rooms. Partial smoking restrictions in hotels do not protect non-smoking guests from exposure to tobacco smoke and tobacco-specific carcinogens.²⁴

Electronic smoking devices, commonly referred to as electronic cigarettes, or “e-cigarettes,” closely resemble and purposefully mimic the act of smoking by having users inhale vaporized liquid that typically contains nicotine, heated through an electronic ignition system. ESD emissions are made up of a high concentration of ultrafine particles, and the particle concentration is higher than in conventional tobacco cigarette smoke.²⁵ The January 2018 National Academies of Sciences, Engineering, and Medicine publication states that there is conclusive evidence that in addition to nicotine, most ESDs contain and emit numerous potentially toxic substances and increase airborne concentrations of particulate matter and nicotine in indoor environments. Studies show that people exposed to ESD aerosol absorb nicotine (measured as cotinine) at levels comparable to passive

smokers. Many of the elements identified in the aerosol are known to cause respiratory distress and disease. ESD exposure damages lung tissues. Human lung cells that are exposed to ESD aerosol and flavorings — especially cinnamon — show increased oxidative stress and inflammatory responses.²⁶ Their use in workplaces and public places where smoking of traditional tobacco products is prohibited creates concern and confusion and leads to difficulties in enforcing the smoking prohibitions. The World Health Organization (WHO), the National Institute for Occupational Safety and Health (NIOSH), and the American Industrial Hygiene Association (AIHA) recommend that ESDs not be used in smokefree environments, in order to minimize the risk to bystanders of breathing in the aerosol emitted by the devices and to avoid undermining the enforcement of smokefree laws.²⁷

Secondhand smoke from combusted marijuana contains fine particulate matter that can be breathed deeply into the lungs, which can cause lung irritation and asthma attacks, thus making respiratory infections more likely. Exposure to fine particulate matter can exacerbate health problems especially for people with respiratory conditions like asthma, bronchitis, or COPD.^{28, 29} Secondhand smoke from marijuana also has many of the same chemicals as smoke from tobacco, including those linked to lung cancer.^{30, 31} More research is needed, but the current body of science shows that both tobacco and marijuana smoke may have similar harmful cardiovascular effects.^{32, 33} Thus, in the interest of public health, the use of combustible or aerosolized marijuana should be prohibited wherever tobacco smoking is prohibited.

The Society of Actuaries has determined that secondhand smoke costs the U.S. economy roughly \$10 billion a year: \$5 billion in estimated medical costs associated with secondhand smoke exposure and \$4.6 billion in lost productivity.³⁴ Numerous economic analyses examining restaurant and hotel receipts and controlling for economic variables have shown either no difference or a positive economic impact after enactment of laws requiring workplaces to be smokefree. Creation of smokefree workplaces is sound economic policy and provides the maximum level of employee health and safety.³⁵

There is no legal or constitutional “right to smoke.”³⁶ Business owners have no legal or constitutional right to expose their employees and customers to the toxic chemicals in secondhand smoke. On the contrary, employers have a common law duty to provide their workers with a workplace that is not unreasonably dangerous.³⁷

Smoking is a potential cause of fires; cigarette and cigar burns and ash stains on merchandise and fixtures causes economic damage to businesses.³⁸

The smoking of tobacco, hookahs, or marijuana/cannabis and the use of ESDs are forms of air pollution and constitute both a danger to health and a material public nuisance.

Accordingly, the City of Dunwoody finds and declares that the purposes of this ordinance are (1) to protect the public health and welfare by prohibiting smoking in public places and places of employment; and (2) to guarantee the right of nonsmokers to breathe smokefree air, and to recognize that the need to breathe smokefree air shall have priority over the desire to smoke.

Sec. 24-6724-66.-- Definitions.

The following words, terms and phrases, when used in this article, shall be construed as defined in this Section; have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bar means an establishment that 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 those beverages, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.

