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**ARTICLE I. SMOKING IN PLACES OF PUBLIC ACCOMMODATION AND PLACES OF EMPLOYMENT <sup>[2]</sup>**

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**Sec. 11-1. Title.**

This article shall be known as the City of Steamboat Springs Smoke-Free Air Act of 2005.

*(Ord. No. 2011, § 1, 8-2-05)*

**Sec. 11-2. Findings and purpose.**

- (a) The Steamboat Springs City Council hereby finds that tobacco smoke is a major contributor to indoor air pollution and that breathing secondhand smoke is a cause of disease and death. It has been documented that anyone exposed to secondhand smoke is at risk of harming his or her health. At special risk are children, elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease. Secondhand smoke has been classified as a Class A carcinogen by the Environmental Protection Agency, and contains known toxins and carcinogens. Health hazards induced by breathing secondhand smoke include lung and other cancers, heart disease, respiratory infection, and decreased respiratory function, including bronchoconstriction and bronchospasm.
- (b) It is hereby declared that the purpose of this article is to protect the public health, safety and welfare by providing smoke-free areas in public places, places of public accommodation, and places of employment.
- (c) The Steamboat Springs City Council hereby finds that the adoption and enforcement of this article is necessary to prevent a serious threat to public safety.

*(Ord. No. 2011, § 1, 8-2-05)*

**Sec. 11-3. Definitions.**

The following words and phrases, whenever used in this article, shall be construed as defined in this section:

*Bowling alley* means a business open to the public which offers the use of bowling lanes, typically equipped with an operable automatic pin setting apparatus and in which food service for consumption on the premises is incidental to bowling and related activities.

*Business* means a 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.

*Childcare, adult day care, or health care facility* means a facility that provides services for children, elderly persons, or those who need physical or mental care, whether licensed by a government agency or not.

*Employee* means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and a person who volunteers his or her services for a nonprofit entity, regardless of whether the person is characterized as an employee or an independent contractor.

*Employer* means a person, business, partnership, association, corporation, including a municipal corporation, trust or nonprofit entity that employs the services of one or more individual persons.

*Enclosed area* means all space between a floor and ceiling that is enclosed on all sides by solid walls or windows (exclusive of doorways), which extend from the floor to the ceiling, including all space therein screened by partitions, office landscaping or similar structures which do not extend to the ceiling or are not solid. Included in this definition is a public transportation vehicle, passenger tramway or any type of transportation service vehicle.

*Indoor service line* means an indoor line in which one or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money.

*Physically separated* means separated from smoke-free public places by continuous floor-to-ceiling walls, which are interrupted only by entrances or exits to smoking areas. Such entrances and exits shall be fitted with self-closing or automatic closing devices.

*Place of employment* means an enclosed area under the control of a public or private employer that employees normally frequent during the course of employment, including but not limited to work areas, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways and vehicles. A private residence is not a place of employment unless it is used as a childcare, adult day care or a health care facility.

*Place of public accommodation* means an open area or an enclosed area to which the public is invited or in which the public is permitted, including but not limited to public buildings, banks, educational facilities, health care facilities, laundromats, lodging establishments, public transportation facilities, reception areas, restaurant/bar, retail food production and marketing/grocery establishments, retail service establishments, retail stores, theaters and waiting rooms. This includes public transportation vehicles, passenger tramways or any type of transportation service vehicle. A private club is considered a place of public accommodation when functions are held at the club, which are open to the general public and are not restricted to the members of the club and their guests. A private residence is not a place of public accommodation, except when used as a childcare, adult care or health care facility.

*Private club* means any establishment that has a defined membership, charges an annual fee for membership in an amount intended to substantially defray the ongoing costs of operation, and restricts admission to members of the club and their guests.

*Private function* means any activity, which is restricted to invited guests in a nonpublic setting.

*Private residence* means single-family and multiple-family dwelling units, including dwelling units located in apartments, condominiums, common-interest communities and time-share units.

*Restaurant/bar* means any coffee shop, cafeteria, sandwich stand, private and public school cafeteria and any other eating establishment which gives or offers for sale food to the public, guests or employees, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities, including any establishment that has a State of Colorado Department of Revenue and City of Steamboat Springs liquor license or liquor permit, and including all outdoor areas open to the public associated with the restaurant/bar.

*Retail tobacco 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.

*Smoke-free* means that air in an establishment or designated area is not contaminated by secondhand smoke.

*Smoking* means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe, weed, plant or other combustible substance in any manner or in any form.

*Sports arena* means any enclosed area for sports, pavilions, gymnasiums, health clubs, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition or witness sports or other events.

