

**City of Tyler
Smoking Ordinance
Frequently Asked Questions**

Question 1

Why did the City of Tyler decide to prohibit smoking in public places and in places of employment?

Answer 1

In 2006, the U.S. Surgeon General released a report detailing the harmful effects of secondhand smoke, even at very small exposure levels. The intent of the new ordinance is to improve and protect the public's health by expanding upon the previous partial smoking ban adopted in 1987 by now eliminating smoking in public places and places of employment. Overwhelming public input was received from the community in support of a stricter ordinance.

Question 2

If I witness a violation of the smoking ordinance, how do I report it?

Answer 2

The new ordinance does not go into effect until June 1, 2008, so no enforcement action will be taken prior to this date. Information about how to report a violation will be widely distributed in the next 30 days.

Question 3

If my business is exempt, do I have to allow smoking?

Answer 3

No. Any business can be smoke free simply by posting a no smoking sign.

Question 4

What steps should I take as a business owner to comply with the ordinance?

Answer 4

Educate your employees about the ordinance. You are required to post a copy of section 4-43 of the new ordinance in your place of business. Copies will be made available by the City prior to the June 1, 2008 effective date. Section 4-47 also requires that you shall have a conspicuously posted sign clearly stating NO SMOKING or displaying the international No Smoking symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with red bar across it). The signs shall have bold lettering of not less than one (1) inch in height and must be posted at each entrance and within the building or other areas where smoking is prohibited.

In addition, ashtrays and other smoking paraphernalia shall be limited in facilities to that required for the enforcement of extinguishing of smoking materials in Public Places and Places of Employment.

The new ordinance does not go into effect until June 1, 2008, so no enforcement action will be taken prior to this date. Information about how to report a violation will be widely distributed in the next 30 days.

After June 1, 2008, notify any person violating the provisions of the ordinance that your business is a smoke-free establishment. If the action does not cease, contact the City of Tyler in accordance with the information that will be distributed before the effective date.

Question 5

If I do not post signage or comply with the provisions of the ordinance within my business, what will happen?

Answer:

You may be issued a citation for violating the smoking ordinance and you may be punished by a fine of up to \$300 under Sec. 4-50c of the ordinance. A second offense may be punished by a fine not to exceed \$500.

Question 6

Must I have all of the required signage in place before I am allowed to open a new business?

Answer 6

Yes. The signage must be in place prior to the issuance of a Certificate of Occupancy that allows a business to open.

Question 7

As a business owner, if I allow an employee or customer to smoke in my business in violation of this ordinance, who could be issued a citation?

Answer 7

Both the business owner and the smoker are in violation of the ordinance and could be issued a citation.

Question 8

Does the 20-foot requirement apply only to the front entrance?

Answer 8

No. The 20-foot distance requirement applies to all entrances, operable windows and ventilation systems of enclosed areas where smoking is prohibited by the ordinance.

Question 9

If my business has a separately ventilated, fully enclosed break room for my smoking employees, may I allow employees to smoke within this room?

Answer 9

No, there is no exemption for break rooms.

Question 10

If my restaurant or bar has an outdoor patio, may I allow smoking in that area?

Answer10

Yes, subject to a 20-foot distance requirement. Patios are included in the definition of “outdoor area” in City Code Section 4-46. The exemption in Section 4-46.e. reads as follows:

Outdoor areas, including outdoor patios, that are adjacent to bars or restaurants and that are served by employees of such bars or restaurants, but which are at least twenty (20) feet from outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited by this Article. For purposes of this subsection, the term “outdoor area” shall mean an outdoor area that does not have a roof, and has at least one side which does not extend to the ceiling or is not solid.

Question 11

Can I extend the 20-foot requirement at my business to 50 feet?

Answer 11

The 20-foot requirement is a minimum. You may extend that distance.

Question 12

May I construct a patio area at my place of business where smoking is permitted?

Answer 12

The exemption for outdoor areas, including outdoor patios, applies to areas served by restaurants and bars only. Under City Code Section 4-46.e., smoking is permitted on open air patio areas that meet the other ordinance requirements including the 20-foot requirement. For information on building permits, contact the City of Tyler Development Services Department at (903) 531-1171.

Question 13

If I am a member of a private organization, can the organization allow smoking?

Answer 13

Yes, IF the private organization meets all of the requirements of section 4-47c, which includes that the organization occupy a building which is used exclusively for that organization's recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and which only sells alcoholic beverages incidental to its operation. Also, that 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. That the organization has established bylaws and/or a constitution to govern its activities and the organization has been granted an exemption from the payment of federal income tax as a non-profit organization under 26 U.S.C. Section 501.

Question 14

May I smoke in my car at City Parks or in the parking lot of public buildings?

Answer 14

Yes. The ordinance does not preclude smoking in private vehicles as long as the smoke does not infiltrate areas where smoking is prohibited. Smoking is not allowed on buses or other public transportation vehicles.

Question 15

Can residents of an apartment complex smoke at the complex's pool area, laundry room, hallways or offices?

Answer 15

Smoking is prohibited in all enclosed public places as well as within 20 feet of all entrances, operational windows and ventilation systems. If the area is open air and does not fall within the 20-foot requirement, then smoking would be permitted.