



Colorado 1175 (Smoking) Clear Air Act Goes Into Effect July 1, 2006

- [Angelina Sanchez Sprague](#), Administrative Assistant

Although Fort Collins has been "smoke-free" since October 2003, you may have recently heard of similar measures happening at the state level. Starting July 1, 2006, Colorado House Bill 06-1175 (Smoking) Clear Air Act (CCIAA) will go into effect. Like the Fort Collins City Code, the CCIAA prohibits smoking in almost all public places and places of employment. Below is an analysis that provides the general background regarding this new bill and the implications it has on the City's existing Code.

A. SUMMARY OF THE COLORADO CLEAN INDOOR AIR ACT (CCIAA)

Like the Fort Collins City Code, the CCIAA prohibits smoking in almost all public places and places of employment. A key feature of CCIAA is that it expressly authorizes local governments to enact stricter smoking regulations, and confirms that municipal courts continue to have jurisdiction over locally-enacted smoking regulations. The CCIAA provides for a sharing of fine revenues collected for convictions CCIAA convictions, and directs that 75% of the fine revenues within the corporate limits of a city be paid to that city.

B. IMPACT OF THE CCIAA FOR FORT COLLINS

Since the CCIAA expressly allows local governments to impose stricter regulations, the main areas of the CCIAA that affect existing City regulations are those that are stricter than existing City Code. These areas are mainly exceptions identified in the City Code that are not included in CCIAA, namely:

1. The City Code exempts private clubs from the prohibition on smoking. The CCIAA does not include this exception, except to the extent such an establishment would qualify as a "cigar-tobacco bar". (Only a private club that meets the definition of "bar" and in 2005 sold sufficient tobacco-related products would be exempted from the smoking prohibition, and only for so long as the tobacco product sales requirement were continuously met.)
2. The City Code exempts those portions of an establishment used for private functions that are not open to the public during the period of private use. The CCIAA does not.
3. The City Code exempts performance halls to the extent necessary to allow smoking by a performer as part of a stage production. The CCIAA does not.
4. The City Code exempts rooms used for psychological treatment of nicotine addiction by a licensed health care professional, and physically separate and independently ventilated rooms in a hospital, hospice or nursing home that are open to all residents as a smoking room and for no other purpose. The CCIAA does not.
5. The City Code allows buildings under the control of the United States, the State, the County or Poudre School District that have not been designated as smoke-free by the managing authority. The CCIAA does not.
6. The City Code allows designated smoking areas in bingo parlors and bowling alleys. The CCIAA does not.

The exceptions from the prohibition on smoking under the CCIAA include

- private homes, private residences and private automobiles (unless in use for a child care, day care or public transportation of children);
- limousines under private hire;
- a hotel or motel room rented to one or more guests if the total percentage of smoking rooms does not exceed 25%;
- any retail tobacco business (defined as a business engaged primarily in the sale, manufacture, or promotion of tobacco, tobacco products, or smoking devices or accessories, either at wholesale or retail, and in which the sale, manufacture, or promotion of other products is merely incidental);
- a cigar-tobacco bar (defined as a bar that in calendar year 2005 generated at least 5% of its total annual gross income or \$50,000 in annual sales from the on-site sale of tobacco products and the rental of on-site humidors, not including sales from vending machines);
- an airport smoking concession (defined as a bar or restaurant in a public airport that has regularly scheduled domestic and international commercial passenger flights);
- the outdoor area of any business (excluding an "entryway" area that must be smoke free - the size of which may be set locally);
- a place of employment that is not open to the public and is under the control of an employer employing three or fewer employees (the CCIAA requires exempted employers to provide a smoke-free work area to an employee upon request);
- a private, nonresidential building on a farm or ranch that has annual gross income of less than \$500,000; and
- the retail floor plan of a licensed casino.

In the coming months the City Council will consider possible amendments to the City Code which, if adopted, would conform the City Code to the CCIAA in areas of conflict. If you would like to report a violation, you can do so [online](#), or call the [Nuisance Hot Line](#) at 416-2200.