

ARTICLE 3

Clean Indoor Air Act

Sec. 7-3-10. Legislative intent and purpose.

- (a) The purpose of this Article is to protect the public health, safety and welfare by protecting the public from emissions from secondhand smoke and electronic smoking devices (ESD) in most indoor areas open to the public, in public meetings, in food service establishments, and in places of employment.
- (b) The restrictions and limitations of this Article shall be viewed as minimum standards, and should not be construed as limiting in any way the authority of persons in control of a public or private place from prohibiting smoking within their establishment or premises altogether.
- (c) Nothing in this Article is intended to inhibit a person's ability to take medicine using an inhaler or similar device, nor to prevent an employer or business owner from making reasonable accommodation for the medical needs of an employee, customer, or other person in accordance with the Federal "Americans with Disabilities Act of 1990," as amended, [42 U.S.C. 12101](#) et seq. (Prior code 8.03.010; Ord. 1257, 2006; Ord. 1288 §1, 2008; Ord. 1494 §1, 2019)

Sec. 7-3-20. Definitions.

As used in this Article, the following terms shall have the meanings indicated:

Bar means any indoor area that is operated and licensed under Article [3](#) of Title [44](#), C.R.S., primarily for the sale and service of alcohol beverages for on-premises consumption and where the service of food is secondary to the consumption of such beverages.

Child care center means a facility, by whatsoever name known, which is maintained for the whole or part of a day for the care of children under the age of sixteen (16) years and not related to the owner, operator or manager thereof, whether such facility is operated with or without compensation for such care and with or without stated educational purposes. The term includes facilities commonly known as day care centers, day nurseries, nursery schools, kindergartens, preschools, play groups, day camps, summer camps, centers for developmentally disabled children and those facilities which give twenty-four (24) hour care for dependent and neglected children and includes those facilities for children under the age of six (6) years with stated educational purposes operated in conjunction with a public, private or parochial college or school. Family care homes as defined under Section [26-6-102](#), C.R.S., shall not be considered a child care center for purposes of this Article.

Electronic smoking device or ESD:

- (a) Means any product, other than a product described in Subsection (c) of this definition, that contains or delivers nicotine or any other substance intended for human consumption and that can be used by a person to enable the inhalation of vapor or aerosol from the product;
- (b) Includes any product described in Subsection (a) of this definition and any similar product or device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen or under any other product name or descriptor; and
- (c) Does not include:
- (1) A humidifier or similar device that emits only water vapor; or
 - (2) An inhaler, nebulizer, or vaporizer that is approved by the Federal Food and Drug Administration for the delivery of medication.

Employee means any person who provides any type of work for the benefit of another in consideration of direct or indirect wages or profit or who provides uncompensated work or services to a business or nonprofit entity.

Employee specifically includes any person, described hereinabove, regardless of whether such person is referred to as an employee, contractor, independent contractor or volunteer or by any other designation of title.

Employer means any person, partnership or corporation, including public or municipal corporations, who employs the services of any person.

Entryway means the outside of the front or main doorway leading into a building or facility that is not exempted from the prohibitions of Section [7-3-30](#). *Entryway* also includes the area of both public and private property within a twenty-five (25) foot radius outside of the front or main doorway.

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.

Place of employment 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, conference rooms or employee cafeterias. A private residence is not a place of employment.

Public place means any enclosed area to which the public is invited, or which serves as a place of employment in which the public is permitted, including but not limited to: bank lobbies, education facilities, government offices, health facilities, reception or waiting areas, public rest rooms, restaurants, bars, retail stores, auditoriums, arenas, theaters, waiting rooms, hotel and motel lobbies, retail service establishments, libraries, meeting rooms, recreational facilities, terminals or public conveyances. A private residence not utilized for a business to which the public is invited for business purposes, or as a child care center, is not a public place.

Restaurant means an establishment which serves or offers food and/or beverages for sale to the public and includes, without limitation, coffee shops, cafeterias, bars, bakeries, sandwich shops, delicatessens, clubs or snack shops.

Smoking means the combustion in any cigar, cigarette, pipe or similar article of any form of tobacco or any other combustible substance in any form inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or

pipe or any other lighted or heated tobacco or plant product intended for inhalation, including marijuana, whether natural or synthetic, in any manner or in any form. *Smoking* also includes the use of an ESD.

Theater and auditorium means any enclosed area devoted to exhibiting motion pictures or presenting theatrical performances, lectures or like entertainment. (Prior code 8.03.020; Ord. 1257, 2006; Ord. 1288 §1, 2008; Ord. 1494 §1, 2019)

Sec. 7-3-30. Smoking prohibited.

