

CHAPTER 13.3
CLEAN INDOOR AIR AND HEALTH PROTECTION

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Sec. 13.3-10. Purposes

(a) According to the United States Surgeon General, as many as 5000 nonsmokers die each year of diseases caused by inhaling smoke released into the air by tobacco products.

(b) Environmental tobacco smoke (ETS) is second only to asbestos in causing more deaths than all other known airborne pollutants combined.

- (c) The U.S. Environmental Protection Agency (EPA) has determined that tobacco smoke is a major source of indoor air pollution, and the Surgeon General's 1986 report on the Health Consequences of Involuntary Smoking concludes that exposure to tobacco smoke places healthy nonsmokers at increased risk for developing lung cancer.
- (d) While all members of the population are truly at increased risk due to exposure to sidestream tobacco smoke, reliable studies have shown that breathing sidestream or secondhand smoke constitutes a significant and special health hazard for children, the elderly, and people with chronic lung disorders, cardiovascular disease, and impaired respiratory function.
- (e) Health hazards induced by breathing sidestream or secondhand smoke include lung cancer, respiratory infection, decreased exercise tolerance, decreased respiratory function, bronchoconstriction, and bronchospasm.
- (f) The Surgeon General labels smoking "the largest single preventable cause of death and disability for the U.S. population."
- (g) Employees subject to prolonged exposure to sidestream smoke in the workplace have been found in scientifically conducted studies to experience a loss of job productivity, and some have been forced to take periodic sick leave because of reactions to secondhand smoke. Furthermore, studies have shown higher costs to the employer are associated with smoking in the workplace due to increases in absenteeism, accidents, costs of medical care, loss of productivity, and cleaning and maintenance requirements.
- (h) A recent scientific study has reported that sidestream smoke from tobacco may cause a significant amount of cardiovascular disease in the United States, and that the number of deaths from this cause may exceed the deaths caused by lung disease associated with sidestream smoke.
- (i) Smoking in public places and workplaces is a major cause of fires and damage to merchandise and equipment, as well as costly maintenance and repairs to furniture and fixtures.
- (j) Ease of accessibility to tobacco and tobacco-related products through cigarette vending machines must be diminished in order to promote smoke-free environments.
- (k) The smoking of tobacco, or any other weed or plant, is a proven danger to health.
- (l) The health care costs produced by smoking-related ailments and diseases constitute a heavy and avoidable financial drain on our community.

(m) More than three-quarters of Solano County residents are nonsmokers and the number of nonsmokers is steadily increasing. Opinion surveys show that a majority of both nonsmokers and smokers favor restrictions on smoking in public places and places of employment.

(n) Air pollution caused by smoking is an offensive annoyance and irritant. Smoking results in serious and significant physical discomfort of nonsmokers and constitutes a public nuisance in public places and workplaces.

(o) Accordingly, it has been determined that the health, safety and general welfare of the residents of, persons employed in, and persons who frequent this county would be benefited by the elimination of smoking in public places and in places of employment.

Sec. 13.3-11. Authority

This Chapter is enacted pursuant to the provisions of Section 25946 of the Health and Safety Code for the purpose of protecting public health by restricting and regulating smoking in public places and in places of work in order to reduce the hazards and nuisance which smoking causes to those who are involuntarily exposed.

Sec. 13.3-12. Definitions

As used in this chapter, those terms identified in this section shall, unless the context indicates otherwise, be ascribed the meaning contained herein:

Bar means an area which is devoted to the serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages (Department of Alcoholic Beverage Control type 61, 42 or 48 liquor licenses). That area of a restaurant which is devoted to the serving of alcoholic beverages and in which the service of food may be only incidental to the consumption of such beverages shall also be considered a bar for the purposes of Section 13.3-32. An area in which food service is only incidental shall (1) not exceed 40 per cent of a restaurant's total seating capacity; or (2) shall encompass only those areas in which gross receipts of the restaurant from food do not exceed 40 per cent. The operator of each restaurant shall designate by which method it determines its bar area as of the 60th day following the effective date of this ordinance, and shall notify the Solano County Department of Environmental Management. The method chosen by the operator shall not be changed.

