

CCIAA/Municipal Smoke-Free Laws in Jefferson County Protocol for Compliance Assessment Contacts

Background and purpose of compliance assessment contacts:

In order to increase compliance with local and/or state clean indoor air laws and to support local Law Enforcement in reducing the number of citations needed, the Jefferson County Department of Health and Environment's Tobacco Prevention Staff (JCTPI) will conduct and oversee others in conducting assessments of compliance status in establishments covered by these laws in Jefferson County. There are two types of compliance assessment contacts:

- 1) those not driven by a complaint about non-compliance which occur as part of tobacco control surveillance activities for the purpose of information gathering and
- 2) those driven by complaints that an establishment may be out of compliance and requiring more education/intervention to assist the establishment in achieving compliance.

Type 1 will be referred to as "CCIAA compliance assessment visits" and type 2 as "CCIAA complaint contacts."

Type 1 – CCIAA Compliance Assessment Visits

These contacts occur preferably as unannounced/undercover visits to establishments. Volunteers doing assessments should conduct visits in places where they are most likely to be unnoticed while being able to move around the establishment for the time necessary to complete the assessment. Volunteers and JCTPI staff should carry a letter from the JCTPI coordinator identifying them as an authorized person to conduct assessments on behalf of JCDHE while conducting assessments. Staff of the JCTPI may/may not need to conduct the visit "undercover".

These checks can and should be conducted in establishments more likely than others to have difficulty achieving consistent and/or full compliance (bars, restaurants with bars, bowling alleys, billiard halls, etc.)

When to conduct compliance assessment visits

Compliance assessment visits should be conducted with all bars, restaurants with bars, etc., prior to complaints being made, and during business hours when the establishment has the most customers visiting.

What is included in a CCIAA compliance assessment visit?

- "undercover" visit by community member to an establishment; filling out the "checklist"
- notifying JCTPI staff about assessment visit findings
- if establishment found to be in compliance, JCTPI sends out congratulatory card
- with report of non-compliance, JCTPI institute the CCIAA Complaint Contact

Type 2 – "CCIAA Complaint Contacts"

These contacts are made by JCTPI staff and occur in response to a complaint received about an establishment, as a follow up to a compliance assessment visit in which a violation was found, and/or as needed/requested by law enforcement personnel or other authority. Activities under CCIAA Complaint Contacts focus on identifying the specific compliance concern, review of the language of the CCIAA or local smoke-free law, addressing barriers to compliance, availability of resources and support and a plan of action. These contacts serve as educational and preventive, and if done effectively helps reduce the need for Law Enforcement response.

What is included in a CCIAA complaint contact?

- phone contact with the proprietor/manager of the establishment to discuss the compliance concern
- follow-up letter to the proprietor summarizing the phone discussion and follow up plans
- follow-up visit by JCTPI staff and/or law enforcement to determine compliance status

Specific protocol for conducting a compliance assessment visit:

- 1) Using the Compliance Assessment Visit Checklist, volunteer/coalition member or staff conduct a walk-through assessment and systematically note observed violations as well as well as potential barriers to

consistent compliance; **see form.**

2) Fax completed form to JCTPI at (303) 275-7506, or send electronic copy to ejellis@jeffco.us.

3) For establishments found to be in compliance, JCTPI staff may send a congratulatory post card to the owner/manager.

4) For establishments found to be out of compliance, review the Specific Protocol for Conducting Compliance Complaint Contacts (JCTPI conducts these contacts).

Best Practices for safely conducting assessment visits:

- conduct visits with at least one other person
- if you go into an establishment and it doesn't feel comfortable or safe...leave
- carry your letter from the JCTPI coordinator with you
- if possible, conduct visits when there are numerous patrons in the establishment
- be/appear like a "customer" as much as possible; make notes discretely or wait until you leave to make notes
- have a cell phone on you, if possible
- if approached by staff working in the establishment, do what feels comfortable/safe (i.e., say, "I am looking for a friend I thought was meeting us here," for example). If it feels safe/appropriate, present your letter and business card and explain your role. Provide the JCTPI phone number (not your own contact information) if asked for a number
- Give JCTPI staff a call and explain anything that didn't go well; we will follow up with a proprietor if needed.

