

Smoking Regulations

Quincy Public Health Department Regulation Clean Air Works Smoking Restrictions

WHEREAS, Environmental Tobacco Smoke is a leading public health problem in the City of Quincy and throughout the United States;

WHEREAS, there exists conclusive evidence that Environmental Tobacco Smoke causes cancer, cardiovascular disease, respiratory disease, negative birth outcomes, allergies and irritations to the eyes, ears, nose, and throat of both smokers and nonsmokers;

WHEREAS, Environmental Tobacco Smoke, which includes both exhaled and the side stream smoke from burning cigarettes, causes the deaths of 53,000 Americans each year;

WHEREAS, the harmful effects of Environmental Tobacco Smoke are not confined to smokers but also cause severe discomfort and illness to nonsmokers;

WHEREAS, workplaces and other enclosed spaces have been shown to be locations of significant exposure to Environmental Tobacco Smoke by the citizens of the City of Quincy;

WHEREAS, both the Public Health Services National Toxicology Program and the World Health Organizations' International Agency for Research on Cancer identify Environmental Tobacco Smoke as a human Class A carcinogen and state that there is no safe level of exposure;

WHEREAS there are laws, ordinances and regulations in place that protect workers from other environmental hazards, including Class A carcinogens, asbestos, arsenic; and

WHEREAS, the City of Quincy currently regulates the sale and consumption of both alcoholic beverages and tobacco at retail establishments, food service establishments, bars and membership associations;

THEREFORE, the Quincy Health Department recognizes the rights of those who wish to breathe smoke free air and establishes this regulation to protect and improve the public health and welfare by prohibiting smoking in the workplace, public places and membership associations.

Section I. Definitions and Guidelines

1. Definitions

- a. Business Agent – An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.
- b. Employee – Any individual or person who performs services for an employer in return for wages, profit, gratuity, privilege or benefit.
- c. Employer – Any individual, person, partnership, association, corporation, trust, school, college, university or other educational institution or other legal entity, whether public, quasi-public, private or non-profit, including any public or private authority or municipal or other governmental agency, which regularly uses the services of one (1) or more employees.
- d. Enclosed – A space bounded by walls (with or without windows or other fenestrations) continuous from floor to ceiling and enclosed by one or more doors, including, but not limited to, offices, function rooms and hallways.

e. Membership Association – a not-for-profit entity that has been established and operates for a charitable, philanthropic, civic, social, benevolent, educational, religious, athletic, recreational or similar purpose, and is comprised of members who collectively belong to:

- (i) a society, organization or association of a fraternal nature that operates under the lodge system, and having one or more affiliated chapters or branches incorporated in any state; or
- (ii) a corporation organized under M.G.L. Chapter 180; or
- (iii) an established religious place of worship or instruction in the Commonwealth whose real or personal property is exempt from taxation; or
- (iv) a veterans' organization incorporated or chartered by the Congress of the United States, or otherwise, having one or more affiliated chapters or branches incorporated in any state. Except for a religious place of worship or instruction, an entity shall not be a membership association for the purposes of this definition unless individual membership is required for all members of the association for a period of not less than 90 days.

f. Outdoor Space -- an outdoor area, open to the air at all times and that cannot be enclosed by a wall or side covering.

g. Owner or Operator – Any individual, partnership, association, corporation, trust, school, college or other educational institution or other organization, including any public or private authority or municipal or other governmental agency that owns or operates a Workplace, Public Place or Membership Association.

h. Public Place -- Any building, facility or vehicle owned, leased, operated or occupied by the City of Quincy, including school buildings and grounds; any enclosed area open to the general public including, but not limited to, retail stores, retail food stores, supermarkets, restaurants, bars, cafes, libraries, museums, theaters, banks, laundromats, indoor sports arenas, auditoriums, inn/hotel/motel lobbies, private and public educational facilities, shopping malls, common areas of residential buildings, public restrooms, lobbies, staircases, halls, exits, entrance ways, elevators accessible to the public, public mass transit conveyances and indoor platforms and enclosed outside platforms, open meetings of a governmental body as defined in Section 11A of M.G.L. Chapter 30A, Section 23A of M.G.L. Chapter 39 and Section 9F of M.G.L. Chapter 34, and licensed child-care locations.

i. Private Residence – the part of a structure used as a dwelling including without limitation: a private home, townhouse, condominium, apartment, mobile home; vacation home, cabin or cottage; a residential unit in a governmental public housing facility; and the residential portions of a school, college or university dormitory or facility. A residential unit provided by an employer to an employee at a place of employment shall be considered to be a residence; if the unit is an enclosed indoor space used exclusively as a residence, and other employees, excluding family members of the employee, or the public has no right of access to the residence. For the purposes of this definition, a hotel, motel, inn, lodge, bed and breakfast or other similar public accommodation, hospital, nursing home or assisted living facility shall not be considered a residence.

j. Retail tobacco store – an establishment that is not required to possess a retail food permit whose primary purpose is to sell or offer for sale to consumers, but not for resale, tobacco products and paraphernalia, in which the sale of the other products is merely incidental, and in which the entry of persons under the age of 18 is prohibited at all times, and maintains a valid permit for the retail sale of tobacco products as required to be issued by the City of Quincy.

k. Smoking – Inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe, or other lighted tobacco product in any manner or form or non-tobacco product designed to be combusted and inhaled.

l. Work Space – Any enclosed area occupied by an Employee during the course of his or her employment, including but not limited to: offices; customer service areas; common areas; hallways; waiting areas; restrooms; lounges; and eating areas.

