AN ORDINANCE REGULATING SMOKING IN PUBLIC PLACES
IN THE UNINCORPORATED AREA OF SOLANO COUNTY AND
WITHIN CERTAIN COUNTY BUILDINGS AND FACILITIES

The Board of Supervisors of the County of Solano does ordain as
follows:

SECTION I.

Chapter 13.3 is added to the Solano County Code, to read as
follows:

CHAPTER 13.3

Regulation of Smoking

Section 13.3-100. Purpose and Findings.

The Board of Supervisors of Solano County, does hereby find
that:

1) Numerous studies have found that tobacco smoke is a
major contributor to indoor air pollution; and

2) Reliable studies have shown that breathing sidestream
or secondhand smoke is a significant health hazard for certain
population groups, including elderly people, individuals with
cardiovascular disease, and individuals with impaired
respiratory function, including asthmatics and those with
obstructive airway disease; and

3) Health hazards induced by breathing sidestream or
secondhand smoke include lung cancer, respiratory infection,
decreased exercise tolerance, decreased respiratory function,
bronchoconstriction, and bronchospasm; and

4) Non-smokers with allergies, respiratory diseases and
those who suffer other ill effects of breathing sidestream or
secondhand smoke may experience a loss of job productivity or
may be forced to tax periodic sick leave because of adverse
reactions to same; and

5) The smoking of tobacco, or any other weed or plant,
is a proven danger to health.
Accordingly, it has been determined that the health, safety and general welfare of the residents of, persons employed in, and persons who frequent this County would be benefited by the regulation of smoking in designated enclosed places, including places of employment.

**Section 13.3-101. Definitions.**

The following words and phrases, whenever used in this Chapter shall be construed as hereafter set out, unless it shall be apparent from the context that they have a different meaning.

a) "Bar" means an area which is devoted to the serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages.

b) "County" means the unincorporated areas of the County of Solano, and all enclosed facilities owned by the County wherein county governmental functions are performed.

c) "Employee" means any person who is employed by any employer in consideration for direct or indirect monetary wages or profit.

d) "Employer" means any person, partnership, corporation, association, organization, or public entity, including the County of Solano, who employs the services of more than three (3) persons.

e) "Enclosed" means closed in by roof, walls and doors.

f) "Place of Employment" means any enclosed area under the control of a public or private employer which employee normally frequents during the course of employment, including but not limited to, work areas, employee lounges, conference rooms and employee cafeterias. A private residence is not a place of employment unless it is used as a child care or a health care facility. The dining area of a restaurant is not a "place of employment."

g) "Restaurant" means a restaurant, coffee shop, snack-bar, cafeteria, or similar establishment.

h) "Smoking" means the carrying or holding of a lighted pipe, cigar, or cigarette of any kind, or any other lighted smoking equipment or the lighting or emitting or exhaling the smoke of a pipe, cigar, or cigarette of any kind.

i) "Sports Arena" means any indoor sports pavilion, gymnasium, health spa, boxing arena, swimming pool, roller and
ice rink, bowling alley, and other similar place where members of the public assemble to engage in physical exercise, participate in athletic competition or witness sports events.

Section 13.3-102. Prohibition of Smoking in Designated Enclosed Places.

Smoking shall be prohibited in the following places within the County:

a) All enclosed areas available to and customarily used by the general public and all businesses patronized by the public, including, but not limited to, retail stores, hotels and motels, pharmacies, banks, and professional and other offices.

b) Within all restaurants having an occupied capacity of 50 or more persons, provided, however, that this prohibition shall not prevent (a) the designation of a flexible contiguous area within a restaurant that contains no more than 50% of the seating capacity of the restaurant as a smoking area, or (2) the provision of separate rooms designated as smoking rooms, so long as said rooms do not contain more than 50% of the seating capacity of the restaurant.

c) Waiting rooms, hallways, wards, and semi-private rooms of health facilities, including, but not limited to, hospitals, clinics, physical therapy facilities, and doctors' and dentists' offices, except that health facilities shall also be subject to the provisions of Section 13.3-104 of this Chapter regulating smoking in places of employment.

d) Elevators, public restrooms, indoor service lines, buses, taxi cabs and other means of public transit under the authority of the County while within the boundaries of the County, and in ticket, boarding, and waiting areas of public transit depots; provided, however, that this prohibition does not prevent (a) establishment separate waiting areas for smokers and non-smokers, or (2) establishment at least 50% of a given waiting area as a non-smoking area.

e) Public areas of museums and galleries.

f) Enclosed theaters, auditoriums, and halls which are used for motion pictures, stage productions, and musical performances, ballets or other exhibitions, except when smoking is part of any such production.

g) Retail food marketing establishments, including grocery stores and supermarkets, except those areas of such establishments set aside for the purpose of serving food and drink, restrooms and offices, and areas thereof not open to the public, which may be otherwise regulated by this Chapter.
h) Public schools and colleges and other public facilities under the control of a public agency including the County of Solano, which are available to and are customarily used by the general public, to the extent that the same are subject to the jurisdiction of the County.

i) Sports arenas and convention halls, except in designated smoking areas.

j) Notwithstanding any other provision of this section, any owner, operator, manager or other person who controls any establishment described in this section may declare that entire establishment as a non-smoking establishment.

Section 13.3-103. Regulation of Smoking in Places of Employment.

(a) It shall be the responsibility of employers to provide smoke-free areas for nonsmokers within existing facilities to the maximum extent possible, but employers are not required to incur any expense to make structural or other physical modifications in providing these areas.

