

CITY COMMISSION AGENDA REQUEST

Date May 6, 1993  
Subject Smoking Policy  
Amount N/A  
Source N/A  
OMB \_\_\_\_\_

- Bid/Contract/Lease
- Change Order
- Budget Transfer/supple. Approp.
- Status Report
- Policy/Discussion
- Other (Specify): \_\_\_\_\_

REQUEST ACTION ON: 05/12/93

**HISTORY:**

The City of Tallahassee's Smoking Policy No. 102 was originally adopted in 1984 in accordance with the City Smoking Ordinance No. 83-0-2239AA, which was adopted the same year. In 1988, the Smoking Policy was revised to establish designated smoking and non-smoking areas. Each building manager was required to submit floor plans indicating smoking and non-smoking areas to bring the City in compliance with Chapter 386 of the Florida State Statute.

**FACTS AND ISSUES:**

The Florida Legislature amended the Florida Clean Indoor Air Act ("Act"), Chapter 386, Part II, Florida Statutes in 1992 to further restrict smoking in public places. (See Attachment A). The more significant amendments to the Act, include:

1. An amendment to the legislative intent to state... "It is the intent of the Legislature to discourage the designation of any area within a government building as a smoking area." Section 386.202
2. An expansion of the definition of "common area" - where smoking must be prohibited - to include any hallway, corridor, lobby, isle, water fountain area, restroom, stairwell, entryway, or conference room at any public place. Section 386.203(6)

**RECOMMENDED ACTION:** Option No. 1 -Approve the proposed revised Smoking Policy designating all buildings owned or leased by the City of Tallahassee as smoke-free facilities.

*Anita R. Fawcett*  
Department Head

*Harold A. Klemm*  
City Manager

**FACTS AND ISSUES** (continued):

The United States Surgeon General has reported that involuntary smoking is a cause of disease, including lung cancer in non-smokers, and the possession of lighted smoking materials in public places is a hazardous to the public health, safety, comfort and convenience of an indoor environment.

Several agencies/buildings have already adopted smoke-free policies. These agencies/buildings include, but are not limited to: Leon County Courthouse, the Department of Education Building, Collins Building, FSU Administration Building, FAMU Administration Building and Leon County School Board Offices (after July 1, 1993 smoking will be prohibited on all School Board property). Agencies outside of the Tallahassee area such as, the City of Jacksonville, and the City of Orlando have also adopted smoke-free policies. Concern has been expressed by both employees and citizens regarding problems with the designated smoking areas in City Hall and City buildings. Furthermore, the City has incurred additional maintenance costs in the past 2 years in an attempt to minimize the impact caused by smoking in City buildings.

In an attempt to conform to the legislative intent of F.S. Chapter 386; and in recognition of the health warnings of the U.S. Surgeon General, it would be the intent of the City to make all buildings owned or leased by the City of Tallahassee smoke-free facilities.

Attachment B represents a complete rewrite of the previous Smoking Policy and attempts to implement the new smoke-free facility policy.

**FISCAL IMPACT:**

None

**OPTIONS:**

1. Approve the proposed Smoking Policy designating all buildings owned or leased by the City of Tallahassee as smoke-free facilities.
2. Approve the proposed Smoking Policy with modifications as directed by the City Commission.
3. Do not approve.

**ATTACHMENTS:**

- A. Florida Statute Chapter 386, Part II - Florida Clean Indoor Air Act.
- B. Proposed Smoking Policy.

**RECOMMENDED ACTION:** Option No. 1 -Approve the proposed revised Smoking Policy designating all buildings owned or leased by the City of Tallahassee as smoke-free facilities.

s. 385.103

s. 385.103

1992 SUPPLEMENT TO FLORIDA STATUTES 1991

s. 386.205

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gram. In establishing the fee schedule, the department or the entity developing the program shall take into account the expenses and resources of a client and his overall ability to pay for the services.

(i) The department shall adopt rules governing the operation of the community health improvement projects. These rules shall include guidelines for intake and enrollment of clients into the projects.

History.—ss. 1, 2, ch. 78-331, s. 5, ch. 82-213, ss. 7, 94, ch. 86-220; s. 3, ch. 92-174.

Note.—Repealed by s. 4, ch. 87-134.

Note.—Substituted by the editors for a reference to s. 20 19(13) to conform to the reorganization of subunits by s. 3, ch. 92-58.