Business means a sole proprietorship, partnership, joint venture, corporation, or other business entity, either for-profit or not-for-profit, including retail establishments where goods or services are sold; professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered; and private clubs.

Child care facility means any institution, society, agency, or facility, whether incorporated or not, which either primarily or incidentally provides fulltime care for children under 17 years of age outside of their own homes, subject to such exceptions as may be provided in rules and regulations of the state board of human resources, as defined by O.C.G.A. § 49-5-3, as amended.

Dining area means an interior or exterior (such as porch, patio or courtyard) area containing a counter or tables upon which food is served.

Electronic smoking device means any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person in any manner for the purpose of inhaling vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, dab rig or vape pen, or under any other product name or descriptor. Devices used pursuant to a physician's written prescription shall be excluded from this definition.

Employee means any person who is employed by any employer in consideration for direct or indirect monetary wages or profit or a person who volunteers his or her services for a non-profit entity.

Employer means a person, business, partnership, association, corporation, including a municipal corporation, trust, or non-profit entity that employs the services of one or more individual persons any person who employs the services of an individual person.

Enclosed Area means all space between a floor and a ceiling that is bounded on at least two sides by walls, doorways, or windows, whether open or closed. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent and whether or not containing openings of any kind closed in by a roof and at least three sides, with appropriate openings for ingress and egress. It includes areas commonly described as public lobbies or lobbies when they are in an area that is enclosed as defined herein.

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 "establishment" includes, but is not limited to, the following:

- (1) Automobile dealerships, furniture showrooms 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 or maintenance of appliances, shoes, motor vehicles or other items or products;
- (4) Barbershops, beauty shops, cleaners, laundromats and other establishments offering services to the general public;
- (5) Video arcade, pool hall and other amusement centers;

Commented [JH1]: Keep or remove?

- ~~(6) — Offices providing professional services such as legal, medical, dental, engineering, and architectural services;~~
- ~~(7) — Banks, savings and loan offices and other financial establishments;~~
- ~~(8) — Hotels and motels and other places that provide accommodations to the public; and~~
- ~~(9) — Restaurants and cafeterias.~~

~~*Freestanding bar* means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and which derives at least 50 percent of its total annual gross food and beverage sales from the sale of beverages, including, but not limited to, taverns, nightclubs, cocktail lounges and cabarets.~~

Commented [JH2]: Keep or remove?

~~*Health care facility* means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, long-term care facilities, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, psychiatrists, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities, any licensed general or specialized hospital, institutional infirmary, public health center or diagnostic and treatment center, as defined by O.C.G.A. § 31-7-1(2), as amended.~~

~~*Hookah* means a water pipe and any associated products and devices which are used to produce fumes, smoke, and/or vapor from the burning of material including, but not limited to, tobacco, shisha, or other plant matter.~~

~~*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.*~~

- ~~(1) — The term "personal care home" means a residential facility having at least 25 beds and providing, for compensation, protective care and oversight of ambulatory, nonrelated 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. Personal care homes shall also mean residential care facilities for the elderly.~~
- ~~(2) — The term "personal care home" 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 under the control of a public or private employer which employees frequent during the course of employment, including, but not limited to, work areas, private offices, construction sites, classrooms, restrooms, temporary offices, vehicles, hallways, employee lounges, employee cafeterias and snack bars, conference and meeting rooms, lobbies and reception areas. A private residence is not a "place of employment" unless it is used as a child care facility, an adult day care facility or a health care facility. The dining area of a restaurant shall be treated as a place of employment under this article.~~

~~*Playground* means any park or recreational area designed in part to be used by children that has play or sports equipment installed or that has been designated or landscaped for play or sports activities, or any similar facility located on public or private school grounds or on City grounds.~~

~~*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, fraternal, 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.

Public Event means an event which is open to and may be attended by the general public, including but not limited to, such events as concerts, fairs, farmers' markets, festivals, parades, performances, and other exhibitions, regardless of any fee or age requirement.

