

**ORDINANCE PROHIBITING SMOKING AND USE OF SMOKELESS TOBACCO  
PRODUCTS IN ALL MONTGOMERY COUNTY FACILITIES  
AND ON ALL COUNTY PROPERTY**

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WHEREAS, according to the Centers for Disease Control and Prevention, (CDC) tobacco use and secondhand smoke exposure are leading preventable causes of illness and premature death in North Carolina and the nation; and,

WHEREAS, on May 19, 2009, the State of North Carolina passed "An Act To Prohibit Smoking In Certain Public Places And Certain Places Of Employment" S.L. 2009-27, amending Chapter 130A of the General Statutes and thereby authorizing local governments to adopt and enforce ordinances "that are more restrictive than State law and that apply in local government buildings, on local government grounds, in local vehicles, or in public places;"

WHEREAS, in 2006, a report issued by the United States Surgeon General stated that the scientific evidence indicates that there is no risk-free level of exposure to secondhand smoke. The report stated that secondhand smoke has been proven to cause cancer, heart disease, and asthma attacks in both smokers and nonsmokers.

WHEREAS, the CDC advises that all individuals with coronary heart disease or known risk factors for coronary heart disease should avoid all indoor environments that permit smoking.

WHEREAS, Montgomery County is committed to providing a safe and healthy workplace in all Montgomery County facilities for its employees and the visiting public;

WHEREAS, Montgomery County provides support to employees who want to quit the use of tobacco products.

WHEREAS, Montgomery County recognizes the health risks of tobacco use and secondhand smoke for non-smokers. The aim is to minimize the harmful effects of tobacco use among staff and eliminate secondhand smoke exposure for staff and the public in those facilities and grounds controlled by the Montgomery County;

WHEREAS, this Board of County Commissioners is of the opinion that it is in the best interests of the citizens and residents of the Montgomery County to amend ordinances prohibiting smoking in all facilities and grounds.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners for Montgomery County as follows:

That the Code of Ordinances for Montgomery County, North Carolina is hereby revised as follows:

## Section 1. Definitions

The following definitions, taken directly from Section 130A-492 and 14-313 (a) of the General Statutes and to be amended by any amendments to Section 130A-492 or 14-313(a), apply to this ordinance:

1. "Employee" – A person who is employed by an employer, or who contracts with an employer or third person to perform services for an employer, or who otherwise performs services for an employer with or without compensation.
2. "Grounds" — An unenclosed area owned, leased, or occupied by local government.
3. "Local government building". – A building owned, leased as lessor, or the area leased as lessee and occupied by a local government.
4. "Local vehicle". – A passenger-carrying vehicle owned, leased, or otherwise controlled by local government and assigned permanently or temporarily by local government to local government employees, agencies, institutions, or facilities for official local government business.
5. "Smoking" – The use or possession of a lighted cigarette, lighted cigar, lighted pipe, or any other lighted tobacco product.
6. "Tobacco products" – Any product that contains tobacco and is intended for human consumption.

## Section 2. Areas in Which Smoking and Tobacco Use are Prohibited

Smoking and the use of tobacco products is prohibited:

- (a) in any building owned, leased, occupied, or operated by the Montgomery County;
  - (b) in any local vehicle owned, leased, or operated by the Montgomery County; and
  - (c) on any grounds that are owned, leased, occupied, or operated by the Montgomery County.
- (a) with the specific exception of the Emergency Communication Center (ECC). Montgomery County ECC Telecommunicators are on duty 24/7. Only two Telecommunicators are on duty during a 12-hour shift; and based on Standard Operation Procedures minimal time out of the communications room is allowed while on duty. If one dispatcher is a smoker, the employee is allowed to take a brief smoke break on the ramp of the EOC by the intercom so they will be able to hear if the Communication Center gets busy and the 2<sup>nd</sup> dispatcher needs them, the employee can be contacted immediately through the intercom.

### Section 3. Implementation

- (a) Persons in charge of a building, vehicles and grounds or his or her designee shall post signs that meet all the requirements in Section 4 of this ordinance.
- (b) The person in charge of a building and grounds or his or her designee shall remove all ashtrays and other smoking receptacles.
- (c) The person in charge of a building, vehicle or grounds or his or her designee who sees an individual using a tobacco product who is in violation of this ordinance must ask that individual to stop using the tobacco product.

### Section 4. Signage

The signs required by Section 3 must: (a) state that tobacco use is prohibited and the sign must include the international “No Smoking and Smokeless Tobacco” symbol (which consists of a pictorial representation of a burning cigarette and smokeless tobacco product enclosed in a red circle with a red bar across it), (b) be posted at each building entrance and on the grounds at a height and location easily seen, (c) be in legible font type.

Persons in charge of vehicles identified in Section 2 or his or her designee shall post signs in the vehicles explaining the prohibition. The signs must be displayed in areas where passengers will be able to see the signs but the placement of the signs must not interfere with the safe operation of the vehicle

Nothing in this ordinance prohibits a person in charge of buildings, grounds and vehicles from posting additional signs in areas where smoking is prohibited. For example, signs may be posted in other areas where people are likely to want to use tobacco products, such as in bathrooms or in dining areas.

The person in charge of buildings, grounds and vehicles must determine whether signs should be posted in languages other than English.

### Section 5. Enforcement and Penalties

- (a) *Violations by employees.* Employees who violate this ordinance shall be subject to sanctions consistent with Montgomery County Human resources policies.
- (b) *Violations by other persons.* Any person who, following oral or written notice by the person in charge of the area or the person’s designee continues to smoke or to use tobacco products in an area where smoking or tobacco use is prohibited by Section 2 commits an infraction. Pursuant to Section 130A-498(c1) of the General Statutes, the person committing the infraction may be punished by a fine of not more than fifty dollars (\$50.00) and may not be assessed court costs. Conviction of an infraction under this section has no consequence other than payment of a penalty.

(c) Any amendments to the enforcement or penalty provisions listed in G.S. 130A-498(c1) apply to this ordinance.

Section 6. Public Education

The Montgomery County Health Department shall engage in a continuing program to explain and clarify the purposes and requirements of this ordinance to citizens affected by it, and to guide owners, operators, and managers in their compliance with it. The program may include publication of a brochure for affected businesses and individuals explaining the provisions of this ordinance.

Employees are encouraged to talk to their health care provider about quitting; ask about appropriate pharmacotherapy available through the Montgomery County health insurance plan or employee's insurer and use the free quitting support services of the North Carolina Tobacco Use Quitline at 1-800-QUIT-NOW (1-800-784-8669).

Section 7. Effective Date.

This ordinance shall be effective (*note: effective dates should be set between 30 and 90 days after the ordinance passes*)

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2010.



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Jackie Morris, Chairman  
Montgomery County  
Board of Commissioners

Attest:

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Laura B. Morton, Clerk to the Board  
Montgomery County  
Board of Commissioners