

ORDINANCE NO. 7622

AN ORDINANCE TO AMEND THE AUGUSTA, GA CODE, TITLE FOUR, BY ADDING A NEW ARTICLE TO BE DESIGNATED ARTICLE 7 AND NEW SECTIONS TO BE DESIGNATED SECTIONS 4-2-77 THROUGH 4-2-97; TO REPEAL AUGUSTA, GA CODE TITLE FOUR, SECTION 4-2-1; TO RESTRICT SMOKING AND THE USE OF E-CIGARETTES IN PUBLIC PLACES AND IN PLACES OF PUBLIC ACCOMMODATION; TO REPEAL ALL CODE SECTIONS AND ORDINANCES AND PARTS OF CODE SECTIONS AND ORDINANCES IN CONFLICT HEREWITH; TO PROVIDE AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

Whereas, secondhand smoke kills approximately 1,500 Georgia citizens every year; and

Whereas, 21% of adults in Augusta are still exposed to secondhand smoke at work; and

Whereas, Richmond County ranks 124 out of 159 Georgia counties in health; and

Whereas, according to the Economic Impact Evaluation of the 2010 Savannah Smoke-Free Air Ordinance by the Chronic Disease, Healthy Behavior and Injury Epidemiology Section and the Georgia Tobacco Use Prevention Program of the Georgia Department of Public Health, there was a 94% decrease in indoor air pollution after 1 year and no impact on taxable sales revenue for bars and full-service restaurants after adjusting for time, seasonality, etc; and

Whereas, 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; and

Whereas, 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; and

Whereas, 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; and

Whereas, The Public Health Service's National Toxicology Program (NTP) has listed secondhand smoke as a known carcinogen; and

Whereas, 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; and

Whereas, 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, and

Whereas, 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; and

Whereas, 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. 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; and

Whereas, 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; and

Whereas, unregulated high-tech 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 nicotine created by heat through an electronic ignition system. After testing a number of electronic cigarettes from two leading manufacturers, the Food and Drug Administration (FDA) determined that various samples tested contained not only nicotine but also detectable levels of known carcinogens and toxic chemicals, including tobacco-specific nitrosamines and diethylene glycol, a toxic chemical used in antifreeze. The FDA’s testing also suggested that “quality control processes used to manufacture these products are inconsistent or non-existent.” According to a more recent study, electronic cigarette emissions are made up of a high concentration of ultrafine particles, and the particle concentration is higher than in conventional tobacco cigarette smoke. Electronic cigarettes produce an aerosol or vapor of undetermined and potentially harmful substances, which may appear similar to the smoke emitted by traditional tobacco products. 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) recommends that electronic smoking devices not be used indoors, especially 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; and

Whereas, 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, and

Whereas, 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; and

Whereas, there is no legal or constitutional “right to smoke.” 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, and

Whereas, smoking is a potential cause of fires; cigarette and cigar burns and ash stains on merchandise and fixtures causes economic damage to businesses; and

Whereas, the smoking of tobacco, hookahs, or marijuana and the use of electronic cigarettes are forms of air pollution and constitute both a danger to health and a material public nuisance; and

Accordingly, the Augusta, Georgia consolidated government finds and declares that the purposes of this ordinance are (1) to protect the public health and welfare by prohibiting smoking in certain 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.

THE AUGUSTA, GEORGIA COMMISSION ordains as follows:

SECTION 1. AUGUSTA, GA CODE, Title 4, Section 4-2-1 as set forth in the AUGUSTA, GA CODE, re-adopted July 10, 2007, is hereby amended by striking this section in its entirety as set forth in "Exhibit A" hereto. Section 4-2-1 shall be reserved.

SECTION 2. AUGUSTA, GA CODE, Title 4, is hereby amended to add new article to be designated Article 7 and new sections to be designated Sections 4-2-77 through 4-2-97 as set forth in "Exhibit B" hereto.

SECTION 3. This ordinance shall be effective January 1, 2019 after its adoption in accordance with applicable laws.

