

ARTICLE VII Air Quality and Smoking Regulations

Sec. 7-7-10. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section:

Cigar-tobacco bar means a bar that generates at least five percent (5%) of its total annual gross income or fifty thousand dollars (\$50,000.00) in annual sales from the on-site sale of tobacco products and the rental of on-site humidors. As defined in Section 25-14-203(4), Colorado Revised Statutes, Cigar-tobacco bars are exempted from the town's smoking prohibitions as contained in Section 7-7-30 provided they meet the gross income or annual sales requirements set forth herein.

Delivery device (DD) means a device that when activated emits a vapor or aerosol that may be inhaled or absorbed by the user including but not limited to E-cigarettes, E-cigar, E-pipe, vape pen, and E-hookahs. Delivery Device also includes any component part or accessory of such device whether or not sold separately and includes any substance with or without nicotine intended to be aerosolized during the use of the device. The term "delivery device" does not include any device specifically approved by the United States Food and Drug Administration for use in reducing, treating or eliminating nicotine or tobacco dependence, or for any other medical purposes, when such a device is being marketed and sold solely for such approved purpose.

Enclosed area means all space between a floor and ceiling that is enclosed on all sides by solid walls or windows (exclusive of doorways or passageways) that extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid, office landscaping or similar structures.

Environmental smoke or secondhand smoke means gases, particles and vapors released into the air as a result of the combustion, electrical ignition, vaporization, heating, or other ignition of any substance, including but not limited to tobacco, nicotine or a marijuana product, also known as "sidestream smoke," and such gases, particles and vapors that are exhaled by the smoker.

Marijuana hospitality and sales establishment has the same meaning as set forth in Section 6-8-30 of this Code.

Private club means any establishment without a liquor license that has a defined membership and restricts admission to members of the club and their guests, or any establishment that holds a "club" liquor license pursuant to Section 12-47-416, Colorado Revised Statutes. A *private club* is considered a *public place* when functions are held at the club to which the public is invited or in which the public is permitted. *Private club* shall not include an establishment that is open to members of the general public upon payment of a nominal fee.

Public place means any place to which the general public has access and a right of resort for business, entertainment or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It shall include enclosed areas to which the public is invited or in which the public is permitted; stores, shops, restaurants, bars, taverns and other place of business open to the public; the entire Town Marina area; the entire Town Amphitheatre area; all Town parks and open space; public grounds, trails, walkways and public areas; and, the public entrances to places of business. It shall also include public transportation vehicles, Town vehicles and Town-owned facilities. Public place shall not include a private club, the licensed premises of a marijuana hospitality and sales establishment, or private residences or private vehicles except when any such home, residences, or vehicles are being used as a child care facility or

child care center or if a private vehicle is being used for the public transportation of children or as part of health care or child care transportation.

Smoking means the burning, heating, electrical ignition, use of a delivery device, vaporization, aerosolization or carrying of a lighted or heated cigarette, cigar, pipe, or any other similar product, device, matter or substance that contains tobacco, nicotine, or marijuana, or any other substance or combination thereof, and the inhaling and exhaling of environmental smoke created thereby.

Sec. 7-7-20. Findings; purpose.

The Town Council finds and declares that the purposes of this Article are:

- (1) To protect the public health and welfare by prohibiting smoking in public places;
- (2) To advance the right of all persons to breathe smoke-free air; and
- (3) To recognize that the need to breathe smoke-free air shall have priority in public places over the desire to smoke.

Sec. 7-7-30. Smoking prohibited in public places.

Smoking, environmental smoke, or secondhand smoke shall be prohibited in all public places.

Sec. 7-7-40. Smoking prohibited at entry to public places.

- (a) In order to prevent smoke, environmental smoke, or secondhand smoke from entering any area where smoking is prohibited, no person shall smoke within a distance of fifteen (15) feet from any public entrance or passageway of any public place or area where smoking is prohibited, unless such person is passing through the fifteen-foot area referred to herein to extinguish smoking materials in the process of entering through the entrance or passage way.
- (b) The prohibition contained in Subsection (a) above shall not apply to a public place where smoking is prohibited if that public place has designated an outside smoking patio or deck, and such designated patio or deck is immediately adjacent to its primary or main entrance or passageway.

(Ord. 02-04 §1; Ord. 07-04 §1; Ord. 05-16 §4)

Sec. 7-7-50. Posting of signs.

The owner, operator, manager and other person in control of a public place shall be responsible for posting and maintaining "No Smoking" signs clearly indicating the prohibition of cigarettes, marijuana and delivery devices. These symbols shall include the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette), a marijuana leaf symbol (a pictorial of a single marijuana leaf), and a delivery device symbol (a pictorial of a delivery device); all enclosed in circles with a slash across them, clearly and conspicuously posted at every entrance of every public place required or declared to be smoke-free under this Article.

Sec. 7-7-60. Enforcement.

- (a) Enforcement of this Article shall be implemented by the Police Department, under the supervision of the Town Manager.
- (b) Any citizen may register a complaint of alleged violation of this Article by filing a sworn complaint with the Police Department or the Town Manager.

(Ord. 02-04 §1)

Sec. 7-7-70. Violations and penalties.

- (a) It is unlawful for any person who owns, manages, operates or otherwise controls the use of any public place subject to regulation under this Article to fail to comply with any of its provisions.
- (b) It is unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this Article.
- (c) Every person convicted of a violation of any provision of this Article shall be punished as provided in Section 1-4-20 of this Code.
- (d) Each day of continuing violation of Subsection (a) above shall be deemed to be a separate violation regardless of when it occurs.

(Ord. 16-08 §4)

Sec. 7-7-80. Other applicable laws, voluntary prohibitions.

- (a) This Article shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.
- (b) Notwithstanding any other provision of this Article, any owner, operator, manager or other person in control of any establishment or property not otherwise required to prohibit smoking pursuant to this Article may prohibit smoking in such establishment or property.

(Ord. 02-04 §1)