Cigarette vending machine means any electronic or mechanical device or appliance, the operation of which depends upon the insertion of money, whether in coin or paper bill or other thing representative of value, which dispenses or releases a tobacco product and/or tobacco accessories.

Commercial enterprise - Nonprofit entity - Person.

[Operators of Public Places] The term "**commercial enterprise**" means any business entity formed for profit-making purposes, including professional corporations and other entities under which legal, medical, dental, engineering, architectural, or other professional services are delivered, and also any person charged with the responsibility of controlling conduct in behalf of the Enterprise upon any premises regulated by this chapter.

The term "**Non-Profit Entity**," shall mean any corporation, unincorporated association or other entity created for charitable, philanthropic, educational, character building, political, social, or other similar purposes, the net proceeds from operations of which are committed to promotion of the objects or purposes of the organization and not a private gain, together with any person charged with the responsibility of controlling conduct in behalf of the Entity upon and any premises regulated by the provisions of this chapter.

A public agency is not a "**Non-Profit Entity**" within the meaning of this section.

The term "**person**" means any natural person, partnership, corporation, unincorporated association, joint venture, business trust, joint stock company, club, other organization of any kind, except the County of Solano or any other public agency.

Distribution means to give, sell, deliver, dispense, issue, or cause or hire any person to give, sell, deliver, dispense, issue or offer to give, sell, deliver, dispense or issue.

Enclosed area means all spaces between a floor and ceiling which is served by a common heating, ventilating and air conditioning system, and is enclosed on at least three sides by solid walls or windows (exclusive of door or passageways) which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid, "office landscaping," or similar structures.

Members of the general public means shoppers, customers, patrons, patients, students, clients and other similar invitee of a Commercial Enterprise or Non-Profit Entity; and excludes employees thereof, sales representatives, service repair persons, and persons delivering goods, merchandise or services to a Commercial Enterprise, Non-Profit Entity, or the County of Solano.

Office means an enclosed area containing a desk, table, or similar furnishings for clerical, administrative or supervisory work; a complex of such enclosures and a building containing such enclosures, whether or not the building is utilized primarily for other purposes such as retailing, wholesaling, or storage, or manufacturing, together with all hallways, stairways, elevators, escalators, restrooms, lobbies, waiting rooms, reception areas, entry areas, and conference rooms within or associated with the complex of such enclosures; including, but not limited to, (i) legal, medical, dental, engineering, accounting, counseling and other professional offices; (ii) insurance, real estate, ticket, collection agency, and other offices where business services are offered to or goods or services are offered to or may be ordered by or may be paid for by Members of the General Public; and (iii) offices to which Members

of the General Public are admitted in order to promote the objects or purposes of the Non-Profit Entities.

Restaurant means any coffee shop, cafeteria, luncheonette, soda fountain, fast food service, and other establishment where cooked or otherwise prepared food is sold to Members of the General Public for consumption on the premises. The term does not include a cafeteria or lunchroom, defined as a place of employment, whether or not Members of the General Public incidentally frequent the facility.

Smoking means lighting, inhaling, exhaling or burning any pipe, cigar, cigarette, weed or plant, or carrying any lighted pipe, lighted cigar, lighted cigarette, lighted weed, lighted plant or other ignited combustible substance in any manner or in any form.

Tobacco accessories means cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed primarily for the smoking or ingestion of tobacco products.

Tobacco product means any substance containing tobacco leaf, including but not limited to cigarettes, cigars, smoking tobacco, and smokeless tobacco.

Tobacco product sample means a tobacco product and/or tobacco accessories distributed to members of the general public at no cost or at a nominal cost for product promotional purposes.

Tobacco Store means a place utilized primarily for the sale to Members of the General Public, at retail, of tobacco products or accessories and in which the sale of any other products is merely incidental.

Workplace means any enclosed area which is occupied by two or more employees under the control of an employer including, but not limited to, work areas, employee lounges, conference rooms, employee cafeterias, restrooms, union halls, cafeterias, or any other rooms or areas utilized primarily for the benefit or use of the employees. A private residence is not a place of employment except when it serves as a licensed day care facility for children.

