

Section 11-289A ARTICLE IX. SMOKING IN PUBLIC PLACES

Section 11-290 Restrictions.

Except as provided in this article, the possession of lighted smoking materials is unlawful in any of the following places used by or open to the public or serving as a place of work:

- (1) Any commercial establishment including, but not limited to, retail stores, banks, office buildings, offices, restaurants, and bars;
- (2) Any public transportation vehicle including, but not limited to, buses, limousines for hire, and taxicabs;
- (3) Restrooms;
- (4) Libraries, educational facilities, day care facilities, museums, auditoriums, and art galleries;
- (5) Any indoor public area of a health care facility, health clinic, or ambulatory care facility including, but not limited to, laboratories associated with the rendition of health care treatment, hospitals, rest homes, nursing homes, long-term care facilities and offices of health professionals;
- (6) Any indoor place of entertainment or recreation including, but not limited to, gymnasiums, theatres, concert halls, bingo halls, arenas, and swimming pools;
- (7) All public areas and waiting rooms of public transportation facilities including, but not limited to, bus and airport facilities;
- (8) Any other enclosed areas serving as a place of work or used by the public including open office landscaping and shopping malls;
- (9) Rooms in which meetings or hearings open to the public are held, except where such rooms are in a private residence;
- (10) Anywhere in any building owned or managed by the city;
- (11) Within twenty (20) feet of an entrance to any structure in which smoking is prohibited or limited by this article. This subsection shall not apply to any person in a motor vehicle or to any person merely passing by an entrance to a structure;
- (12) The seating areas and enclosed spaces of any stadium, outdoor arena or athletic field;
- (13) The patio areas of any restaurant, bar or other commercial establishment except as provided in section 11-291(6).

(Ord. No. 11375, § 1, 2-16-87; Ord. No. 14736 § 1, 1-16-96; Ord. No. 15928, § 1, 3-15-99; Ord. No. 19252, § 1, 10-9-06)

Editor's note - Ord. No. 19252, § 1, adopted October 9, 2006, which amended section 11-290 above, shall be in full force and effect from and after January 9, 2007.

(Ord. 19252, Amended, 10/09/2006,; Ord. 15928, Amended, 03/15/1999)

Section 11-291 Exemptions.

- (a) Except as otherwise provided in subsection (b), the restrictions of this article shall not apply to:
- (1) An entire room or hall which is used for private social functions, provided that the room or hall has a separate ventilation system or negative pressure vented to the outside and provided that no employees of the establishment are exposed to smoke;
 - (2) A private, enclosed office that has a ventilation system that is not shared with non-smoking offices and that is occupied exclusively by smokers. This exemption does not apply to offices that are visited by members of the public or by non-smoking employees of the business. This exemption shall not be construed to permit smoking in the reception areas of lobbies or offices or in any building owned or managed by the city with the exception of airport buildings that are leased or owned by private commercial enterprises. This exemption does not permit individuals to smoke in hazardous areas that may exist within any building;
 - (3) Performers upon the stage, provided that the smoking is part of a theatrical production;
 - (4) Retail stores which are used primarily to sell tobacco products and accessories and in which the sale of other products is merely incidental;
 - (5) Membership associations that meet the following criteria:
 - a. The association is a private, not for profit organization formed before April 1, 2006; and
 - b. The association is organized primarily for the benefit of its members; and
 - c. Association members pay dues; and
 - d. The association is managed and operated by a board consisting entirely of its own members; and
 - e. The association is organized primarily as a recreational, fraternal, athletic, military veteran, religious or kindred association; and
 - f. The association is not primarily engaged in preparing and serving food or alcoholic beverages by the drink; and
 - g. All operational duties of the association, other than professional duties, are performed by members of the association who are not compensated for performing such duties.
 - h. This exemption shall not apply to any activities to which the general public is invited.
 - (6) Patio areas of any restaurant, bar or other commercial establishment designated by the owner or operator of the business as a smoking area; provided, that no more than fifty percent (50%) of the patio area shall be designated as a smoking area and no area shall be designated as a smoking area if it must be crossed to obtain access to a nonsmoking area or a restroom.
- (b) The proprietor or person having control of an area which is otherwise exempt from the provisions of this article may apply the provisions of this article to such area by posting a "No Smoking" sign or a

sign with the international "No Smoking" symbol in the area in accordance with the provisions of section 11-293.

