

## CHAPTER 100: SMOKING REGULATIONS

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#### Sec. 100.001 Background.

Smoking creates the hazard of injury to the personal health of those in the environment of such smoke as well as the potential damage to property which may result from the combustible nature of such substance. It has been determined that breathing ambient smoke in an enclosed area is a health hazard to both smokers and nonsmokers. Cigarette smoking also produces several substances that are considered hazardous to health including carbon monoxide, hydrogen cyanide, nitrous oxide and formaldehyde. Secondhand smoke (68% of the total smoke produced by a cigarette) affects the health of the bystander, interfering with respiratory tract defenses, often causing nonsmokers to have allergic or irritative reactions, and is a known cause of lung cancer. **(Ord. 25-05, J. 31, p. 098-102, passed 4/25/05)**

Because the hazards of smoking have a potentially harmful effect, material and direct, on the public health, safety, welfare, comfort and property of residents of the City, it is, therefore, necessary and desirable to establish regulations that prohibit smoking in all enclosed public places and in all places of employment. **(Ord. 25-05, J. 31, p. 098-102, passed 4/25/05)**

#### Sec. 100.005 Purpose.

This ordinance may be cited as the "Highland Park Smoking Ban Ordinance ", the purpose of which is to protect the public health, comfort and environment by prohibiting smoking in all public places and places of employment, in order to ensure that nonsmokers may breathe air free from the hazardous effects of secondhand smoke. **(Ord. 25-05, J. 31, p. 098-102, passed 4/25/05)**

#### Sec. 100.010 Definitions.

For purposes of this Chapter, the following terms shall have the following meanings:

(A) "Employee" means any person who is employed by a business, and shall include the owner or operator of a sole proprietorship or other similar business entity. **(Ord. 25-05, J. 31, p. 098-102, passed 4/25/05)**

(B) “Employer” means any business that employs one or more employees. (Ord. 25-05, J. 31, p. 098-102, passed 4/25/05)

(C) “Enclosed area” means all space in any structure or building that is enclosed on all sides by any combination of walls, windows, or doorways, extending from floor to the ceiling. (Ord. 25-05, J. 31, p. 098-102, passed 4/25/05)

(D) “Place of employment” means any enclosed area of a business within the City where one or more employees are required or permitted by an employer to work in the course of their employment, and includes, without limitation, common work areas, private offices, auditoriums, classrooms, conference and meeting rooms, cafeterias, elevators, employee lounges, stairs, hallways, restrooms, medical facilities, private clubs, and the interior of a vehicle of public conveyance. A “place of employment” does not include a private dwelling unit, unless the dwelling is also used as a day care facility for children or adults; provided that rooms in nursing homes or long-term care facilities occupied by one or more persons who have requested in writing a room where smoking is permitted shall be considered private dwelling units. (Ord. 25-05, J. 31, p. 098-102, passed 4/25/05)

(E) “Public place” means any area that is open to and used by the general public, or any area to which the public is invited or in which the public is permitted, including without limitation:

(1) vehicles of public conveyance;

(2) common or public areas (including without limitation lobbies, hallways, reception areas, public restrooms, and elevators) of apartment buildings, condominiums, dormitory buildings, nursing home care facilities, and other multiple family residential structures;

(3) common or public areas (including without limitation lobbies, hallways, reception areas, public restrooms, and elevators) of any building or structure that is accessible to the public including without limitation office, commercial, and industrial buildings, banks and financial institutions, educational institutions, health care facilities such as hospitals, clinics and doctor’s offices, museums, libraries, restaurants, polling places, government and City-owned buildings, food stores, cafeterias, theaters, auditoriums, trains and bus stations, hotels, motels, and retail and service establishments. (Ord. 31-91, J. 18, p. 621, passed 9/10/91; Ord. 46-93, J. 20, p. 164, passed 7/26/93; Ord. 63-94, J. 21, p. 367, passed 11/28/94; **Ord. 25-05, J. 31, p. 098-102, passed 4/25/05**)

(4) rooms, chambers, halls, or other locations within which meetings, hearings, or gatherings are held, to which the public is invited or in which the public is permitted, including specifically, but without limitation, any enclosed area under the control of the City of Highland Park where there is in progress any public meeting. (Ord. 31-91, J. 18, p. 621, passed 9/10/91; Ord. 46-93, J. 20, p. 164, passed 7/26/93; Ord. 63-94, J. 21, p. 367, passed 11/28/94; **Ord. 25-05, J. 31, p. 098-102, passed 4/25/05**)

“Public place” shall not include:

(1) a private dwelling unit, unless said dwelling is also used as a

day care facility for children or adults; provided that rooms in nursing homes or long-term care facilities occupied by one or more persons who have requested in writing a room where smoking is permitted shall be considered private dwelling units; or

(2) hotel or motel rooms designated as smoking, provided that no more than 20% of the available rooms for rent in any single building shall be designated as smoking rooms.

