

Hilton Head Island

Chapter 2 REGULATIONS AND REQUIREMENTS RELATING TO SMOKING OF TOBACCO PRODUCTS

Sec. 9-2-10. Definitions.

(a) *Business* shall mean a sole proprietorship, partnership, joint venture, corporation, or other business entity, either for-profit or not-for-profit, including retail establishments where goods or services are offered for sale; professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered; and private clubs.

(b) *Employee* shall mean a person who is employed by an employer in consideration for direct or indirect monetary wages, commission, goods or services in kind or like compensation, and it shall also mean a person who volunteers his or her services for a nonprofit entity.

(c) *Employer* means any person, partnership, association, corporation, trust, school, college, university or other educational institution, nonprofit entity or other organization, including any public or private employer, any manager, supervisor, and all other persons charged with control, supervision, and operation of any work place, work space, or work spaces as defined herein, that employs the services of one (1) or more persons.

(d) *Enclosed area* means all space between a floor and ceiling that is enclosed on all sides by walls or windows (exclusive of doorways), which extend from the floor to the ceiling, including but not limited to, offices, rooms, foyers, waiting areas and halls.

(e) *Place of employment* means an area under the control of a public or private employer that employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, and vehicles. A private residence is not a "place of employment" for purposes of this ordinance unless it is used as a child care, adult day care, or health care facility. A private passenger motor vehicle is not a "place of employment" when used in the performance of employment responsibilities.

(f) *Public place* means an area to which the public is invited or to which the public is permitted to have access, including but not limited to, banks, bars, educational facilities, health care facilities, hotel and motel lobbies, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, theaters, waiting rooms, sports arena, stadiums and ball parks. A private club is a "public place" when being used for a function to which the general public is allowed entry. A private residence is not a "public place" unless it is used as a child care, adult day care, or health care facility.

(g) *Restaurant* means an eating establishment, including but not limited to, coffee shops, cafeterias, sandwich stands, ice cream parlors, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering

facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" shall include a bar area within the restaurant.

(h) *Retail tobacco store* means any establishment which 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 other products is merely incidental.

(i) *Secondhand smoke* is the complex mixture formed from the escaping smoke of a burning tobacco product and smoke exhaled by the smoker. Exposure to secondhand smoke is also frequently referred to as "passive smoking," "secondhand smoking" or "involuntary smoking."

(j) *Sheriff's office* means the Beaufort County Sheriff's Office enforcing the laws within the corporation limits of the Town of Hilton Head Island.

(k) *Smoking* means the inhaling, exhaling, burning, lighting or carrying of a lighted cigarette, cigar, pipe, or similar device or any other lighted tobacco product.

(l) *Smoking materials* includes cigars, cigarettes and all other manner of smoking devices intended to be used for the purpose of inhaling, burning, carrying or exhaling lighted tobacco products.

(m) *Work place* means any enclosed indoor area, structure, building or facility or any portion thereof at which one (1) or more employee(s) perform services for their employer, including but not limited to: retail food stores; retail stores; restaurants; bars; cabarets, cafes; public or private clubs; pool halls and bowling alleys.

(n) *Work space* or *work spaces* means 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.

(Ord. No. 07-04, § 1, 2-20-07)

Sec. 9-2-20. Prohibition of smoking in the workplace.

(a) The employer shall provide a smoke-free environment for all employees working in all work space or work spaces and work places as those terms are defined herein. Further, the employer and all employees shall prohibit any persons present in the work space or work spaces and work places from smoking tobacco products therein.

(b) Smoking shall be prohibited in all work space or work spaces and work places in a workplace. This includes all common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, hallways, medical facilities, cafeterias, employee lounges, staircases, restrooms and all other enclosed areas in the workplace.

(Ord. No. 07-04, § 1, 2-20-07)

Sec. 9-2-30. Smoking restrictions inapplicable and exceptions.