Public place means any enclosed area to which the public is invited or in which the public is permitted, including, but not limited to, bars, gambling facilities, hotels, motels, laundromats, parking structures, restaurants, retail stores, waiting rooms, lobbies, reception areas, hallways, public transportation vehicles and facilities, reception areas, retail food production and marketing establishments, retail service establishments, it, restrooms, enclosed shopping malls, elevators, service lines, service stations, offices providing professional services, banks and other financial institutions, educational facilities, recreational facilities, health care facilities, child care facilities, auditoriums, theaters, sports arenas, meeting rooms, repair shops, automobile dealerships, convention halls, bowling facilities, polling places and bingo games. Porches, courtyards or decks with a contiguous connection to a public place shall be considered a public place. A private residence is not a "public place" unless it is used as a child care facility, an adult day care facility or a health care facility.

Recreational Area means any public or private area open to the public for recreational purposes, regardless of any fee or age requirement, including but not limited to, amusement parks, playgrounds, athletic fields, beaches, fairgrounds, bike paths, walking paths, gardens, golf courses, parks, plazas, skate parks, swimming pools, trails, and zoos.

Restaurant.

(1) The term "restaurant" means an eatingy establishment, including but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" includes the bar area within a restaurant, or area which is primarily devoted to the serving of food to the public or guests and which contains a dining area. The term shall include any dining area located within a health care, educational or child care facility. Food courts within enclosed shopping malls shall be treated as restaurants under this article.

(2) ~~The term "restaurant" shall not include a cocktail lounge or tavern if said cocktail lounge or tavern is a freestanding bar area as defined in this section.~~

~~Retail tobacco store means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.~~

Commented [JH3]: Keep or remove

~~Service line means any indoor or outdoor line in which one (1) or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money, including but not limited to, ATM lines, concert lines, food vendor lines, movie ticket lines, and sporting event lines, line at which one or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.~~

~~Shopping Mall means an enclosed or unenclosed public walkway or hall area that serves to connect retail or professional establishments.~~

~~Smoking means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, hookah, or any other lighted or heated tobacco or plant product intended for inhalation, whether natural or synthetic, including marijuana/cannabis, whether natural or synthetic, in any manner or in any form. "Smoking" includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this article.~~

~~Sports Arena means a place where people assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events, including sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, and bowling alleys.~~

Sec. 24-68 Application of Article to City-Owned Facilities and Property

All enclosed areas, including buildings and vehicles owned, leased, or operated by the City of Dunwoody as well as all outdoor property adjacent to such buildings and under the control of the City, shall be subject to the provisions of this Article.

Sec. 24-69 Prohibition of Smoking in Enclosed Public Places

Smoking shall be prohibited in all enclosed public places within the City of Dunwoody including but not limited to, the following places:

A. Aquariums, galleries, libraries, and museums.

B. Areas available to the general public in businesses and non-profit entities patronized by the public, including but not limited to, banks, laundromats, professional offices, and retail service establishments.

C. Bars.

D. Bingo facilities.

E. Child care and adult day care facilities.

F. Convention facilities.

G. Educational facilities, both public and private.

H. Elevators.

I. Gambling facilities.

J. Health care facilities.

K. Hotels and motels.

L. Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities.

M. Parking structures.

N. Polling places.

O. Public transportation vehicles, including buses and taxicabs, under the authority of the City and public transportation facilities, including bus, train, and airport facilities.

P. Restaurants.

Commented [JH4]: When you remove the exemption for bars, that would capture Hookah lounges as well.

Commented [JH5R5]: If a business comes in and wants to sell hookah and food - they would not be allowed because the ordinance does not allow smoking in restaurants.

If a business comes in and ONLY sells hookah then they might be considered a "Tobacco retailer" however, there is no exemption for retailers also.

Q. Restrooms, lobbies, reception areas, hallways, and other common-use areas.

R. Retail stores, including but not limited to tobacco retailers, marijuana establishments, hookah establishments and vape shops.

