

# City of Philadelphia



(Bill No. 060583)

## AN ORDINANCE

Amending Chapter 10-600 of The Philadelphia Code, entitled "Public Places -- Prohibited Conduct," by prohibiting smoking in public places and in the workplace, and providing for penalties, all under certain terms and conditions.

*THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:*

**SECTION 1.** Chapter 10-600 of The Philadelphia Code is hereby amended to read as follows:

### CHAPTER 10-600. PUBLIC PLACES - PROHIBITED CONDUCT.

\* \* \*

§10-602. Smoking.

\* \* \*

#### (2) Definitions.

(a) "Drinking Establishment." Any Food or Beverage Establishment whose on-site sales of food for consumption on the premises comprises no more than [10%] 20% of gross sales of both food, non-alcoholic and alcoholic beverages on an annual basis, or on such other basis as the Department of Licenses and Inspections shall by regulation provide with respect to such establishments that have been open for less than one full year.

\* \* \*

(e) "Private Club." Any reputable group of individuals associated together as [a not-for-profit] an organization for legitimate purposes of mutual benefit, entertainment, fellowship or lawful convenience which regularly and exclusively occupies, as owner or lessee, a clubhouse or quarters for the use of its members; and, which holds regular meetings, conducts its business through officers regularly elected, admits members by written application, investigation and ballot, and charges and collects dues from elected members. The club shall either be incorporated or, if unincorporated, provide proof of its continuous existence for the past ten years in a manner deemed sufficient by the Department of Health.

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(3) Smoking Prohibited.

(a) Beginning on [January 9, 2006] *January 8, 2007*, no person shall smoke in any of the following places, except as provided in subsection 10-602(3)(b):

\* \* \*

*(.8) At any sidewalk café licensed under Section 9-208 or otherwise permitted by special ordinance, or any outdoor deck, patio or similar outdoor service area which is part of a Food or Beverage Establishment.*

\* \* \*

(b) Exceptions. The provisions of subsection 10-602(3)(a) shall not apply:

\* \* \*

(.2) In a Specialty Tobacco Establishment, including any such establishment located within an establishment or facility as defined by subsection 10-602(2)(c) or (g); [provided that, such Specialty Tobacco Establishment was in legal operation and had a valid business privilege license on the effective date of the Ordinance.]

\* \* \*

[(.4) At any sidewalk café licensed under Section 9-208 or otherwise permitted by special ordinance, or any outdoor deck, patio or similar outdoor service area which is part of a Food or Beverage Establishment.]

[(.5)] (.4) In a Private Club provided that all of the following conditions are satisfied:

\* \* \*

[(.6)] (.5) In a Drinking Establishment provided that all of the following conditions are satisfied:

(i) the Drinking Establishment is in legal operation and has a valid certificate of occupancy and business privilege license on the effective date of the Ordinance that added this subsection to The Philadelphia Code;

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(ii) the Drinking Establishment applies for a waiver from the Health Department within ninety (90) days of the effective date of the Ordinance that added this subsection to The Philadelphia Code;

(iii) all employees of the Drinking Establishment are notified in writing at least one week in advance of such application for a waiver and the owner certifies in writing as part of the waiver request that such notice was provided to all employees;

(iv) prior to receipt of a waiver, the Drinking Establishment is not delinquent on the payment of any City or School District taxes, charges, fees, rents or claims, unless such establishment has entered into an agreement to pay any such delinquency and is abiding by the terms of such agreement; and prior to the receipt of a waiver, the Drinking Establishment has no Philadelphia Code violations, and has all required zoning approvals, licenses and permits;

(v) the owner must provide the previous tax year's receipts, expenses and revenue figures in such manner as prescribed by the Department of Revenue so as to verify the food and alcohol ratio to qualify for the waiver[, and the owner must agree to be subject to an audit by the Department of Revenue for purposes of monitoring compliance with this waiver];

(vi) the Drinking Establishment agrees to notify the Health Department in writing immediately of any changes in the operation of the Drinking Establishment, or of any revocation or transfer of a liquor license owned by the Drinking Establishment that would result in revocation of the waiver;

(vii) any such waiver is automatically revoked and cannot be renewed if there is a change in the operation of the facility such that it no longer qualifies as a Drinking Establishment, or if any liquor license owned by the Drinking Establishment is revoked or transferred to a new location[; and].

[(viii) any such waiver shall expire on January 7, 2008.]

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**Explanation:**

[Brackets] indicate matter deleted.  
*Italics* indicate new matter added.

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on November 30, 2006. The Bill was Signed by the Mayor on December 14, 2006.



Patricia Rafferty  
Chief Clerk of the City Council