

DIVISION 3.

SMOKING RESTRICTED IN PUBLIC PLACES*

* **Editors Note:** Ord. No. 4003, § 1, adopted June 5, 2006, amended Div. 3, in its entirety, to read as herein set out in §§ 38-301--38-307. Prior to inclusion of said ordinance, Div. 3, pertained to similar subject matter. See also the Code Comparative Table.

Cross References: Streets, sidewalks and certain other public places, ch. 94.

State Law References: Smoking, C.R.S. § 25-14-101 et seq.

Sec. 38-301. Short title.

This division shall be known and may be cited as the "Smoking Restricted in Public Places Ordinance."
(Ord. No. 4003, § 1, 6-5-2006)

Sec. 38-302. Legislative intent.

The city council 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 city council has further determined that secondhand smoke is a cause of disease, including lung cancer, heart disease, respiratory infection, and decreased respiratory function and as such there is no safe level of exposure to secondhand smoke. The city council deems it necessary to prohibit smoking in common areas, public places, and work places, except as smoking is otherwise permitted by this division. The provisions of this division shall not apply to a residential dwelling unit. This division is intended to enact and adopt smoking regulations that are to be enforced in the Arvada Municipal Court that cover the same subject matter as the various provisions of the Colorado Clean Indoor Air Act (HB 06-1175, Part 2 of Article 14, Title 25 C.R.S.).
(Ord. No. 4003, § 1, 6-5-2006)

Sec. 38-303. Definitions.

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

Public places means any indoor or outdoor facility or area that is open to members of the public who enter such facility or area, including but not limited to parks, trails, golf courses, mercantile establishments, restaurants, taverns, 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, outdoor customer seating areas, and waiting rooms of professional persons.

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.

Sports arena means any indoor or outdoor sports pavilions, athletic fields, gymnasiums, swimming pools, roller and ice rinks, bowling alleys, and other similar places where members of the general public assemble either to engage in the physical exercise, participate in athletic competition, or witness sports events.

Tobacco means cigarettes, cigars, cheroots, stogies, and periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff and snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a cigarette, pipe, or otherwise, or both for chewing and smoking. "Tobacco" also includes cloves and any other plant matter or product that is packaged for smoking.

Tobacco business means a sole proprietorship, corporation, partnership, or other enterprise engaged primarily in the sale, manufacture, or promotion of tobacco, tobacco products, or smoking devices or accessories, either at wholesale or retail, and in which the sale, manufacture, or promotion of other products is merely incidental. For purposes of enforcement of this division, "tobacco business" includes, but is not limited to, a sole proprietorship, corporation, partnership, or other enterprise engaged primarily in the sale or manufacture of hookah or shisha products and related smoking products, including, but not limited to, any plant or other organic matter packaged for smoking or held out as a smoking product, or any sole proprietorship, corporation, partnership, or other enterprise engaged in the promotion of hookah or shisha smoking, sometimes referred to as a hookah bar, café, or lounge.

(Ord. No. 4003, § 1, 6-5-2006; Ord. No. 4127, §§ 1, 2, 10-6-2008)

Sec. 38-304. Smoking prohibited.

It shall be unlawful for any person to smoke in any public place or sports arena as defined in this division or a cigar-tobacco bar as defined in C.R.S. § 25-14-203.

(Ord. No. 4003, § 1, 6-5-2006; Ord. No. 4127, § 3, 10-6-2008)

Sec. 38-305. Minors prohibited on premises.

(a) It shall be unlawful for a person under the age of 18 years to be admitted to or be on the premises of a tobacco business.

(b) The owner, operator, manager, or other person who controls a tobacco business, shall post and keep at all times visible to the public in a conspicuous place on the premises, a sign to be provided by the city clerk's office which shall read as follows:

WARNING: It is illegal for any person under 18 years of age to be on the premises of this business, and upon conviction, a fine may be imposed.

(Ord. No. 4003, § 1, 6-5-2006; Ord. No. 4127, § 3, 10-6-2008)

Sec. 38-305.5. No distribution to minors.

It shall be unlawful to give, sell, distribute, or offer for sale to any person who is under the age of 18 years any cigarette, tobacco, tobacco product, or coupon therefor.

(Ord. No. 4127, § 4, 10-6-2008)

Sec. 38-306. Smoke free public entrances.

Smoking shall not occur within 25 feet of any public entrance to any premises to insure that smoke does not enter the enclosed premises through entrances, windows, ventilation systems or any other means.
(Ord. No. 4003, § 1, 6-5-2006)

Sec. 38-307. Enforcement and penalties.

- (a) Enforcement of this division shall be implemented by the Arvada Police Department.
 - (b) Notice of the provisions set forth in this division shall be given to all applicants for a business license in the City of Arvada.
 - (c) Any person who desires to register a complaint under this chapter may initiate a complaint with the Arvada Police Department.
 - (d) Any owner, manager, operator, or employee of any establishment regulated by this division shall inform persons violating this division of the appropriate provisions thereof and request their compliance.
 - (e) No person or employer shall discharge, refuse to hire or retaliate in any manner 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 division.
 - (f) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation under this ordinance to fail to comply with any of its provisions.
 - (g) It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this division.
 - (h) Any person who violates or any entity which violates any provision of this division shall be guilty of an infraction, punishable by:
 - (1) A minimum fine of \$200.00 for the first violation.
 - (2) A minimum fine of \$300.00 for the second violation.
 - (3) A minimum fine of \$500.00 for each additional violation of this division.
 - (4) Each day of continuing violation shall be deemed to be a separate violation.
- (Ord. No. 4003, § 1, 6-5-2006)