Notwithstanding the provisions of this definition, a private residence including either an attached or detached garage, shall not constitute a workplace, except when the residence serves as a licensed day care facility for children.

Sec. 13.3-13. Smoking Prohibitions -- Public places

Except as otherwise provided in this chapter, it is unlawful for any Member of the General Public or any other person, including an employee, to smoke in the Public Places named and

described in Section 13.3-13 through Section 13.3-20 and other Public Places similarly situated including, but not limited to the following Enclosed Areas:

- (a) Common work areas occupied by employees performing clerical, technical, administrative or other business or work functions;
- (b) Merchandise display areas, checkout stations and counters, and other pay stations;
- (c) Hallways;
- (d) Restrooms;
- (e) Escalators, elevators and stairways;
- (f) Lobbies;
- (g) Reception areas;
- (h) Waiting rooms;
- (i) Service lines;
- (j) Classrooms, meeting or conference rooms, or lecture halls; and
- (k) Other places in which Members of the General Public congregate for service or otherwise frequent.

Sec. 13.3-14. Same -- stores

The prohibitions contained in Section 13.3-13 above shall be applicable to: (i) the enclosed common areas of Shopping Malls; (ii) automobile dealerships, furniture, or other showrooms for the display of merchandise offered for sale at retail; (iii) grocery, specialty, department and other stores which sell goods or merchandise at retail; and (iv) service stations, stores or shops for the repair or maintenance of appliances, shoes, or motor vehicles, barbershops, beauty shops, cleaners and laundromats, video game, pool hall and other amusement centers, and other similar establishments offering services or products to Members of the General Public.

Sec. 13.3-15. Same -- banks

The prohibitions contained in Section 13.3-13 shall be applicable to banks, including savings and loan associations, credit unions, mortgage lending institutions, and other similar institutions which offer financial services to Members of the General Public.

Sec. 13.3-16. Same -- hotels/motels

The prohibitions contained in Section 13.3-13 shall be applicable to hotels and motels in which guests typically rent lodging for continuous periods less than thirty (30) days. Smoking is permissible in rental rooms and in on-premise restaurants, bars and other areas as provided in Sections 13.3-32. The availability of nonsmoking rooms will be prominently posted in the lobby sign-in area. The rooms so designated will be posted as smoking prohibited and ash trays removed. Customers seeking accommodations will be routinely advised of the availability of nonsmoking rooms.

Sec. 13.3-17. Same -- terminals

The prohibitions contained in Section 13.3-13 shall be applicable to depots and other terminals utilized by Members of the General Public for the propose of being transported upon or departing from airplanes, trains, buses and taxis.

Sec. 13.3-18. Same -- buses and taxis

Smoking by either passengers or operators shall be prohibited within buses, taxicabs, and all public transit conveyances operated by or in any way licensed by the county.

Sec. 13.3-19. Same -- theaters

The prohibitions contained in Section 13.3-13 shall be applicable to theaters, including motion picture theaters, meeting halls, and auditoriums where motion pictures or live theatrical musical or dramatic productions are made to an audience consisting of Members of the General Public assembled for the purpose of witnessing the performance or presentation; provided, that neither this section nor section 13.3-13 shall be construed to prevent smoking by performers in connection with a stage production or by persons making a presentation concerning addiction to tobacco or other drugs.

Sec. 13.3-20. Same -- recreational facilities

The prohibitions contained in section 13.3-13 shall be applicable to enclosed areas of sports pavilions, gymnasiums, exercise rooms, health spas, boxing arenas, swimming pools, roller and ice skating rinks, bowling alleys and other similar places where members of the general public assemble to either engage in physical exercise, participate in athletic competition, or witness sports events.

Smoking is prohibited at all times within the seating areas of an enclosed arena and in the surrounding open concourses where food and beverages are dispensed.

Smoking may be allowed in enclosed on-site restaurants, subject to the provisions of section 13.3-22, and in enclosed on-site bars.

Sec. 13.3-21. Same -- recreation halls

The prohibitions contained in section 13.3-13 shall be applicable to those areas of recreation halls and other similar facilities where members of the general public play bingo or cards, dance or engage in recreational, character-building or cultural activities which are designated as nonsmoking.

