

[Name of Organization]

Procedures for Determination of Smoking Policy

Adopted Date adopted

EMPLOYEE VOTING:

1. Effective insert effective date, all employees of insert name of organization shall be afforded the opportunity to vote by secret ballot on smoking policy. The smoking policy must be reviewed within 60 days of either (1) the hiring of any new employee or employees or (2) at the time a complaint, either oral or written, is received from a club employee to ensure mutual agreement by all employees. After an initial vote following adoption of this policy, or within 60 days of the hiring of new employees or at the time a complaint, oral or written, is received by Insert name or title of person authroized to accept complaints or employees agent a new vote will be scheduled.

2. OVERSITE

For each secret ballot vote of employees to determine whether smoking will be permitted in the Insert name of organization facility, Insert name of organization shall appoint an individual to oversee the secret ballot vote. The Overseer may be an officer, manager, member or non-member of the club and will be responsible for implementing these procedures.

3. NOTICES OF VOTE

A notice of secret ballot vote shall be prepared by Insert name of organization, describing generally the manner and conditions under which the vote shall be held, and incorporating therein a copy of the ballot marked "SAMPLE". The Notice shall be neutral with respect to any desired outcome or consequence of the vote.

- a. The Notice shall be legible with font size of at least 12
- b. The notice shall clearly state the time and place of voting and time and place for counting of votes.
- c. The notice shall provide clear instructions on how to mark the ballot.
- d. The notice shall include the name of the Overseer.
- e. The notice shall be posted in a conspicuous place, including all places where notices to employees are customarily placed by Insert name of organization and distributed to all employees at least 14 days prior to the vote.
- f. A list of all eligible employee voters shall be posted next to the notice.

4. FORMS OF BALLOT

The Overseer shall prepare the ballot. The ballot shall have at a minimum the choice of:

- a. no smoking throughout the common areas of the work facility; and
- b. smoking, which may be limited to designated areas within common areas of the work facility as described on the ballot.

Only a sufficient number of ballots for the number of employees shall be printed.

Ballots must be numbered. Numbered ballots shall be distributed randomly to eligible voters, and the recipient of the ballot number **shall not** be recorded.

5. VOTING

In the case of employee balloting, the vote shall be held on-site.

- a. Employees may observe the voting.
- b. Employees may observe the vote count.

6. RESULTS OF VOTE

- a. The vote of employees to allow smoking must be **unanimous** for smoking to be permitted in any common area of the work facility.
- b. The result of the vote shall be posted in a conspicuous place, including all places where notices to employees are customarily placed by Insert name of organization.
- c. Insert name of organization shall notify the Department of Health and Human Services, Maine Center for Disease Control and Prevention, in writing of the results of the election within 30 days of the vote.

7. CHALLENGED BALLOT PROCEDURE

Employees may challenge individual ballots:

- a. Any employee shall have the right to challenge individual ballots. The employee shall provide a written statement indicating the reason(s) for the challenge to the Overseer.
- b. Objections filed under this procedure or any challenged ballots which are outcome-determinative shall be decided by submitting the voting results, objections to conduct, and challenged ballots to the overseer.. The determination process shall be as follows:

- c. In the event objections to balloting procedure or specific ballots may not be mutually resolved between the club and its employees, the parties may elect to refer the matter to mediation, arbitration or the civil justice system.

MEMBER VOTING

1. For each secret ballot vote of members to determine whether smoking will be permitted in the facility, insert governing body shall appoint an individual to oversee the secret ballot vote. The overseer may be an officer, manager, member or non-member of the club and will be responsible for implementing these procedures.

2. NOTICES OF VOTE

Notices of the election shall be prepared describing generally the manner and conditions under which the election shall be held, and incorporating thereon the form of ballot. Such notices shall be mailed to each member and posted at least 30 days before the date of the vote or counting of ballots, allowing sufficient time for requesting, mailing and return of absentee ballots prior to the vote, in a conspicuous place including all places where notices to members are customarily placed. A list of members eligible to vote shall also be posted with the notice. Any member wishing to vote by absentee ballot shall be afforded the opportunity and provided an absentee ballot in sufficient time to be returned and received prior to the vote count. Notices shall be neutral on the subject of the vote. The Notice will be legible with a font size of at least 12

3. ADDRESS OF ELIGIBLE MEMBERS AND/OR EMPLOYEES.

In sufficient time for the above notice prior to the vote, Insert name or title of individual with official list of members shall supply the overseer of the vote with the current home address of every member eligible to vote.

4. ABSENTEE BALLOT PACKET

The overseer shall mail an absentee ballot packet to all members on the list of eligible voters requesting an absentee ballot or to all eligible members if the vote is to be entirely by mail, giving sufficient time so that the packets are received by eligible voters not less than 21 days prior to the vote. The packet shall contain: 1 secret ballot, 1 plain white ballot envelope (marked "Envelope A"), 1 preaddressed, postage prepaid, return envelope (marked Envelope B), and the letter of instructions. .

