

ARTICLE X Smoking Regulations

Sec. 7-10-10. Purpose and intent.

The City Council hereby finds and determines that it is in the best interest of the people of the City to protect nonsmokers from involuntary exposure to environmental tobacco smoke in most indoor areas open to the public, public meetings, food service establishments and places of employment. The City Council further finds and determines that a balance should be struck between the health concerns of nonconsumers of tobacco products and the need to minimize unwarranted governmental intrusion into, and regulation of, private spheres of conduct and choice with respect to the use or nonuse of tobacco products in certain designated public areas and in private places. Therefore, the City Council hereby declares that the purpose of this Article is to preserve and improve the health, comfort and environment of the people of this City by limiting exposure to tobacco smoke. These regulations cover the same subject matter as the provisions of the Colorado Clean Indoor Air Act and shall be enforced in the Municipal Court.

Sec. 7-10-20. Definitions.

As used herein, the following terms shall have the meaning indicated:

Auditorium means the part of a public building where an audience gathers to attend a performance, and includes any corridors, hallways or lobbies adjacent thereto.

Bar means any indoor area that is operated and licensed under Article 47 of Title 12, C.R.S., primarily for the sale and service of alcohol beverages for on-premises consumption and where the service of food is secondary to the consumption of such beverages.

Employee means any person who:

- a. Performs any type of work for benefit of another in consideration of direct or indirect wages or profit; or
- b. Provides uncompensated work or services to a business or nonprofit entity.

Employee includes every person described in Subparagraph a. above, regardless of whether such person is referred to as an employee, contractor, independent contractor, volunteer or by any other designation or title.

Employer means any person, partnership, association, corporation or nonprofit entity that employs one (1) or more persons. *Employer* includes, without limitation, the judicial branches of state government; any county, city and county, city, town or instrumentality thereof or any other political subdivision of the State, special district, authority, commission or agency; or any other separate corporate instrumentality or unit of state or local government.

Entryway means the outside of the front or main doorway leading into a building or facility and includes an area, public or private, radiating one (1) inch from the frame of the doorway.

Environmental tobacco smoke, ETS or secondhand smoke means the complex mixture formed from the escaping smoke of a burning tobacco product, also known as side stream smoke, and smoke exhaled by the smoker.

Food service establishment means any indoor area or portion thereof in which the principal business is the sale of food for on-premises consumption. The term includes, without limitation, restaurants, cafeterias, coffee shops, diners, sandwich shops and short-order cafes.

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.

Outdoor area means an area with at least forty percent (40%) of the surrounding walls, columns or other building elements as permanent and unobstructed openings to the outside. Such area may be provided with a roof or floor to provide weather protection, provided that such area is not fully enclosed.

Place of employment means any indoor area or portion thereof under the control of an employer in which employees of the employer perform services for, or on behalf of, the employer.

Public building means any building owned or operated by:

- a. The State, including the legislative, executive and judicial branches of state government;
- b. Any county, City and county, City, town or instrumentality thereof, or any other political subdivision of the State, a special district, an authority, a commission or an agency; or
- c. Any other separate corporate instrumentality or unit of state or local government.

Public meeting means any meeting open to the public pursuant to Part 4 of Article 6 of Title 24, C.R.S.

Smoke or *smoking* means the burning of a lighted cigarette, cigar, pipe or any other matter or substance that contains tobacco.

Smoke-free work area means an indoor area in a place of employment where smoking is prohibited under this Article.

Tobacco means cigarettes, cigars, cheroots, stogies and periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff and snuff flour; Cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts, refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a cigarette, pipe or otherwise, or both for chewing and smoking. *Tobacco* also includes cloves and any other plant matter or product that is packaged for smoking.

Tobacco business means a sole proprietorship, corporation, partnership or other enterprise 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.

Work area means an area in a place of employment where one (1) or more employees are routinely assigned and perform services for or on behalf of their employer.

(Prior code 7-202)

Sec. 7-10-30. General smoking restrictions.