An owner, manager, or operator of a recreation hall shall designate not less than 50 percent of the main activities area of such facility, not including restrooms, lounges and kitchens, as nonsmoking. Commencing May 23, 1993, an owner, manager, or operator of a recreation hall shall designate between 55 to 75 percent of the main activities area of such facility, not including restrooms, lounges and kitchens, as nonsmoking. Commencing February 23, 1995, the owner, manager, or operator of a recreation hall shall designate the entire premises of such facility, including restrooms, lounges and kitchens, as nonsmoking. Signs shall be posted in the manner prescribed by section 13.3-34. It shall not constitute a violation of this chapter to smoke in a location where smoking has been authorized by this chapter.

The provisions of this section shall not be construed to in any manner restrict or otherwise impair the authority of an owner, manager, or operator to increase the nonsmoking area of a recreation hall at any time.

Sec. 13.3-22. Same -- restaurant

Within all restaurants, the prohibitions contained in section 13.3-13 shall be applicable to lobbies, waiting areas, restrooms, and those dining seating areas which are designated as nonsmoking.

The Owner, manager, or operator of a restaurant shall designate not less than 50 per cent of the available customer seating as nonsmoking. Commencing May 23, 1993, the owner, manager, or operator of a restaurant shall designate between 55 to 75 percent of the available customer seating as nonsmoking. Commencing February 23, 1995, the owner, manager, or operator of a restaurant shall designate the entire premises of such facility, including restrooms, lounges and kitchens, as nonsmoking. The owner, manager or operator of the restaurant shall post signs as prescribed by Section 13.3-34 and remove all ashtrays from tables located in the nonsmoking areas. Where a bar shares the same enclosed area with the restaurant, the Bar seats must be counted with the restaurant seats in determining the total number of nonsmoking restaurant seats. The owner, manager, or operator shall post a notice at the restaurant entrance that a nonsmoking section is available. It shall not constitute a violation of this chapter to smoke in a location where smoking has been authorized by this Chapter.

The provisions of this section shall not be construed to in any manner restrict or otherwise impair the authority of an owner, manager, or operator to increase the nonsmoking seating in a restaurant or bar at any time.

Sec. 13.3-23. Same -- County buildings and automobiles

Smoking is prohibited in all county-owned rented or leased facilities and vehicles, unless the health services department has determined that a smoke ventilation system is in place whereby cigarette smoke will not be recirculated and breathed by nonsmokers.

If such a system is not in existence, the county will provide, where it is reasonable to do so, and within budgeted funds, outdoor facilities which may include building overhangs, benches, cigarette receptacles, awnings, shelters, and other means of accommodating individuals who wish to smoke.

Sec. 13.3-24. Same -- County Courthouse

The prohibitions contained in Section 13.3-13 shall be applicable to the County Courthouse, including jury lounges and jury deliberation rooms.

Sec. 13.3-25. Same -- places of exhibition

The prohibitions contained in Section 13.3-13 shall be applicable to libraries, museums, aquariums, galleries, convention halls and similar facilities where Members of the General Public assemble for the purpose of viewing the exhibition of art, artifacts, objects of historical or cultural significance, products, merchandise, equipment, appliances or services.

Sec. 13.3-26. Same -- hospitals

The prohibitions contained in Section 13.3-13 shall be applicable to hospitals, rest and convalescent homes, medical clinics, physical therapy facilities, and other places where medical, dental, psychiatric or counseling services are delivered to Members of the General Public. Operators of facilities treating psychiatric or chemically impaired patients may permit smoking by patients in designated areas; provided, the medical director of such facility has determined in writing that the practice is beneficial for the recovery or treatment of such patients and that the practice will not interfere with the recovery and treatment of nonsmoking patients; and provided, that adequate nonsmoking areas are made available for nonsmoking patients. Neither this section nor Section 13.3-13 shall be construed to prevent smoking in locations or otherwise under conditions in which smoking is expressly authorized by or under statutes or administrative regulations applicable to such licensed facilities.

