

TOWN OF LITTLETON
ENVIRONMENTAL TOBACCO SMOKE REGULATIONS
(Revised from 1997 Littleton Board of Health Regulations Affecting Smoking and the
Sale, Vending and Distribution of Tobacco in the Town of Littleton and voted upon
regulations June 12, 2002)

SECTION I. PURPOSE AND FINDINGS

Whereas conclusive evidence exists that tobacco smoke causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose, and throat; and whereas the harmful effects of tobacco smoke are not confined to smokers but also cause serve discomfort and illness to nonsmokers; and whereas environmental tobacco smoke (hereinafter ETS), which includes both exhaled smoke and the side stream smoke from burning cigarettes, causes the death of 53,000 American each year (McGinnis JM, Foegen W. "Actual Causes of Death in the United States", JAMA 1993 270:2207-2212); and whereas in 2000, the Public Health Service's National Toxicology Program listed ETS as a known human carcinogen (U.S. DHHS, 2000, citing Cal. EPA, 1997), now, therefore, the Board of Health of the town of Littleton recognizes the right of those who wish to breathe smoke free air and establishes this regulation to protect and improve the public health and welfare by prohibiting smoking in public places.

SECTION 2. AUTHORITY

The Board of Health of the Town of Littleton, pursuant to the authority granted under Massachusetts General Laws (G.L.) c.111, §31 that "[b]oards of health may make reasonable health regulations." hereby adopts the following regulations as reasonable health regulations designed to protect the public health of the community.

SECTION 3. DEFINITIONS

For the purposes of this regulation, the following words shall have the meanings respectively ascribed to them by this paragraph:

Bar: An establishment whose business is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages.

Bar Area of a Restaurant: An area of a restaurant that is devoted to the serving of alcoholic beverages for consumption by guests or restaurant patrons on the premises

and in which the serving of food is only incidental to the consumption of such beverages.

Board: The Board of Health of the Town of Littleton

Business Agent: An individual who has been designated by the owner or operator of any establishment to be the manager or other wise in charge of said establishment.

Employee: Any natural person who performs services for an employer.

Employer: Any natural person, partnership, association, corporation, trust, or other organized group of individuals, including the Town of Littleton or any agency thereof, which regularly uses the services of (1) or more employees.

Health Care Facility: Any office or institution providing individual care or treatment of diseases, whether physical, mental or emotional, or other medical, physiological or psychological conditions including but not limited to rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, pharmacies, offices of any surgeon, chiropractor, physical therapist, physician, dentist and all specialists within these professions

Indoor Sports Arena: Any sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar recreational facilities where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.

Person: Any individual, firm, partnership, association, corporation, company or organization of any kind including, but not limited to an owner, operator, manager, proprietor or person in charge of any building, establishment, business, or restaurant or retail store, or the agents or designees of any of the foregoing.

Private Social Function: A social gathering associated with a single purpose that is not open to the public and is under the control of the host, hostess rather than the proprietor, manager, such as a wedding reception.

Public Place: Any building or facility owned, leased, operated or occupied by the municipality, including school buildings or grounds, any area open to the general public including but not limited to, libraries, museums, theaters, auditoriums, indoor sports arenas and/or recreational facilities, inns, hotel and motel lobbies, educational facilities, shopping malls, public restrooms, lobbies, staircases, halls, exits, entrances, elevators accessible to the public, and licensed child-care locations.

Public Transportation: Buses, taxis, and other means of transportation available to the general public while such means of transportation is operating within the boundaries of the town including indoor platforms by which such means of transportation may be accessed.

Restaurant: Any coffee shop, cafeteria, sandwich stand, private and public school cafeteria, and other eating establishment which gives or offers food for sale to the public, guests, or employees, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities.

Retail Food Store: Any establishment commonly known as a supermarket, grocery store, bakery, or convenience store in which the primary activity is the sale of food items to the public for off-premises consumption.

Retail Store: Any establishment whose primary purpose is to sell or offer for sale to consumers any goods, wares, merchandise, articles or other things, including supermarkets and grocery stores. "Retail store" shall not include restaurants or health care facilities as defined herein.

Seating Capacity: That capacity designated on the occupancy permit of a restaurant.

Smoking: Inhaling, exhaling, burning or carrying any lighted tobacco product.

Town: The Town of Littleton

SECTION 4. SMOKING PROHIBITED IN PUBLIC PLACES

A. Smoking Prohibited

No person shall smoke nor shall any person, employer, or other person having control of the premises upon which smoking is prohibited by this regulations, or the Business Agent or designee of such person, permit a person to smoke in any of the following places as defined herein: bars, bars/lounges, health care facilities, public places, public transportation, restaurants, and retail stores except as otherwise provided in Paragraph D of this regulation.

