

**WASHTENAW COUNTY  
REGULATION ELIMINATING SMOKING  
IN PUBLIC AND PRIVATE WORKSITES AND PUBLIC PLACES**

**Sec. 1000. Title**

This regulation shall be known as the Washtenaw County Clean Indoor Air Regulation.

**Sec. 1001. Authority**

This regulation is hereby adopted pursuant to authority conferred upon local health departments by the Michigan Public Health Code, 1978 P.A. 368, MCLA 333.2441 and MCLA 333..2435 as amended.

**Sec. 1002. Jurisdiction and Administration**

- A. This regulation shall have effect throughout Washtenaw County in all areas incorporated and unincorporated, which includes cities, villages, and townships.
- B. The Health Officer shall have responsibility for administering and enforcing this regulation, including all amendments hereafter adopted unless otherwise specifically stated.

**Sec. 1003. Purpose**

- A. Washtenaw County hereby finds and declares that:
  - 1. Approximately 480,000 people die in the United States from tobacco-related diseases every year, making tobacco use the nation's leading cause of preventable death. Tobacco use can cause disease in nearly all organ systems and is responsible for 87% of lung cancer deaths, 32% of coronary heart disease deaths, 79% of chronic obstructive pulmonary disease deaths, and 33% of all cancer deaths.
  - 2. The U.S. Surgeon General concluded that there is no risk free level of exposure to secondhand smoke. In addition, separating smokers from nonsmokers, cleaning the air, and ventilating buildings cannot eliminate exposures of nonsmokers to secondhand smoke. Secondhand smoke is responsible for 50,000 deaths among nonsmokers each year in the United States. Exposure to secondhand smoke exposure causes lower respiratory tract infections, such as pneumonia and bronchitis, in as many as 300,000 children in the United States under the age of 18 months each year and worsens childhood asthma
  - 3. Beginning May 1, 2010, the Ron Davis Smoke Free Air Law went into effect, prohibiting smoking in most public places in Michigan. The law covers any workplace employing at least one person, and any licensed food service

establishment, including, but not limited to, restaurants, bars, shopping malls, bowling alleys, concert halls, arenas, museums, mechanic shops, health facilities, nursing homes, education facilities, and child care centers. Cigar bars, tobacco specialty retail stores, and the gaming floors of casinos may be granted exemptions from the Ron Davis Smoke Free Air Law.

4. Electronic smoking devices are used to deliver an inhaled dose of nicotine or other substances. Existing studies on electronic smoking devices' vapor emissions and cartridge contents have found a number of substances known to cause cancer in humans, including formaldehyde, acetaldehyde, lead, nickel and chromium. Inconsistent labeling of specific components and nicotine levels in electronic smoking device produces exacerbates this issue. More than one study has concluded that exposure to vapor from electronic smoking devices may cause passive or secondhand exposure to product components.

B. Accordingly, Washtenaw County finds and declares that the purpose of this regulation is to protect the public health and welfare by regulating smoking, including electronic nicotine delivery systems, in public places and places of employment and recreation.

#### **Sec. 1004. Definitions**

- A. The following words and phrases, whenever used in this regulation, shall be construed as defined in this section:
1. "Business" means any sole proprietorship, partnership, joint venture, corporation or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered.
  2. "Convention Hall" means any enclosed area where public or private groups assemble to engage in business or social functions.
  3. "Employee" means any person who is employed by any employer in consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services for a nonprofit or business entity.
  4. "Employer" means any person, business, partnership, corporation, including a municipal corporation, or non-profit entity, who employs the services of one or more individual persons.
  5. "Enclosed Area" means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of door or passage ways) 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, office landscaping or similar structures.

6. "Food concession" means a food storage, preparation, or dispensing operation at a state or county fair.
7. "Food Service Establishment" means a fixed or mobile restaurant, coffee shop, cafeteria, short order cafe, luncheonette, grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail lounge, nightclub, drive-in, industrial feeding establishment, private organization serving the public, rental hall, catering kitchen, delicatessen, theater, commissary, or similar place in which food or drink is prepared for direct consumption through service on the premises or elsewhere, and any other eating or drinking establishment or operation where food is served or provided for the public. Food service establishment does not include:
  - a) a motel that serves continental breakfasts only;
  - b) a food concession;
  - c) a bed and breakfast that has 10 or fewer sleeping rooms, including sleeping rooms occupied by the innkeeper;
  - d) a bed and breakfast that has at least 11 but fewer than 15 rooms for rent, if the bed and breakfast serves continental breakfasts only;
  - e) a child care organization regulated by Michigan law unless the establishment is carrying out an operation considered by the State of Michigan to be a food service establishment.
8. "Public Place" means any enclosed area to which the public is invited or in which the public is permitted, including but not limited to, banks, educational facilities, health facilities, laundromats, public transportation facilities, publicly owned Parks facilities, but not private parks open to the public, reception areas, retail food production and marketing establishments, retail service establishments, retail stores, theaters and waiting rooms. . A private residence is not a "public place."
9. "Tobacco Specialty Store" means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.
10. "Service Line" means any indoor line at which one (1) or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.
11. "Smoking" means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe, weed, plant or related substance or product.
12. "Electronic Nicotine Delivery Device" means an electronic and/or battery-operated device, the use of which may resemble smoking, which can be used to deliver an inhaled dose of nicotine or other substances. "Electronic Smoking Device" includes any such device, whether manufactured, distributed, marketed,