S. Rooms, chambers, places of meeting or public assembly, including school buildings, under the control of an agency, board, commission, committee or council of the City or a political subdivision of the State, to the extent the place is subject to the jurisdiction of the City

T. Service lines.

U. Shopping malls.

V. Sports arenas, including enclosed places in outdoor arenas.

W. Theaters and other facilities primarily used for exhibiting motion pictures, stage dramas, lectures, musical recitals, or other similar performances.

Sec. 24-70 Prohibition of Smoking in Enclosed Places of Employment

A. Smoking shall be prohibited in all enclosed areas of places of employment without exception. This includes, without limitation, common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles, and all other enclosed facilities.

B. This prohibition on smoking shall be communicated to all existing employees by the effective date of this Article and to all prospective employees upon their application for employment.

Sec. 24-71 Prohibition of Smoking in Private Clubs

Smoking shall be prohibited in all private clubs.

Sec. 24-72 Prohibition of Smoking in Enclosed Residential Facilities

Smoking shall be prohibited in the following enclosed residential facilities:

A. All private and semi-private rooms in nursing homes.

B. All hotel and motel guest rooms.

Sec. 24-73 Prohibition of Smoking in Outdoor Public Places

Smoking shall be prohibited in the following outdoor places:

A. Within a reasonable distance of 20 feet outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited, so as to prevent tobacco smoke from entering those areas.

B. On all outdoor property that is adjacent to buildings owned, leased, or operated by the City of Dunwoody and that is under the control of the City.

C. In, and within 20 feet of, outdoor seating or serving areas of restaurants, bars, and gambling facilities.

D. In outdoor shopping malls, including parking structures.

E. In all outdoor arenas, stadiums, and amphitheaters. Smoking shall also be prohibited in, and within 20 feet of, bleachers and grandstands for use by spectators at sporting and other public events.

F. In outdoor recreational areas, including parking lots.

G. In, and within 20 feet of, all outdoor playgrounds.

H. In, and within 20 feet of, all outdoor public events.

I. In, and within 20 feet of, all outdoor public transportation stations, platforms, and shelters under the authority of the City.

J. In all outdoor service lines, including lines in which service is obtained by persons in vehicles, such as service that is provided by bank tellers, parking lot attendants, and toll takers. In lines in which service is obtained by persons in vehicles, smoking is prohibited by both pedestrians and persons in vehicles, but only within 20 feet of the point of service.

K. In outdoor common areas of apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities, except in designated smoking areas, not to exceed twenty-five percent (25%) of the total outdoor common area, which must be located at least 20 feet outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited.

Sec. 24-74 Prohibition of Smoking in Outdoor Places of Employment

A. Smoking shall be prohibited in all outdoor places of employment where two or more employees are required to be in the course of their employment. This includes, without limitation, work areas, construction sites, and temporary offices such as trailers, restroom facilities, and vehicles.

B. This prohibition on smoking shall be communicated to all existing employees by the effective date of this Article and to all prospective employees upon their application for employment.

Sec. 24-75 Where Smoking Not Regulated

Notwithstanding any other provision of this Article to the contrary, smoking shall not be prohibited in private residences, unless used as a childcare, adult day care, or health care facility.

Sec. 24-76 Declaration of Establishment or Outdoor Area as Nonsmoking

Notwithstanding any other provision of this Article, an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area may declare that an entire establishment, facility, or outdoor area is a nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of Section 1012(A) is posted.

(Comp. Ords. 2008, ch. 16, art. 6, § 3; Ord. No. 2019-12-19, § 1, 12-9-2019)

Sec. 24-77 24-67-- Violations and penalties.

A. A person who refuses to comply with a request to stop smoking in an area where smoking is prohibited by the provisions of this Article shall be civilly liable, subject to an administrative citation not exceeding fifty dollars (\$50). No person shall be liable under this section unless said person shall have been previously been given a warning by a person authorized to enforce this ordinance or who exercises legal or actual control over the premises where smoking is prohibited.

