Proposed No. BOH07-03.1


BE IT ADOPTED BY THE KING COUNTY BOARD OF HEALTH:

SECTION 2. The operation and effect of Code of King County Board of Health BOHC 19.04.115 is suspended as applied to cigarettes, pending further review by the King County Board of Health.

SECTION 3. Sections 4 through 11 of this rule and regulation should constitute a new chapter in BOHC Title 19.

NEW SECTION. SECTION 4. Purpose and policy declared.

A. This chapter is enacted as an exercise of the board of health powers of King County to protect and preserve the public peace, health, safety and welfare. Its provisions shall be liberally construed for the accomplishment of these purposes.

B. It is expressly the purpose of this chapter to provide for and promote the health, safety and welfare of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by this chapter.

C. It is the specific intent of this chapter to place the obligation of complying with its requirements upon the owner of each establishment within its scope, and no provision nor term used in this title is intended to impose any duty whatsoever upon King County or any of its officers or employees, for whom the implementation or enforcement of this title shall be discretionary and not mandatory.

D. Nothing contained in this chapter is intended to be nor shall be construed to create or form the basis for any liability on the part of King County, or its officers, employees or agents, for any injury or damage resulting from the failure of any person subject to this chapter to comply with this chapter, or by reason or in consequence of any
act or omission in connection with the implementation or enforcement of this chapter on
the part of King County by its officers, employees or agents.

NEW SECTION. SECTION 5. Citation. This chapter may be cited and
referred to, and shall be known as, the "Smoking in Public Places Regulations."

NEW SECTION. SECTION 6. Findings — Intent. The Board of Health
recognizes that exposure to second-hand smoke is known to cause cancer in humans and
is a known cause of other diseases including pneumonia, asthma, bronchitis, and heart
disease. Citizens are often exposed to second-hand smoke, and are likely to develop
chronic, potentially fatal diseases as a result of such exposure. Due to the health hazard
secondhand smoke poses to those exposed, the Board of Health adopts this regulation in
order to protect the health and welfare of all citizens, including workers in their places of
employment.

NEW SECTION. SECTION 7. Definitions. As used in this chapter, the
following terms have the meanings indicated unless the context clearly indicates
otherwise.

A. "Smoke" or "smoking" means the carrying or smoking of any kind of lighted
pipe, cigar, cigarette, or any other lighted smoking equipment.

B. "Public place" means that portion of any building or vehicle used by and open
to the public, regardless of whether the building or vehicle is owned in whole or in part
by private persons or entities, the state of Washington, or other public entity, and
regardless of whether a fee is charged for admission, and includes a presumptively
reasonable minimum distance, as set forth in RCW 70.160.020, of twenty-five feet from
entrances, exits, windows that open and ventilation intakes that serve an enclosed area
where smoking is prohibited. A public place does not include a private residence unless
the private residence is used to provide licensed child care, foster care, adult care or
other similar social service care on the premises.

"Public place" includes, but is not limited to, schools, elevators, public
conveyances or transportation facilities, museums, concert halls, theaters, auditoriums,
exhibition halls, indoor sports arenas, hospitals, nursing homes, health care facilities or
clinics, enclosed shopping centers, retail stores, retail service establishments, financial
institutions, educational facilities, ticket areas, public hearing facilities, state legislative
chambers and immediately adjacent hallways, public restrooms, libraries, restaurants,
waiting areas, lobbies, bars, taverns, bowling alleys, skating rinks, casinos, reception
areas and no less than seventy-five percent of the sleeping quarters within a hotel or
motel that are rented to guests. "Public place" does not include a private residence. This
chapter is not intended to restrict smoking in private facilities that are occasionally open
to the public except upon the occasions when the facility is open to the public.

C. "Place of employment" means any area under the control of a public or
private employer which employees are required to pass through during the course of
employment, including, but not limited to, entrances and exits to the places of
employment, and including a presumptively reasonable minimum distance of twenty-
five feet from entrances, exits, windows that open and ventilation intakes that serve an
enclosed area where smoking is prohibited, work areas, restrooms, conference and
classrooms, break rooms and cafeterias and other common areas. A private residence or
home-based business, unless used to provide licensed child care, foster care, adult care,
or other similar social service care on the premises, is not a "place of employment."
NEW SECTION. SECTION 8. Owners, lessees to post signs prohibiting smoking. Owners, or in the case of a leased or rented space the lessee or other person in charge, of a place regulated under this chapter shall prohibit smoking in public places and places of employment and shall post signs prohibiting smoking as appropriate under this chapter. Signs shall be posted conspicuously at each building entrance. In the case of retail stores and retail service establishments, signs shall be posted conspicuously at each entrance and in prominent locations throughout the place.

NEW SECTION. SECTION 9. Application to modify presumptively reasonable minimum distance. Owners, operators, managers, employers or other persons who own or control a public place or place of employment may seek to rebut the presumption that twenty-five feet is a reasonable minimum distance by making application to the director of the Seattle-King County Department of Public Health. The presumption will be rebutted if the applicant can show by clear and convincing evidence that, given the unique circumstances presented by the location of entrances, exits, windows that open, ventilation intakes or other factors, smoke will not infiltrate or reach the entrances, exits, open windows or ventilation intakes or enter into the public place or place of employment and, therefore, the public health and safety will be adequately protected by a lesser distance.

NEW SECTION. SECTION 10. Exceptions. This chapter is not intended to regulate smoking in a private enclosed workplace, within a public place, even though such a workplace may be visited by nonsmokers, excepting places in which smoking is prohibited by the chief of the Washington state patrol, through the director of fire protection, or by other law, ordinance or regulation.
NEW SECTION. SECTION 11. Enforcement – Smoking in Public Places

Regulations.

A. The director of the Seattle-King County Department of Public Health or the director's authorized representative is authorized to enforce the restrictions and requirements of this chapter in accordance with the provisions of BOHC chapter 1.08, consistent with subsection B. of this section.

B. When violations of this chapter occur, a warning shall first be given to the owner or other person in charge. Any subsequent violation is subject to a civil penalty of up to one hundred dollars. Each day upon which a violation occurs or is permitted to continue constitutes a separate violation.

SECTION 12. Severability. If any provision of this rule or its application to any
person or circumstance is held invalid, the remainder of the rule or the application of the
provision to other persons or circumstances is not affected.

R&R was introduced on and passed by the Board of Health on 10/18/2007, by the
following vote:

Yes: 9 - Mr. Ferguson, Ms. Lambert, Ms. Patterson, Mr. Hutchinson, Dr.
Nicola, Ms. Manning, Dr. Counts, Mr. Phillips and Mr. Sherman
No: 0
Excused: 6 - Mr. von Reichbauer, Mr. Dunn, Mr. Conlin, Ms. Clark, Mr.
Rasmussen and Ms. Frisinger

BOARD OF HEALTH
KING COUNTY, WASHINGTON

Julia Patterson, Chair

Anne Noris, Clerk of the Board

Attachments None