SECTION 4. All ordinances, parts of ordinances, policies, and procedures concerning events held on public property in conflict herewith are hereby repealed.

Adopted this 19th day of June, 2018.



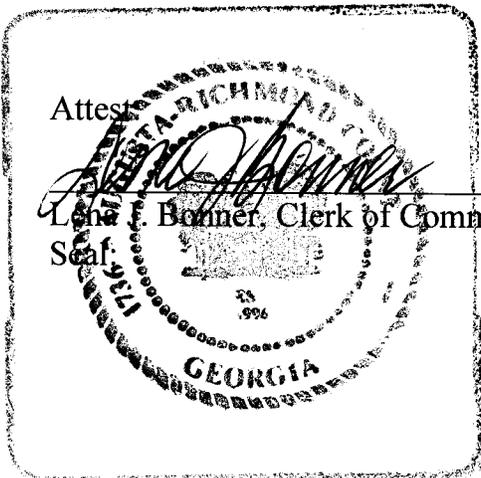
Hardie Davis, Jr.
As its Mayor

NGM
6/17/18

Attest:


Lena E. Bonner, Clerk of Commission

Seal:



CERTIFICATION

The undersigned Clerk of Commission, Lena J. Bonner, hereby certifies that the foregoing Ordinance was duly adopted by the Augusta, Georgia Commission on _____, 2018 and that such Ordinance has not been modified or rescinded as of the date hereof and the undersigned further certifies that attached hereto is a true copy of the Ordinance which was approved and adopted in the foregoing meeting(s).

Lena J. Bonner, Clerk of Commission

Published in the Augusta Chronicle.

Date: _____

First Reading June 5, 2018

Second Reading June 19, 2018

Exhibit A

STRIKE:

~~Sec. 4-2-1. Smoking prohibited in Augusta-Richmond County buildings.~~

~~(a) Definitions. For purposes of this section, the following definitions shall apply:~~

~~(1) *Public building.* Any enclosed building, structure or indoor facility owned, operated, leased or managed by Augusta-Richmond County which is used by or open to the public, including without limitation, public transportation, enclosed areas occupied by Augusta-Richmond County staff, open office areas, shared offices, private offices, hallways, restrooms, escalators, elevators, stairways, lobbies, reception and waiting rooms, classrooms, meeting or conference rooms and auditoriums, on-site cafeterias, lunchrooms, lounges and any facility, school or educational institution being used by Augusta-Richmond County for the purpose of providing classroom instruction.~~

~~(2) *Smoking.* Inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe, weed, plant or other combustible substance in any manner or in any form.~~

~~(b) No person shall smoke in any public building as defined in this section.~~

~~(c) Nothing in this section shall be deemed, interpreted, or construed to permit smoking in any public place or area where smoking is prohibited or restricted by other applicable law.~~

~~(d) No Smoking signs with letters of not less than one (1) inch in height shall be conspicuously posted in every building, structure or facility where smoking is prohibited by this section by the operator, manager or other person having control of such building, structure, facility or other place.~~

~~(e) If any provision of this section or the application thereof to any person or circumstances are held to be invalid, such invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provisions or application, and to this end, the provisions of this ordinance are severable.~~

~~(f) Any person or persons failing to comply with the lawful provisions hereof or doing any act prohibited hereby or failing to do any act mandated hereby shall be guilty of an offense, and upon trial as a misdemeanor and conviction shall be subject to the penalties provided by section 1-6-1.~~

REPLACE WITH:

Sec. 4-2-1. Reserved.

Exhibit B

ADD NEW:

ARTICLE 7. Smoking prohibitions in public places and places of employment.

Sec. 4-2-77. Purpose of Smoking Ordinance.

The purposes of this ordinance are (1) to protect the public health and welfare by prohibiting smoking and e-cigarettes in enclosed public places and enclosed places of employment; and (2) to support 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 in enclosed public places.

Sec. 4-2-78. Definitions.

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

- A. “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.
- B. “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.
- C. “E-cigarette” means any electronic oral device, such as one composed of a heating element, battery, and/or electronic circuit, which provides a vapor of nicotine or any other legal substances, and the use or inhalation of which simulates smoking. The term shall include any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, vape pen, or under any other product name or description.