5. LETTER OF INSTRUCTIONS

The letter of instructions shall be prepared by the overseer of the election. It shall be neutral on the subject of the vote, contain an explanation of the purpose of the vote, the date that the votes will be counted, and instructions on how to properly mark an

absentee ballot. These instructions must be legible with a font size of at least 12 stated in clear and concise language and include the following:

- a. Mark the ballot in secret. DO NOT SIGN THE BALLOT.
- b. Place the ballot in the small envelope (Envelope A), and seal it. DO NOT sign this envelope.
- c. Place the small envelope in the larger return envelope (Envelope B), seal it, and place your signature on the back. You MUST sign the return envelope in order to validate the ballot.
- d. Place the return envelope in the United States mail so that it will be postmarked no later than 7 days prior to the vote.

6. FORMS OF BALLOT

- a. The overseer shall prepare the ballots; each ballot shall have at a minimum the choice of:
 - 1) no smoking throughout the common areas of the facility,
 - 2) a choice of smoking, which may be limited to designated areas or common areas of the facility.
- b. Only a sufficient number of ballots for the number of members shall be printed and numbered. Additional ballots up to an additional 10% of the membership may be printed and marked as supplemental ballots and used if needed.
- c. Numbered ballots shall be distributed randomly to qualified voters and the recipient of the ballot number **shall not** be recorded.
- d. The Ballot will be legible with a font size of at least 12.

7. VOTING

Physical arrangements for voting shall be such as to assure secret balloting. Voting booths may be used, but are not required.

8. AUTHORIZED OBSERVERS OF MEMBER BALLOTING.

Proponents and opponents of a proposed smoking policy may each designate observers to be present at a polling place during the scheduled period of balloting and/or during the vote tally. More than one observer may be designated by each party, but no more than one of the party's observers shall be present at any given time at a single polling place. The parties may waive the opportunity to have observers present during the vote and/or tally. The right to have an observer present at the

balloting/tally shall be waived if designation of an observer is not filed with the overseer at least one week prior to the vote/tally date.

Designated observers shall:

- a. not be officers or business managers of the club, unless the parties agree otherwise;
- b. assist in the identification of eligible voters;
- c. if the balloting is on-site; challenge voters and ballots when they have reason to believe that the voter is not an eligible member;
- d. witness the counting of ballots;
- e. otherwise assist the club's governing body.

9. COUNTING OF BALLOTS

Counting of the member ballots is open to all members of the insert name of organization. The ballots, however, shall only be handled by the designated observers of the parties and the overseer. The ballots may be counted immediately following the closing of the polls at the last scheduled time for balloting. The ballots shall be mixed and the overseer shall open sealed absentee ballots and/or on-site ballots and count them while sorting them into piles according to choice. Each pile shall then be recounted for verification and tallied. The observers shall interpret ballots not marked in a normal manner, and if the observers are unable to agree on the voter's intent, the overseer shall determine the validity of the ballot or the voter's choice. If the intent of the voter is clear, despite unorthodox markings, extra markings, or erasures, the ballot shall be counted unless the voter's name or other identification appears. Blank ballots and those ballots containing the voter's name or other identification shall be considered void.

10. CHALLENGED BALLOT PROCEDURE

Any designated observer shall have the right to challenge voters or ballots. In the event of a challenge, the voter shall be provided with a ballot, and two envelopes, hereafter referred to as the "Challenged Ballot Envelope," and the "Secret Ballot Envelope." The voter's name, the reason for the challenge, and the name of the person making the challenge shall be written on the face of the Challenged Ballot Envelope. The Ballot shall then be marked by the voter, and sealed in the Secret Ballot Envelope. The overseer shall then place the Secret Ballot Envelope in the Challenged Ballot Envelope, and deposit it in the ballot box. Any member whose name is not on the eligibility list, but who claims to be an eligible voter, shall be allowed to cast a challenged ballot. If said challenged ballots are sufficient in number so as to be determinative of the results of vote, such challenges shall be resolved in accordance with Section 14 of these Procedures.

11. VOTE REQUIRED TO PERMIT SMOKING .

A majority vote of the members voting is required to permit smoking in any or all areas of the facility.

12. RESULTS OF THE TALLY.

After the count is complete, the results shall be recorded on a tally sheet and the sheet shall be signed by the designated observers and the Overseer. The Overseer shall place any challenged ballot envelopes and the regular ballots inside a large envelope together with the tally sheet. This envelope shall be kept on file by for at least three years from the date of the tally.

13. REPORT OF VOTE AND OBJECTIONS

Within 5 business days of the tally, any member of the club may file objections to the conduct of the member vote. Such objections shall be in writing and shall contain a brief statement of facts upon which the objections are based. If no objections are filed within the 5-day period, the results of the vote are final.

The club shall provide written notice of the results of the vote to the Department of Health and Human Services, Maine Center for Disease Control and Prevention, within 30 days of the vote.

