Northglenn 2006

 ARTICLE 14
SMOKING IN PUBLIC PLACES

**Section 9-14-1.**Title.

This ordinance shall be known and cited as the Northglenn Smoking Ordinance.

[Source: Ord. 1447, 2006]

**Section 9-14-2.**Intent.

It is the intent of this Article to protect the public health, safety and welfare by prohibiting smoking in all indoor areas open to the public, except where specifically allowed under this Article.

[Source: Ord. 1447, 2006]

**Section 9-14-3.**Definitions.

As used in this Article, the following terms shall have the meanings indicated herein:

(1)

"**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.

(2)

"**Bar**" means any indoor area that is operated and licensed under Article 3 of Title 44, 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.

(3)

"**Cigar-tobacco bar**" means a bar that generated at least five percent (5%) or more of its total annual gross income or fifty thousand dollars ($50,000) in annual sales from the on-site sale of tobacco products and the rental of on-site humidors, not including any sales from vending machines.

(4)

"**Employee**"

(a)

"**Employee**" means any person who:

(i)

Performs any type of work for benefit of another in consideration of direct or indirect wages or profit; or

(ii)

Provides uncompensated work or services to a business or nonprofit entity.

(b)

"**Employee**" includes every person described in paragraph (a) of this subsection (4), regardless of whether such person is referred to as an employee, contractor, independent contractor, or volunteer or by any other designation or title.

(5)

"**Employer**" means any person, partnership, association, corporation, or nonprofit entity that employs one or more persons. "employer" includes, without limitation, the legislative, executive, and judicial branches of state government; any county, city and county, city, or 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.

(6)

"**Entryway**" means the outside of the front or main doorway leading into a building or facility that is not exempted under section 9-14-5. "Entryway" also includes the area of public or private property within a twenty-five (25) foot radius outside of the doorway.

(7)

"**Electronic smoking devices**" means any portable electronically activated device, which in operation causes the user to exhale any smoke, vapor, or other substance resulting in chemically altered human exhalation. "Electronic smoking device" includes any device manufactured, distributed, marketed, or sold as an electronic cigarette, an electric cigar, an electronic cigarillo, electronic pipe, and electronic hookah, or under any similar product name or descriptor. "Electronic smoking device" does not include any asthma inhaler or other device that has been specifically approved by the United States Food and Drug Administration.

(8)

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

(9)

"**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.

(10)

"**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.

(11)

"**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.

(12)

"**Proprietor**" means the owner, operator or person in charge of any place regulated by this article.

(13)

"**Public building**" means any building owned or operated by:

(a)

The state, including the legislative, executive, and judicial branches of state government;

(b)

The City of Northglenn or an instrumentality thereof; or

(c)

Any other separate corporate instrumentality or unit of state or local government.

(14)

"**Public meeting**" means any meeting open to the public pursuant to section 24-6-4, C.R.S., or any other law of this state.

(15)

"**Public park property**" means any real outdoor property owned or controlled by the City of Northglenn, including, without limitation, parks, trails, open spaces, playgrounds, and outdoor recreation facilities, but excluding public buildings, streets, sidewalks, and alleys.

(16)

"**Smoke-free work area**" means an indoor area in a place of employment where smoking is prohibited.

(17)

"**Smoking**" means the burning of a lighted cigarette, cigar, pipe, electronic smoking device, or any other matter or substance that contains tobacco or marijuana as defined by Section 9-9-2 of the Northglenn Municipal Code.

(18)

"**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.

(19)

"**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.

(20)

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

[Source: Ord. 1447, 2006; 1645, 2013; 1759, 2018; 1781, 2019]

**Section 9-14-4.**General Smoking Restrictions.

(1)

Except as provided in section 9-14-5, and in order to reduce the levels of exposure to environmental tobacco smoke, smoking shall not be permitted and no person shall smoke in any indoor area, including, but not limited to:

(a)

Public meeting places;

(b)

Elevators;

(c)

Government-owned or operated means of mass transportation, including, but not limited to, buses, vans, and trains;

(d)

Taxicabs and limousines;

(e)

Grocery stores;

(f)

Gymnasiums;

(g)

Jury waiting and deliberation rooms;

(h)

Courtrooms;

(i)

Child day care facilities;

