

# Smoking Ordinance

City Council Presentation

January 10, 2012

# Purpose of Discussion

- Determine if City Council desires to update the smoking ordinance.
- Provide background on smoking ordinances.
  - History
  - Health figures
  - Current public debate
  - Economic impact studies
- If directed to proceed:
  - Determine which elements should/should not be included in updated ordinance.
  - Determine how to directly engage the public.

# HISTORY OF SMOKING BANS



Pope Urban VII issues first smoking ban in history. Excommunicated offenders.



Minnesota is the first state in the U.S. to enact a smoking prohibition.



San Luis Obispo is the first city in the world to ban smoking in all indoor public spaces.



Second defeat of State Rep. Crownover's Smoke-Free Legislation

1590

1724

1975

1985

1990

2002/2011

Pope Benedict XIII repeals the smoking ban.



Aspen, CO is the first city to ban smoking in restaurants.



NYC passes Smoke Free Air Act; bans smoking in public spaces/Extended to outdoor gathering places.



# Health Figures

- In 2001, nearly 25,000 deaths were attributable to tobacco use (Texas Department of State Health Services).
- 273.1 deaths per 100,000 population are attributable to smoking in Texas each year (American Lung Association).
- Approximately 443,000 deaths are caused by smoking or exposure to second-hand smoke in the United States each year (Centers for Disease Control).
- 22% of the American population reported smoking in the last week (Gallup Poll, 2009).
- 59% of Americans support a public smoking ban (Gallup Poll, 2011).

# Both Sides of the Debate

## **For**

- Scientific health studies and morbidity attributable to smoking and second-hand smoke
- Environmental quality
- Allergies
- Increase in business from non-smoking patrons

## **Against**

- Private Property rights
- Market-Oriented
- Health studies are misleading regarding second-hand smoke or are flawed
- Reduced business

# How Common are Smoking Bans?

- Worldwide:
  - 31 countries have smoke-free laws for indoor places.
- Nationwide:
  - Over 34 states have implemented smoking bans, which include restaurants.
- Statewide:
  - 55% of Texans live in areas with comprehensive smoking ban.
  - 31 cities have comprehensive bans.
  - 19 cities have bans which exempt stand-alone bars.
  - 57 cities ban smoking in the private workplace and at municipal worksites.
  - El Paso was the first city in Texas to implement a comprehensive smoking ban.

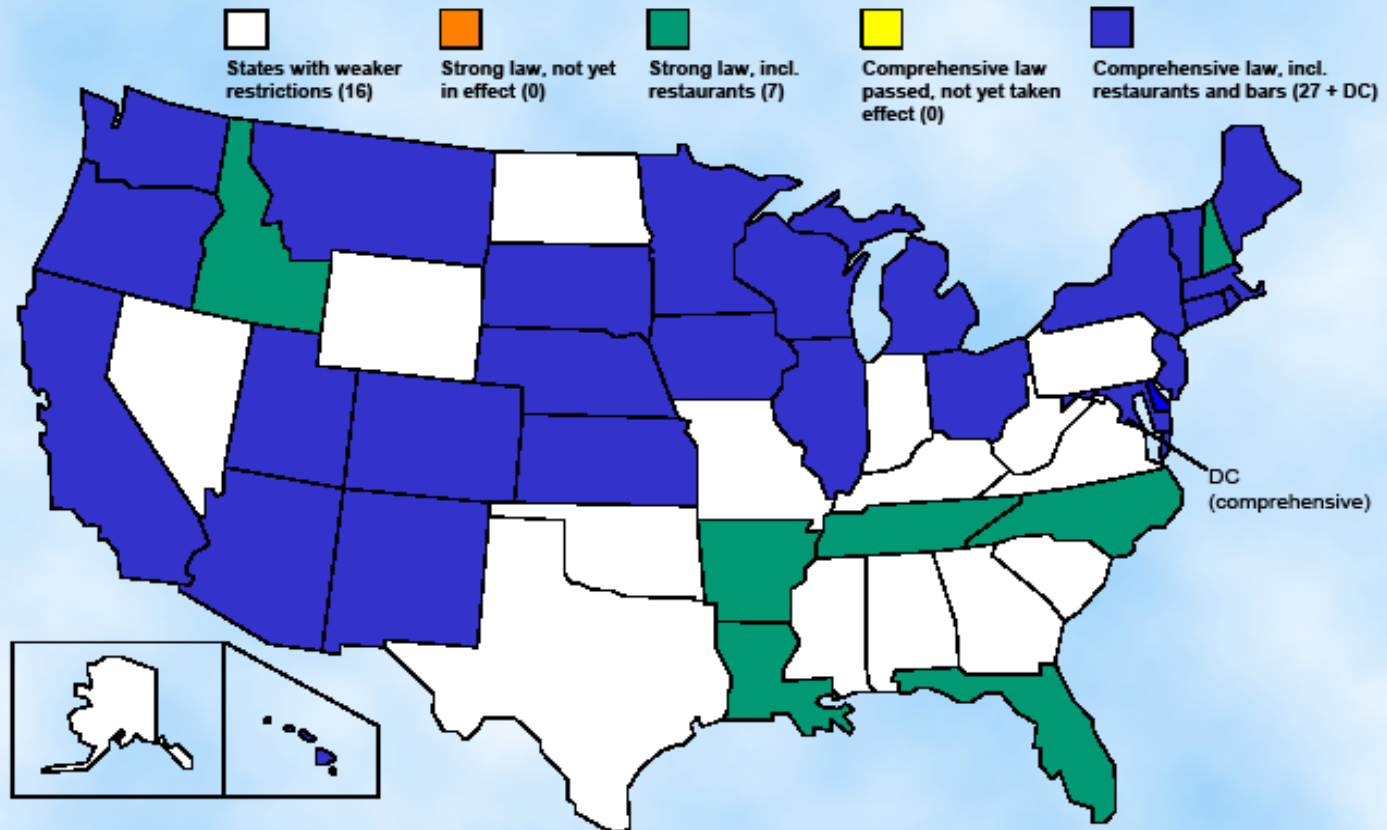
# How Common are Smoking Bans?

