



**CLEAN INDOOR AIR
REGULATION**

A Regulation Eliminating Smoking in Public Places and Places of Employment.

Sec. 1000. Title

This article shall be known as the **Harrison County Clean Indoor Air Regulation of 2008.**

Sec. 1001. Findings and Purpose

The United States Surgeon General and numerous other credible authorities and medical researchers have determined:

(A) That involuntary inhalation of secondhand or tobacco smoke can cause or contribute to numerous serious health problems and diseases, including heart disease, cancer, respiratory illness, and acute episodes of decreased respiratory function, including broncho-constriction and broncho-spasm in healthy nonsmokers.

(B) That the presence of secondary tobacco smoke is a major contributor to indoor air pollution.

(C) That children, elderly people and individuals with cardiovascular and/or respiratory diseases are at increased risk.

(D) That the simple separation of smokers and nonsmokers within the same airspace may reduce, but does not eliminate the exposure of nonsmokers to environmental tobacco smoke. Smoking bans remain the most viable and cost-effective method of protecting patrons. The Environmental Protection Agency (EPA) has classified secondhand smoke as a Group A Carcinogen, known to cause cancer in humans.

Sec. 1002. Definitions

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

A. "Business" means any 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.

I. "Service Line" means any indoor line at which one (1) or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.

J. "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.

K. "Sports Arena" means sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.

L. A "private function" shall be defined as a function in which no fee is charged and no tickets are sold, and no public announcements are made to the event and/or function.

Sec. 1003. Application of Article to County-Owned Facilities

All enclosed facilities including buildings and vehicles owned by Harrison County or any agency that receives any monetary support from Harrison County shall be subject to the provisions of this regulation.

Sec. 1004. Prohibition of Smoking in Public Places

- A. Smoking shall be prohibited in all enclosed public places within Harrison County, including, but not limited to, the following places:
 - 1. Elevators.
 - 2. Restrooms, lobbies, reception areas, hallways and any other common-use areas.
 - 3. Buses, taxicabs, airports and other means of public transit under the authority of Harrison County, and ticket, boarding, and waiting areas of public transit depots.
 - 4. Service lines.
 - 5. All retail stores.
 - 6. All areas available to and customarily used by the general public in all businesses and non-profit entities patronized by

Sec. 1005. Prohibition of Smoking in Places of Employment

- A. It shall be the responsibility of employers to provide a smoke-free workplace for all employees
- B. Within 30 days of the effective date of this article, each employer having an enclosed place of employment located within Harrison County shall adopt, implement, make known and maintain a written smoking policy which shall contain the following requirements:

Smoking shall be prohibited in all enclosed facilities within a place of employment without exception. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles, and all other enclosed facilities.

- C. The smoking policy shall be communicated to all employees within three (3) weeks of its adoption.
- D. All employers shall supply a written copy of the smoking policy upon request to any existing or prospective employee.

Sec. 1006. Prohibition of Smoking in Outdoor Areas

- A. Smoking shall be prohibited in the following outdoor places:
 - 1. Designated smoking areas shall occur at a reasonable distance of 15 feet or more outside any entrance, exit, or ventilation units of any buildings or enclosed area where smoking is prohibited to insure that tobacco smoke does not enter the area through entrances, windows, ventilation systems or any other means. This shall include fresh air intake area for the heating, ventilation, air-conditioning (HVAC) system of any building.

Sec. 1007. Where Smoking Not Regulated

- A. Notwithstanding any other provision of this article to the contrary, the following areas shall be exempt from Section 1005:
 - 1. Private residences, except when used as a childcare, adult daycare, health care facility, or homes that are registered

- D. The Health Department shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance of this ordinance.
- E. Any owner, manager, operator or employee of any establishment regulated by this article shall inform persons violating this article of the appropriate provisions thereof.

Sec. 1010. Nonretaliation

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

Sec. 1011. Violations and Penalties

Willful violation of this Clean Indoor Air Regulation is an unlawful act. Any person who owns, manages, operates or otherwise controls the use of a premise shall commit a willful violation if they:

(1) Knowingly permit smoking on a premises subject to their control in an area where smoking is prohibited by the provisions of this clean indoor air regulation, or

(2) Knowingly violate any other provision of this clean indoor air regulation.

Any person who smokes or possesses a burning cigarette, cigar or pipe tobacco in an area of a premise where smoking is prohibited with knowledge that he or she is in a non-smoking area commits a willful violation of this clean indoor air regulation.

Penalties:

The Board of Health may, at its option, seek civil relief and/or file a misdemeanor complaint under W.VA. Code 16-2-15 against any person who willfully violates this clean indoor air regulation. Enforcement through civil process, includes, but is not limited to a petition for injunctive relief.

Any person who willfully violates this clean indoor air regulation, may be charged with a misdemeanor under W.Va. Code 16-2-15 and, upon conviction, be subject to a monetary fine. At the time of the adoption of this Clean Indoor Air Regulation, West Virginia Code 16-2-15 provided as follows.