- D. “Employee” means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and a person who volunteers his or her services for a non-profit entity.
- E. “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.
- F. “Enclosed Area” Enclosed area means all space between a floor and ceiling that is bounded on all 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.
- G. “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.
- H. “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.
- I. “Hookah Bar” or “Hookah Lounge” means an establishment that derives more than eighty (80) percent of its quarterly gross revenue from the sale of shisha for consumption on the premises by customers and the sale of accessories used for smoking shisha. A hookah lounge does not allow individuals under the age of eighteen (18) to enter the premises, and does not have a permit or license to sell alcoholic beverages, but may serve food and nonalcoholic beverages for consumption on the premises by customers.
- J. “Place of Employment” means an area under the control of a public or private employer, including, but not limited to, work areas, private offices, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee

cafeterias, hallways, construction sites, temporary offices, and vehicles. A private residence is not a “place of employment” unless it is used as a child care, adult day care, or health care facility.

- K. “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 Augusta, Georgia owned grounds.
- L. “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.
- M. “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.
- N. “Public building” Any enclosed building, structure or indoor facility owned, operated, leased or managed by Augusta, Georgia which is used by or open to the public, including without limitation, public transportation, enclosed areas occupied by Augusta, Georgia staff, open office areas, shared offices, private offices, hallways, restrooms, escalators, elevators, stairways, lobbies, reception and waiting rooms, classrooms, meeting or conference rooms and auditoriums, on-site cafeterias, lunchrooms and lounges.
- O. “Public Place” means an area to which the public is invited or in which the public is permitted, including but not limited to, all public buildings, banks, bars, educational facilities, gaming facilities, health care facilities, hotels and

motels, laundromats, public transportation vehicles and facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A private residence is not a “public place” unless it is used as a child care, adult day care, or health care facility.

- P. “Recreational Area” means any public or private area open to the public for recreational purposes, whether or not any fee for admission is charged, including but not limited to, amusement parks, athletic fields, beaches, fairgrounds, gardens, golf courses open to the public, parks, plazas, skate parks, swimming pools, trails, and zoos.
- Q. “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” shall include a bar area within the restaurant.
- R. “Service Line” means an 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.
- S. “Shopping Mall” means an enclosed public walkway or hall area that serves to connect retail or professional establishments.
- T. “Smoking” means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or in any form. “Smoking” also includes the use of an e-cigarette 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.

- U. “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.
- V. “Reasonable distance” means a distance that is sufficient to ensure indoor areas remain smoke-free by preventing smoke from infiltrating enclosed public places via any entrance, exit, window, vent, or air intake system of a building where smoking is prohibited, and to protect persons entering or exiting enclosed areas from involuntarily inhaling second-hand smoke.

Sec. 4-2-79. Application of Article to Augusta, Georgia Owned Public Buildings, Facilities and Property.

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

Sec. 4-2-80. Prohibition of Smoking in Enclosed Public Buildings and Public Places.

Except as otherwise provided, Smoking and e-cigarettes shall be prohibited in all enclosed public places, and within a reasonable distance of such places, within Augusta, Georgia 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. Gaming 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, both enclosed and semi-enclosed.
- N. Polling places.
- O. Public transportation vehicles, including buses and taxicabs, owned by or under the authority of Augusta, Georgia, and ticket, boarding, and waiting areas of 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.
- S. Rooms, chambers, places of meeting or public assembly, under the control of an agency, board, commission, committee or council of Augusta, Georgia, to the extent the place is subject to the jurisdiction of Augusta, Georgia.

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. 4-2-81. Prohibition of Smoking in Enclosed Places of Employment.

A. Except as otherwise provided in Sec. 4-2-84, smoking and e-cigarettes shall be prohibited in all enclosed areas of places of employment and a reasonable distance of such places. 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. 4-2-82. Prohibition of Smoking in Enclosed Residential Facilities.