(a) This chapter shall be inapplicable to the following subsections (1) through (7). It is specifically recognized that such locations are addressed in the Clean Indoor Air Act, enacted by

the General Assembly of South Carolina and codified in S.C. Code 1976, § 44-95-10, et. seq. Therefore, this chapter shall not apply to:

- (1) Public schools and preschools where routine or regular kindergarten, elementary, or secondary educational classes are held including libraries;
- (2) All other indoor facilities providing children's services to the extent that smoking is prohibited in the facility by federal law and all other child day care facilities, as defined in section 20-7-2700, which are licensed pursuant to S.C. Code 1976, tit. 20, ch. 7, art. 13, subart. 11;
- (3) Health care facilities as defined in S.C. Code 1976, § 44-7-130;
- (4) Government buildings as defined in S.C. Code 1976, § 44-95-20(4), except to the extent regulation by the town is authorized therein;
- (5) Elevators;
- (6) Public transportation vehicles, except for taxicabs;
- (7) Arenas and auditoriums of public theaters or public performing art centers;

(b) Exceptions. Notwithstanding the provisions of section 9-2-20 herein, smoking may be permitted in the following places and/or circumstances:

- (1) Private residences;
 - (2) Hotel, motel, inn, time share units, bed and breakfast and lodging home rooms that are rented to guests, designated as "smoking rooms" ("rooms") provided that the total percentage of such Rooms does not exceed twenty-five (25) percent in such establishment. A Room so designated shall have signs posted indicating that smoking is allowed therein;
 - (3) Retail tobacco stores as defined herein;
 - (4) Smoking by performers during a theatrical event which requires smoking in the context of the performance;
 - (5) Religious ceremonies where smoking is part of the ritual; and
 - (6) Businesses which are comprised of only one (1) individual and which are not co-located in a building or structure with other businesses or offices other than the applicable business.
- (Ord. No. 07-04, § 1, 2-20-07)

Sec. 9-2-40. Posting of Signs.

The owner, manager or person in control of an establishment or area in which smoking is prohibited pursuant to this section shall post a conspicuous sign at the main entrance to the establishment or area. The sign shall contain the words "No Smoking" and the universal symbol for no smoking. The sign shall not exceed one (1) square foot in size.

(Ord. No. 07-04, § 1, 2-20-07)

Sec. 9-2-50. Reasonable distance.

Smoking outside a work space, work spaces and work places, and any other indoor area where smoking is prohibited shall be permitted, provided that tobacco smoke does not enter the work space, work spaces and work places through entrances, windows, ventilation systems or other means, and provided that employees and patrons do not have to walk through the smoking area to enter the work place.

(Ord. No. 07-04, § 1, 2-20-07)

Sec. 9-2-60. Jurisdiction, enforcement and penalties.

- (a) Any court of competent jurisdiction in Beaufort County shall have jurisdiction over violations of the provisions of this chapter.
 - (b) The sheriff's office shall enforce the provisions of this section. In addition, designated code enforcement employees of the town shall have the power to enforce the provisions of this chapter.
 - (c) Any person who violates any provision of this chapter shall be punishable by a civil penalty of a fine not exceeding five hundred dollars (\$500.00) for each violation.
 - (d) Violation of this chapter is hereby declared to be a public nuisance, which may be abated by the town manager by restraining order, preliminary and permanent injunction, or other means provided for by law, and the town may take action to recover the costs of the nuisance abatement.
 - (e) Each day on which a violation of this chapter occurs shall be considered a separate and distinct violation.
- (Ord. No. 07-04, § 1, 2-20-07)

Sec. 9-2-70. Non-retaliation.

No person or employer shall discharge, refuse to hire, refuse to serve or in any manner retaliate or take any adverse personnel action against any employee, applicant, customer or person because such employee, applicant, customer or person takes any action in furtherance of the enforcement of this chapter or exercises any right conferred by this chapter.

(Ord. No. 07-04, § 1, 2-20-07)

Sec. 9-2-80. Conflict with other laws, ordinances or regulations.

Nothing in this chapter 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 applicable fire, health or other law, ordinance or regulation.

(Ord. No. 07-04, § 1, 2-20-07)