(Ord. No. 2011, § 1, 8-2-05)

#### **Sec. 11-4. Application to city-owned facilities.**

- (a) Smoking shall be prohibited in all enclosed areas of buildings and vehicles owned or leased by the city.
- (b) Smoking shall also be prohibited in the following non-enclosed areas that are either owned or leased by the City of Steamboat Springs:
  - (1) Howelsen Hill Skate Park. The park is designated within the fenced area and including a perimeter of twenty-five (25) feet around the fenced area; and
  - (2) City's rodeo grounds and rodeo spectator bleachers and stands, which shall be defined as all areas open to the public, but excluding the parking lot and specifically designed smoking areas as delineated from time to time by city staff; and
  - (3) Athletic fields or similar venues, where the public is invited, whether or not admission is charged to view or participate in, any sporting event, including all sporting event spectator stands and a perimeter of twenty-five (25) feet from said areas; and
  - (4) The Howelsen Hill Ski Jump Out-Run area when used as a natural amphitheater for an entertainment event; and
  - (5) Playgrounds, which shall be defined as an area in which playground apparatus for children is located, including a perimeter of twenty-five (25) feet from said areas.

(Ord. No. 2011, § 1, 8-2-05)

#### **Sec. 11-5. Prohibition in places of public accommodation.**

- (a) Smoking shall be prohibited in all places of public accommodation within the city, including, but not limited to, the following places:
  - (1) Elevators;

- (2) Restrooms, lobbies, reception areas, hallways and any other common-use areas including meeting rooms of hotels, motels and condominium complexes;
  - (3) Public transportation vehicles, passenger tramways, or any type of transportation service vehicle; and ticket, boarding and waiting areas of public transit depots;
  - (4) Indoor service lines;
  - (5) The Headwall Ski Run at the base of Mt. Werner when used as a natural amphitheater for an entertainment event;
  - (6) Retail stores;
  - (7) Restaurant/bar, including outdoor seating, whether enclosed or not, and including when these venues are closed to the public and reserved for a private function;
  - (8) Public areas of galleries, libraries and museums;
  - (9) Professional offices, banks, laundromats, hotel and motels;
  - (10) Any facility which is primarily used for exhibiting any motion picture, stage, drama, lecture, musical recital or other similar performance, except that this section shall not apply to performers smoking as part of a stage production;
  - (11) Any school, which means a public nursery school, day care center, child care facility, head start program, kindergarten, or elementary or secondary school through grade twelve (12);
  - (12) Any school property which means all property whether owned or leased, rented, or otherwise used by a school, including all school grounds, which includes any playground, athletic field, recreation area and parking area, whether enclosed or not;
  - (13) Sports arenas, convention halls, and including bowling facilities;
  - (14) Every public room, chamber, place of meeting or assembly, including school buildings, under the control of any board, council, commission, committee, joint committee or agency of the city or any political subdivision of the state during such time as a public meeting is in progress, to the extent that such place is subject to the jurisdiction of the city;
  - (15) Waiting rooms, hallways, wards and semiprivate rooms of health facilities, including but not limited to hospitals, clinics, physical therapy facilities, doctors' offices and dentists' offices;
  - (16) Lobbies, hallways, elevators and other common areas in apartment buildings, condominiums, mobile home and manufactured home parks, retirement facilities, nursing homes and other multiple-unit residential facilities;
  - (17) Polling places; and
  - (18) Lodging establishments.
- (b) Notwithstanding any other provisions of this section, any owner, operator, manager or other person who controls any property may declare that entire property as smoke-free.
- (c) Smoking is prohibited in any part of a building adjacent to a place of public accommodation, unless physically separated from the place of public accommodation.

*(Ord. No. 2011, § 1, 8-2-05)*

### **Sec. 11-6. Prohibition in places of employment.**

- (a) It shall be the responsibility of employers to provide a smoke-free place of employment for all employees.
- (b) Within ninety (90) days of the effective date of the ordinance from which this article derives, each employer having an enclosed place of employment located within the city shall adopt, implement, make known and maintain a smoking policy which shall contain the following requirements:  
All enclosed areas that employees normally frequent during the course of employment shall be provided as a smoke-free area. This includes, but is not limited to, common work areas, auditoriums, classrooms, conference and meeting rooms, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, and vehicles.

- (c) The smoking policy shall be communicated to all employees within three (3) weeks of its adoption.
- (d) Smoking may be permitted in areas not normally frequented by employees during the course of their employment, only if such areas are physically separated from the areas normally frequented by employees.
- (e) This prohibition will not apply to private clubs if the private club complies with the requirements set forth in subsection [11-8\(a\)\(6\)](#).

*(Ord. No. 2011, § 1, 8-2-05)*

### **Sec. 11-7. Smoke-free entranceways.**

In order to prevent smoke from entering any smoke-free area, no person shall smoke within a ten-foot distance from any primary entrance, passageway, operable window or ventilation system of any smoke-free establishment or area.