(b) Within 90 days of the effective date of this Chapter, each employer and each place of employment located within the County shall adopt, implement, make known and maintain a written smoking policy, which shall contain at a minimum the following requirements:

1. Prohibition of smoking in conference and meeting rooms, restrooms, medical facilities, hallways and elevators.

2. Any employee in a place of employment shall be given the right to designate his or her immediate work area as a non-smoking area and to post the same with an appropriate sign or signs, to be provided by the employer. The policy adopted by the employer shall include a reasonable definition of the term, "immediate work area."

3. Provision and maintenance of a separate and contiguous non-smoking area of not less than 50% of the seating capacity and floor space in cafeterias, lunchrooms and employee lounges.

(c) The smoking policy shall be communicated to all employees within three weeks of its adoption, and at least annually thereafter.

(d) In any dispute arising under the smoking policy, the rights of the non-smoker shall be given precedence.

(e) Notwithstanding the provisions of Subsections (a) and (b) of this section, every employer shall have the right to designate any place of employment, or portion thereof, as a non-smoking area.
Section 13.3-104. Smoking – Permitted Areas.

Notwithstanding any other provisions of this Chapter to the contrary, the following areas shall not be subject to the smoking restrictions of this Chapter:

a) Private residences;
b) Bars;
c) Hotels and motel rooms rented to guests;
d) Retail stores that deal exclusively in the sale of tobacco and smoking paraphernalia;
e) Restaurants, hotels and motel conference or meeting rooms, and public and private assembly rooms while these places are being used for private functions;
f) A private residence which may serve as a place of employment except when used as a child care or a health care facility. Board and care facilities shall provide smoke-free living quarters for non-smoking boarders.
g) A private enclosed place occupied exclusively by smokers, even though such a place may be visited by non-smokers, and a private enclosed office, excepting places in which smoking is prohibited by any fire department, fire district, fire marshal, or similar agency of offices, or by any other law, ordinance or regulation.
h) Hallways, waiting rooms, and similar areas intended primarily for public use within the Solano County Hall of Justice in Fairfield and the Solano County Justice Building in Vallejo which have been specifically designated as smoking-permitted areas by order of the County Administrator.

Section 13.3-105. Posting Requirements.

"Smoking" or "No Smoking" signs, whichever are appropriate, with letters of not less than 1" in height 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, sufficiently and conspicuously posted in every building or other place where smoking is controlled by this Chapter, by the owner, operator, manager or other person having control of such building or other place.

Every restaurant regulated by this Chapter will have posted at its entrance a sign clearly stating that a non-smoking section is
available, and when a host or hostess is provided by such res-
taurant, every patron shall be asked as to his or her preference.

Section 13.3-106. Enforcement.

(a) Enforcement shall be implemented by the Solano County
Department of Environmental Health or his designee, which shall
receive complaints from citizens who desire to register a complaint
hereunder and to initiate enforcement.

(b) Any owner, manager, operator or employer of any establish-
ment controlled by this Chapter shall have the right to inform
persons violating this Chapter of the appropriate provisions
thereof.

Section 13.3-107. Penalties.

(a) It shall be unlawful for any person who owns, manages,
operates or otherwise controls the use of any premises subject to
the restrictions of this article to fail to: property post signs
required hereunder; to provide signs for the use of employees in
designating their areas; to properly set aside "No Smoking" areas;
to adopt a smoking restriction policy; or to comply with any other
requirements of this Chapter.

(b) It shall be unlawful for any person to smoke in any "No
Smoking" area designated by or under the authority of this Chapter.

(c) Any person/business who violates Subsections (a) or (b)
herein, or any other provisions of this Chapter, shall be guilty of
an infraction, punishable by:

1) A fine, not exceeding $100, for a first violation;

2) A fine, not exceeding $200, for a second violation of
this Chapter within one year;

3) A fine, not exceeding $500, for each additional
violation of this Chapter within one year.

Section 13.3-108. Nonretaliation.

No person or employer shall discharge, refuse to hire, or in
any manner, retaliate or discriminate against any employee or
applicant for employment because such employee or applicant
exercises any rights afforded by this Chapter.

Section 13.3-109. Other Applicable Laws.

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

If any provision or clause of this Ordinance or the application thereof to any person or circumstances held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other Ordinance provisions or clauses or applications thereof which can be implemented without the invalid provisions or clause or application, and to this end the provisions and clauses of this Ordinance are declared to be severable.

SECTION III.

This Ordinance shall be published once before the expiration of FIFTEEN (15) DAYS after its final passage in the Daily Republic, a newspaper of general circulation, printed and published in Solano County, State of California, and shall be in full force and effect THIRTY (30) DAYS after its passage.

OSBY DAVIS, Chairman
Board of Supervisors

ATTEST:

LINDA TERRA, Clerk of the Board of Supervisors

I, LINDA TERRA, Clerk of the Board of Supervisors, County of Solano, State of California, do hereby certify that the foregoing Ordinance was regularly introduced, passed and adopted by said Board at a regular meeting held May 19, 1987, on Motion of Supervisor Caddle, Seconded by Supervisor Brann, by the following vote:

AYES: SUPERVISORS Brann, Caddle and Chairman Davis

NOES: SUPERVISORS Pippo and Sturn

ABSTAINED: SUPERVISORS None

ABSENT: SUPERVISORS None

WITNESS my hand and Seal of said Board this 19th day of May, 1987.

LINDA TERRA, Clerk of the Board of Supervisors