Except as provided in Section 7-10-40 below, it shall be unlawful for any person to smoke in any indoor areas, including, but not limited to:

- (1) Public meeting places.
- (2) Elevators.
- (3) Government-owned or -operated means of mass transportation, including but not limited to buses, vans and trains.

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- (4) Taxicabs and limousines.
 - (5) Grocery stores.
 - (6) Gymnasiums.
 - (7) Jury waiting and deliberation rooms.
 - (8) Courtrooms.
 - (9) Child day care facilities.
 - (10) Health care facilities including hospitals, health care clinics, doctor's offices and other health care related facilities.
 - (11) Any place of employment that is not exempted. In the case of employers who own facilities otherwise exempted from this Subsection, each such employer shall provide a smoke-free work area for each employee requesting not to have to breathe environmental tobacco smoke. Every employee shall have a right to work in an area free of environmental tobacco smoke.
 - (12) Food service establishments.
 - (13) Bars.
 - (14) Indoor sports arenas.
 - (15) Restrooms, lobbies, hallways and other common areas in public and private buildings, condominiums and other multiple-unit residential facilities.
 - (16) Restrooms, lobbies, hallways and other common areas in hotels and motels, and in at least seventy-five percent (75%) of the sleeping quarters within a hotel or motel that are rented to guests.
 - (17) Bowling alleys.
 - (18) Billiard or pool halls.
 - (19) The common areas of retirement facilities, publicly owned housing facilities and nursing homes, not including any resident's private residential quarters.
 - (20) Public buildings.
 - (21) Auditoria.
 - (22) Theaters.
 - (23) Museums.
 - (24) Libraries.
 - (25) Public and nonpublic schools.
 - (26) Other educational and vocational institutions; and
 - (27) The entryways of all buildings and facilities listed in Paragraphs (1) through (26) of this Section.

(Prior code 7-203)

Sec. 7-10-40. Exceptions to smoking restrictions.

Smoking is permitted in the following places:

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- (1) Private homes, private residences and private automobiles; except if any such home, residence or vehicle is being used for child care or day care or if a private vehicle is being used for the public transportation of children or as part of health care or day care transportation.
 - (2) Limousines under private hire.
 - (3) A hotel or motel room rented to one (1) or more guests if the total percentage of such hotel or motel rooms in such hotel or motel does not exceed twenty-five percent (25%).
 - (4) Any retail tobacco business.
 - (5) The outdoor area of any business, including but not limited to patios, balconies, outdoor stage areas and concert halls.
 - (6) A place of employment that is not open to the public and that is under the control of an employer that employs three (3) or fewer employees.

(Prior code 7-204)

Sec. 7-10-50. Optional prohibitions.

- (a) The owner or manager of any place not specifically listed in Section 7-10-30 above, including a place otherwise exempted under Section 7-10-40 above, may post signs prohibiting smoking or providing smoking and nonsmoking areas. Such posting shall have the effect of including such place, or the designated nonsmoking portion thereof, in the places where smoking is prohibited or restricted pursuant to this Article.
- (b) If the owner or manager of a place not specifically listed in Section 7-10-30 above, including a place otherwise exempted under this Section, is an employer and receives a request from an employee to create a smoke-free work area as contemplated by Subparagraph 7-10-30(11)b., the owner or manager shall post a sign or signs in the smoke-free work area as provided in Subsection (a) above.

(Prior code 7-205)

Sec. 7-10-60. Enforcement and penalties.

- (a) It shall be unlawful for a person who owns, manages, operates or otherwise controls the use of a premises subject to this Article to violate any provision of this Article.
- (b) It shall be unlawful for any person to smoke in an area where smoking is prohibited pursuant to this Article.
- (c) Violations of any provision of this Article shall be punishable in accordance with Section 1-4-20 of this Code subject to the following fine schedule:

First offense within calendar year:	Up to \$200.00
Second offense within calendar year:	Up to \$300.00
Each additional offense within calendar year:	Up to \$500.00

(Prior code 7-206)