*(Ord. No. 2011, § 1, 8-2-05)*

### **Sec. 11-8. Where not regulated.**

- (a) Notwithstanding any other provision of this article to the contrary, the following areas shall be exempt from the provisions of this article:
  - (1) Private residences, except when used as a childcare, adult day care or health care facility;
  - (2) Retail tobacco stores;
  - (3) Up to twenty (20) percent of guest rooms in lodging establishments including, but not limited to bed and breakfasts, hotels, motels and inns, (excluding condominiums that are privately owned, yet rented to guests);
  - (4) Outdoor areas of places of employment except those set forth in [section 11-6](#)
  - (5) Rooms used for psychological treatment of nicotine addiction by a licensed health care professional, and physically separate and independently ventilated rooms in a hospital or nursing home that are open to all residents as a smoking room and for no other purpose;
  - (6) Private clubs; if all employees are notified in the hiring process that the club is not a smoke-free place of employment; and
  - (7) Limousine or other public transit vehicles when engaged for exclusive use by a private party and when the driver is physically separated from the passenger compartment.
- (b) Notwithstanding any other provision of this section, any owner, operator, manager or other person who controls any property may declare that entire property as smoke-free.

*(Ord. No. 2011, § 1, 8-2-05)*

### **Sec. 11-9. Posting of signs.**

- (a) Within ninety (90) days of the effective date of this article, "No Smoking" or "Smoke-Free" signs and/or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a circle with a bar across it) shall be clearly and conspicuously posted in places of public accommodation (if necessary) where smoking is prohibited by this article, by the owner, operator, manager or other person having control of such building or other area.
- (b) Places of public accommodation (if necessary) where this article provides for a smoke-free area shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.
- (c) All signs referred to in this section shall be a minimum size of twenty (20) square inches and must be placed at a height of between four (4) and six (6) feet above the floor.
- (d) All ashtrays and other smoking paraphernalia can be placed on the outside premises from any area that is designated as a smoke-free by this article by the owner, operator, manager or other person having control of such area.

(Ord. No. 2011, § 1, 8-2-05)

### **Sec. 11-10. Enforcement.**

- (a) An owner, manager, operator or employee of an establishment regulated by this article shall inform persons violating this article of the appropriate provisions thereof and request their compliance.
- (b) This article shall be enforced by the Steamboat Springs Police Department or his or her designee.
- (c) Any person who desires to register a complaint under this article may file such complaint in such person's name with the Steamboat Springs Police Department.
- (d) The Steamboat Springs Police Department shall inspect for compliance with this article, while an establishment is undergoing otherwise mandated inspections. The Steamboat Springs Police Department may inspect any building pursuant to [section 5-76](#) of the Steamboat Springs Revised Municipal Code.

(Ord. No. 2011, § 1, 8-2-05)

### **Sec. 11-11. No retaliation.**

No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or deny goods or service to any customer because that employee, applicant or customer exercises any rights to a smoke-free environment afforded by this article.

(Ord. No. 2011, § 1, 8-2-05)

### **Sec. 11-12. Violations and penalties.**

Failure to comply with the requirements of this article shall constitute a violation of the Steamboat Springs Revised Municipal Code and such violation may be enforced as provided by this article and shall be subject to the penalty provided by [chapter 1, section 1-15](#) of the Steamboat Springs Revised Municipal Code. Each day during which a violation continues shall be deemed a separate offense and violation.

(Ord. No. 2011, § 1, 8-2-05)

### **Sec. 11-13. Public education.**

The Steamboat Springs Police Department and the office of the city clerk shall engage in a continuing program to explain and clarify the purposes and requirements of this article to citizens affected by it, and to guide owners, operators and managers in their compliance with it. Such programs may include publication of a brochure for affected businesses and individuals explaining the provisions of the ordinance codified herein.

(Ord. No. 2011, § 1, 8-2-05)

### **Sec. 11-14. Other applicable laws.**

This article shall not be interpreted or construed to permit smoking where it is otherwise restricted by other federal, state, local laws and regulations or other applicable ordinances, including, but not limited to C.R.S. § 25-14-101, et seq.

(Ord. No. 2011, § 1, 8-2-05)

### **Secs. 11-15—11-25. Reserved.**

FOOTNOTE(S):

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**Editor's note**— Ord. No. 2011, § 1, adopted Aug. 2, 2005, repealed the former Art. I, §§ 11-1—11-14, and enacted a new Art. I as set out herein. The former Art. I pertained to similar subject matter and derived from Ord. No. 1996, § 2, adopted May 17, 2005. ([Back](#))

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