Note.—Former s. 381.606.

**385.201 Cancer control and research.**—[Amended and transferred to s. 240.5121 by s. 41, ch. 92-58.]

## CHAPTER 386

### PARTICULAR CONDITIONS AFFECTING PUBLIC HEALTH

#### PART II

#### INDOOR AIR; TOBACCO SMOKE

- 386.201 Short title.
- 386.202 Legislative intent.
- 386.203 Definitions.
- 386.204 Prohibition.
- 386.205 Designation of smoking areas.
- 386.206 Posting of signs.
- 386.208 Penalties.
- 386.209 Regulation of smoking preempted to state.
- 386.211 Public announcements in mass transportation terminals.

**386.201 Short title.**—This part may be cited as the "Florida Clean Indoor Air Act."  
History.—s. 1, ch. 85-257; s. 1, ch. 92-185.

**386.202 Legislative intent.**—The purpose of this part is to protect the public health, comfort, and environment by creating areas in public places and at public meetings that are reasonably free from tobacco smoke by providing a uniform statewide maximum code. This part shall not be interpreted to require the designation of smoking areas. However, it is the intent of the Legislature to discourage the designation of any area within a government building as a smoking area.  
History.—s. 2, ch. 85-257; s. 2, ch. 92-185.

**386.203 Definitions.**—As used in this part:

- (1) "Public place" means the following enclosed, indoor areas used by the general public:
  - (a) Government buildings;
  - (b) Public means of mass transportation and their associated terminals not subject to federal smoking regulation;
  - (c) Elevators;
  - (d) Hospitals;
  - (e) Nursing homes;
  - (f) Educational facilities;

- (g) Public school buses;
- (h) Libraries;
- (i) Courtrooms;
- (j) Jury waiting and deliberation rooms;
- (k) Museums;
- (l) Theaters;
- (m) Auditoriums;
- (n) Arenas;
- (o) Recreational facilities;
- (p) Restaurants which seat more than 50 persons;
- (q) Retail stores, except a retail store the primary business of which is the sale of tobacco or tobacco related products;
- (r) Grocery stores;
- (s) Places of employment;
- (t) Health care facilities;
- (u) Day care centers; and
- (v) Common areas of retirement homes and condominiums.

(2) "Government building" means any building or any portion of any building owned by or leased to the state or any political subdivision thereof and used for governmental purposes.

(3) "Public meeting" means all meetings open to the public, including meetings of homeowner, condominium, or renter or tenant associations unless such meetings are held in a private residence.

(4) "Smoking" means possession of a lighted cigarette, lighted cigar, lighted pipe, or any other lighted tobacco product.

(5) "Smoking area" means any designated area meeting the requirements of ss. 386.205 and 386.206.

(6) "Common area" means any hallway, corridor, lobby, aisle, water fountain area, restroom, stairwell, entryway, or conference room in any public place.

(7) "Department" means the Department of Health and Rehabilitative Services.

(8) "Division" means the Division of Hotels and Restaurants of the Department of Business Regulation.  
History.—s. 3, ch. 85-257; s. 1, ch. 88-266; s. 3, ch. 92-185.

**386.204 Prohibition.**—A person may not smoke in a public place or at a public meeting except in designated smoking areas. These prohibitions do not apply in cases in which an entire room or hall is used for a private function and seating arrangements are under the control of the sponsor of the function and not of the proprietor or person in charge of the room or hall.  
History.—s. 4, ch. 85-257; s. 4, ch. 92-185.

**386.205 Designation of smoking areas.**—

(1) Smoking areas may be designated by the person in charge of a public place. If a smoking area is designated, existing physical barriers and ventilation systems shall be used to minimize smoke in adjacent nonsmoking areas. This provision shall not be construed to require fixed structural or other physical modifications in providing these areas or to require operation of any existing heating, ventilating, and air conditioning system (HVAC system) in any manner which decreases its energy efficiency or increases its electrical demand, or both, nor shall this provision be construed to require installation of new or additional HVAC systems.

(2)(a) A smoking area may not be designated in an elevator, school bus, public means of mass transportation subject only to state smoking regulation, restroom, hospital, doctor's or dentist's waiting room, jury deliberation room, county public health unit, day care center, school or other educational facility, or any common area as defined in s. 386.203. However, a patient's room in a hospital, nursing home, or other health care facility may be designated as a smoking area if such designation is ordered by the attending physician and agreed to by all patients assigned to that room.

