

MASON COUNTY BOARD OF HEALTH CLEAN INDOOR AIR REGULATION

PHILOSOPHY:

The Mason County Board of Health agrees with the U.S. Surgeon General that exposure to second-hand smoke is a public health concern and should be avoided.

FINDINGS AND PURPOSES:

The United States Surgeon General and the United States Environmental Protection Agency has determined that involuntary inhalation of tobacco smoke is (a) a cause of numerous diseases in healthy nonsmokers; and (b) is a major contributor to indoor air pollution; and (c) that children, elderly people, and individuals with cardiovascular and/or respiratory disease are at special risk.

DEFINITIONS:

- A. "Bar" means an area which is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which is serving of food is only incidental to the consumption of such beverages. A "bar" for the purpose of this definition has 50% or greater of total sales in alcoholic beverages. A "bar" for the purpose of this definition does not include any establishment where tobacco smoke can filter into any area where smoking is prohibited through a passageway, ventilation system, or any other means. A "bar" for the purposes of this ordinance shall not include any area where full meals are served but may include the service of appetizers and snacks.
- B. "Business" means any entity formed for profit making purposes.
- C. "Conspicuous" means easy to notice; obvious.
- D. "Dining Area" means any enclosed area containing a counter or tables upon which meals are served.
- E. "Employee" means any person employed for direct and/or indirect monetary wages or anything of value, or any person who volunteers for a non-profit entity.
- F. "Employer" means any entity who employs the paid services of one or more persons.
- G. "Smoking" means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe, plant, or other smoking equipment in any manner or form.
- H. "Enclosed Area" means all space between the floor and ceiling which is enclosed on all sides by solid walls or windows which 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 (i.e., "office landscaping") or similar structures.
- I. "Family Owned" means a business entirely owned and staffed by immediate family with no outside employees.
- J. "Grocery Store" means any supermarket, convenience store, or other retail food production and marketing establishment.
- K. "Non-Profit Entity" means any entity whose operations are not committed to private financial gain.

A public agency is not a "non-profit entity" within the meaning of this section.

- L. "Place of Employment" means any enclosed area under the control of a public or private employer which employees frequent during employment.
 - a. A private residence is not a "place of employment" unless it is used as a child care or health facility.
 - b. The dining area of a restaurant is not considered a "place of employment."
- M. "Public Place" means any enclosed area to which the public is invited or in which the public is permitted. A private residence is not a "public place."
- N. "Restaurant" means any establishment which is primarily devoted to the serving of food to the public, guests, patrons and employees as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities. The term "restaurant" shall not include a cocktail lounge or tavern if said cocktail lounge or tavern is a "bar" as defined above.
- O. "Retail Store" means any establishment that sells goods or services directly to a member or the general public including but not limited to: grocery stores, specialty stores, department stores, delicatessens, pharmacies, banks, automobile dealerships, showrooms, professional offices, service stations, repair or maintenance shops, cleaners or laundromats.
- P. "Retail Tobacco Store" means a retail store utilized primarily for the sale of tobacco products and in which the sale of other products is merely incidental.

REGULATION OF SMOKING IN ENCLOSED PUBLIC PLACES:

- A. Smoking shall be prohibited in all enclosed public places with Mason County, including but not limited to, the following places:
 - 1. Grocery stores, elevators, restrooms.
 - 2. All means of public transit, including ticket, boarding and waiting area.
 - 3. All waiting areas and lobbies in all business and non-profit entities.
 - 4. Retail stores, except areas in said stores not open to public. Smoking is allowed in all areas within retail tobacco store.
 - 5. (a) Restaurants and bowling alleys, except that they may designate a seating area as a smoking area; however, it must be no more than 25% of the total seating space (minimum of 75% seating area for nonsmokers).

(b) Newly constructed restaurants or major modifications to existing restaurants must comply with the smoking area requirements upon construction or change, with the smoking designated areas separately ventilated.
 - 6. Every room, chamber, place of meeting or public assembly and/or county structure, including county vehicles, under the control of any board, council, commission, committee, including joint committees, or any political subdivision of the State.
 - 7. All patient rooms, waiting rooms, and other public areas in health facilities, including but not limited to hospitals, clinics, pharmacies, physical therapy facilities, doctors' offices, and dentists' offices.

- B. Nonsmoking areas shall be designated such that patrons would not be required to pass through smoking areas on a routine basis in order to patronize an establishment or to reach a nonsmoking area.
- C. Notwithstanding any other provision of this section any person who controls any establishment or facility described in this section may declare the entire establishment or facility nonsmoking.
- D. In any dispute arising under this regulation, the health concerns of the nonsmoker shall be given precedence.