B. Election for coverage by private facilities

The owner, manager, or other person in charge of building or facility not covered by paragraph A of Section 4 of this regulation may elect to have the provisions of this Section 4 of this regulation apply by so notifying the Board in writing, and by posting signs prohibiting smoking as provided in Paragraph C of this Section 4 of this regulation.

C. Posting notice of prohibition

1. Every person having control of premises upon which smoking is prohibited by and under the authority of this regulations shall conspicuously display upon the premises "No Smoking "signs provided by the Massachusetts Department of Public Health and

available from the Littleton Board of Health 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) and comparable in size to the sign provided by the Massachusetts Department of Public Health and available from the Littleton Board of Health.

2. Permit holders that are exempt and smoking is allowed must conspicuously posted signage approved and supplied by the Board at the entrance, advising patrons of the health hazards of environmental tobacco smoke.

3. No person shall smoke in any place in which a sign conforming to the requirements of paragraph C of this Section 4 of this regulation is posted. No person shall remove a sign posted under the authority of paragraph C of this Section 4 of this regulation.

D. Exceptions

1. An existing food service permit holder in compliance and per written agreement with the Littleton Board of Health and with Section 4 of the 1997 Littleton Board of Health regulation that permits smoking in an enclosed designated smoking area and is properly ventilated as defined in Section 4 of the 1997 regulation, shall be exempt from the smoke free requirement of the 2002 amendment to Section 4.2 of the Littleton Board of Health regulations. However, any existing food service permit holder shall go smoke free by January 1, 2004 unless either the state laws or local regulations are enacted prior to that date. If any existing food service permit holder changes ownership, such establishment shall not be further exempt from the smoke free requirement of Section 4.2 as amended and such exemption shall terminate upon the change in ownership.

2. Notwithstanding the provisions of paragraph A of Section 4 of this regulation smoking may be permitted in the following places and/or circumstances: (1) Private residences, except when used as a licensed child care facility or health care facility; (2) Hotel and motel rooms that are rented to guests that are designated as smoking rooms hotel and motel rooms rented to guests that are designated as smoking rooms. The rooms so designated shall be posted with signage indicating that smoking is allowed therein. The number of rooms that are designated as smoking and the number designated as non-smoking must be submitted in writing to the Board of Health. No changes in room designation can take place without prior written approval of the Board of Health; (3) Hotel and motel conference/meeting rooms and completely enclosed private and public assembly rooms while these places are being used for private functions; and (4) Private or semiprivate rooms of nursing homes and long term care facilities which are separately ventilated, occupied by one (1) or more patients, all of whom are smokers who have requested in writing to be placed in rooms where smoking is permitted.

E. Conflict with other laws or regulations

Notwithstanding the provisions of the foregoing paragraph D of this regulation nothing in this regulation shall be deemed to amend or repeal applicable fire, health or other

regulations so as to permit smoking in other areas where it is prohibited by such fire, health or other regulations.

F. Violations

Any person who violates Section 4 of this regulation shall be subject to a fine in an amount of fifty dollars (\$50.00) for a first offense, one hundred dollars (\$100.00) for a second offense within one year of the date of the first offense and one hundred and fifty dollars (\$150.00) for a third or subsequent offense within one year of the date of the first offense.

G. Enforcement

This regulation shall be enforced by the Board of Health and its designees. One method of enforcement may be periodic, unannounced inspections of those establishments subject to this regulation. Any citizen who desires to register a complaint under this regulation may request that the Board of Health initiate an investigation. Any fines imposed under the provisions of this regulation shall ensure to the Town of Littleton for such use as the town may direct.

H. Non-Criminal Disposition

Whoever violates any provision of this regulation, the violation of which is subject to a specific penalty, may be penalized by the non-criminal method of disposition as provided in Massachusetts General Laws, Chapter 40, Section 21D or by filing a criminal complaint at the appropriate venue.

Each day on which any violation exists shall be deemed to be a separate offense. The penalties are as follows: \$50.00 for first offense; \$100 for second offense; \$150 for third offense.

Enforcing Persons: Littleton Police Department, Littleton Board of Health and its designees

SECTION 6. SEVERABILITY

If any paragraph or provision of this regulation is found to be illegal or against public policy or unconstitutional, it shall not affect the legality of any remaining paragraphs or provisions.

SECTION 7. EFFECTIVE DATE

These regulations shall be effective as of August 1, 2002.

LITTLETON BOARD OF HEALTH

Peter M. Cassinari, Chairman

Stephen Foss, Vice-Chairman

Thomas Grady, Clerk

Kelli Harte, Member

Robert Zimmerman, Member