Except as provided in Section [7-3-60](#), smoking is unlawful and prohibited in any indoor area, including but not limited to the following: elevators; government-owned or -operated means of mass transportation, including but not limited to buses, vans, gondola cars and trains; taxicabs and limousines; child care centers; gymnasiums; jury waiting and deliberation rooms; courtrooms; doctors' offices, hospitals and health care clinics or facilities; any place of employment that is not exempted; public meeting rooms; public restrooms; restrooms, lobbies, hallways and other common areas in public and private buildings, condominiums and other multiple-unit residential facilities; restaurants; retail stores and shops; public buildings; public schools; hotel and motel rooms; restrooms, lobbies, hallways and other common enclosed areas of hotels, motels, or other lodging facilities; bars; theaters; museums; libraries; entryways (as that term is defined in Section [7-3-20](#)) of all buildings and facilities listed in this Section; and other businesses or facilities whether or not open to the public and regardless of the number of employees. (Prior code 8.03.030; Ord. 1257, 2006; Ord. 1288 §1, 2008; Ord. 1494 §1, 2019)

Sec. 7-3-40. Regulation of smoking in places of employment.

- (a) Smoking is prohibited in all places of employment, subject to those limited exceptions and conditions as set forth in this Section.
- (b) No person or employer shall discharge, refuse to hire or in any manner retaliate against any employee or applicant for employment because such an employee or applicant exercises any rights afforded by this Article.
- (c) This Section is not intended to regulate smoking in the following places of employment under the following conditions:
 - (1) A private home which serves as a place of employment of three (3) or fewer employees; provided, that the home is not open to the public. In no situation shall this provision be deemed to permit smoking when a private home is used as a child care center. (Prior code 8.03.040; Ord. 1257, 2006; Ord. 1288 §1, 2008; Ord. 1494 §1, 2019)

Sec. 7-3-50. Posting of signs.

Because smoking is prohibited in all indoor areas, unless exempted, there is no requirement for the person who owns, manages, operates or otherwise controls the use of a premises to post "No Smoking" signs. However, the

owner or manager of any place subject to the smoking prohibitions of Section [7-3-30](#) may post signs prohibiting smoking, including in areas that are otherwise exempt from the smoking prohibitions of the Clean Indoor Air Act. Such posting by an individual authorized to control said premises shall have the effect of including such place within the smoking prohibitions of Section [7-3-30](#). (Prior code 8.03.050; Ord. 1257, 2006; Ord. 1288 §1, 2008; Ord. 1494 §1, 2019)

Sec. 7-3-60. Exceptions and variances.

- (a) Smoking is not prohibited in private homes, private residences and private automobiles, except if any such home or residence is being used for child care 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.
- (b) Limousines under private hire.
- (c) Any retail tobacco business.
- (d) The outdoor area of any business. (Prior code 8.03.060; Ord. 1257, 2006; Ord. 1288 §1, 2008; Ord. 1494 §1, 2019)

Sec. 7-3-70. Enforcement and penalties.

- (a) The Town Manager shall be responsible for compliance with this Article with regard to facilities which are owned, operated or leased by the Town.
- (b) It is unlawful for a person to smoke in an area where smoking is prohibited pursuant to Section [7-3-30](#).
- (c) Smoking and the improper disposal of the unused remainder or any remnants from smoking, including what may be popularly termed "cigarette butts," may result in an independent violation of Section [10-4-100](#) of this Code if a person throws or leaves litter on any premises to which he or she does not have lawful possession. Such littering provisions apply to, among other things, all public sidewalks and rights-of-way as well as all private areas, including entryways, covered by the provisions of the Clean Indoor Air Act. The provisions of this Article regarding littering are intended to be directly applicable to all owners, operators, managers or employees of any premises subject to the Clean Indoor Air Act.
- (d) Owners, operators, managers or employees of any premises subject to Section [7-3-30](#) shall be required to notify persons in violation of this Article of any of the provisions of this Article. The duty to so notify a violator shall arise when such person becomes aware of such violation. It is unlawful for a person who owns, manages, operates or otherwise controls the use of a premises subject to Section [7-3-30](#) to violate or to otherwise permit any person to violate the provisions of the Clean Indoor Air Act.
- (e) Violation of any of the provisions of this Article is hereby declared to be a Class 2 petty offense and, upon conviction thereof, shall be punished by a fine not to exceed two hundred dollars (\$200.00) for a first violation within a calendar year, a fine not to exceed three hundred dollars (\$300.00) for a second violation within a

calendar year and a fine not to exceed five hundred dollars (\$500.00) for each additional violation within a calendar year. Each day of a continuing violation shall be deemed a separate violation. Any citizen may register a written complaint for violation of this Article with the Town Marshal's office or the Town Manager.

(f) Any remedies provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law. (Prior code 8.03.070; Ord. 1257, 2006; Ord. 1288 §1, 2008; Ord. 1494 §1, 2019)

The Telluride Municipal Code is current through Ordinance 1532, passed May 21, 2021.

Disclaimer: The Town Clerk's office has the official version of the Telluride Municipal Code. Users should contact the Town Clerk's office for ordinances passed subsequent to the ordinance cited here.

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