

THE VILLAGE CITY CODE

Article X: Smoking in Public Places and Indoor Work Places

Sec.12-250. Legislative intent.

The State Legislature by adopting the Smoking in Public Places Act intends to preempt any other regulation promulgated to control smoking in public places and to standardize laws that governmental subdivisions may adopt to control smoking. Cities and towns may enact and enforce laws prohibiting and penalizing conduct under provisions of this Article.

(Ord. No. 618, §1, 7-18-2006, State law reference - O.S. Title 63, § 1-1527.)

Sec. 12-251. Definitions.

A. As used in this Article:

- a. "Educational facility" means a building owned, leased or under the control of a public or private school system.
- b. "Electronic Smoking Device", as used herein, means an electronic and/or battery-operated device, the use of which may resemble smoking that can be used to deliver an inhaled dose of nicotine or other substances. An Electronic Smoking Device includes any such device, whether manufactured, distributed, marketed or sold as an electronic cigarette, also known as an e-cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or description which can be classified as an Electronic Smoking Device, including Electronic Nicotine Delivery Systems (ENDS), and vapor products.
- c. "Health facility" means an entity which provides health services, including, but not limited to, hospitals, nursing homes, long-term care facilities, kidney disease treatment centers, health maintenance organizations and ambulatory treatment centers;
- d. "Indoor workplace" means any indoor place of employment or employment-type service for or at the request of another individual or individuals, or any public or private entity, whether part-time or fulltime and whether for compensation or not. Such services shall include, without limitation, any service performed by an owner, employee, independent contractor, agent, partner,

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proprietor, manager, officer, director, apprentice, trainee, associate, servant or volunteer. An indoor workplace includes work areas, employee lounges, restrooms, conference rooms, classrooms, employee cafeterias, hallways, any other spaces used or visited by employees, and all space between a floor and ceiling that is predominantly or totally enclosed by walls or windows, regardless of doors, doorways, open or closed windows, stairways, or the like. The provisions of this section shall apply to such indoor workplace at any given time, whether or not work is being performed;

- e. "Meeting" means a meeting as defined in the Oklahoma Open Meeting Act;
- f. "Public body" means a public body as defined in the Oklahoma Open Meeting Act;
- g. "Public place" means an enclosed indoor area where individuals other than employees are invited or permitted;
- h. "Restaurant" means any eating establishment regardless of seating capacity;
- i. "Smoking" means the carrying by a person of a lighted cigar, cigarette, pipe or other lighted smoking device;
- j. "Stand-alone bar", "stand-alone tavern", and "cigar bar" mean an establishment that derives more than sixty percent (60%) of its gross receipts, subject to verification by competent authority, from the sale of alcoholic beverages and low-point beer and no person under twenty-one (21) years of age is admitted, except for members of a musical band employed or hired as provided in paragraph 2 of subsection B of Section 537 of Title 37 of the Oklahoma Statutes and that is not located within, and does not share any common entryway or common indoor area with, any other enclosed indoor workplace, including a restaurant.
- k. "Tobacco", as used herein, includes, but is not limited to, smoking tobacco such as used in pipes, cigarettes and cigars, and chewing or dipping tobacco, such as snuff and chewing tobacco.

(Ord. No. 618, §1, 7-18-2006; Ord. No. 620, §1, 8-15-2006; 2014 City Code) State law reference - O.S. Title 63, § 1-1522)

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Sec. 12-252. Smoking in certain places prohibited-Exemptions

- A. Except as specifically provided in this Article, no person shall smoke in a public place, in an indoor workplace, in any vehicle providing public transportation, at a meeting of a public body, in a nursing facility licensed pursuant to the Nursing Home Care Act, or in a child care facility licensed pursuant to the Oklahoma Child Care Facilities Licensing Act. A nursing facility licensed pursuant to the Nursing Home Care Act may designate smoking rooms for residents and their guests. Such rooms shall be fully enclosed, directly exhausted to the outside, and shall be under negative air pressure so that no smoke can escape when a door is opened and no air is re-circulated to nonsmoking areas of the building.
- B.
 - 1. Except as otherwise provided in paragraph 2 of this subsection, an educational facility which offers an early childhood education program or in which children in grades kindergarten through twelve are educated shall prohibit smoking, the use of snuff, chewing tobacco or any other form of tobacco product in the buildings and on the grounds of the facility by all persons including, but not limited to, full-time, part-time, and contract employees, during the hours of 7:00 a.m. to 4:00 p.m., during the school session, or when class or any program established for students is in session.
 - 2. Career and technology centers may designate smoking areas outside of buildings, away from general traffic areas and completely out of sight of children under eighteen (18) years of age, for use by adults attending training courses, sessions, meetings or seminars.
 - 3. An educational facility may designate smoking areas outside the buildings for the use of adults during certain activities or functions, including, but not limited to, athletic contests.
- C. Nothing in this section shall be construed to prohibit educational facilities from having more restrictive policies regarding smoking and the use of other tobacco products in the buildings or on the grounds of the facility.
- D. A private residence is not a "public place" within the meaning of this Article except that areas in a private residence that are used as a

