

PART II - CODE OF ORDINANCES
Title 12 - PUBLIC HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 2. - AIR QUALITY
ARTICLE IV. BANNING SMOKING IN PUBLIC PLACES AND COMMON AREAS OF ASSEMBLY

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Sec. 12-151. Intent.

Medical science has determined that smoking and secondhand smoke are leading health problems throughout the United States. Secondhand smoke has been identified as a Class A carcinogen, and there is no safe level of exposure. It is the intent of this chapter to protect the health, safety, comfort and welfare of city citizens from the harmful effects of secondhand smoke by banning smoking in all places where people are likely to gather in close proximity to one another and to enhance the existing health protections provided under the law.

(Code 1994, § 9.44.010; Ord. No. 66, 2003, § 2, 11-4-2003; Ord. No. 1, 2019, att., § 9.44.010, 1-15-2019)

Sec. 12-152. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Common areas means lobbies, hallways, elevators, restrooms or other enclosed indoor areas where people are likely to gather in close proximity. The term "common areas" includes the entrance/exit.

Electronic smoking device means an electric or battery-operated device that, when activated, emits a vapor, aerosol, or smoke, or can be used to deliver nicotine or any other substance to the person using the device. The term "electronic smoking device" shall include, without limitation, inhalant delivery systems such as electronic cigarettes, e-cigars, e-cigarillos, e-pipes, vape pens, hookahs, or any similar product by any other name or descriptor. The term "electronic smoking device" includes any component, part, or accessory of the device whether or not sold separately.

Entrance/exit means the passageway by which people may enter or exit a building or facility, typically consisting of a door or doorway. The term "entrance/exit" includes the stoop, steps, or ramp leading from the sidewalk or pavement to a door or doorway.

Lighted means to illuminate, ignite, burn or emit light by electricity, battery or fire.

Public places means areas to which the general public is invited or permitted, specifically, restaurants, taverns, banks, theaters, waiting rooms, meeting rooms, reception areas, businesses, libraries, educational facilities, health care facilities, transportation facilities, and recreational facilities such as bowling alleys, bingo halls, and facilities providing music or sporting events. The term "public places" shall also mean public ball fields, pools or splash parks, arenas, skate parks, park pavilions/shelters, outdoor sports courts, and playgrounds.

Smoking means and includes, but is not limited to:

- (1) The carrying or placing of a lighted smoking instrument or an electronic smoking device in one's mouth for the purpose of inhaling or exhaling smoke or vapor or blowing smoke rings;

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- (2) The placing of a lighted smoking instrument or an electronic smoking device in an ashtray or other receptacle, and allowing smoke or vapor to diffuse in the air;
 - (3) The possession, carrying or placing of a lighted smoking instrument or an electronic smoking device in one's hands or any appendage or device and allowing smoke or vapor to diffuse in the air; or
 - (4) The inhaling or exhaling of smoke or vapor from a lighted smoking instrument or electronic smoking device.

Smoking instrument means an instrument of any kind which can be used to deliver substances, including but not limited to, nicotine, tobacco, or marijuana, to the person using such instrument. The term "smoking instrument" includes, without limitation, cigarettes, cigars, cigarillos, pipes, and hookahs. The term "smoking instrument" shall specifically include electronic smoking devices.

(Code 1994, § 9.44.020; Ord. No. 1, 2015, § 1(exh. A), 1-20-2015; Ord. No. 1, 2019, att., § 9.44.020, 1-15-2019)

Sec. 12-153. Ban.

Smoking is prohibited in public places or common areas, as defined by this chapter, and within 25 feet in any direction of a public place or common area. Smoking is also prohibited anywhere designated by the city by posting a sign using the words "No Smoking" or the international "no smoking" symbol.

(Code 1994, § 9.44.030; Ord. No. 66, 2003, § 2, 11-4-2003; Ord. No. 1, 2019, att., § 9.44.030, 1-15-2019)

Sec. 12-154. Signs prohibiting smoking.

To advise people that smoking is banned in public places and common areas, the city, owner, lessee, manager or person in charge of a public place or common area may post a sign using the words "No Smoking" or the international "no smoking" symbol. The signs shall use letters no less than one inch high or symbols no less than three inches high. Such signs shall include the notice "No smoking within 25 feet of this area" or similar. Notwithstanding this provision, the absence of such signs shall not be a defense to a charge of a violation of this chapter.

(Code 1994, § 9.44.040; Ord. No. 66, 2003, § 2, 11-4-2003; Ord. No. 1, 2019, att., § 9.44.040, 1-15-2019)

Sec. 12-155. Responsibilities of proprietors.

No owner, lessee, manager or person in charge of a public place or common area shall fail to inform people that smoking is prohibited in the public place or common area.

(Code 1994, § 9.44.050; Ord. No. 66, 2003, § 2, 11-4-2003; Ord. No. 1, 2019, att., § 9.44.050, 1-15-2019)

Sec. 12-156. Enforcement.

- (a) The following shall be responsible for enforcing this chapter: city police officers, other law enforcement agents, city code compliance inspectors, or the city manager 's designee.
- (b) Violations of this chapter shall be deemed misdemeanor infractions punishable pursuant to chapter 9 of title 1 of this Code.
- (c) Each violation shall constitute a separate infraction.

(Code 1994, § 9.44.060; Ord. No. 66, 2003, § 2, 11-4-2003; Ord. No. 1, 2019, att., § 9.44.060, 1-15-2019)

Sec. 12-157. Right of action.

Except as otherwise provided, enforcement of this chapter is within the sole discretion of the city. Nothing in this chapter shall create a right of action in any person against the city or its agents to compel public enforcement of this chapter against private parties.

(Ord. No. 1, att., § 9.44.080, 1-15-2019)

Sec. 12-158. Intended as supplement.

It is the intent of this chapter to supplement, not duplicate or contradict, applicable state and federal law and it shall be construed consistently with that intention.

(Ord. No. 1, att., § 9.44.090, 1-15-2019)

Secs. 12-159—12-188. Reserved.