REGULATION OF SMOKING IN ENCLOSED PLACES OF EMPLOYMENT:

- A. It shall be the responsibility of employers to provide smoke-free areas for nonsmoking employees within existing facilities to the maximum extent possible, but employers are not required to incur any expense to make structural or any other physical modifications in providing these areas.
- B. Nonsmoking areas shall be designated such that employees would not be required to pass through smoking areas on a routine basis in order to perform job duties or to reach a nonsmoking area.
- C. Each employer shall adopt, implement, make known and maintain a smoking policy which recognizes that where the need to breathe smoke-free air conflicts with the desire to smoke, the need to breathe smoke-free air shall have priority. The policy shall include at a minimum, the following requirements:
 - 1. Any employee in a place of employment shall have the right to designate his or her work areas as a nonsmoking area and post the same with appropriate signs.
 - 2. In any dispute arising under the smoking policy, the health concerns of the nonsmoker shall be given precedence.
- D. The smoking policy shall be shared with any existing or prospective employee who requests it.
- E. Regardless of any other provision of this section, every employer will have the right to designate any place of employment, or any portion thereof, as a nonsmoking area.

WHERE SMOKING IS NOT REGULATED:

- A. Despite any other provisions of the regulation to the contrary, the following areas shall not be subject to the smoking restrictions of this regulation. Posting of designated smoking area signs will be required of business owner.
 - 1. Bars
 - 2. Private residence, except when used as a child care or health care facility.
 - 3. Hotel and motel rooms rented to guests.
 - 4. Retail tobacco stores.
 - 5. The conference or meeting rooms or public or private assembly rooms of hotels, motels and fraternal organizations while these are being used for private functions.
 - 6. A private enclosed office workplace occupied by only one person or occupied exclusively by smokers, even though, such an office workplace may be visited by nonsmokers. However, an employee has the right to designate his/her work area as nonsmoking, and smoking shall be prohibited in all public waiting areas and lobbies.
 - 7. Family owned and operated businesses.

- B. Notwithstanding any other provisions of this section, any person who controls any establishment described in this section may declare that entire establishment as a nonsmoking facility.

POSTING OF SIGNS:

- A. Because rules regarding smoking are primarily self-enforcing, their success depends heavily upon adequate use of signs.
- B. "No Smoking" signs shall be no smaller than 5x7 inches.
- C. "No Smoking" signs shall be conspicuously posted in every building or other place where smoking is controlled by this regulation including restrooms and elevators by the owner, manager, or other person having control of such building or other place.
- D. Every restaurant shall have posted at each entrance a conspicuous sign clearly stating that a nonsmoking section is available, and that smoking is allowed only in the designated smoking area.
- E. Designated smoking signs must be posted at each entrance of a smoking establishment.
- F. Smoking areas must be conspicuous to the public.

ENFORCEMENT:

- A. Although smoking regulations are primarily self-regulating through social pressure, enforcement of this regulation shall be the ultimate responsibility of the Mason County Health Department.
- B. Any owner, operator, manager or other person of any establishment regulated by this regulation shall inform persons violating this regulation of the appropriate provisions thereof.

NONRETALIATION:

No person or employer shall discharge, refuse to hire, or in any manner retaliate against any employee, applicant for employment, or member of the public because such person exercises any rights afforded by the regulation.

OTHER APPLICABLE LAWS:

This regulation shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws, ordinances or regulations.

SEVERABILITY:

If any portion of this regulation or the application thereof should be held invalid, the other provisions of this regulation shall not be affected, and to this end the provisions of this regulation are declared to be severable.

VIOLATIONS AND PENALTIES:

- A. It shall be unlawful for any persons to smoke in any area where smoking is prohibited by the provisions of this regulation.

- B. It shall be unlawful for any person who controls the use of any premises subject to regulation under this regulation to fail to comply with any of its provisions.
- C. Any person who violates any provision of this regulation shall be guilty of an infraction as posed by the Mason County Health Department Sanitarian.
 - 1. The first infraction shall result in a written warning.
 - 2. The second violation shall result in a fine of twenty-five dollars.
 - 3. The third violation within a twelve-month period shall result in a fine of fifty dollars.
 - 4. A fine between fifty and 100 dollars shall be levied for each additional violation of this regulation within a twelve-month period.

EFFECTIVE DATE:

This regulation shall be effective ninety days from and after the date of its adoption.