Sec. 13.3-27. Same -- schools

The prohibition contained in Section 13.3-13 shall be applicable to any school or educational institution operated by a Commercial Enterprise or Non-Profit Entity for the purpose of providing academic classroom instruction, trade, craft, computer or other technical training, or instruction in dancing, artistic, musical or other cultural skills.

The prohibition contained in Section 13.3-13 shall be applicable to public school facilities when school district management authorizes their use by Members of the General Public other than students.

Sec. 13.3-28. Same -- day care facilities

The prohibitions contained in Section 13.3-13 shall be applicable to private residences during the time when such residences are operated as licensed day care facilities for children.

Sec. 13.3-29. Same -- workplace

Smoking is prohibited in enclosed Workplaces of Commercial Enterprises, Non-Profit Entities and county-owned, licensed and managed buildings; including, but not limited to, open office areas, shared offices, private offices, hallways, restrooms, escalators, elevators, stairways, lobbies, reception areas, and waiting rooms, classrooms, meeting or conference rooms, and auditoriums.

On-site cafeterias, lunchrooms, and lounges shall be deemed workplaces and smoking prohibited therein, whether or not such facilities are open to Members of the General Public.

Each Commercial Enterprise, Non-Profit Entity and the County shall comply with these smoking prohibitions and be responsible for their implementation in the workplace, and "No Smoking" signs shall be posted in the manner prescribed by Section 13.3-34.

Notwithstanding any provisions herein to the contrary, including the definition of "workplace", smoking shall be completely and totally prohibited in all county owned and/or operated buildings, including private offices therein.

Sec. 13.3-30. Sale of cigarettes and other tobacco products from vending machines prohibited

(a) No person shall locate, install, keep, maintain or use, or permit the location, installation, keeping, maintenance or use on his, her, or its premises of any cigarette vending machine used or intended to be used for the purpose of selling or distributing any tobacco products.

(b) Any cigarette vending machine in use on the effective date of this chapter shall be removed within one hundred twenty (120) days after the effective date of this chapter.

Notwithstanding the previous sentence, any cigarette vending machine which is the subject of a written contract authorizing its installation which was entered into prior to the enactment of this chapter shall be removed within thirty (30) days after the date specified in subparagraphs 1 or 2 below, whichever occurs later:

(1) The first date on which permissive termination of the written contract by the person on whose premises the cigarette vending machine is located could take effect if said person elected to terminate, or the expiration date of the contract term in effect on the enactment date of this chapter if no provision of the agreement authorizes permissive termination;

(2) One hundred twenty (120) days after the effective date of this ordinance.

(c) Any person who purchased a cigarette vending machine less than 36 months prior to the enactment of this chapter for the purpose of using the vending machine to sell or distribute tobacco products exclusively within the unincorporated portions of Solano County and who has not or will not recover his, her or its investment therein by the date on which

discontinuance of use is required pursuant to subsection B, may apply to the Director of the Department of Environmental Management for a use extension based on financial hardship.

A use extension shall be granted if the Director, or the Director's designee appointed to consider the application, makes all of the following findings:

- (1) That the vending machine was intended for use only within the unincorporated areas of Solano County.
- (2) That the vending machine owner has not, or will not have recovered his, her or its investment therein before the date of required discontinuance;
- (3) That the vending machine owner has no practical way to recover the investment in the machine other than its continued use within the unincorporated areas of Solano County.
- (4) That the investment not yet recovered exceeds ten percent of the actual cost of the machine; and
- (5) That the vending machine will be located in a place not accessible to minors, or if so accessible to minors, that it will be placed in a location on the premises easily viewed and supervised by the owner or responsible employee.

The length of the use extension shall not exceed the additional time period estimated to be necessary to allow recovery of the owner's investment; provided, however, that no use extension shall be granted which allows the total time in which the machine will be in use in the unincorporated areas of Solano County to exceed three (3) years. The cigarette vending machine owner shall bear the burden of proof on each issue. The decision of the Director or the Director's designee shall be final.

Any cigarette vending machine not removed from the premises or converted to a permissible use within the time limits set forth in Section 13.3-30 shall be deemed a public nuisance and may be abated by the County in a civil action or by other appropriate legal proceedings.

