

#### **8.10.040 Prohibition of smoking in public places.**

A. Smoking is prohibited in all enclosed public places within the city, including, but not limited to, the following enclosed places:

1. Elevators;
2. Restrooms, lobbies, reception areas, hallways and any other common-use areas;
3. Buses, taxicabs, and other means of public transit operating within the city, and ticket, boarding, and waiting areas of public transit depots;
4. Service lines;
5. Retail stores;
6. All areas available to and customarily used by the general public in all businesses and nonprofit entities patronized by the public, including, but not limited to, offices, banks, laundromats, hotels, motels, sales areas and areas where personal services are provided;
7. Restaurants;
8. Public areas of galleries, libraries and museums;
9. Any facility which is primarily used for exhibiting any motion picture, stage, drama, lecture, musical recital or other similar performance except as provided in BMC [8.10.070\(A\)\(7\)](#);
10. Sports arenas and convention halls, including bowling facilities and places where bingo games and games of skill and chance are conducted;
11. Every room, chamber, place of meeting or public assembly, including school buildings under the control of the state or any board, council, commission, committee, including joint committees, or agencies of the state, the city or any political subdivision of the state or special purpose public or quasi-public entity created or authorized by state statute during such time as a public meeting is in progress, to the extent such place is subject to the jurisdiction of the city;
12. Waiting rooms, hallways, wards and semiprivate rooms of health facilities, including, but not limited to, hospitals, clinics, physical therapy facilities, doctors' offices and dentists' offices;
13. Lobbies, hallways, recreation rooms, storage and parking areas, laundry facilities and other enclosed common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities;
14. Polling places.

B. Notwithstanding any other provision of this section, any owner, operator, manager or other person who controls any enclosed area that is unregulated space may declare that enclosed area a nonsmoking area and when such area is posted in accordance with BMC [8.10.080](#) no person may smoke in such area. [Ord. 98-07 § 2.]

#### **8.10.050 Prohibition of smoking in places of employment.**

A. Smoking in a place of employment is prohibited.

B. An employer may not permit any person to smoke in a place of employment.

C. It shall be the responsibility of employers to provide a smoke-free workplace for all employees. In providing a smoke-free workplace, an employer is not required to incur any expense to make structural or other physical modifications to their facilities to accommodate smokers.

D. Each employer having an enclosed place of employment located within the city shall adopt, implement, make known and maintain a written smoking policy which shall contain the following requirements:

Smoking is prohibited in all enclosed areas within this place of employment, without exception. This includes common work areas, private offices, hallways, employee lounges, stairs, restrooms, vehicles, and all other enclosed areas and spaces.

E. The smoking policy shall be communicated to all employees within three (3) weeks of its adoption and shall be communicated to all new employees immediately upon employment.

F. A written copy of the smoking policy shall be given upon request to any existing or prospective employee. [Ord. 98-07 § 2.]

#### **8.10.060 Smoking outside of buildings.**

No person may smoke outside within twenty-five (25) feet of any entrance, open window, or ventilation system intake of any building area within which smoking is prohibited by this chapter. [Ord. 05-03 § 2.]

#### **8.10.070 Where smoking not regulated.**

A. Notwithstanding any other provision of this chapter to the contrary, the following areas shall not be subject to the smoking restrictions of this chapter:

1. Bars which meet the requirements of BMC [8.10.020](#)(A);
2. Private residences when used as a child care, adult daycare, or health care facility or areas frequented by the public for business purposes;
3. Twenty-five (25) percent of hotel and motel rooms available for rental to guests;
4. Retail tobacco stores;
5. Restaurants, hotel and motel conference or meeting rooms and public and private assembly rooms while these places are being used for private functions;
6. Religious or cultural ceremonies;
7. On a stage or similar structure during the presentation or play or other dramatic or entertainment event when smoking by an actor or entertainer is required as part of the presentation;
8. Employers may provide an enclosed area where employees may smoke if the following conditions are met: the ventilating system for the smoking area does not exhaust into the nonsmoking area of the building; the smoking area environment must meet the applicable proposed standards set forth in CER 59 or such standards as may be adopted following the comment period for the proposed standards and an enclosed area with equal accommodations must be provided for nonsmoking employees.