2. Guidelines

The Commissioner of Public Health for the City of Quincy may issue guidelines for the implementation

of this Regulation, including but not limited to definitions of terms as used in this Regulation and in the guidelines.

Section II. Prohibition of Smoking In The Workplace, Public Places and Membership Associations

1. Smoking is prohibited in all Workplaces, Public Places and Membership Associations within the City of Quincy. It shall be unlawful for any Owner, Operator, Business Agent or Employer to permit smoking in a Workplace, Public Place or Membership Association.
2. It shall further be the responsibility of the Employer to provide a smoke free environment for all Employees working in an Enclosed Workplace. Each Employer shall adopt, distribute and implement a written policy prohibiting smoking in the Workplace in accordance with this Regulation.
3. The written smoking policy shall be adopted and distributed to all Employees within four (4) weeks of the effective date of this Regulation or within four (4) weeks of the commencement of business operations. A copy of the policy shall be clearly and conspicuously posted in common areas of the Workplace.
4. The Employer shall post in a clear and conspicuous manner in the Workplace signs stating that smoking is prohibited.

Section III. Exceptions

1. Notwithstanding the provisions of Section II of this regulation, smoking may be permitted in the following places and/or circumstances:
2. Private residences; except during such time when the residence is utilized as part of a business as a group childcare center, school age day care center, school age day or overnight camp, or a facility licensed by the office of child care services or as a health care related office or facility;
3. Hotel, motel, inn bed and breakfast and lodging home rooms that are rented to guests and are designated as "smoking rooms". A room so designated shall have signs posted indicating that smoking is allowed therein;
4. Nursing homes, licensed pursuant to Section 71 of M.G.L. c. 111 and any acute care substance abuse treatment center under the jurisdiction of the Commonwealth, after application and approval by the Quincy Health Department for designation of part of the facility as a residence after compliance with the provisions of M.G.L. c. 270, §22(f) as amended pertaining to such application;
5. Performers upon a stage provided that the smoking is part of a theatrical production or professional film production;
6. Religious ceremonies where smoking is part of the ritual; and
7. Retail Tobacco Store, if the store maintains a valid permit for the sale of tobacco products issued by the City of Quincy. All required permits shall be displayed in a conspicuous manner, visible at all times to patrons of the establishment.

Section IV. Violations

1. It shall be the responsibility of the Owner, Operator, Employer, Business Agent, or other person having control of a Workplace, Public Place or Membership Association to ensure compliance with all sections of this Regulation pertaining to his/her place of business or any person in violation of any section of this Regulation. A violator of this Regulation may receive:
 - a. In the case of a first violation a fine of one hundred dollars (\$100.00);
 - b. In the case of a second violation, within 24 months of the first violation, a fine of two hundred dollars (\$200.00); and

c. In the case of three or more violations within 24 months of the second or current violation, a fine of three hundred dollars (\$300.00) for each violation.

2. Each calendar day an Owner, Operator, Business Agent or Employer operates in violation of any provision of this Regulation shall be deemed a separate violation.

3. Nothing in this Regulation shall be interpreted as undermining or eliminating the enforcement provisions of M.G.L. c. 270, §22(m)(2). With respect to enforcement of this Regulation against Membership Associations otherwise exempt under M.G.L. c. 270, §22, the provisions of Section IV (1) above shall apply.

4. Nothing in this Regulation shall be interpreted as prohibiting the Quincy Health Department or any other City of Quincy Department from revoking any license or permit issued by and within the jurisdiction of such Department for repeated violations of this Regulation.

Section V. Enforcement

1. Authority to enforce this Regulation shall be held by the Quincy Health Department, its subsidiary programs or designees; the City of Quincy Inspectional Services Department; the City of Quincy Police Department; and the City of Quincy Fire Department.

2. Any violation of this Regulation may be enforced in the manner provided in M.G.L. Chapter 111, §§ 31 and 187, by the Quincy Health Department, its subsidiary programs or designees.

3. Any person may register a complaint under this Regulation to initiate an investigation and enforcement with the Quincy Health Department.

Section VI. Conflict With Other Laws, Ordinances or Regulations

1. Nothing in this Regulation shall be deemed to amend or repeal any applicable fire, health or other law, ordinance or regulation so as to permit smoking in areas where it is prohibited by such fire, health or other law, ordinance or regulation.

2. Nothing in this Regulation shall be deemed to preempt the further limitation of smoking in the City of Quincy by any local regulatory body within the limits of its authority and jurisdiction.

Section VII. Severability

If any provision, clause, sentence, paragraph or word of this Regulation or the application thereof to any person, entity or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this Regulation which can be given effect without the invalid provisions or application and to this end the provisions of this Regulation are declared severable.

Section VIII. Effective Date

This regulation shall take effect on August 9, 2004