(b) Notwithstanding anything in this part to the contrary, no more than one-half of the rooms in any health care facility may be designated as smoking areas.

(3) In a workplace where there are smokers and nonsmokers, employers shall develop, implement, and post a policy regarding designation of smoking and nonsmoking areas. Such a policy shall take into consideration the proportion of smokers and nonsmokers. Employers who make reasonable efforts to develop, implement, and post such a policy shall be deemed in compliance. An entire area may be designated as a smoking area if all workers routinely assigned to work in that area at the same time agree. With respect to the square footage in any public place as described in subsection (4), this square footage shall not include private office work space which is not a common area as defined in s. 386.203(6) and which is ordinarily inaccessible to the public.

(4) No more than one-half of the total square footage in any public place within a single enclosed indoor area used for a common purpose shall be reserved and designated as a smoking area. This square footage limitation does not apply to restaurants as defined in s. 386.203(1)(p). However, such a restaurant must ensure that no more than 65 percent of the seats existing in its dining room at any time are located in an area designated as a smoking area.

(5) A smoking area may not contain common areas which are expected to be used by the public.

History.—s. 5, ch. 85-257, s. 6, ch. 92-185

**386.206 Posting of signs.**—The person in charge of a public place shall conspicuously post, or cause to be posted, in any area designated as a smoking area signs stating that smoking is permitted in such area. Each sign posted pursuant to this section shall have letters of reasonable size which can be easily read. The color, design, and precise place of posting of such signs shall be left to the discretion of the person in charge of the premises. In order to increase public awareness, the person in charge of a public place may, at his discretion, also post "NO SMOKING EXCEPT IN DESIGNATED AREAS" signs as appropriate.

History.—s. 6, ch. 85-257, s. 6, ch. 92-185

**386.208 Penalties.**—Any person who violates s. 386.204 commits a noncriminal violation as provided for in s. 775.08(3), punishable by a fine of not more than \$100 for the first violation and not more than \$500 for each subsequent violation. Jurisdiction shall be with the appropriate county court.

History.—s. 8, ch. 85-257, s. 7, ch. 92-185

**386.209 Regulation of smoking preempted to state.** This part expressly preempts regulation of smoking to the state and supersedes any municipal or county ordinance on the subject.

History.—s. 9, ch. 85-257; s. 8, ch. 92-185

**386.211 Public announcements in mass transportation terminals.**—Announcements about the Florida Clean Indoor Air Act shall be made regularly over public address systems in terminals of public transportation carriers located in metropolitan statistical areas with populations over 230,000 according to the latest census. These announcements shall be made at least every 30 minutes and shall be made in appropriate languages. Each announcement shall include a statement to the effect that Florida is a clean indoor air state and that smoking is allowed only in designated areas.

History.—s. 9, ch. 92-185

## CHAPTER 388

### MOSQUITO CONTROL

- 388.011 Definitions.
- 388.111 District boards of commissioners: vacancies.
- 388.131 Commissioners; surety bond.
- 388.151 District boards of commissioners; meetings.
- 388.161 District boards of commissioners; powers and duties.
- 388.162 Direction of the program.
- 388.231 Restrictions on use, loan or rental of equipment, charges.
- 388.261 State aid to counties and districts for arthropod control, distribution priorities and limitations.
- 388.281 Use of state matching funds.
- 388.301 Payment of state funds; supplies and services.
- 388.323 Disposal of surplus property.
- 388.341 Reports of expenditures and accomplishments.
- 388.351 Transfer of equipment, personnel, and supplies during an emergency.
- 388.361 Rules; administration.
- 388.3711 Enforcement.
- 388.381 Cooperation by counties and district.
- 388.4111 Public lands; arthropod control.
- 388.42 John A. Mulrennan, Sr., Arthropod Research Laboratory.
- 388.43 Florida Medical Entomology Laboratory.
- 388.45 Threat to public health; emergency declarations.
- 388.46 Florida Coordinating Council on Mosquito Control; establishment; membership; organization; responsibilities.

**388.011 Definitions.**—As used in this chapter:

(1) "Arthropod" means those insects of public health or nuisance importance, including all mosquitoes, midges, sand flies, dog flies, yellow flies, and house flies.