Sec. 13.3-31. Free distribution of tobacco product samples prohibited

No person in the business or otherwise distributing cigarettes or other tobacco products for commercial purposes shall, in the course of such business, distribute or direct, authorize or permit any agent or employee to distribute (1) any tobacco product sample; or (2) coupons, certificates, or other written material which may be redeemed for tobacco products and/or tobacco accessories without charge or for a nominal charge, to any person on any public street or sidewalk, or in any public park or playground, or on any other public ground or in any public building.

Each distribution of a tobacco product sample or redeemable coupon or certificate to a person shall be considered a separate offense.

Sec. 13.3-32. Places where smoking permissible

Smoking may be permitted in all locations where smoking is not prohibited by this Chapter, including the following locations:

- (a) A private residence, including an attached or detached garage, whether or not the residence is utilized for office or other business purposes, except when such residence is operated as a licensed day care facility for children.
- (b) Bars.
- (c) Tobacco stores, whether operated as a separate business entity or as a physically separate facility within a department store or other business entity.
- (d) Private clubs during events attended exclusively by members of the organization and their invited guests and from which Members of the General Public are excluded.
- (e) Within conference/meeting rooms, public and private assembly rooms, banquet rooms, dining rooms or areas of restaurants, hotels and motels, while these places are occupied for private functions to which only persons specially invited are entitled to attend and from which Members of the General Public are excluded.
- (f) In any enclosed place wherein this ordinance specifically permits smoking, notwithstanding the fact that such location is a workplace.

It shall not constitute a violation of Section 13.3-13 for a person to smoke in a location where smoking has been authorized in the manner prescribed by this section.

The foregoing places are not considered workplaces subject to the provisions of Section 13.3-29. Employers will, however, attempt to find a reasonable alternative accommodation where feasible for nonsmoking employees who do not wish to be assigned to work in a smoking permissible area.

Notwithstanding any provision in this Ordinance which permits smoking in a place of employment, any nonsmoking employee may object to his or her employer about smoke in his or her workplace. The employer shall attempt to reach a reasonable accommodation, insofar as possible. If an accommodation which is satisfactory to all affected nonsmoking employees cannot be reached within a particular workplace, the commercial enterprise, nonprofit entity or county who employs the nonsmoking employees shall formulate, promulgate and implement restrictions or prohibitions upon smoking in a manner which accommodates the reasonable preferences and needs of the nonsmoking employees in relation to the nuisance and health impacts of the smoking upon the nonsmokers. The area

in which smoking is prohibited shall be posted by "No Smoking" signs in the manner prescribed by the provisions of Section 13.3-34.

Sec. 13.3-33. Exemption procedures

Any owner or manager of a business or other establishment subject to this chapter may apply to the Director of the County Department of Environmental Management for an exemption or modification to its provisions. Exemptions may only be granted on (1) a showing by the petitioner of significant financial hardship due to compliance, or (2) the proposed implementation of an alternative approach or technology which would provide equivalent protection from the health hazards of sidestream smoke.

An application for exemption will be accompanied by a reasonable fee to cover the cost of preparation for the hearing, and the application will include any data required by the Department. The Department will review the application and submit it, with recommendations, for hearing by the Solano County Board of Supervisors or its designee. The applicant will be entitled to present evidence at the hearing, which will be scheduled within sixty (60) days of the receipt of the application.

The Board of Supervisors or its designee will, after taking into consideration the testimony received at the hearing, issue its findings and recommendations within twenty (20) days of the completion of the hearing. The Department will complete procedural action on the application and notify interested parties within twenty (20) days of its receipt from the Board or its hearing designee.

The applicant may appeal the hearing designee's decision to the Board of Supervisors within thirty (30) days of receipt of the action notification by the Department. Upon appeal, the Board will set a hearing within sixty (60) days and make a final determination at that hearing. This provision shall only be applicable if the hearing is conducted by a designee in lieu of the Board of Supervisors. Any decision by the Board shall be final.

Sec. 13.3-34. Posting requirements

Each owner, operator, manager, or other person having control of an establishment or facility within which smoking is regulated by this chapter shall conspicuously post in every place where smoking is prohibited "No Smoking" signs with letters not less than one inch in height (or the international "No Smoking" symbol consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a bar across it).