or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor. "Electronic Nicotine Delivery Device" does not include any product specifically approved by the United States Food and Drug Administration for use in the mitigation, treatment, or prevention of disease.

13. "Tobacco Product" means any product that contains tobacco, is derived from tobacco, or contains synthetically produced nicotine and is intended for human consumption. "Tobacco Product" does not include any cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence.
14. "Sports Arena" means sport pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar enclosed areas where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events, excluding such facilities, or portions thereof, licensed as a food service establishment.
15. "Worksite" means any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference and class rooms, employee cafeterias and hallways. A private residence is not a "worksite" unless it is used as a child care, adult day care or health care facility.

**Sec. 1005. Prohibition of Smoking in Public and Private Worksites and Public Places**

- A. Smoking shall be prohibited in all enclosed public and private worksites and public places within Washtenaw County, including, but not limited to, the following places:
  1. All enclosed areas of worksites and public places owned, rented, leased or otherwise under the control of Washtenaw County, including motor vehicles.
  2. Restrooms, lobbies, reception areas, hallways and any other common-use areas.
  3. Buses, taxicabs, and other means of public transit under the authority of the County of Washtenaw, and ticket, boarding, and waiting areas of public transit depots.
  4. Service lines.
  5. Retail stores.

6. All areas available to and customarily used by the general public in all businesses and non-profit entities patronized by the public, including but not limited to, attorneys, offices and other offices, banks, laundromats, hotels and motels.
  7. All areas of galleries, libraries and museums.
  8. Any facility which is primarily used for exhibiting any motion picture, stage, drama, lecture, musical recital or other similar performance, except performers when smoking is part of a stage production.
  9. Sports arenas.
  10. Convention Halls.
  11. Public and private meeting facilities.
  12. Every room, chamber, place of meeting or public assembly, including school buildings under the control of any board, council, commission, committee, including joint committees, or agencies of Washtenaw County or any political subdivision of the State of Michigan, to the extent such location is subject to the jurisdiction of Washtenaw County.
  13. Waiting rooms, hallways, wards and semi-private rooms of health facilities, including, but not limited to, hospitals, clinics, physical therapy facilities, doctors' offices, and dentists' offices.
  14. Lobbies, hallways, and other common areas in hotels, motels, multiple-tenant office buildings and malls, apartment buildings, condominiums, mobile or modular home parks, retirement facilities, nursing homes, and other multiple-unit residential facilities.
- B. Notwithstanding any other provision of this regulation, any owner, operator, manager or other person who controls any establishment or facility may declare that entire establishment or facility as a nonsmoking establishment.

#### **Sec. 1006. Prohibition of Smoking in Places of Employment**

- A. It shall be the responsibility of employers to provide a smoke-free worksite as set forth in this regulation.
- B. Within 90 days of the effective date of this regulation, each employer having an enclosed place of employment located within Washtenaw County shall adopt, implement, make known and maintain a written smoking policy. The policy shall contain, at a minimum, the following wording or requirements:  
**Smoking is prohibited in all enclosed areas within this worksite without**

**exception. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, employer owned or leased vehicles, and all other enclosed facilities.**

- C. The smoking policy shall be communicated to all current employees at least three (3) weeks prior to its effective date, and at the time of employment of all other employees.
- D. All employers shall supply a written copy of the smoking policy upon request to any existing or prospective employee.

