

Ordinance - Smoking in Public Places

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A BILL FOR AN ORDINANCE ORDINANCE NO. 88-1

AN UNINCORPORATED COUNTY-WIDE ORDINANCE SETTING FORTH ARAPAHOE COUNTY POLICIES AND PROCEDURES BY REGULATING SMOKING IN PUBLIC PLACES AND ALL COUNTY OWNED AND OPERATED FACILITIES (REGARDLESS OF SITUS); PENALTY PROVISIONS FOR VIOLATIONS AND ENFORCEMENT PROVISIONS PERTAINING THERETO.

WHEREAS, pursuant to Colorado Revised Statutes 30-15-401 as amended, the Board of County Commissioners of Arapahoe County has the power to adopt ordinances for control of those matters of purely local concern; and

WHEREAS, pursuant to Colorado Revised Statutes 30-15-401 as amended, matters of purely local concern include the prevention and suppression of riots, routs, affrays, disturbances, and disorderly assemblies in any public or private place, and to do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease; and

WHEREAS, it has come to the attention of the Board of County Commissioners of Arapahoe County that unregulated and unpermitted smoking creates health hazards; and

WHEREAS, it is the opinion of the Board of County Commissioners of Arapahoe County that in order to preserve the public peace, health, safety, and welfare of the citizens of Arapahoe County, they should take the following action.

NOW, THEREFORE, BE IT ORDAINED, by the Board of County Commissioners of Arapahoe County, the following:

Section I Intent-Applicability-Definitions-Regulations

1. Intent and Applicability

The Board finds, determines, and declares that the smoking of tobacco or of any other plant or weed in certain areas is a form of air pollution that threatens the health, safety, and welfare of the public. The Board deems it necessary to prohibit smoking in common areas, public places, and work places, except as smoking is otherwise permitted in designated smoking-permitted areas by this Ordinance. The provisions of this Ordinance shall be applicable throughout the unincorporated areas of Arapahoe County and to all common areas, public places, and work places within the incorporated areas of Arapahoe County, which are owned, operated or occupied by Arapahoe County. This Ordinance shall not apply to personal dwellings or residences.

2. Definitions

As used in this Ordinance, the following words are defined as follows:

"Common area" means any lobby, mall or hallway open or accessible to members of the public who enter such common area as invitees.

"Employee" means any person who is paid a wage or salary by an employer and who works in the enclosed premises of an employer.

"Employer" means any person, partnership, -corporation, association, or other entity, and the owner, manager, person in charge or proprietor thereof, engaged in a business, occupation, profession, or trade, whether or not such business, occupation, profession, or trade is conducted for profit, and includes any public or governmental entity.

"Enclosed premises" means a fully enclosed building, structure, office or room comprised of a roof, four walls, and means of ingress and egress.

"Public places" means any enclosed, indoor facility or area that is open to members of the public who enter such facility as invitees, including but not limited to mercantile establishments, restaurants, theaters, financial institutions, educational facilities, hospitals, health care facilities and institutions, libraries, auditoriums, arenas, assembly or meeting rooms, public conveyances, governmental buildings, office buildings, restrooms, elevators, child care centers, and waiting rooms of professional persons.

"Work area" means any enclosed premises occupied principally by employees.

"Smoke" or "smoking" means the possession of a lighted cigarette, cigar, or pipe containing tobacco or other organic burning -matter, regardless of its composition, or the lighting of such cigarette, cigar or pipe by any person.

3. Smoking Prohibited.

It shall be unlawful for any person to smoke in any common area, public place, or work area, except as otherwise expressly permitted by this article.

4. Smoking Permitted in Certain Places with no restrictions.

Unrestricted smoking is permitted in the following places:

4.1 Smoking-permitted areas designated pursuant to Section 5.

4.2 The licensed premises of any establishment in which malt, vinous, or spirituous liquors or fermented malt beverages, as those terms are defined by state statute, are sold for consumption on the premises pursuant to a license, except that for those areas within such establishments which are utilized primarily for restaurant purposes or recreational activities, a no smoking area must be provided.

