

Chapter 8.12 - SMOKING

Sections:

8.12.010 - Intent.

It is the intent of this chapter to protect the public health, safety and welfare by prohibiting smoking in indoor areas that are used by or open to the public and in indoor areas where persons are likely to gather in close proximity to one another unless such areas are designated as smoking areas pursuant to this chapter.

(Prior code § 8-12-050(A))

8.12.020 - Definitions.

As used in this chapter, the following words and phrases are defined as follows:

"Common area" means a lobby, waiting area, hallway, elevator, restroom, or other enclosed, indoor area where persons are likely to gather in close proximity to one another.

"Public place" means any enclosed, indoor area frequented by the public or serving as a place of work, including, but not limited to, restaurants, stores, other commercial establishments, theaters, banks, educational facilities, recreational facilities, hospitals, nursing homes, health care institutions, libraries, auditoriums, arenas, meeting rooms, grocery stores and public conveyances.

"Smoke" or "smoking" means the lighting of any cigarette, cigar or pipe, or the possession of any lighted cigarette, cigar or pipe, regardless of the composition of the burning materials.

(Prior code § 8-12-050(B))

8.12.030 - Smoking prohibited in certain public places and common areas.

No person shall smoke in any public place or common area, except in such areas in which smoking is permitted in Sections 8.12.040 and 8.12.050.

(Ord. 2004-3 § 7)

8.12.040 - Smoking permitted in certain public places.

Smoking is permitted in the following public places:

- A. Premises upon which malt, vinous, or spirituous liquors, or fermented malt beverages are sold for consumption on the premises pursuant to a license other than an arts license, except for those areas within such licensed premises which are utilized primarily for restaurant purposes;
- B. Fully enclosed offices or rooms occupied exclusively by smokers, even though the offices or rooms may be visited by nonsmokers;
- C. Rooms or halls being used for a private social or business function where the seating arrangements are under control of the sponsor of the function;
- D. Retail stores primarily engaged in the sale of tobacco or tobacco products;
- E. Restaurants with a seating capacity of twenty (20) or fewer persons.

(Prior code § 8-12-050(D))

8.12.050 - Designated smoking areas.

Portions of the following common areas and public places may be designated by the proprietor or person in charge thereof as smoking areas:

- A. Places of work, provided that in no event shall the proprietor or person in charge fail to provide a smoke-free work area to accommodate an employee who requests the same, and provided that no more than fifty (50) percent of the floor area thereof may be so designated.
- B. Restaurants with seating capacities of over twenty (20) persons, provided that no more than fifty (50) percent of the floor area thereof may be so designated, and provided, further, that the premises are conspicuously posted at all public entrances, or in a position clearly visible on

entry to the restaurant, advising patrons that a nonsmoking area is available. If a waiting area is provided, such area must be a nonsmoking area. If an area is designated for smoking, the proprietor or person in charge of the restaurant shall insure that any employee directing patrol seating shall ask each patron for the patron's preference for seating in a nonsmoking or a smoking area.

- C. Common areas exceeding five thousand (5,000) square feet, provided that not more than twenty-five (25) percent of the total area is designated as a smoking area, and provided further that any area so designated is located such that it is not necessary for nonsmokers to pass through such areas to reach other nonsmoking areas. In no event shall the common areas in any nursing home, hospital or health care facility be designated as smoking areas.
- D. In no event shall the proprietor or person in charge of any nursing home, hospital or health care facility fail to provide rooms for nonsmokers or require a nonsmoker to share a room or other facility with a person who smokes, except with the express consent of the nonsmoker.

(Prior code § 8-12-050(E))

8.12.060 - Signs required to be posted.

To advise persons of the existence of "no smoking" or "smoking permitted" areas, legible signs shall be posted as follows:

- A. In public places where the proprietor or person in charge prohibits smoking in the entire establishment, a sign with the words "No Smoking" and/or the international no smoking symbol shall be conspicuously posted either on all public entrances or in a position clearly visible on entry into the establishment.
- B. In public places where certain areas are designated as smoking areas pursuant to this chapter, the statement "No Smoking Except in Designated Areas" shall be conspicuously posted on all public entrances in a position clearly visible on entry into the establishment.
- C. In public places where smoking is permitted in the entire establishment, a sign using the words "Smoking Permitted" and/or the international smoking symbol shall be conspicuously posted either on all public entrances or in a position clearly visible on entry into the establishment.

(Prior code § 8-12-050(F))

8.12.070 - Responsibilities of proprietors.

No proprietor or person in charge of a public place or common area shall fail to make reasonable efforts to obtain compliance with this chapter in such places by:

- A. Posting appropriate signs, as required by this chapter;
- B. Arranging work areas to provide a smoke-free area, as required by this chapter;
- C. Asking smokers to refrain from smoking upon request of a client or an employee suffering discomfort from the smoke;
- D. Affirmatively directing smokers to designated smoking areas;
- E. Using existing physical barriers and ventilation systems to minimize the toxic effect of transient smoke in adjacent no-smoking areas.

(Prior code § 8-12-050(G))

8.12.080 - Penalty.

It is unlawful for any person to violate any of the provisions of this chapter. The penalty for violation of any provision of this chapter is a fine of not less than twenty-five dollars (\$25.00) and not more than one hundred dollars (\$100.00). In determining the sentence to be imposed, the municipal judge shall

consider the frequency and duration of the violation, the size of the establishment, whether or not it is knowingly violated, and other relevant factors. Each day of a continuing violation shall be deemed to be a separate violation.

(Prior code § 8-12-050(H))