

Bill No. 2798-06

No. 30-06-OR

AN ORDINANCE

An Ordinance amending Section 880-1, *et seq.*, of the Allegheny County Code of Ordinances by adding an exemption for "Drinking Establishments."

WHEREAS, on October 4, 2006, the Chief Executive signed Bill No. 2705-06, which will become effective January 2, 2007 as Sections 880-1 through 880-6 of the Allegheny County Code of Ordinances; and

WHEREAS, the Chief Executive and County Council believe that the following amendment will clarify the applicability of the recently enacted Allegheny County smoke free legislation to certain drinking establishments within the County;

The Council of the County of Allegheny hereby enacts as follows:

SECTION 1. Incorporation of the Preamble.

The provisions set forth in the Preamble to this Ordinance are incorporated by reference in their entirety herein

SECTION 2. Amendment of Section 880-1.

Section 880-1 of the Allegheny County Code of Ordinances is hereby amended as follows:

§880-1. Definitions

For the purposes of this Chapter, the following definitions shall apply:

* * *

- (m) "Drinking Establishment" shall mean any Food or Beverage Establishment whose on-site sales of food for consumption on the premises comprises no more than 10% of gross sales of both food, non-alcoholic beverages and alcoholic beverages on an annual basis and having fewer than ten (10) employees. For the purposes of this section, any individual receiving compensation of any type from the food or beverage establishment for work performed, regardless of full or part time status, salary or hourly pay rate, benefit status, or any other employment shall be deemed to be an employee of that establishment.

* * *

SECTION 3. Amendment of Section 880-2.

Section 880-2 of the Allegheny County Code of Ordinances is hereby amended as follows:

§880-2. Smoking Prohibited.

* * *

- (b) **Exceptions.** The provisions §880-2(a) shall not apply:

* * *

- (4) In Drinking Establishments opened prior to September 26, 2006, provided that:

- (i) The exception provided under the terms of this section shall not be available to any Drinking Establishment during any time at which individuals under the age of 18 years are present within such establishment.

- (ii) The Drinking Establishment submits a written waiver application to the Allegheny County Health Department and forwards a copy of the application to the municipal police department(s) with jurisdiction over the location in which the Drinking Establishment is located. Such application, at a minimum, shall include:

- (a) The name of the Drinking Establishment;
- (b) An address and telephone number for owner(s) of the Drinking Establishment;
- (c) The date upon which the Drinking Establishment was opened, together with copies of the Drinking

Establishment's two most recent annual Federal Income Tax Returns;

- (d) A general description of the business conducted at the Drinking Establishment, together with any other documentation that the Department shall deem necessary to demonstrating the Drinking Establishment's annual sales and percentage thereof derived from food, non-alcoholic beverages, and alcoholic beverages; and
- (iii) The Drinking Establishment receives a written waiver from the Health Department, as follows:

 - (a) The Department may require that applications include any information deemed pertinent to the identification of the entity applying for a waiver under the terms of this section. The Department may also designate the form of the application and establish written application guidelines. The Department shall issue a written approval or denial of all applications and shall develop a system, policies and procedures for tracking the issuance of all approvals or denials.
 - (b) The Department may disapprove an application only if it finds that an applicant does not meet one or more of the requirements of this section. The Department shall provide written notices of all denials that include the specific reason(s) for which any application was not approved.
- (iv) The Drinking Establishment displays the relevant waiver at in a prominent location within the Establishment at all times, and provides a copy to the municipal police department(s) with jurisdiction over the Drinking Establishment.
- (v) Waivers granted under this section shall automatically expire if the Drinking Establishment to which they apply is moved or sold, or if any alteration is made to the Establishment's liquor license or incorporation status.
- (vi) All waivers granted under this section shall automatically expire on January 1, 2009.

SECTION 4. Effective Date.

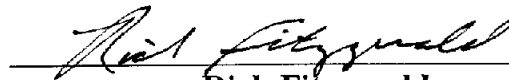
This Ordinance shall take effect upon the effective date of Ordinance No. 23-06-OR.

SECTION 5. Severability. *If any provision of the Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance which shall continue in full force and effect.*

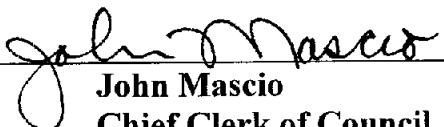
SECTION 6. Repealer. *Any ordinance or any part of an Ordinance conflicting with the provisions of this Ordinance is hereby repealed to the extent of such conflict.*

Enacted in Council, this 24th day of October, 2006

Council Agenda No. 2798-06



Rich Fitzgerald
President of Council


Attest: 

John Mascio
Chief Clerk of Council

Chief Executive Office  November 2, 2006

Approved: 


Dan Onorato
Chief Executive

Attest: 

Donna Beltz
Executive's Secretary

MEMORANDUM
OFFICE OF THE COUNTY MANAGER

TO: John Mascio
Chief Clerk

FROM: James M. Flynn, Jr. 
County Manager

DATE: October 5, 2006

RE: Proposed Ordinance

ALLEGHENY COUNTY COUNCIL

'06 OCT 5 AM 11:51

Attached is an ordinance amending provisions to Ordinance No. 23-06-OR, which prohibits smoking in certain public places and workplaces, and providing for penalties for violations.

The Allegheny County Law Department has reviewed this legislation prior to submitting it to Council.

Please place this on the next agenda for County Council approval.

Thank you.