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licensed child care facility during hours of operation are "public places" within the meaning of this Article.

- E. An employer not otherwise restricted from doing so may elect to provide smoking rooms where no work is performed except for cleaning and maintenance during the time the room is not in use for smoking, provided each smoking room is fully enclosed and exhausted directly to the outside, in such manner that no smoke can drift or circulate into a nonsmoking area. No exhaust from a smoking room shall be located within fifteen (15) feet of any entrance, exit or air intake. If smoking is to be permitted in any space exempted in subsection F of this section or in a smoking room pursuant to subsection G of this section, such smoking space must either occupy the entire enclosed indoor space or, if it shares the enclosed space with any nonsmoking areas, the smoking space shall be fully enclosed, exhausted directly to the outside with no air from the smoking space circulated to any nonsmoking area, and under negative air pressure so that no smoke can drift or circulate into a nonsmoking area when a door to an adjacent nonsmoking area is opened. Air from a smoking room shall not be exhausted within fifteen (15) feet of any entrance, exit or air intake.

- F. This Article shall not prohibit smoking in:
 - 1. Stand-alone bars, stand-alone taverns or cigar bars;
 - 2. The room or rooms where licensed charitable bingo games are being operated, but only during the hours of operation of such games;
 - 3. Up to twenty-five percent (25%) of the guest rooms at a hotel or other lodging establishment;
 - 4. Retail tobacco stores predominantly engaged in the sale of tobacco products and accessories and in which the sale of other products is merely incidental and in which no food or beverage is sold or served for consumption on the premises;
 - 5. Workplaces where only the owner or operator, of the workplace, or the immediate family of the owner or operator, performs any work in the work place, and the workplace has only incidental public access;

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6. Workplaces occupied exclusively by one or more smokers, if the workplace has only incidental public access. "Incidental public access" means that a place of business has only an occasional person, who is not an employee, present at the business to transact business or make a delivery. It does not include businesses that depend on walk-in customers for any part of their business;
 7. Private offices occupied exclusively by *one* or more smokers;
 8. Workplaces within private residences, except that smoking shall not be allowed inside any private residence that is used as a licensed child care facility during hours of operation;
 9. A facility operated by a post or organization of past or present members of the Armed Forces of the United States which is exempt from taxation pursuant to Sections 501 (c)(8), 501 (c)(10) or 501 (c)(19) of the Internal Revenue Code, 26 U.S.C., Section 501 (c)(8), 501 (c)(10) or 501 (c)(19), when such facility is utilized exclusively by its members and their families and for the conduct of post or organization nonprofit operations except during an event or activity which is open to the public;
 10. Any outdoor seating area of a restaurant; provided, smoking shall not be allowed within fifteen (15) feet of any exterior public doorway or any air intake of a restaurant; and
 11. Medical research or treatment centers, if smoking is integral to the research or treatment.
- G. Restaurants shall be totally nonsmoking or may provide nonsmoking areas and designated smoking rooms. Food and beverage may be served in such designated smoking rooms, which shall be in a location, which is fully enclosed, directly exhausted to the outside, under negative air pressure so smoke cannot escape when a door is opened, and no air is re-circulated to nonsmoking areas of the building. No exhaust from such room shall be located within twenty-five (25) feet of any entrance, exit or air intake. Such room shall be subject to verification for compliance with the provisions of this subsection by the State Department of Health.

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(Ord. No. 618, §1, 7-18-2006; Ord. No. 620, §1, 8-15-2006, State law reference - O.S. Title 63, § 1-1523.)

Sec. 12-253. Measures to prevent smoking in public places.

- (a) The person who owns or operates a public place shall, at a minimum, do the following in order to prevent smoking in public places:
 - (1) Post signs at entrances to places where smoking is prohibited which state that smoking is prohibited or that the indoor environment is free of tobacco smoke; and
 - (2) Ask smokers to refrain from smoking upon observation of anyone violating the provisions of this act.