14. PROCEDURE WHEN CHALLENGED BALLOTS ARE DETERMINATIVE OF OUTCOME AND FOR OBJECTIONS TO CONDUCT.

Objections filed under subsection 13 above, or any challenged ballots which are outcome determinative shall be decided by the submitting the voting results, and/or objections to conduct, to the Overseer for review. If challenged ballots or objections to conduct raise a substantial question which cannot be resolved the parties may elect to refer the matter to mediation, arbitration or the civil justice system.

Sample Notice to Employees”

NOTICE TO ALL EMPLOYEES OF [INSERT NAME OF ORGANIZATION]

From: [name of Overseer of vote]

To: All employees and contract personnel

Subject: Vote on smoking policy

On [insert date and time of election] all employees of [insert name of organization] must vote on accepting or rejecting of a smoking policy for [insert name of organization]. The voting will be held in [insert name of location of the vote]. By Maine law, all employees must agree if the policy is to allow smoking in any common areas of [insert name of facility] where services are provided for [insert name of the employer/organization].

All voting and the counting of the votes are open to be observed. The votes will be counted on [insert date and time of the vote count].

Any employee may file an objection to the conduct of the vote or challenge an individual ballot by providing a written challenge stating the reasons for their objection to [insert the name of the overseer] within 5 days of the vote tally. If the objection can not be mutually resolved the parties may refer the matter to mediation, arbitration or the civil justice system.

For questions concerning the vote you may contact:

[insert name and contact information of the overseer]

Sample Member Notice: Absentee Ballot Request

NOTICE TO ALL MEMBERS OF [INSERT NAME OF ORGANIZATION]

From: [name of Overseer of vote]

To: All Members

Subject: Vote on Smoking Policy

On [insert date and time of election] all members of [insert name of organization] may vote on accepting or rejecting of a smoking policy for [insert name of organization]. The voting will be held in [insert name of location of the vote]. By Maine law all employees and a majority of the members voting must agree if the policy is to allow smoking in any common areas of [insert name of facility].

If you can not vote in person you may request an absentee ballot from:

[insert contact information for obtaining absentee ballots]

All voting and the counting of the votes are open to be observed. The votes will be counted on [insert date and time of the vote count].

Any member may file an objection to the conduct of the vote or challenge an individual ballot by providing a written challenge stating the reasons for their objection to [insert the name of the overseer] within 5 days of the vote tally. If the objection can not be mutually resolved the parties may refer the matter to mediation, arbitration or the civil justice system.

For questions concerning the vote you may contact:

[insert name and contact information of the overseer]

Sample Member Notice: Absentee Ballot Included

NOTICE TO ALL MEMBERS OF [INSERT NAME OF ORGANIZATION]

From: [name of Overseer of vote]

To: All Members

Subject: Vote on Smoking Policy

On [insert date and time of election] all members of [insert name of organization] may vote on accepting or rejecting of a smoking policy for [insert name of organization]. The voting will be held in [insert name of location of the vote]. By Maine law all employees and a majority of the members voting must agree if the policy is to allow smoking in any common areas of [insert name of facility].

If you plan on voting in person you must use the enclosed ballot form. If you can not vote in person you may return the enclosed ballot form as an absentee ballot to.

[Insert contact information for obtaining absentee ballots]

All voting and the counting of the votes are open to be observed. The votes will be counted on [insert date and time of the vote count].

Any member may file an objection to the conduct of the vote or challenge an individual ballot by providing a written challenge stating the reasons for their objection to [insert the name of the overseer] within 5 days of the vote tally. If the objection can not be mutually resolved the parties may refer the matter to mediation, arbitration or the civil justice system.

For questions concerning the vote you may contact:

[insert name and contact information of the overseer]

Sample Ballot: Employees

OFFICIAL BALLOT FOR EMPLOYEES OF [INSERT NAME OF ORGANIZATION]

Instructions: Place a check (✓) or X (X) next to your choice of a smoking policy.
DO NOT SIGN THE BALLOT. Place the ballot in the ballot box.

I agree to provide services in (describe the location(s) where smoking will be allowed) where the [Insert the name of the organization] has a policy to allow smoking.

I **DO NOT** agree to work in a smoking facility.

Sample Ballot: Membership

OFFICIAL BALLOT FOR MEMBERS OF [INSERT NAME OF ORGANIZATION]

Instructions: Place a check (✓) or X (X) next to your choice of a smoking policy.
DO NOT SIGN THE BALLOT. Place the ballot in the ballot box.

If voting by absentee ballot:

- a. Mark the ballot in secret. **DO NOT SIGN THE BALLOT.**
- b. Place the ballot in the small envelope (Envelope A), and seal it. **DO NOT** sign this envelope.
- c. Place the small envelope in the larger return envelope (Envelope B), seal it, and place your signature on the back. You **MUST** sign the return envelope in order to validate the ballot.
- d. Place the return envelope in the United States mail so that it will be postmarked no later than 7 days prior to the vote.

Indicate your preference below:

- Smoking shall be allowed in (describe the location(s) where smoking will be allowed) of the [Insert the name of the organization]
- NO** Smoking shall be allowed in enclosed areas of [Insert the name of the organization] facilities.

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