

**ENROLLED ORDINANCE
NO. 2014-08**

INTRODUCED BY COMMISSIONER MILLER, SUPPORTED BY COMMISSIONER MOCERI.

AN ORDINANCE TO ALLOW SMOKING NEAR COUNTY FACILITIES ONLY IN DESIGNATED SMOKING AREAS, TO PROVIDE PENALTIES, AND TO REPEAL ORDINANCE NO. 2013-1.

SECTION 1. PURPOSE.

A. Tobacco use is the single most preventable cause of death and disease in the United States, leading to more deaths than most other leading causes combined. While it is certainly a nuisance to many, secondhand smoke contains many harmful chemicals and cancer-causing agents, is a serious human health risk, and can trigger debilitating and even life threatening conditions for those suffering from asthma or other chronic lung disease.

B. 2010 PA 188, as amended, MCL 333.12601 – 333.12616 (“Act 188”) prohibits smoking in public places, including areas owned or operated by local governmental agencies and used by the public or serving as a meeting place for public bodies.

C. Macomb County has a history of proactively addressing smoking in a manner to protect staff and the general public from the adverse effects of secondhand smoke, including at least the following policies.

(i) No Smoking Policy – Addendum C (dated 4/26/1990) – Authorizes signs in all county facilities indicating that no smoking is allowed except in areas designated by the Director of Facilities and Operations Department.

(ii) A policy (dated December 19, 1991) – Prohibits smoking in all Health Services buildings; Southwest Satellite, Southeast Health Center, Central Health Services Building (Mt. Clemens), Animal Shelter, and Adolescent Health Programs (New Haven and Fitzgerald High School).

(iii) A policy (dated November 20, 1997) – Adopts an amended No Smoking Policy, effective January 1, 1998, exempting Freedom Hill Independence Hall only when facility is rented to a private function.

D. While Act 188 prohibits smoking inside public places, including County-owned facilities, smoking near entryways, exits, open windows, and air intakes outside County-owned facilities may still lead to secondhand smoke exposure for County employees and visitors both inside and outside County-owned facilities.

E. Accordingly, this Ordinance is intended to extend protections against secondhand smoke in order to protect and enhance the public health, safety, and general welfare.

SECTION 2. DEFINITIONS. The following definitions shall apply to this ordinance:

- A. "County" means the Charter County of Macomb, Michigan.
- B. "County Executive" means the person holding the office of County Executive under the Home Rule Charter of the County and his or her designee.
- C. "County facility" means any building owned or operated by the County for use for offices, courts, meetings, recreation and other uses, but does not include the Martha T. Berry Medical Care Facility which is operated by a County agency having separate oversight by the Social Services Board.
- D. "County Sheriff" means the person hold the office of County Sheriff under the laws of the state of Michigan and the Home Rule Charter of the County and his or her deputies and other designees.
- E. "Smoking" or "smoke" means the burning of a lighted cigar, cigarette, pipe, or any other matter or substance that contains any tobacco product.
- F. "Tobacco product" means a product that contains tobacco and is intended for human consumption, including, but not limited to, cigarettes, non-cigarette smoking tobacco, and cigars.

SECTION 3. SMOKING PERMITTED ONLY IN DESIGNATED AREAS.

- A. Smoking is prohibited inside all County facilities.
- B. Smoking is permitted on County-owned or occupied real property outside County facilities only in smoking areas designated by the County Executive or when the smoke, tobacco products and any waste are fully contained in a privately-owned vehicle.
- C. Persons utilizing designated smoking areas on County-owned or occupied property shall dispose of all trash, all cigarette butts and all smoking waste in the containers provided. Depositing or leaving cigarette butts or other smoking waste on the ground is prohibited.

SECTION 4. DESIGNATION OF SMOKING AREAS.

In designating smoking areas on County owned or occupied property outside of County facilities, the following factors shall be considered.

- A. Smoking areas should be clearly delineated with appropriate signage. That signage may advise users of designated smoking areas of the need to keep it in a clean condition and of possible penalties for violating this ordinance.

- B. Smoking areas should be located at a sufficient distance from windows, air intakes and other building openings in County facilities so that no smoke generated within the smoking area can get into the County facility.
- C. Smoking areas should be located at a sufficient distance from County facility entrances and exits and from pathways leading to them so that those entering and exiting County facilities will not encounter smoke generated within the smoking area.
- D. Smoking area should be located so those using them will not impede or be at risk from vehicular or pedestrian traffic.
- E. Smoking areas should be spacious enough to accommodate a reasonable number of users at any given time.
- F. Smoking areas should be equipped with sufficient trash containers and containers for disposing of cigarette butts and other smoking waste to avoid any litter.
- G. Smoking areas should be laid out in a way that eases routine removal of trash and other maintenance.

SECTION 5. OTHER APPLICABLE LAWS.

Nothing in this ordinance shall be construed to permit smoking where otherwise prohibited by County policy or state law.

SECTION 6. ENFORCEMENT AND PENALTIES.

- A. The County Sheriff and the County Executive are authorized to enforce this ordinance.
- B. Any person who violates any provision of this ordinance shall be guilty of a municipal civil infraction punishable by a fine in an amount of not less than \$100 for a first offense, \$250 for a second offense, and \$500 for any third or subsequent offense within a 12-month period, or in such higher amounts as may from time to time be established by resolution of the Commission. Contested hearings under this section before the district court may be conducted as an informal hearing and as a formal hearing, as may be applicable, as provided by the Revised Judicature Act, 1961 PA 236, as amended, MCL 600.101 *et seq.*

SECTION 7. REPEAL.

Ordinance No. 2013-1, entitled “An Ordinance to Prohibit Smoking Near Entryways, Exits, Windows Capable of Being Opened, and Air Intake Systems at County Facilities and to Provide Penalties,” is repealed in its entirety.

SECTION 8. PUBLICATION AND EFFECTIVE DATE.

The Clerk shall publish this ordinance 60 days after its adoption. This ordinance shall take effect 10 days after its publication.



David Flynn, Commission Chair

Carmella Sabaugh, County Clerk

Adopted: July 31, 2014

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