- North Texas:
  - 13 cities prohibit smoking in restaurants.
  - 7 cities have comprehensive smoking bans.
- Denton County:
  - Highland Village and Flower Mound have implemented comprehensive smoking bans.

# How Common are Smoking Bans?

## Current Map of State Smokefree Air Laws

Last updated: July 1, 2011



Comprehensive law = almost all public places and workplaces smokefree, including restaurants and bars.

Strong law = has loopholes in the law like stand-alone bars or prohibits smoking in restaurants and bars but allows smoking in many other public places and workplaces.



# Economic Impact

- City of El Paso smoking ordinance(2002)
  - No statistically significant changes in sales for restaurants and drinking establishments.
- City of Dallas smoking ordinance (2003)
  - Statistically insignificant decrease in overall sales for Eating and Drinking Establishments
  - Decrease in mixed beverage sales for Full-Service Restaurant
- City of Houston smoking ordinance (2005/2007)
  - Little to no adverse economic impact related to mixed beverage sales in any studied group
  - Little to no adverse economic impact in overall sales
  - No causal relationship between the smoking ordinance and restaurant or mixed beverage sales based on longer-term study in 2009

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**Bottom Line – Based on empirical data, smoking ordinances do not indicate statistically significant outcomes for the restaurant sector in the long-term.**

# Examples of City Ordinances

City	Workplace	Restaurant	Outdoor Patio	Bar	Billiard/Bowling/Bingo Facility	Hotel/Motel Rooms (% designated smoking)	Parks	Designated Distance from public entrance	Other Applicable Exceptions (not exhaustive)	Penalty
City of Denton	Allowed	Allowed	Allowed	Allowed	Allowed	not specified	Prohibited within 25 ft. of perimeter structure around playgrounds; and adjacent to athletics fields during youth activities.	none	n/a	≤ \$2,000
City of Allen	"Workplace" not directly addressed. Defense to prosecution if person smokes in administrative areas/offices of retail or service establishments, libraries, and museums.	Allowed w/separate ventilation system	Allowed	Allowed	Allowed	not specified	Allowed	none	n/a	≤ \$200
City of Frisco	Prohibited	Prohibited, but grandfathers establishments with separate ventilation system for not more than five years. Specifies air exchange increments.	Allowed, if 20 ft. from doorway.	Prohibited	Prohibited	Allowed, but percentage of rooms not specified		20 ft. from the outside entrance to a smoking prohibited area.	Tobacco stores with separated ventilation system,	≤ \$100 for first offense and up to \$500 for third offense
City of Lewisville	Allowed in administrative areas.	Allowed with 4 ft. separation from non-smoking area and separate ventilation system if feasible.	Allowed	Allowed	Allowed	Allowed	Allowed	none	Tobacco retail stores, administrative areas in workplace	≤ \$200
City of McAllen	Prohibited, except owner of an establishment may designate an area as a smoking area, except common areas. Defense to prosecution if smoking in administrative areas/offices of bars, food establishments, cultural and transit facilities.	Allowed w/separate ventilation system and 8 ft. partition. Minors not permitted in smoking areas.	Allowed	Allowed w/separate ventilation system and 8 ft. partition	Prohibited	≤ 25%	Prohibited within 25 ft of playground areas and sports playing fields; prohibited in seating areas of any outdoor venue.	25 ft. from any entrance, exit, or open window of enclosed public place	Tobacco stores, individual offices, non-public areas in city facility so designated by Mayor	≤ \$100
City of McKinney	Prohibited; Allowed in outdoor places of employment except where food or beverage are served.	Prohibited	Prohibited	Prohibited	n/a	≤ 10%	Prohibited	25 ft. from any door, operable window, or vent to an indoor enclosed area	Tobacco stores, parking lots, private clubs	≤ \$500
City of Southlake	Prohibited	Prohibited	Prohibited	Prohibited	n/a	Prohibited (0%)	Prohibited in bleachers, dugouts, or other congested outdoor areas at city parks (park ordinance).	12 ft. from entrance of any public building	Not specified	≤ \$500

# Public Engagement

- Use of Mind Mixer to engage public in dialogue
- Include question on 2012 Citizen Survey
- Convene Citizen Committee to develop and present a formal recommendation to City Council on a smoking ordinance
- Commission a third-party scientifically valid study to determine economic impact to local businesses

# Recommended Composition of Committee

- To best represent the public, all sides of the issue need to be included. Staff recommends:
  - Owners/Operators of local restaurants
  - Owners/Operators of local stand-alone bars
  - Chambers of Commerce
  - Medical Professional
  - Denton County Health Department
  - Denton Regional Medical Center/Texas Health Resources (Presbyterian)

# Recommended Charge to Citizen Committee

- **Define Public Place & Workplace**
- **What *must* be included in ordinance?**
  - Designate non-smoking area within a certain distance of public entrances?
  - Public transportation facilities/public conveyances?
- **What exceptions should be considered?**
  - Bars (defined as business with 70% of revenues from the sale of alcohol)?
  - Restaurant/bar outdoor patios?
  - Bingo halls and similar businesses?
  - Fraternal Organizations; Private clubs?
  - Tobacco-oriented businesses?
  - Small workplaces (fewer than 5 people, for example)?

# Council Direction

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Questions?

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