

ARTICLE III. SMOKING IN PUBLIC PLACES*

***Editor's note:** Section 1 of Ord. No. 92-2108, adopted Mar. 24, 1992, added art. III, §§ 11-1--11-8. The editor has redesignated the sections 11-41--11-48 to avoid duplication of section numbers.

Sec. 11-41. Restrictions.

Except as provided in this article, the possession of lighted smoking materials in any form, including, but not limited to, the possession of lighted cigarettes, cigars, pipes, or other tobacco products, 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 and restaurants.
- (2) Any public transportation vehicle, including, but not limited to, buses, limousines for hire, and taxicabs.
- (3) Elevators.
- (4) Restrooms.
- (5) Libraries, educational facilities, day care facilities, museums, auditoriums, and art galleries.
- (6) 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, and offices of health professionals.
- (7) Any indoor place of entertainment or recreation, including, but not limited to, gymnasiums, theaters, concert halls, arenas, and swimming pools.
- (8) All public areas and waiting rooms of public transportation facilities, including, but not limited to, bus and airport facilities.
- (9) Any other enclosed areas serving as a place of work or used by the public, including open office landscaping and shopping malls.
- (10) Rooms in which meetings and/or hearing open to the public are held, except where such rooms are in a private residence.

(Ord. No. 92-2108, § 1, 3-24-92)

Sec. 11-42. Exemptions.

The restrictions of this article shall not apply to:

- (1) Areas which are specifically designated as smoking areas in accordance with this article.

- (2) An entire room or hall which is used for private social functions, provided that the seating arrangements are under the control of the sponsor of the function and not of the proprietor or person in charge of the place.
- (3) Limousines for hire and taxicabs, when the driver and all passengers affirmatively consent to smoking in such vehicle.
- (4) A private, enclosed office occupied exclusively by smokers, even though such office may be visited by nonsmokers, except where smoking is otherwise prohibited by law, and provided that this exemption shall not be construed to permit smoking in the reception areas of lobbies or offices.
- (5) Hospitals may accommodate smoking patients by providing smoking patient rooms;
- (6) Performers upon the stage, provided that the smoking is part of a theatrical production.
- (7) Designated areas of theater lobbies.
- (8) Designated areas of shopping malls.
- (9) Places where more than fifty (50) percent of the volume of trade or business carried on is that of the blending of tobaccos, or sale of tobaccos, pipes, cigars or smoker's sundries.
- (10) Restaurants which seat fewer than fifty (50) persons and which conspicuously post notice that nonsmoking areas are unavailable.
- (11) Bars, tavern lounges.

(Ord. No. 92-2108, § 1, 3-24-92)

Sec. 11-43. Designation of smoking areas.

- (a) When not otherwise prohibited by law, limited smoking areas may be designated by the proprietors or persons in charge of the places listed in this article. Nothing in this section shall be construed to require the designation of smoking areas.
- (b) Where smoking areas are designated, existing physical barriers and functioning ventilation systems may be used to minimize the irritating and toxic effects of smoke in adjacent nonsmoking areas. The provision shall not be construed to require fixed structural or other physical modifications in providing these areas or to require operation of any existing heating, ventilating and air conditioning system in any manner which decreases its energy efficiency or increases its electrical demand, or both; nor shall this provision be construed to require installation of new or additional heating, ventilating or air conditioning systems.
- (c) No public place governed by this article shall be designated as a smoking area in its entirety.

(Ord. No. 92-2108, § 1, 3-24-92)

Sec. 11-44. Responsibility of proprietors.

- (a) The proprietor or other person having control of place governed by this article shall prominently post "SMOKING" or "NO SMOKING" signs, whichever is appropriate, with letters of not less than one (1) 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 theater owner, manager or operator shall post signs conspicuously in the lobby stating that smoking is prohibited within the theater or auditorium.
- (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. 92-2108, § 1, 3-24-92)

Sec. 11-45. Public education.

The city administrator or his designated representative shall clarify the purposes of this article to citizens affected by it, and shall guide owners, operators, and managers in their compliance.

(Ord. No. 92-2108, § 1, 3-24-92)

Sec. 11-46. Penalty.

Any person violating, neglecting, or refusing to comply with any provision of this article shall be guilty of an infraction and shall be fined as set out in section 1-8.

(Ord. No. 92-2108, § 1, 3-24-92)

Sec. 11-47. Enforcement.

The authority to administer and enforce the provisions of this article is vested in the city administrator or his duly authorized representative or representatives.

(Ord. No. 92-2108, § 1, 3-24-92)

Sec. 11-48. Effective date.

This article, except for the provision of sections 11-46 and 11-47, shall be in full force and effect ninety (90) days after passage [June 22, 1992]. Sections 11-46 and 11-47 shall be in full force and effect six (6) months after passage [September 24, 1992].

(Ord. No. 92-2108, § 1, 3-24-92)