B. Except as otherwise provided in Section 1013(A), a person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the provisions of this Article shall be guilty of an infraction, punishable by:

1. A fine not exceeding one hundred dollars (\$100) for a first violation.
2. A fine not exceeding two hundred dollars (\$200) for a second violation within one (1) year.
3. A fine not exceeding five hundred dollars (\$500) for each additional violation within one (1) year.

C. In addition to the fines established by this Section, violation 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 permit or license issued to the person for the premises on which the violation occurred.

D. Any violation of this article may be remedied by a civil action brought by the city Attorney, including, but not limited to, administrative or judicial nuisance abatement proceedings, civil code enforcement proceedings, and suits for injunctive relief.

E. Violation of this Article is hereby declared to be a public nuisance, which may be abated by the City Manager by restraining order, preliminary and permanent injunction, or other means provided for by law, and the City may take action to recover the costs of the nuisance abatement.

F. Each day on which a violation of this Article occurs shall be considered a separate and distinct violation.

G. The remedies provided in this article are cumulative and in addition to any other remedies available at law or in equity. Any person who violates any provision of this article shall be subject to the following penalties:

- (1) ~~A fine not exceeding \$50.00 for a first violation;~~
- (2) ~~A fine not exceeding \$75.00 for a second violation within one year; and~~
- (3) ~~A fine not exceeding \$100.00 for each additional violation within one year.~~

(Comp. Ords. 2008, ch. 16, art. 6, § 12)

(Comp. Ords. 2008, ch. 16, art. 6, § 2; Ord. No. 2019-12-19, § 1, 12-9-2019)

~~Sec. 24-7869. - Other applicable laws; disclaimer.~~

~~This article shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws. By regulating smoking, the city is assuming an undertaking only to promote the general health and welfare of its citizens. By this enactment, neither the city, its officers nor its employees are liable in money damages to any person who claims that any breach of this article caused injury.~~

Commented [JH6]: Keep or remove?

(Comp. Ords. 2008, ch. 16, art. 6, § 13)

~~Sec. 24-70. - Prohibited smoking.~~

~~Except as otherwise provided in this article, smoking is prohibited in all public places and places of employment within the city.~~

~~(Comp. Ords. 2008, ch. 16, art. 6, § 4)~~

~~Sec. 24-71. - Prohibition of smoking applicable to city property.~~

~~This article shall apply to all enclosed facilities including buildings and vehicles owned or operated by the city.~~

Commented [JH7]: Keep or remove?

(Comp. Ords. 2008, ch. 16, art. 6, § 5)

~~Sec. 24-72. - Reasonable distance.~~

~~Smoking may occur outdoors but no less than 20 feet from any entrance to any public place or place of employment where smoking is prohibited.~~

~~(Comp. Ords. 2008, ch. 16, art. 6, § 6)~~

~~Sec. 24-73.— Exceptions:~~

- ~~(a) The smoking prohibition shall not apply in the following areas:~~
 - ~~(1) Freestanding bar areas;~~
 - ~~(2) Retail tobacco stores;~~
 - ~~(3) Adult cabarets and adult motion picture theaters, as defined by this Code;~~
 - ~~(4) Private residences, including private residences which may serve as an office workplace, except if used as a child care, adult day care or health care facility;~~
 - ~~(5) Any property owned or leased by counties, the state or the federal government;~~
 - ~~(6) Designated smoking rooms in hotels and motels rented by guests, provided that such designated smoking rooms shall not comprise more than 25 percent of the total number of rooms available for rent; and~~
 - ~~(7) Outdoor areas of places of employment, except where an owner or employer declares that the outdoor area is a smokefree environment, as provided in this article.~~
- ~~(b) Notwithstanding any other provision of this article, any owner, operator, manager or other person who controls any establishment described in this article may declare that the entire establishment is a nonsmoking establishment.~~

