

PART II - CODE OF ORDINANCES
Title VIII - HEALTH AND SANITATION
CHAPTER 8-2. SMOKING IN PUBLIC PLACES

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Sec. 8-2-1. Purpose.

This Chapter is enacted for the purpose of preserving and improving the health, comfort, and environment of the citizens of this City by limiting exposure to environmental smoke.

(Code 2012, § 8-2-1; Ord. No. 2464 , § 8-2-1, 2-5-2019)

Sec. 8-2-2. 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:

Electronic smoking device means any electronic oral device such as one composed of a heating element, battery, and/or electronic circuit which provide a vapor of nicotine or any other substances for inhalation. The term "electronic smoking device" shall include every variation and type of such devices whether they are manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pen, an electronic pipe, an electronic hookah, or a vape pen, or any other product name or descriptor.

Environmental smoke or secondhand smoke means the complex mixture formed from the escaping gases, particles, or vapors released into the air as a result of combustion, electrical ignition, vaporization or heating of a tobacco product or a marijuana product when the apparent or usual purpose of the combustion, electrical ignition, vaporization or heating is human inhalation of the byproducts, smoke of a burning tobacco product, also known as "sidestream smoke," and such gases, particles, vapors, or smoke exhaled by the smoker.

Marijuana product means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended to be consumed by smoking or inhalation.

Smoking means the burning, heating, electrical ignition or vaporizing of a lighted cigarette, cigar, pipe, electronic smoking device, or any other matter or substance that contains tobacco, nicotine, marijuana, or any other substance, or combination thereof, and the inhaling and exhaling of environmental smoke created thereby.

Tobacco business means a sole proprietorship, corporation, partnership, 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.

Tobacco product means any product that contains nicotine or tobacco or is derived from nicotine or tobacco and is intended to be ingested or inhaled; or any electronic device that can be used to deliver nicotine to the person inhaling from the device, including, but not limited to, electronic smoking devices, cigarettes, cigars, cheroots, stogies, and 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 tobacco; shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a cigarette, pipe, or otherwise, or both for chewing and smoking. The term "tobacco product" also includes cloves and any other plant matter or product that is packaged for smoking.

(Code 2012, § 8-2-1; Ord. No. 2464 , § 8-2-2, 2-5-2019)

Sec. 8-2-3. General smoking restrictions.

- (A) *Indoor Areas.* Except as provided in Section 8-2-4, and in order to reduce the levels of exposure to environmental smoke, smoking shall not be permitted and no person shall smoke in any indoor area, including, but not limited to:
- (1) Public places;
 - (2) Elevators;
 - (3) Government owned or operated means of mass transportation, including, but not limited to, buses, vans, and trains;
 - (4) Taxicabs and limousines;
 - (5) Grocery stores;
 - (6) Gymnasiums;
 - (7) Jury waiting and deliberation rooms;
 - (8) Courtrooms;
 - (9) Child day care facilities;
 - (10) Health care facilities including hospitals, health care clinics, doctor offices, and other health care related facilities;
 - (11) Any place of employment that is not exempted. In the case of employers who own facilities otherwise exempted from this Chapter, each such employer shall provide a smoke-free work area for each employee requesting not to have to breathe environmental tobacco smoke. Every employee shall have a right to work in an area free of environmental tobacco smoke;
 - (12) Food service establishments;
 - (13) Bars;
 - (14) Indoor sports arenas;
 - (15) Restrooms, lobbies, hallways, and other common areas in public and private buildings, condominiums, and other multiple-unit residential facilities;
 - (16) Restrooms, lobbies, hallways, and other common areas in hotels and motels, and in at least 75 percent of the sleeping quarters within a hotel or motel that are rented to guests;
 - (17) Bowling alleys;
 - (18) Billiard or pool halls;
 - (19) Facilities in which games of chance are conducted;
 - (20) The common areas of retirement facilities, publicly-owned housing facilities, and, nursing homes, but not including any resident's private residential quarters or areas of assisted living;
 - (21) Public buildings;
 - (22) Auditoria;
 - (23) Theaters;

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- (24) Museums;
 - (25) Libraries;
 - (26) Public and nonpublic schools; and
 - (27) Other educational and vocational institutions.
- (B) *Outdoor Areas.* Except as provided in Section 8-2-4, and in order to reduce the levels of exposure to environmental smoke, the smoking of tobacco products shall not be permitted and no person shall smoke tobacco in the following outdoor areas:
- (1) The entryways of all buildings and facilities listed in Subsection (A) of this Section.
 - (2) The following facilities in City-owned outdoor parks:
 - (a) Playgrounds, swimming pools, skate parks, athletic fields, picnic shelters, tennis courts and similar locations; and
 - (b) Outdoor locations where people congregate to partake in City events or outdoor musical concerts.
 - (3) Transit stops, including bus stops, with or without benches and/or shelters.
- (C) *Violation Not Permitted.* Nothing herein shall be deemed to permit the smoking of marijuana that is conducted openly and publicly or in a manner that endangers others or otherwise violates state law.
- (Code 2012, § 8-2-3; Ord. No. 2464 , § 8-2-3, 2-5-2019)

Sec. 8-2-4. Exceptions to smoking restrictions.

- (A) The prohibitions set forth in Section 8-2-3 shall not apply to smoking tobacco products in:
- (1) Private homes, private residences, and private automobiles; except that this Chapter shall apply if any such home, residence, or vehicle is being used for childcare or day care or if a private vehicle is being used for the public transportation of children or as part of health care or day care transportation;
 - (2) Limousines under private hire;
 - (3) A hotel or motel room rented to one or more guests if the total percentage of such hotel or motel rooms in such hotel or motel does not exceed 25 percent;
 - (4) Any retail tobacco business; provided, however, that no person under 18 years of age shall be allowed on the premises. No retail tobacco business may be located in a liquor-licensed premises;
 - (5) A cigar-tobacco bar as provided herein;
 - (6) The outdoor area of any business, including the patios of liquor-licensed establishments and business establishments where food or beverages are served;
 - (7) A place of employment that is not open to the public and that is under the control of an employer that employs three or fewer employees;
 - (8) A private, nonresidential building on a farm or ranch, as defined in C.R.S. § 39-1-102, that has an annual gross income of less than \$500,000.00; or
 - (9) (a) The areas of assisted living facilities:
 - (i) That are designated for smoking for residents;
 - (ii) That are fully enclosed and ventilated; and

(iii) To which access is restricted to the residents or their guests.

(b) As used in this Section, the term "assisted living facility" means a nursing facility, as that term is defined in C.R.S. § 25.5-4-103, and an assisted living residence, as that term is defined in C.R.S. § 25-27-102.

(10) The outdoor areas of golf courses; and

(Code 2012, § 8-2-4; Ord. No. 2464 , § 8-2-4, 2-5-2019)