### **Sec. 1007. Prohibition of Smoking near Entrances, Windows and Ventilation Systems**

Smoking shall be prohibited near entrances, windows and ventilation systems of all worksites and public places where smoking is prohibited by this regulation. Any individual who owns, manages, operates or otherwise controls the use of any premises subject to jurisdiction under this regulation shall establish a no smoking area which extends a reasonable distance from any entrances, windows and ventilation systems to any enclosed areas where smoking is prohibited; such reasonable distance shall be a distance sufficient to insure that persons entering or leaving the building or facility shall not be subjected to breathing tobacco smoke and to insure that tobacco smoke does not enter the building or facility through entrances, windows, ventilation systems or any other means. All smoking trash receptacles shall be placed outside the no smoking area in order to discourage smoking in these areas

### **Sec. 1008. Where Smoking is Not Regulated**

- A. Notwithstanding any other provision of this regulation to the contrary, the following areas shall not be subject to the smoking restrictions of this regulation:
  - 1. Food Service Establishments.
  - 2. Private residences, except when used as a child care, health care facility or adult day care facility.
  - 3. Tobacco specialty stores and stores primarily engaged in the business of providing electronic smoking devices or supplies.
  - 4. Public residential facilities including, but not limited to, group homes and homeless shelters provided that they maintain distinct smoking room(s) that are separately ventilated to the outside and are in conformance with other applicable laws and regulations.
  - 5. Public places where bingo games are held.

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

#### **Sec. 1009. Posting of Signs**

- A. "This Building is Smoke-Free" signs, "No Smoking" signs, the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) or other appropriate signs shall be clearly, sufficiently and conspicuously posted in every building or other area where smoking is prohibited by this regulation. The signage shall be posted by the owner, operator, manager or other person having control of such building or other area.
- B. Every public place where smoking is prohibited by this regulation shall have signs conspicuously posted at every entrance clearly stating that smoking is prohibited.
- C. All ashtrays and other smoking paraphernalia shall be removed from any area where smoking is prohibited by this regulation by the owner, operator, manager or other person having control of such area.

#### **Sec. 1010. Enforcement**

- A. Enforcement of this regulation shall be implemented by the Health Officer, or his or her designee.
- B. Notice of the provisions set forth in this regulation shall be given to all applicants for a business license in Washtenaw County.
- C. Any citizen who desires to register a complaint under this chapter may initiate enforcement through the Health Officer, or his or her designated staff.
- D. Any owner, manager, operator or employee of any establishment regulated by this regulation shall inform persons who are violating this regulation of the appropriate provisions thereof.

#### **Sec. 1011. Nonretaliation**

No person or employer shall discharge, refuse to hire or in any manner retaliate against any employee, applicant for employment, or customer because such employee, applicant, or customer exercises any right to a smoke-free environment afforded by this regulation.

## **Sec. 1012. Violations and Penalties**

- A. It shall be unlawful for any individual who owns, manages, operates or otherwise controls the use of any premises subject to jurisdiction under this regulation to fail to comply with any of its provisions.
- B. It shall be unlawful for any individual to smoke in any area where smoking is prohibited by the provisions of this regulation. Any individual violating this section shall be subject to a warning and shall be required to leave the premises if she or he refuses to extinguish smoking materials.
- C. Any individual who owns, manages, operates or otherwise controls the use of any premises subject to jurisdiction under this regulation and on whose premises a violation of any provision of this regulation occurs shall be guilty of an infraction, punishable by:
  - 1. A warning citation for a first violation.
  - 2. A fine not exceeding one hundred dollars (\$100) for a second violation within one (1) year from a finding of the first violation, provided that adequate time has elapsed between the first and second violation for the alleged violator to have received notice of the first violation.
  - 3. A fine not exceeding five hundred dollars (\$500) for a third violation of this regulation within one (1) year from a finding of the first violation.
  - 4. A fine not exceeding one thousand dollars (\$1,000) for each additional violation of this regulation within one (1) year from a finding of the first violation.
- D. Within twenty (20) days after receipt of a citation issued under this section, the alleged violator may appeal the citation as provided in Section 2462 of the Michigan Public Health Code, 1978 P.A. 368, as amended. Further appeals, as provided by statute, may be to the Washtenaw County Environmental Appeals Board, or a committee thereof.
- E. Notwithstanding the existence and pursuit of any other remedy, the Health Officer or his/her designee, without posting bond, may maintain an action in a court of competent jurisdiction for an injunction or other process against any persons to restrain or prevent a violation of this regulation

## **Sec. 1013. Public Education**

The Washtenaw County Health Department shall engage in a continuing program to explain and clarify the purposes and requirements of this regulation to citizens affected by it, and to guide owners, operators and managers in their compliance with it. Such

program may include publication of a brochure for affected businesses and individuals explaining the provisions of this regulation.

**Sec. 1014. Other Applicable Laws**

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

**Sec. 1015. Severability**

If any provision, clause, sentence or paragraph of this regulation or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this regulation which can be given effect without the invalid provision or application, and to this end the provisions of this regulation are declared to be severable.

**Sec. 1016. Effective Date**

This regulation as amended shall be effective ninety (90) days from and after the date of its adoption, March 18, 2015.