

CHAPTER 9.40

INDOOR CLEAN AIR ORDINANCE

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9.40.010: Purpose: The City Council finds that exposure to secondhand smoke is known to cause cancer in humans. Secondhand smoke is a known cause of other diseases including pneumonia, asthma, bronchitis, and heart disease. Citizens are often exposed to secondhand smoke in the workplace, and are likely to develop chronic, potentially fatal diseases as a result of such exposure. In order to protect the health and welfare of all citizens, including workers in their places of employment, it is necessary to prohibit smoking in public places and workplaces. (Ord. 5511 Sec. 1, 2013; Ord. 2940 Sec. 1 (part), 1985)

9.40.020: Definitions: As used in this Chapter the following terms have the meaning indicated unless the context clearly indicates otherwise:

(1) "Smoke" or "Smoking" means the carrying or smoking of any kind of lighted pipe, cigar, cigarette, or any other lighted smoking equipment.

(2) "Public Place" means that portion of any building or vehicle used by and open to the public, regardless of whether the building or vehicle is owned in whole or in part by private persons or entities, the State of Washington, or other public entity, and regardless of whether a fee is charged for admission, and includes a presumptively reasonable minimum distance, as set forth in KMC 9.40.070, of twenty-five feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited. A public place does not include a private residence unless the private residence is used to provide licensed child care, foster care, adult care, or other similar social service care on the premises.

Public places include, but are not limited to: Elevators, public conveyances or transportation facilities, museums, concert halls, theaters, auditoriums, exhibition halls, indoor sports arenas, hospitals, nursing homes, health care facilities or clinics, enclosed shopping centers, retail stores, retail service establishments, financial institutions, educational facilities, ticket areas, public hearing facilities, state legislative chambers and immediately adjacent hallways, public restrooms, libraries, restaurants, waiting areas, lobbies, bars, taverns, bowling alleys, skating rinks, casinos, reception areas, and no less than seventy-five percent of the sleeping quarters within a hotel or motel that are rented to guests. A public place does not include a private residence. This Chapter is not intended to restrict smoking in private facilities which are occasionally open to the public except upon the occasions when the facility is open to the public.

(3) "Place of Employment" means any area under the control of a public or private employer which employees are required to pass through during the course of employment,

including, but not limited to: entrances and exits to the places of employment, and including a presumptively reasonable minimum distance, as set forth in KMC 9.40.065, of twenty-five feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited; work areas; restrooms; conference and classrooms; break rooms and cafeterias; and other common areas. A private residence or home-based business, unless used to provide licensed child care, foster care, adult care, or other similar social service care on the premises, is not a place of employment. (Ord. 5511 Sec. 2, 2013: Ord. 2940 Sec. 1 (part), 1985)

9.40.030: Smoking Prohibited - Public Places: No person may smoke in a public place or any place of employment. (Ord. 5511 Sec. 3, 2013: Ord. 2940 Sec. 1 (part), 1985)

9.40.050: Owner's Duties of Enforcement: Owners, or in the case of a leased or rented space, the lessee or other person in charge, of a place regulated under this Chapter shall prohibit smoking in public places and places of employment and shall post signs prohibiting smoking as appropriate under this Chapter. Signs must be posted conspicuously at each building entrance. In the case of retail stores and retail service establishments, signs must be posted conspicuously at each entrance and in prominent locations throughout the place. (Ord. 5511 Sec. 4, 2013: Ord. 2940 Sec. 1 (part), 1985)

9.40.060: Private Workplaces: This Chapter does not regulate smoking in private, enclosed workplaces within a public place even though it may be visited by nonsmokers, unless smoking is prohibited and posted by the fire marshal, prohibited by other law, ordinance, or regulation. (Ord. 5511 Sec. 5, 2013: Ord. 2940 Sec. 1 (part), 1985)

9.40.065: Presumptively Reasonable Distance: Smoking is prohibited within a presumptively reasonable minimum distance of twenty-five feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited so as to ensure that tobacco smoke does not enter the areas through entrances, exits, open windows, or other means. Owners, operators, managers, employers, or other persons who own or control a public place or place of employment in the City of Kennewick may seek to rebut the presumption that twenty-five feet is a reasonable minimum distance by making application to the director of the Benton Franklin Health District. The presumption will be rebutted if the applicant can show by clear and convincing evidence that, given the unique circumstances presented by the location of entrances, exits, windows that open, ventilation intakes, or other factors, smoke will not infiltrate or reach the entrances, exits, open windows, or ventilation intakes or enter into such public place or place of employment and, therefore, the public health and safety will be adequately protected by a lesser distance. (Ord. 5511 Sec. 8, 2013)

9.40.070: Penalties:

(1) Any person who intentionally smokes in a public place or place of employment is guilty of an infraction and subject to a civil penalty of up to \$100.00.

(2) Any person knowingly violating Section 9.40.050 is guilty of an infraction and subject to a civil penalty of up to \$100.00. Each day that a violation occurs or continues constitutes a separate violation.

(3) The fire marshal will enforce Section 9.40.050. (Ord. 5511 Sec. 6, 2013: Ord. 2940 Sec. 1 (part), 1985)