(Ord. No. 11375, § 1, 2-16-87; Ord. No. 12777, § 1, 10-22-90; Ord. No. 14736 § 1, 1-16-96; Ord. No. 19252. § 1, 10-9-06)

Editor's note - Ord. No. 19252, § 1, adopted October 9, 2006, which amended section 11-291 above, shall be in full force and effect from and after January 9, 2007.

(Ord. 19252, Amended, 10/09/2006)

Section 11-292 Designation of smoking areas.

Hotels and motels shall designate non-smoking rooms.

(Ord. No. 11375, § 1, 2-16-87; Ord. No. 14736 § 1, 1-16-96; Ord. No. 14822 § 1, 4-15-96; Ord. No. 19252. § 1, 10-9-06)

Editor's note - Ord. No. 19252, § 1, adopted October 9, 2006, which amended section 11-292 above, shall be in full force and effect from and after January 9, 2007.

(Ord. 19252, Amended, 10/09/2006)

Section 11-293 Responsibility of proprietors.

(a) The proprietor or the other person having control of a place governed by this article shall prominently post the entrance thereof with "NO SMOKING" or "SMOKING IN DESIGNATED AREAS ONLY" signs, as applicable, in letters no less than one inch in height, and shall prominently post "SMOKING" or "NO SMOKING" signs, whichever is appropriate, with letters of not less than one inch in height, or the international "NO SMOKING" symbol consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a bar across it in every place where smoking is regulated by this article.

(b) Every theatre owner, manager, or operator shall post signs conspicuously in the lobby stating that smoking is prohibited.

(c) Every public portion of grocery stores and food markets is required to have posted "NO SMOKING" signs at specific locations throughout each market as follows: signs must be visible to people entering the market, people at meat and produce counters, and people in all checkout lanes.

(d) The proprietor or other person having control of a place set out in this article upon observing a person smoking in violation of this article shall request that person stop smoking.

(Ord. No. 11375, § 1, 2-16-87; Ord. No. 12777, § 1, 10-22-90; Ord. No. 14736 § 1, 1-16-96)

Section 11-294 Public education.

The director shall engage in a continuing program to inform and to educate the public regarding the health consequences of smoking; shall clarify the purposes of this article to citizens affected by it; and shall guide owners, operators, and managers in their compliance.

(Ord. No. 11375, § 1, 2-16-87; Ord. No. 14736 § 1, 1-16-96; Ord. No. 19252. § 1, 10-9-06)

Editor's note - Ord. No. 19252, § 1, adopted October 9, 2006, which amended section 11-294 above, shall be in full force and effect from and after January 9, 2007.

(Ord. 19252, Amended, 10/09/2006)

Section 11-295 Penalty.

Any person violating, neglecting, or refusing to comply with any provision of this article shall be guilty of an infraction punishable by a fine of not more than two hundred dollars (\$200.00) .

(Ord. No. 11375, § 1, 2-16-87; Ord. No. 14736 § 1, 1-16-96; Ord. No. 19252. § 1, 10-9-06)

Editor's note - Ord. No. 19252, § 1, adopted October 9, 2006, which amended section 11-295 above, shall be in full force and effect from and after January 9, 2007.

(Ord. 19252, Amended, 10/09/2006)

Section 11-296 Enforcement.

The authority to administer and enforce the provisions of this article is vested in the director and the director=s duly authorized representatives.

(Ord. No. 11375, § 1, 2-16-87; Ord. No. 14736 § 1, 1-16-96; Ord. No. 19252. § 1, 10-9-06)

Editor's note - Ord. No. 19252, § 1, adopted October 9, 2006, which amended section 11-296 above, shall be in full force and effect from and after January 9, 2007.

(Ord. 19252, Amended, 10/09/2006)