Smoking shall be prohibited in the following enclosed residential facilities and within a reasonable distance of such places:

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

B. At least 80 percent of hotel and motel rooms that are rented to guests.

Sec. 4-2-83. No Prohibition of Smoking in Outdoor Public Places.

Smoking and e-cigarettes shall not be prohibited in outdoor places, except within a reasonable distance of outside entrances, operable windows, and ventilation systems

of enclosed areas where smoking and e-cigarettes are prohibited, so as to prevent tobacco smoke or vapor from entering those areas.

Sec. 4-2-84. Where Smoking Not Regulated.

- A. Notwithstanding any other provision of this Article to the contrary, smoking and e-cigarettes shall not be prohibited in private residences, unless used as a childcare, adult day care, or health care facility.
- B. Except as otherwise provided in this article, smoking and e-cigarettes shall not be prohibited in private vehicles.
- C. Areas within the geographical confines of Augusta, Georgia wherein the Board of Commissioners of Augusta, Georgia does not have jurisdiction, including property belonging to the City of Hephzibah, the City of Blythe, the State of Georgia and the federal government.
- D. Hookah Bars and Lounges in existence as of the date of adoption of this section and which permit waterpipe smoking on the premises as of the date of the adoption of this section.
- E. Retail Electronic Smoking device stores in existence as of the date of the adoption of this section and which permit electronic device usage as of the date of the adoption of this section.

Sec. 4-2-85. 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 entire establishment, facility, or outdoor area as a nonsmoking place. Smoking and e-cigarettes shall be prohibited in any place in which a sign conforming to the requirements of Section 4-2-86(A) is posted.

Sec. 4-2-86. Posting of Signs and Removal of Ashtrays.

The owner, operator, manager, or other person in control of a public place or place of employment where smoking and e-cigarettes are prohibited by this Article should:

- 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.
- 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.

Sec. 4-2-87. Nonretaliation; Nonwaiver of Rights.

- A. No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, customer, 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 4-2-91, violation of this Subsection shall be a misdemeanor, and upon conviction shall be subject to the penalties provided by section 1-6-1 for each violation.
- B. An employee who works in a setting where an employer allows smoking and e-cigarettes does not waive or otherwise surrender any legal rights the employee may have against the employer or any other party.

Sec. 4-2-88. Enforcement.

- A. This Article shall be enforced by the Augusta, Georgia Planning and Development Department Director or an authorized designee or any law enforcement officer of the Office of the Sheriff.
- B. Notice of the provisions of this Article shall be given to all applicants for a business license in Augusta, Georgia.
- C. Any citizen who desires to register a complaint under this Article may initiate enforcement with the Augusta, Georgia Planning and Development Department or any law enforcement officer of the Office of the Sheriff.
- 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 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 a law enforcement agency. The obligations of an owner, manager, operator, or employee under this sub-section shall only apply where the owner, manager, operator, or employee has knowledge of a smoking violation.
- 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 Department of Health, the Augusta, Georgia Administrator, the Planning and Development Department Director 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.

Sec. 4-2-89. Violations and Penalties.

- A. A person who smokes or uses an e-cigarette in an area where smoking and e-cigarettes are prohibited by the provisions of this Article shall be guilty of an infraction, punishable by a fine not exceeding fifty dollars (\$50).
- B. Except as otherwise provided in Section 4-2-89(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. Violation of this Article is hereby declared to be a public nuisance, which may be abated by the Planning and Development Department Director by restraining order, preliminary and permanent injunction, or other means provided for by law, and Augusta, Georgia may take action to recover the costs of the nuisance abatement, including attorney's fees.
- E. Each day on which a violation of this Article occurs shall be considered a separate and distinct violation.

Sec. 4-2-90. Public Education.

Department of Health 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.

Sec. 4-2-91. Governmental Agency Cooperation.

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

Sec. 4-2-92. Other Applicable Laws.

This Article shall not be interpreted or construed to permit smoking or the use of e-cigarettes where it is otherwise restricted by other applicable laws.

Sec. 4-2-93. Liberal Construction.

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

Sec. 4-2-94. 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.