

DIVISION 3. - SMOKING IN PUBLIC PLACES³

Footnotes:

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Cross reference— Streets and sidewalks, ch. 98.

Sec. 54-166. - Intent.

The intent of this division is to protect the public health and welfare by regulating smoking in public places and to strike a reasonable balance between the desires of persons who smoke and the need of nonsmokers to breathe smoke-free air and to recognize that, where these conflict, the need to breathe smoke-free air shall take precedence.

(Ord. No. BH 95-05, § 1, 11-20-1995)

Sec. 54-167. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Business means any sole proprietorship, partnership, joint venture, corporation or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold, as well as professional corporations and other entities under which professional services are delivered.

Employee means any person who is employed by any employer for direct or indirect monetary wages or profit, including those employed full time, part time, temporary or contracted or from a third party; the term "employee" also means any person who serves as a volunteer for a business or nonprofit entity.

Employer means any person, business, or nonprofit which employs the services of one or more persons, and includes the township.

Enclosed means closed in by a roof and four or more connected, floor-to-ceiling walls with appropriate openings for ingress and egress.

Mall means any enclosed public walkway or hall area which serves to connect retail or professional establishments.

Place of employment means any enclosed area under the control of an employer which employees normally frequent during the course of employment.

Public place means any enclosed area to which the public is invited or in which the public is permitted.

Restaurant means an establishment in which the principal business is the sale of food for consumption on the premises.

Service line means any indoor line at which one or more persons are waiting for or receiving any kind of service, whether or not such service involves the exchange of money.

Smoking means inhaling, exhaling, burning or carrying any lighted cigarette, cigar, pipe, weed, plant or other combustible substance in any manner or in any form.

Work area and workplace mean any area of a place of employment enclosed by floor-to-ceiling walls in which two or more employees are assigned to perform work for an employer.

(Ord. No. BH 95-05, § 2, 11-20-1995)

Cross reference— Definitions generally, § 1-2.

Sec. 54-168. - Other applicable laws.

This division shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

(Ord. No. BH 95-05, § 3, 11-20-1995)

Sec. 54-169. - Prohibition of smoking in places accessible to the general public.

Smoking shall be prohibited in the following public places and other public places similarly situated, including but not limited to the following areas:

- (1) All enclosed areas available to and customarily used by the general public and all areas of business establishments generally accessible to the public, including but not limited to the public area of retail stores, banks, movie theaters, and other offices or workplaces.
- (2) Public restrooms.
- (3) Service lines.
- (4) All reception and waiting areas.
- (5) Laundromats.
- (6) Polling places.

(Ord. No. BH 95-05, § 5, 11-20-1995)

Sec. 54-170. - Restrictions in restaurants.

Smoking shall be restricted in restaurants in accordance with N.J.S.A. 26:3E-7—26:3E-11.

(Ord. No. BH 95-05, § 6, 11-20-1995)

Sec. 54-171. - Nonretaliation.

No person or employer shall discharge, refuse to hire, or in any manner retaliate against any employee or applicant for employment because such employee or applicant exercises any rights to a smoke-free workplace afforded by this division.

(Ord. No. BH 95-05, § 7, 11-20-1995)

Sec. 54-172. - Posting of signs.

- (a) Indoor sign requirements. Smoking or nonsmoking signs, whichever are appropriate, with letters of not less than one inch in height, or the international no smoking symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, shall be clearly posted at or near all entrances and sufficiently and conspicuously posted at other appropriate locations in every building or other place where smoking is regulated by this division by the owner, operator,

manager or other person having control of such building or other place. Signs which have been removed shall be replaced within five working days.

- (b) Outdoor sign requirements. No smoking signs, with letters of not less than one inch in height, or the international no smoking symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, shall be posted at or near the entry in every building or other place where smoking is regulated by this division by the owner, operator, manager or other person having control of such building or other place and in every outdoor area.

(Ord. No. BH 95-05, § 8, 11-20-1995)

Sec. 54-173. - Enforcement.

The health officer or his designee is hereby charged with the enforcement of this division. All members of the health department are hereby designated as enforcement officers for the purpose of enforcement of this division.

(Ord. No. BH 95-05, § 9, 11-20-1995)

Sec. 54-174. - Registration of complaints.

Any citizen, employee, or business patrol who desires to register a complaint under this division may initiate enforcement with the health officer or his designee.

(Ord. No. BH 95-05, § 10, 11-20-1995)

Sec. 54-175. - Authority to inform.

Any owner, manager or authorized agent of any establishment regulated by this division shall inform person violating this division of the appropriate provisions of this division.

(Ord. No. BH 95-05, § 11, 11-20-1995)

Sec. 54-176. - Limited responsibility of businesses.

The owner, operator, or manager of a business shall not be responsible for violations of this division within his premises by patrons or citizens, provided that such patrons or citizens have been adequately informed that their actions may be in violation of the law.

(Ord. No. BH 95-05, § 12, 11-20-1995)

Sec. 54-177. - Responsible party.

It shall be unlawful for any person who owns, operates, manages, or otherwise controls the use of any premises subject to the restrictions of this division to fail to comply with this division.

(Ord. No. BH 95-05, § 13, 11-20-1995)

Sec. 54-178. - Smoking where prohibited.

It shall be unlawful for any person to smoke in any area where such action is restricted by this division.

(Ord. No. BH 95-05, § 14, 11-20-1995)

Sec. 54-179. - Penalties.

Any person who violates any provision of this division shall be subject to a citation and:

- (1) Upon the first violation shall be guilty of an infraction and, upon conviction, shall be subject to a fine not to exceed \$50.00.
- (2) Upon the second violation within one year shall be guilty of an infraction and, upon conviction, shall be subject to a fine not to exceed \$200.00.
- (3) Upon the third and additional violations within one year shall be guilty of an infraction and, upon conviction, shall be subject to a fine not to exceed \$500.00 per conviction.

(Ord. No. BH 95-05, § 15, 11-20-1995)

Sec. 54-180. - Power to adopt more restrictive policies.

Notwithstanding any other provision of this division, any owner, operator, manager, employer, or other person who controls any establishment or place or employment regulated by this division may adopt policies relating to smoking which are more restrictive than those provided in this division.

(Ord. No. BH 95-05, § 16, 11-20-1995)

Secs. 54-181—54-200. - Reserved.