Compliance Checklist for Local/State Smoke-Free Laws - Jefferson County

Person conducting visit: _____
 Date of compliance assessment visit: _____ Time of visit: AM PM
 Name of establishment: _____ Location: _____
 Duration of visit: _____ Estimated # of people in establishment during visit: _____

OBVIOUS NON-COMPLIANCE OBSERVED:

	total # of people observed with lit cigarette in smoking-prohibited areas while in establishment		
	list/describe the area in which smoking was observed with the # of people observed smoking:		
	# within indoor area of establishment NOT exempt under the law		
	Describe:		
	# within smoke-free perimeter of		feet outside of entrance(s)
	Describe:		
	# within another outdoor area in which smoking is prohibited (i.e., on a bar patio in Arvada)		
	Describe outdoor area in question:		
	failure of staff to ask that smoking cease in smoking-prohibited area		
	failure of individual/customer to comply with request from staff		
	(Please note if staff intervened and patron complied. This is NOT a violation but should be acknowledged.)		

AREAS OF CONCERN – POTENTIAL BARRIERS TO COMPLIANCE

	smoking receptacles (ashtrays, canisters, etc.) within areas where smoking is prohibited		
	lack of extinguishing receptacles placed strategically (outside entrances to smoking-prohibited areas) to prevent smoking within restricted areas		
	signage inadequacies (smoke-free signage should be posted in major entranceways, minimally, and in outdoor areas where people may congregate to smoke, indicating perimeter stipulations, if applicable; signs should be clear)		
	Describe:		
	apparent accommodation that may influence people to assume smoking is permitted, despite stipulations of the law (i.e., patio with siding and no signs - making it an extension of an indoor area)		
	Describe:		
	claims of exemption, but qualifications not apparent (i.e., is a “Cigar Bar” but has limited tobacco products for sale, majority of business is not tobacco purchase-related, no humidor)		
	Describe:		

Other notes:	

Follow up:

fax/send/email compliance assessment checklist to JCTPI	Date sent:	

For JCTPI staff only:

1.	Jurisdiction:		2.	Proprietor’s name:	
3.	Phone: ()		4.	Address:	

Compliant:	Non-compliant:
date sent congratulatory postcard:	date of compliance complaint call:
	call conducted by:
	date of follow up letter (attach letter):

		date fax to law enforcement:	
		law enforcement contact:	

Sample follow up “Compliance Complaint” letter – sent by JCTPI staff after a compliance check or adapt for use after a complaint

To: Owner/operator of the XXXXX
 Address:

From: Donna Viverette, MPH, Jefferson County Department of Health and Environment
 Coordinator, Tobacco Prevention Initiative

CC: Wheat Ridge Police Department Code Enforcement Division

Re: Recent contact regarding compliance with the Colorado Clean Indoor Air Act (CCIAA)

Thank you for operating a business and supporting the economic vitality of Jefferson County. Under the direction of the Colorado State Tobacco Education and Prevention Partnership, we are working to support businesses in understanding and being compliant with the CCIAA.

A complaint has been received about possible non-compliance with the CCIAA in your establishment. The purpose of contact with you is to provide information about the language of the CCIAA, answer your questions, determine what steps can be taken to achieve compliance and offer additional assistance.

The specific concern raised about the Twins Inn is that smoking is being permitted in an area that could be considered an “indoor area” *in which smoking should be prohibited under the CCIAA*. The area in question in your establishment is enclosed by three walls and a roof. As I understood from our recent conversation, this area is considered an outdoor patio by you.

The Colorado Clean Indoor Air Act specifies that smoking is not permitted in an area that could be considered an “indoor area”. According to the definitions section of the CCIAA (25-14-203 (10), an “Indoor Area means any enclosed area or portion thereof. The opening of windows or doors, or the temporary removal of wall panels, does not convert an indoor area into an outdoor area.”

In cases where a business owner/operator has reviewed the language of the CCIAA and remains uncertain about whether or not his/her business is in compliance, it is recommended that professional legal counsel be sought. An attorney can review the language of the CCIAA and may be able to help you determine if your establishment is in compliance. The Act can be found at <http://www.smokefreecolorado.com/data/pdf/CleanIndoorAirAct.pdf>. We can also send you a copy of the act if you cannot access it through this website.

Ultimately, only local law enforcement has the authority to determine if a violation has occurred and to issue citations under the CCIAA. Establishments found to be non-compliant can be issued a ticket and fined \$200 for a first violation. As a courtesy to our local law enforcement personnel, we provide a copy of this letter to them for their records.

Though we are not able to provide interpretation of the CCIAA, we can assist with other questions and have a variety of resources to offer. Please feel free to contact me if we can be of help in this matter.

Respectfully,