B. Notwithstanding any other provision of this section, any owner, operator, manager or other person who controls any establishment described in this section may declare all or any part of the enclosed areas of the establishment that are not otherwise subject to the smoking restrictions of this chapter to be nonsmoking areas and smoking is prohibited in such areas upon the posting of “no smoking” signs meeting the requirements of BMC [8.10.080](#). [Ord. 98-07 § 2.]

#### **8.10.080 Posting of signs and removal of ashtrays.**

The owner, operator, manager or other person having control of an enclosed area where smoking is prohibited under this chapter shall post conspicuously within the area and, except for vehicles, at each entrance to the area from unregulated space a sign clearly stating or showing that smoking is prohibited.

A. A sign is adequate under this section if it states in block letters at least one and one-quarter (1 1/4) inches high, “NO SMOKING” or “SMOKING PROHIBITED” or contains the international “No Smoking” symbol consisting of a pictorial representation of a burning cigarette enclosed in a red circle at least three (3) inches in diameter with a red bar across it. Signs posted in structures shall be a minimum of eighteen (18) inches wide and six (6) inches high.

B. The owner, operator, manager or other person having control of an area where smoking is prohibited under this chapter shall remove all ashtrays and other smoking paraphernalia from the area. [Ord. 98-07 § 2.]

#### **8.10.090 Enforcement.**

A. Enforcement of this chapter shall be implemented by the city manager or his or her designee.

B. Notice of the provisions set forth in this chapter shall be given to all applicants for a business license in the city.

C. Any citizen who desires to register a complaint under this chapter may file the complaint with the city manager or his or her designee.

D. The business owner, manager or person in charge will certify that the business is in compliance with this chapter by so indicating on the annual business license renewal form.

E. Any owner, manager, operator or employee of any establishment regulated by this chapter may inform persons violating this article of the appropriate provisions thereof.

F. Notwithstanding any other provision of this chapter, a private citizen may bring a civil action to enforce the provisions of this chapter. [Ord. 98-07 § 2.]

#### **8.10.100 Nonretaliation.**

No person or employer may discharge, refuse to hire or in any manner retaliate or discriminate 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 chapter. [Ord. 98-07 § 2.]

#### **8.10.110 Violations and penalties.**

A. It is unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation under this chapter to fail to comply with any of its provisions.

B. It is unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this chapter.

C. Any person who violates any provision of this chapter shall be guilty of an infraction punishable by:

1. A fine not exceeding fifty dollars (\$50) for a first (1st) violation.

2. A fine not exceeding one hundred dollars (\$100) for a second (2nd) violation of this chapter within one (1) year.

3. Fine not exceeding three hundred dollars (\$300) for each violation of this chapter within one (1) year.

D. Notwithstanding any other provision of this chapter, the city or a private citizen may bring a civil action to enforce this chapter and may recover a civil penalty not exceeding three hundred dollars (\$300) for each violation. Each day upon which a continuing violation occurs is a separate violation. Upon the request of the party bringing the action and proof by a preponderance of the evidence that a violation of this chapter has occurred, is occurring or is threatened to occur, the court shall issue an injunction against the violation or threatened violation. [Ord. 98-07 § 2.]

#### **8.10.120 Public education.**

The city manager or his or her designee shall engage in a continuing program to explain and clarify the purposes and requirements of this chapter to citizens affected by it, and to guide owners, operators and managers in their compliance with it. Such program may include publication of a brochure for affected businesses and individuals explaining the provisions of this chapter. [Ord. 98-07 § 2.]

#### **8.10.130 Other applicable laws.**

This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws. Where state law and the provisions of this chapter apply to the same area or activities, the more stringent provision shall apply. If the prohibitions of this chapter apply to a space

or area in which smoking is not prohibited or is permitted under state law, the prohibitions of this chapter shall apply. [Ord. 98-07 § 2.]

**8.10.140 Severability.**

If any provision, clause, sentence or paragraph of this chapter or the application thereof to any person or circumstances shall be invalid, such invalidity shall not affect the other provisions of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable. [Ord. 98-07 § 2.]