~~(Comp. Ords. 2008, ch. 16, art. 6, § 7)~~

~~Sec. 24-794. - Employer's responsibility.~~

- ~~(a) It is the responsibility of employers to provide a smoke-free workplace for all employees of public places and places of employment, but employers are not required to make expenditures or structural changes to create a smoke-free work area.~~
- ~~(b) Each employer having an enclosed place of employment located within the city is encouraged to adopt, implement, make known and maintain a written smoking policy that incorporates the smoking prohibitions of this article.~~
- ~~(c) The written smoking policy should be provided to all employees.~~

~~(Comp. Ords. 2008, ch. 16, art. 6, § 8)~~

~~Sec. 24-8024-75.— Posting of Signs and Removal of Ashtray signs and notification.~~

~~The owner, operator, manager, or other person in control of a place of employment, public place, private club, or residential facility where smoking is prohibited by this Article shall:~~

- ~~A. Clearly and conspicuously post "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) in that place.~~
- ~~B. Clearly and conspicuously post at every entrance to that place a sign stating that smoking~~

Commented [JH8]: Keep or remove?

Commented [OS9R9]: I suggest removing this section. It might otherwise create confusion and give the impression that complain is negotiable based on existing structures; and the language "is encouraged to adopt..." also sounds voluntary.

is prohibited or, in the case of outdoor places, clearly and conspicuously post "No Smoking" signs in appropriate locations as determined by the City Manager or an authorized designee.

C. Clearly and conspicuously post on every vehicle that constitutes a place of employment under this Article at least one sign, visible from the exterior of the vehicle, stating that smoking is prohibited.

D. Remove all ashtrays from any area where smoking is prohibited by this Article, except for ashtrays displayed for sale and not for use on the premises. (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 in 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 every entrance into a public place and place of employment a conspicuous sign clearly stating that smoking is prohibited.

(c) Notice of the provisions set forth in this article shall be given to all applicants for a business license in the city.

(Comp. Ords. 2008, ch. 16, art. 6, § 9)

Sec. 24-8124-76.-- Enforcement.

A. This Article shall be enforced by the City Manager or an authorized designee.

B. Notice of the provisions of this Article shall be given to all applicants for a business license in the City of Dunwoody.

C. Any citizen who desires to register a complaint under this Article may initiate enforcement with the City Manager.

D. The Health Department, Fire Department, or their designees shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this Article.

E. An owner, manager, operator, or employee of an area regulated by this Article shall direct a person who is smoking in violation of this Article to extinguish or turn off the product being smoked. If the person does not stop smoking, the owner, manager, operator, or employee shall refuse service and shall immediately ask the person to leave the premises. If the person in violation refuses to leave the premises, the owner, manager, operator, or employee shall contact the enforcing agency.

F. Notwithstanding any other provision of this Article, an employee or private citizen may bring legal action to enforce this Article.

G. In addition to the remedies provided by the provisions of this Section, the City Manager or any person aggrieved by the failure of the owner, operator, manager, or other person in control of a public place or a place of employment to comply with the provisions of this Article may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction. (a) Any police officer, as defined by state law, or city code enforcement officer may issue a citation for any violation of this article.

(b) Any citizen who desires to register a complaint under this article may initiate enforcement with the chief of police or designee or the city code enforcement.

(c) Any owner, operator or manager of any establishment regulated by this article shall inform persons whom they witness violate this article of the appropriate provisions, and request compliance. In the event persons violating this article refuse to comply with this article after being informed by such owner, operator or manager, the person smoking, and not the owner, operator or manager, shall be subject to an action for violation of this article.

(Comp. Ords. 2008, ch. 16, art. 6, § 10)

Sec. ~~24-82~~24-77. - Nonretaliation.

