

Chapter 8.20 Smoking in Public Places Prohibited

8.20.010 Intent.

In order to protect the public health, safety, comfort and general welfare, and because tobacco smoke is a positive danger to health, it is the declared purpose of this chapter to prohibit smoking in areas which are used by or open to the public unless such areas are permissible smoking areas pursuant to this chapter.

8.20.020 Definitions.

For the purposes of this chapter, the following terms, phrases, words and their derivatives shall have the meanings given in this section, except where the context clearly requires a different meaning:

"Cigar-tobacco bar" means a bar that, in the calendar year ending December 31, 2005, generated at least five percent or more of its total annual gross income or fifty thousand dollars 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. In any calendar year after December 31, 2005, a bar that fails to meet these requirements shall not be defined as a "cigar-tobacco bar" and shall not thereafter be included in the definition regardless of sales figures.

"Entryway" means the outside of the front or main doorway leading into a building or facility that is not exempted under Section 8.20.030.A. "Entryway" also includes the area of public or private property within fifteen feet outside of the doorway.

"Independently ventilated" means that the ventilation system for the area in which smoking is permitted and the ventilation system for any nonsmoking area do not have a connection which allows the mixing of air into the smoking and nonsmoking areas.

"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.

"Physically separated" means that there are physical barriers such as walls and doors extending from floor to ceiling that prohibit smoke from entering a nonsmoking area.

"Restaurant" means an establishment licensed as a hotel/restaurant under the liquor laws of the State of Colorado, or an establishment whose principal business is the retail sale of prepared food and beverages and which has seating for on-premises consumption of food.

"Smoke-free work area" means an indoor area in a place of employment where smoke is prohibited in accordance with Section 8.20.030.A.6.

"Smoking" means the burning of a lighted cigarette, cigar, pipe or any other matter or substance that contains tobacco.

"Tobacco" means cigarettes, cigars, cheroots, stogies, 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 tobaccos; shorts, refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such a 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 material or product that is packaged for smoking.

"Tobacco business" means a sole proprietorship, corporation 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.

For the purposes of this Chapter, the meanings of terms not defined in this Section shall be as defined in Article 14, Part 2, Title 25, C.R.S., and such definitions are incorporated into this Chapter.

8.20.030 Prohibitions.

- A. No person shall smoke within any indoor area or within any entryway except in one of the following locations:
1. Any private home or private residence. This exception does not extend to a home or residence being used for child care or day care;
 2. A retail tobacco business;
 3. A cigar-tobacco bar except that no cigar-tobacco bar shall expand its size or change its location from the size and location in which it existed as of December 31, 2005. 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";
 4. A hotel or motel room rented to one or more guests if the total percentage of hotel or motel rooms in such hotel or motel does not exceed twenty-five percent;
 5. Any private automobile, subject to the prohibitions in Section 8.20.030.C of this Code;
 6. A place of employment that is not open to the public and that employs three or fewer employees except that employers shall provide a smoke-free work area for each employee requesting not to have to breathe environmental tobacco smoke and shall post a sign or signs in such smoke-free work area;
 7. A private, nonresidential building on a farm or ranch that has annual gross income of less than five hundred thousand dollars; and
 8. An area of a nursing facility, as defined by Section 25.5-4-103, C.R.S., or an assisted living residence, as defined by Section 25-27-102, C.R.S., that:
 - a. Is designated for smoking for residents;
 - b. Is independently ventilated and physically separated from the nonsmoking areas; and
 - c. To which access is restricted to the residents or their guests.
- B. No person shall smoke within the exterior boundaries or fences of an outdoor eating area of a restaurant.
- C. No person shall smoke in the following automobiles: taxicabs; limousines; government-owned or -operated means of mass transportation, including but not limited to buses, vans and trains; or a private automobile being used for the public transportation of children or as part of health care or day care transportation.
- D. Nothing in this Chapter shall prevent an owner, lessee, principal manager or person in control of any place, including without limitation any automobile, outdoor area or exempt building, from posting signs prohibiting smoking completely in such place, and no person shall fail to abide by such private prohibition.

(Ord. 760 §1, 2010)

8.20.040 Additional responsibilities of proprietor.

No person who owns, manages, operates or otherwise controls the use of premises subject to the provisions of this Chapter shall fail to:

1. Ask smokers to refrain from smoking in any indoor area, entryway or nonsmoking area; or
2. Use any other means which may be appropriate to further the intent of this Chapter.

8.20.050 Enforcement.

- A. The Town Manager or his or her designee shall be responsible for ensuring compliance with this Chapter with regard to facilities which are owned, operated or leased by the Town.
- B. Any person convicted of violating any provision of this Chapter shall, upon conviction, be punished by a fine of not more than three hundred dollars for each offense. Such person may also be enjoined from any further or continued violation hereof. In determining the sentence to be imposed, the judge shall consider the frequency and duration of the violation, the size of the establishment, whether the violation was knowing or not and other relevant factors. Imprisonment shall not be imposed as a penalty for any violation of this Chapter. Each day any violation of this Chapter shall continue shall constitute a separate offense.

(Ord. 760 §1, 2010)