(Ord. No. 618, §1, 7-18-2006; Ord. No. 620, §1, 8-15-2006, State law reference - O.S. Title 63, § 1-1525.)

Sec. 12-254. Governing body may designate smoking and non-smoking areas in municipal facilities.

- (a) All buildings, or portions thereof, that are owned and operated by the City, at the discretion of the City Council, may be designated as entirely nonsmoking or may be designated nonsmoking with one designated smoking room.
- (b) A smoking room as provided for in subsection (a) of this section:
 - 1. Shall not be used for the conduct of public business.
 - 2. Shall be in a location which is fully enclosed, directly exhausted to the outside, under negative air pressure so smoke cannot escape when a door is opened, and no air is re-circulated to nonsmoking areas of the building. No smoking exhaust shall be located within twenty-five (25) feet of any entrance, exit or air intake.

(Ord. No. 620, §1, 8-15-2006, State law reference - O.S. Title 21, § 1-1247.

Sec. 12-256. Penalty.

Any person who knowingly violates any provision of this Article is guilty of an offense, and upon conviction thereof, shall be punished by a fine of not

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less than Ten Dollars (\$10.00) and not more than One Hundred Dollars (\$100.00). (Ord. No. 620, §1, 8-15-2006, State law reference - O.S. Title 21, § 1-1247.

Sec. 12-257. Definitions. The following words, terms and phrases, when used in this subsection, shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning:

- 1) *Indoor area*: means any indoor property owned or operated by the City, The Village Development Authority (“TVDA”), or The Village Public Works Authority (“VPWA”). An indoor area includes work areas, employee lounges, restrooms, conference rooms, classrooms, employee cafeterias, hallways, any other spaces used or visited by employees of the public, and all space between a floor and ceiling that is predominately or totally enclosed by walls or windows, regardless of doors, doorways, open or closed windows, stairways, or the like. The provisions of this section shall apply to such indoor areas at any given time, whether or not work is being performed.
- 2) *Outdoor area*: means any covered area, partially covered area or area open to the sky that is on property owned or operated by the City, TVDA, or VPWA.
- 3) *Recreational area*: means any area that is owned, controlled or used by the City, TVDA, or VPWA and open to the general public for recreational purposes, regardless of any fee or age requirement. The term “Recreational Area” includes, but is not limited to, parks, picnic areas, playgrounds, sports fields, walking paths, gardens, hiking trails, bike paths, riding trail, swimming pools, roller and ice-skating rinks, and skateboard parks.
- 4) *Smoking*: means the carrying by a person of a lighted cigar, cigarette, pipe or other lighted smoking device.
- 5) *Smoke free*: means to prohibit the use of combustible tobacco products by anyone, anywhere, at any time.

Sec. 12-258. Prohibition on Smoking and the possession of lighted tobacco on property owned or operated by the City of The Village, The Village Development Authority, and the Village Public Works Authority.

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- 1) All buildings and other property, including, without limitation, Indoor areas, Outdoor areas, and Recreational areas, vehicles and equipment, owned or operated by the City, TVDA, and VPWA shall be entirely Smoke free.
- 2) Smoking and the possession of lighted tobacco in any form are prohibited in all buildings and on all property owned or operated by the City, TVDA, and VPWA, including, without limitation, Indoor areas, Outdoor areas, Recreational areas, vehicles and equipment.
- 3) The prohibition on smoking described herein shall not apply to public streets, rights-of-way, and sidewalks.

State law reference: O.S. Title 21, §1247 (C)

Sec. 12-259. Posting.

- 1) The City shall be responsible for posting a sign or decal, at least four inches by two inches in size, at each entrance of each City, TVDA and/or VPWA owned or operated building indicating the property is smoke free.
- 2) The posting of signs or decals shall be the responsibility of the manager and/or supervisor of the City, TVDA and/or VPWA owned or operated facility.

Sec. 12-260. Violation and Penalty. Any person who knowingly violates Section 12-258 of the Code is guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not of not less than Ten Dollars (\$10.00) and not more than One Hundred Dollars (\$100.00).

Sec. 12-261. Enforcement.

The State and local governmental agencies are authorized to do the following in order to prevent Smoking in City, TVDA, and VPWA owned or operated places:

- a) Post signs at entrances to City, TVDA and VPWA owned and operated buildings and parks which state that smoking is not permitted; and
- b) Ask smokers to refrain from smoking upon observation of anyone violating the provisions of this act.