An owner, operator, or manager of a building wherein, pursuant to these regulations, there is no smoking permitted in any space in the building, may limit the "No Smoking" posting to first floor entrances and exits and to the elevator lobby areas of all other floors.

Motion picture theaters shall show upon the movie or live action screens, for at least five seconds prior to the showing of each feature motion picture, the message that smoking is prohibited within the audience seating and other areas as specified.

Hotels and motels will prominently post in the lobby a sign notifying patrons of the availability of nonsmoking accommodations. The rooms so designated will be posted as nonsmoking rooms and ashtrays removed.

Sec. 13.3-35. Retaliation prohibited

It shall be unlawful for a Commercial Enterprise, Non-Profit Entity or the County to retaliate against any Member of the General Public or an employee or applicant for employment of the enterprise, entity, or County because such Member of the General Public, employee or applicant seeks enforcement of the provisions of this chapter or otherwise protests smoking by others.

Sec. 13.3-36. Violation -- smoking or posting

Any person who violates the prohibitions contained in sections 13.3-13 and any person who violates section 13.3-34 by failing to post the signs or take the other actions required by this section shall be guilty of an infraction, punishable in the manner hereinafter prescribed.

Fines for the crimes made infractions by this section shall be levied in the amounts prescribed by Section 25132(b) of the Government Code, as that section may hereafter be amended or renumbered.

Sec. 13.3-37. Retaliation remedies

Violation of any of the provisions of section 13.3-35 or 13.3-37 shall be remedied through civil action filed in a court of competent jurisdiction for injunctive or other appropriate relief. Nothing contained in this paragraph shall in any way affect a county employee's rights under the county civil service regulations

Sec. 13.3-38. Enforcement

It shall be the responsibility of the Director of the Department of Environmental Management or the Director's designee, approved by resolution of the Solano County Board of Supervisors, to enforce on behalf of the county the provisions of this chapter. The Director shall be authorized to institute, through the County Counsel's office, in the name of the County, pursuant to Section 25132 of the Government Code, civil actions for the recovery of fines for violations of this chapter made infractions by section 13.3-36 for violations of sections 13.3-14 through 13.3-29.

In the performance of the enforcement responsibilities assigned by this chapter, the Director of the Department of Environmental Management shall:

- (a) Receive and record such complaints, and analyze the frequency and volume thereof in relation to alleged violations of this chapter by or at particular establishments or facilities;

- (b) Conduct an on-site inspection of any establishment or facility with respect to which the nature and volume of complaints suggests long-standing and pronounced violations of any of the provisions of this chapter;
- (c) Provide to the owner, operator, or manager of any such establishment or facility, a copy of the provisions of this chapter and such advisory assistance to rectify future violations as may be necessary to achieve compliance with the provisions of this chapter;
- (d) Follow up such investigation and advice with a written directive explaining in detail the steps required in order to achieve future compliance with the provisions of this chapter; and
- (e) Establish a time for the cessation of the violation and may, in the director's discretion, commence civil action pursuant to the provisions of this chapter.

The Environmental Management Department shall affirmatively seek the support and cooperation of other local public agencies, such as Fire Protection Districts, to provide information, assistance and advice in the enforcement of the provisions of this chapter, during the conduct by any of such agencies of on-site inspections of establishments or facilities.

The provisions of section 13.3-35 shall not be remedied by either the Director of Environmental Management or any other county official. Any Member of the General Public, an employee or applicant for employment may, pursuant to the provisions of Section 13.3-37, commence in his or her name a civil action for injunctive relief, monetary damages or other appropriate relief against a person who violates section 13.3-35 pursuant to the provisions of section 13.3-37. A Member of the General Public or employee shall also be authorized to individually commence a civil action pursuant to the provisions of section 13.3-37 for injunctive relief, monetary damages, or other appropriate relief for the purpose of remedying any other violation of the provisions of this chapter.

Sec. 13.3-39. Severability

If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions, clauses or applications thereof which can be implemented without the invalid provision, clause or application, and to this end the provisions and clauses of this ordinance are declared to be severable. (Ord. No. 1405, '1.)