No person or employer shall discharge, refuse to hire or in any manner retaliate against any employee, applicant for employment or customer because such employee, or resident of a multiple-unit residential facility because that employee, applicant, customer, or resident exercises any rights afforded by this Article or reports or attempts to prosecute a violation of this Article. Notwithstanding Section 1015, violation of this Subsection shall be a misdemeanor, punishable by a fine not to exceed \$1000 for each violation, applicant or customer exercises any right to a smoke-free environment as afforded by this article.

(Comp. Ords. 2008, ch. 16, art. 6, § 11)

Sec. ~~24-83~~24-78. – Public education.

The city manager or his designee shall engage in a continuing program to explain and clarify the purposes and requirements of this article 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.

(Ord. No. 2019-12-19, § 1, 12-9-2019)

Sec. 24-84 Governmental Agency Cooperation

The City Manager shall annually request other governmental and educational agencies having facilities within the City to establish local operating procedures in cooperation and compliance with this Article. This includes urging all Federal, State, City and School District agencies to update their existing smoking control regulations to be consistent with the current health findings regarding secondhand smoke.

Sec. 24-85 Other Applicable Laws

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

Sec. 24-86 Liberal Construction

This Article shall be liberally construed so as to further its purposes.

Sec. 24-87 Severability

If any provision, clause, sentence, or paragraph of this Article or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are declared to be severable.

Sec. 24-88 Effective Date

This Article shall be effective thirty (30) days from and after the date of its adoption.

Secs. 24-79—24-97. - Reserved.

Commented [JH10]: What is this section?

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Amendments to the 2019 Clean Indoor Air Act - City of Dunwoody

Introductions

What we know about the impact of secondhand smoke?

Health Damage:

- It causes immediate damage to the lungs and cardiovascular system
- It increases the risk of stroke by 20 to 30%.
- Secondhand aerosol (from e-cigs) contains heavy metals and fine particles that may exacerbate respiratory ailments like asthma, and constrict arteries, which could trigger a heart attack

What we know about the impact of secondhand smoke?

Economic Damage:

- Exposure to secondhand smoke costs businesses \$5.6 million a year in lost productivity.
- Businesses that allow smoking in the workplace spend \$9,000 to \$14,000 more per year in maintenance costs than smoke-free worksites.
- Employees who do not smoke but are exposed to secondhand smoke in the workplace have an increased risk of heart disease, stroke and lung cancer.



American
Heart
Association.

There is no safe
level of exposure
to secondhand
tobacco smoke.

**Smoke-free laws are good for
businesses, employees and
customers!**

What does Dunwoody's current Clean Indoor Air ordinance say?

Greatest Area of Concern :

- Stricter definitions & less exemptions needed
- 2019 Clean Indoor Air Act language creates a legal loophole for hookah bars to set up shop
- This is because *section 24-66* under “Definitions” **does not** capture hookah lounges/establishments AND *section 24-73* under “Exceptions” exempts any establishment whose sales revenue is at least 50% of alcohol from this ordinance applying to them.

What does Dunwoody's current Clean Indoor Air ordinance say?

Example:

- If business owner Robert Thomas wanted to open Hookah Lounge A – as long as **50% of their sales are made of up alcohol, they could legally set up shop in Dunwoody.**

Our Recommendation:

- **Remove such exemptions** and include clearly defined “prohibition” section which prohibit any future hookah lounges from setting up.

What are the best practices?

- **Violations/enforcement/penalties:** should be a civil penalty with fines as citations. With no reference to law enforcement and, instead, refers to "enforcement agency."
- **Strong Workplace definitions:** close loopholes and clarify that indoor smoking is prohibited in all places of employment.
- **Exemptions:** remove exemptions which allow indoor smoking in bars, lounges, hotels.
- **Prohibit Smoking in Enclosed & Outdoor Public Places:** including libraries, museums, convention facilities, public transportation, etc.
- **Apply to SF Ordinance City of Dunwoody owned facilities**

Thank you!