(F) "Smoke" or "smoking" means inhaling, exhaling, burning, or carrying a lighted cigar, cigarette, pipe, or other combustible substance in any manner or in any form. **(Ord. 25-05, J. 31, p. 098-102, passed 4/25/05)**

Sec. 100.015 Prohibition in Public Places.

Smoking shall be prohibited in any enclosed area of any public place. It shall be unlawful for the owner, occupant or lessee, as the case may be, in control of a public place to knowingly permit smoking in any enclosed area in a public place. **(Ord. 25-05, J. 31, p. 098-102, passed 4/25/05)**

Sec. 100.016 Prohibition in Places of Employment.

Smoking shall be prohibited in any enclosed area of any place of employment. It shall be unlawful for any employer to knowingly permit smoking in any enclosed area of any place of employment. **(Ord. 25-05, J. 31, p. 098-102, passed 4/25/05)**

Sec. 100.020 Designation of Other No-Smoking Areas.

Nothing in this Chapter shall be deemed to limit the owner, occupant or lessee of a public place or a place of employment to further prohibit smoking by designating outdoor areas not subject to the restrictions in Section 100.015 as a place where smoking is also prohibited, provided the owner, occupant or lessee conspicuously posts signs wherever smoking is prohibited in the same manner set forth in Section 100.025 of this Chapter. **(Ord. 25-05, J. 31, p. 098-102, passed 4/25/05)**

Sec. 100.025 Signs.

Each owner, lessor, lessee, employer, or other person in control of a public place shall post conspicuous "No Smoking" signs in the enclosed area of any public place where smoking is prohibited. Such "No Smoking" signs shall have a white field with the words "No Smoking" printed in red letters, four inches high with a one-half inch face, or shall bear the international "No Smoking" symbol, which consists of a pictorial representation of a cigarette enclosed in a circle with a bar across it. It shall be unlawful for any person to remove, deface or obscure any sign posted pursuant to the provisions of this ordinance. **(Ord. 31-91, J. 18, p. 621, passed 9/10/91; Ord. 25-05, J. 31, p. 098-102, passed 4/25/05)**

Sec. 100.026 Exemption.

This Chapter shall not apply to an established smoking area incidental to the sale of tobacco in Tobacco Shops or Liquor Stores, provided that such smoking area is in existence and operational as of April 25, 2005, being the date of adoption of the amendment to this Chapter. **(Ord. 25-05, J. 31, p. 098-102, passed 4/25/05)**

Sec. 100.030 Penalties.

(A) Any person who violates Sections 100.015., 100.016, 100.017 and/or 100.025 of

this Chapter, shall be fined not less than \$50 nor more than \$500 for each and every offense; provided that each day a violation continues shall constitute a separate offense.

(B) Violation notices for violations of this Chapter shall be issued, served, and resolved in accordance with the Administrative Hearing System established pursuant to Chapter 38 of this Code. **(Ord. 25-05, J. 31, p. 098-102, passed 4/25/05)**

Sec. 100.035 Severability.

If any provision or part of this Chapter or application thereof to any person or circumstance is held to be invalid, the remainder of the Chapter and the application of the provision or part thereof to other persons not similarly situated or to other circumstances shall not be affected thereby. **(Ord. 25-05, J. 31, p. 098-102, passed 4/25/05)**

Sec. 100.040 Effective date

All premises affected by this ordinance which are in existence on the approval date hereof shall cause such signs to be posted in a conspicuous location within the public place on or before June 1, 2005. All premises affected by this ordinance which are established subsequent to the approval date hereof shall cause such signs to be so posted as a condition to obtaining applicable business licensing. **(Ord. 25-05, J. 31, p. 098-102, passed 4/25/05)**

(Note: Chapter 100 adopted by Ord. 23B-79, J. 14, p. 0691, passed 4/23/79 was not reviewed or prepared by Corporation Counsel)

(Chapter 100 amended in toto by Ord. 24-86, J. 16, p. 456-459, passed 6/10/86; **Chapter 100 amended in toto by Ord. 25-05, J. 31, p. 098-102, passed 4/25/05)**