

CHAPTER 93: SMOKING RESTRICTIONS

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§ 93.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply, unless the context clearly indicates or requires a different meaning.

EMPLOYEE. Any person who is employed by an employer in consideration for monetary compensation or profit.

EMPLOYER. Any person, partnership, corporation, association or other entity, that employs one or more persons.

PLACE OF EMPLOYMENT. Any enclosed indoor area under the control of an employer to which employees have access during the course of employment, including but not limited to work areas, employee lounges, employee restrooms, conference rooms, and employee cafeterias. A private residence is not a place of employment.

PUBLIC PLACE. Any enclosed indoor area that is used by the general public, but is not limited to stores, offices, and other commercial establishments; restaurants, public and private institutions of higher education; health care facilities; nursing and convalescent homes; and government subsidized senior citizen residential facilities.

SERVICE LINE. Any indoor line at which one or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money.

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***SMOKE* or *SMOKING*.** This shall include the carrying or holding of a lighted pipe, cigar or cigarette of any kind, or any other lighted smoking equipment or device, and the lighting of, emitting or exhaling the smoke of a pipe, cigar or cigarette of any kind.
(Ord. 98-2-14B, passed 2-14-98)

§ 93.02 OFFENSE DEFINED; EXCEPTION.

(A) A person commits an offense if he/she does the following.

(1) Knowingly or intentionally smokes in a public place and is not in an area designated as a smoking area under this chapter.

(2) Knowingly or intentionally smokes in a taxicab that is not a taxicab in which smoking is permitted.

(3) Is the owner, lessee or other person in charge of a public place, and knowingly or intentionally permits, or fails to make a reasonable effort to prevent a customer, guest, invitee, or employee from smoking in a prohibited area described in divisions (A)(1) of this section within a public place.

(B) It is an exception to the application of division (A) of this section if the person smoking tobacco or in possession of the burning tobacco product is in a situation in which the person is present at an event in which an entire room or confined area is used for a private social function, and the event is under the control of the sponsor of the function and not of the owner, proprietor or person in charge of the public place. This exception includes, but is not limited to, areas of public places, such as the County Club Dining Room which is normally rented out to private groups.

(Ord. 98-2-14B, passed 2-14-98) Penalty, see § 10.99

§ 93.03 DESIGNATION OF SMOKING AREAS.

(A) (1) The owner, lessee or other person in charge of a public place may, but is not required to designate one or more areas as smoking areas.

(2) If a smoking area is designated in a public place, each smoking area shall:

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(a) Be not larger in size than proportionate to the preference of the users normally requesting a smoking area, as can be demonstrated by the owner, lessee, or other person in charge.

(b) Be designated by appropriate signs which are clearly visible to patrons in or entering the area.

(c) Contain ashtrays, containers, or other facilities for extinguishment of smoking materials.

(d) Be set apart or separated from nonsmoking areas.

(e) Not include service lines or cashier areas.

(3) In the event the owner, lessee or person in charge of a public place can demonstrate that the users or patrons normally requesting a smoking area constitute such a large portion of the users of the public place that it is impracticable for the owner, lessee or person in charge to meet the requirements of sections (A)(2)(c) and (d) of this section without structural or other physical changes or significant expenditures, the owner, lessee or person in charge may designate an area not meeting the requirements of (A)(2)(a) including the entire public place, except for those areas designated in (A)(2)(e), as a smoking area. If the entire area is designated a smoking area, the owner, lessee or person in charge shall place a sign or signs at each entrance to the premises which are clearly visible and state that smoking is permitted throughout the premises.

(B) Except as provided by division (A) of this section, the owner, lessee or other person in charge of a public place shall place a sign or signs, visible at each entrance to the premises, notifying persons entering the premises that smoking is prohibited, or that smoking, other than within designated smoking areas, is prohibited.

(Ord. 98-2-14B, passed 2-14-98) Penalty, see § 10.99

§ 93.04 SMOKING IN TAXICABS.

The holder of any franchise to operate a taxicab service within the city may, but is not required to designate one or more taxicabs in operation pursuant to the franchise, as taxicabs in which smoking is not permitted.

(Ord. 98-2-14B, passed 2-14-98)

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§ 93.05 WORKPLACE RESTRICTIONS.

Each employer who operates a place of employment in the city shall, within three months of adoption of this chapter, adopt, implement and maintain a written smoking policy which shall contain, at a minimum, the following provisions and requirements.

(A) Any nonsmoking employee may object to his or her employer about smoke in any portion of his or her place of employment normally frequented by the employee. Using already available means of ventilation, separation or partition, the employer shall attempt to reach a reasonable accommodation, insofar as possible, between the preferences of nonsmoking and smoking employees. An employer is not required by this provision to incur any expense, or make structural or other physical modifications to accommodate the preferences of nonsmoking or smoking employees.

(B) If an accommodation which is satisfactory to all affected nonsmoking employees cannot be reached as to any portion of the place of employment about which complaint has been voiced, the preferences of nonsmoking employees shall prevail, to the end that nonsmoking employees may work in a smoke-free environment. No portion of the place of employment shall be designated as a smoking area. Provided however, the requirements of this division shall not apply to nonsmoking employees whose job duties include serving of or routine interaction with members of the general public within a designated smoking area, nor to any private enclosed office work space occupied exclusively by smokers, even though the office may be visited by nonsmokers.

(C) The smoking policy shall be announced within three weeks of adoption to all employees working in the place of employment and posted conspicuously in all work places under the employer's jurisdiction.

(Ord. 98-2-14B, passed 2-14-98) Penalty, see § 10.99

§ 93.06 AREAS NOT SUBJECT TO RESTRICTIONS.

The following public places are not subject to §§ 93.02 (A)(3) and § 93.03(A)(2) of this chapter, but such public places are encouraged, whenever possible, to follow the guidelines established in § 93.03(A)(2) of this chapter.

(A) An establishment in which more than 50% of its annual gross sales is from alcoholic beverages sold for on-premises consumption.

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(B) A separated bar area of a restaurant.

(C) A tobacco specialty retail shop.

(Ord. 98-11-14B, passed 11-14-98)

§ 93.07 OWNER RESPONSIBILITY.

The owner, lessee or other person in charge of any conveyance or place described as a public place herein, commits an offense:

(A) If he fails to have prominently displayed a reasonably sized notice that smoking is prohibited by state law in the conveyance and/or place.

(B) If he fails to have the conveyance or place equipped with facilities for extinguishment of smoking materials.

(Ord. 98-2-14B, passed 2-14-98) Penalty, see § 10.99

§ 93.08 VIOLATION.

The violation of any provision of this chapter shall be unlawful and a misdemeanor offense; each day a violation of this chapter continues shall constitute a separate offense.

(Ord. 98-2-14B, passed 2-14-98) Penalty, see § 10.99

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