(j)

Health care facilities including hospitals, health care clinics, doctor's offices, and other health care related facilities;

(k)

*(no subject)*

(i)

any place of employment that is not exempted;

(ii)

in the case of employers who own facilities otherwise exempted, 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;

(l)

Food service establishments;

(m)

Bars;

(n)

Indoor sports arenas;

(o)

Restrooms, lobbies, hallways, and other common areas in public and private buildings, condominiums, and other multiple-unit residential facilities;

(p)

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;

(q)

Bowling alleys;

(r)

Billiard or pool halls;

(s)

Facilities in which games of chance are conducted;

(t)

The common areas of retirement facilities, publicly owned housing facilities, and nursing homes, not including any resident's private residential quarters;

(u)

Public buildings;

(v)

Auditoria;

(w)

Theaters;

(x)

Museums;

(y)

Libraries;

(z)

To the extent not otherwise provided in section 25-14-103.5, C.R.S., public and nonpublic schools;

(aa)

Other educational and vocational institutions; and

(bb)

The entryways of all buildings and facilities listed in paragraphs (a) to (aa) of this subsection.

(2)

A cigar-tobacco bar shall not expand its size or change its location from the size and location in which it existed as the time this ordinance was enacted. A cigar-tobacco bar shall display signage in at least one conspicuous place and at least four inches by six inches in size stating: "smoking allowed, children under eighteen years of age must be accompanied by a parent or guardian."

(3)

In order to reduce the levels of exposure to environmental tobacco smoke, smoking shall not be permitted and no person shall smoke on public park property.

[Source: Ord. 1447, 2006; 1781, 2019]

**Section 9-14-5.**Exceptions to Smoking Restrictions.

(1)

The following are exempt from the smoking prohibitions in section 9-14-4(1):

(a)

Private homes, private residences, and private automobiles; except that this exception shall not apply 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;

(b)

Limousines under private hire;

(c)

A hotel or motel room rented to one 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%);

(d)

Any retail tobacco business;

(e)

A cigar-tobacco bar;

(f)

The outdoor area of any business;

(g)

A place of employment that is not open to the public and that is under the control of an employer that employs three or fewer employees; and

(h)

A private, nonresidential building on a farm or ranch, as defined in section 39-1-102, C.R.S., that has annual gross income of less than five hundred thousand dollars ($500,000).

[Source: Ord. 1447, 2006]

**Section 9-14-6.**Additional Prohibitions.

(1)

The owner or manager of any place not specifically listed in section 9-14-4 including a place otherwise exempted under section 9-14-5, 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 section 9-14-4.

(2)

If the owner or manager of a place not specifically listed in section 9-14-4, including a place otherwise exempted under section 9-14-5, is an employer and receives a request from an employee to create a smoke-free work area as contemplated by section 9-14-4 (1) (k) (ii), the owner or manager shall post a sign or signs in the smoke-free work area as provided in subsection (1) of this section.

[Source: Ord. 1447, 2006]

**Section 9-14-7.**Signs Required to be Posted.

To advise persons of the existence of "No Smoking" areas, signs with letters no less than one inch high or symbols no less than five inches high shall be posted as follows:

(1)

No proprietor or person in charge of any place specifically listed in Section 9-14-4 shall fail to post a sign using the words "No Smoking" or the international no-smoking symbol conspicuously at eye level either on all public entrances or in a position clearly visible on entry into the public place, with letters no less than one inch high or symbols no less than five (5) inches high. Other signs may be used if approved by the City Manager.

[Source: Ord. 1447, 2006]

**Section 9-14-8.**Penalty.

(1)

It is unlawful for a person who owns, manages, operates, or otherwise controls the use of a premises subject to this article to violate any of its provisions.

(2)

It is unlawful for a person to smoke in an area where smoking is prohibited pursuant to section 9-14-4.

(3)

Any violation of this section is a civil infraction, punishable according to Section 1-1-10(a)(3) of the Municipal Code, as amended, or is a nuisance, punishable according to this Chapter, or both. In no case shall a violation of this section be deemed to be punishable by jail time. The penalty set forth in Section 1-1-10(a)(2) of the Municipal Code does not apply.

[Source: Ord. 1447, 2006; 1801, 2020]