4.3 Retail stores primarily engaged in the sale of tobacco or tobacco accessories.

4.4 Restaurants with a seating capacity of 30 or fewer patrons.

4.5 Enclosed premises occupied exclusively by smokers, even through they may be visited by non-smokers.

4.6 Meetings or assemblies not open to members of the public; provided, however, that no such meeting or assembly is conducted in a public place.

5. Designated Smoking-Permitted Areas.

A section of the following common areas, public places, and work areas may be designated as smoking-permitted areas by the owner, lessee, principal manager, person in charge, or employer:

5.1 An area in common areas which, in the discretion of the owner, lessee, principal manager, or person in charge, is of sufficient size to accommodate patrons, customers, and employees who wish to smoke, provided that no more than 50% of the total common area may be designated as a smoking permitted area. In no event shall the common areas in any nursing home, hospital or health care facility, or public restroom be designated as a smoking-permitted area.

5.2. Restaurants with a seating capacity of more than 30 patrons; provided, however, that the owner, lessee, principal manager, or person in charge shall provide a no smoking area to accommodate patrons who request to be seated in such an area. All such patrons must be advised that no smoking areas are available.

5.3. Work areas; provided, however, that not more than 50% of the employer's total floor area may be designated as a smoking permitted area.

5.4 Ash trays and/or receptacles relating to smoke or smoking discards, wastes or debris as defined herein shall only be allowed in designated smoking permitted areas.

6. Posting of Signs.

To advise persons and employees of the existence of no smoking or smoking permitted areas, signs with letters no less than one inch high or symbols of no less than three inches high shall be posted as follows:

6.1 No employer, owner, lessee, principal manager, or person in charge of a common area, public place, or work area where smoking is prohibited in an entire establishment shall fail to post a sign using the words "no smoking" or the international no smoking symbol conspicuously either on all public entrances or in a position clearly visible upon entry into the public place.

6.2 No employer, owner, lessee, principal manager, or person in charge of a public place where certain areas are designated as smoking areas pursuant to this article shall fail to post a sign using the words "no smoking except in designated areas" conspicuously either on all public entrances or in a position clearly visible on entry into the public place.

6.3 No employer, owner, lessee, principal manager or person in charge of a public place where smoking is permitted in the entire establishment shall fail to post a sign using the words "smoking permitted" or an international smoking symbol conspicuously either on all public entrances or in a position clearly visible on entry into the public place.

6.4 No employer in charge of work areas where smoking is permitted shall fail to post a sign using the words "no smoking except in designated areas" in a conspicuous place within the work area.

6.5 No employer in charge of work areas where smoking is prohibited in an entire work area shall fail to post a sign using the words "no smoking" or the international no-smoking symbol in a conspicuous place within the work area.

Section II Penalty and Enforcement.

Violation of any provision of this ordinance shall be a Class 2 petty offense, and penalty for a violation of any provision of this ordinance shall be a fine of \$50.00. Each day of continuing violation shall be deemed to be a separate violation. The penalty assessment procedure provided in Section 16-2-201, C.R.S., shall be followed by the Arapahoe County Sheriff's Department in enforcing the provisions of this Ordinance.

Section III Enforcement

The provisions of this ordinance shall be enforced by the Arapahoe County Sheriff's Department.

Section IV Disposition of Fines

All fines imposed and collected for the violation of this Ordinance shall be paid into the General Fund of Arapahoe County.

Section V Severability of Clause

If any of the various provisions of this Ordinance are determined by a court of law to be invalid, such determination shall not affect the remaining provisions of this Ordinance.

Section VI Safety Clause

This Ordinance shall take effect thirty (30) days after the final publication following passage.
INTRODUCED, READ AND ORDERED PUBLISHED the 26th day of January, 1988.

Date of Initial Publication February 11, 1988

ADOPTED, APPROVED, AND ORDERED PUBLISHED AS ADOPTED THE 23rd day of February, 1988.