

MUSKEGON COUNTY SMOKING POLLUTION CONTROL ORDINANCE

Section 1000 Title

This article shall be known as the Muskegon County Smoking Pollution Control Ordinance.

Section 1001 Findings and Purpose

The Muskegon County Board of Commissioners does hereby find that:

Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution; and

Reliable studies have shown that breathing second-hand smoke is a significant health hazard for several population groups, including elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease; and

Health hazards induced by breathing secondhand smoke include lung cancer, respiratory infection, decreased exercise tolerance, decreased respiratory function, bronchoconstriction and broncho-spasm; and

Nonsmokers who suffer allergies, respiratory diseases and other ill effects of breathing secondhand smoke may experience a loss of job productivity or may be forced to take periodic sick leave because of such adverse reactions; and

Courts are increasingly awarding compensation for disability, worker's compensation, unemployment, and entitlement to damages under traditional common law tort liabilities; and

Smoking is a potential cause of fires, and cigarette and cigar burns and ash stains on fixtures and furniture and cause unnecessary losses,

The State of Michigan has passed the Clean Indoor Air Act with amendments (1986 P.A. 198 as amended by 1988 P.A. 294, 296 and 315) which states that an individual shall not smoke in a public place or at a public meeting, except in a designated smoking area.

Accordingly, the Muskegon County Board of Commissioners finds and declares that the purposes of this ordinance are:

- (1) to protect the public health and welfare by prohibiting smoking in all enclosed County facilities including entrances and exits, and vehicles, owned or leased, -except in officially posted designated areas, as herein described.
- (2) to strike a reasonable balance between the needs of persons who smoke and the need of nonsmokers to breathe smoke-free air; to recognize that where these needs conflict, that the need to breathe smoke-free air shall have priority.

Section 1002 Definitions

The following words and phrases, whenever used in this article shall be construed as defined in this section:

- (1) "Employee" means any person who is employed by Muskegon County in consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services for non-profit.
- (2) "Employer" means the County of Muskegon, Michigan.

- (3) "Enclosed Facilities" means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid.
- (4) "Place of Employment" means any enclosed area under the control of Muskegon County which employees normally frequent during the course of employment, including work areas, employee lounges, restrooms, conference and classrooms, hallways and corridors, entryways and lobbies, stairs and stairwells, and closets and storerooms, and including all County vehicles.
- (5) "Smoking" means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, weed, plant or other combustible substance in any manner or in any form.
- (6) "Residential Care Facility" shall be deemed to include the Brookhaven Medical Care Facility, as well as residential care facilities, such as group homes, operated by the Muskegon County Community Mental Health.
- (7) Entrance and exit areas mean any area within 30 feet of the exterior entrance or exit to an enclosed facility.

Section 1003 Application of Ordinance to County Property

All enclosed facilities listed in Attachment A including entrances and exits and vehicles owned or leased by the County, as listed in Attachment A shall be subject to the provisions of the Ordinance, subject to the exceptions and limitations herein set forth in Section 1004.

Section 1004 Prohibition of Smoking/Exceptions/Limitations

(1) Prohibition

Smoking shall be strictly prohibited within all work areas and public spaces including Conference rooms, reception areas, restrooms, stairs and stairwells, hallways and corridors, lobbies and entryways, closets and storerooms, classrooms or other enclosed areas within facilities owned or leased by the County.

Provided, further, except in officially posted designated areas as determined by the Administrator, smoking shall also be strictly prohibited on all County property, as listed in Attachment A.

(2) Exceptions

- (i) Smoking shall not be prohibited under this Ordinance within Food Service Establishments referred to under PA 296 of 1988, MCL 14.15(12601)(d), excluding however, luncheonette or cafeteria areas situated at the County Building, 990 Terrace Street, City of Muskegon, or at the Muskegon County Jail, where smoking shall, under this Ordinance be prohibited.
- (ii) Smoking shall not be prohibited under this Ordinance within residential facilities owned or leased by the County for family residential use. Provided, however, this exclusion shall not be interpreted to apply to facilities owned or leased by the County for the care of Mental Health, Social Service, or Child Care as referred to under PA 296 of 1988, MCL 14.15(12601)(a),

(3) Limitation

Provided, however, patients or residents of a County-owned, or operated "Residential Care Facility" may be permitted to smoke within such facilities by order of the County employed director or supervisor of such facility, but only if a written determination has been made by a licensed

medical physician that applying the prohibition on smoking to such client or patient would be detrimental to the client or patient's condition as defined by medical conditions as identified by the collective health facility medical staff. Patients or clients who are permitted to smoke under this subdivision shall be placed in a separate room from non-smoking patients or clients.

Section 1005 Enforcement

The Muskegon County Sheriff's Office and his designees shall oversee enforcement of this Ordinance.

Any person observing a violation of this Ordinance may bring it to the attention of the Sheriff or his deputies.

Section 1006 Violations and Penalties

It shall be unlawful for any person who manages, operates, or otherwise controls the use of any premises owned by the County of Muskegon to fail to comply with any of this article's provisions.

Any person who violates any provision of this article shall be guilty of an infraction, punishable by:

- (1) A fine not exceeding one hundred dollars (\$100.00) for a first violation.
- (2) A fine not exceeding two hundred dollars (\$200.00) for a second violation of this article within one (1) year.
- (3) A fine not exceeding five hundred dollars (\$500.00) for each additional violation of this article within one (1) year.

Section 1007 Other Applicable Laws

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

Section 1008 Severability

If any provision, clause, sentence, or paragraph of this article or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this article, which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

Section 1009 Effective Date

This article shall be effective January 1, 1993, in accordance with Michigan Compiled Laws 46.11(j) as amended.

The amendment to this Ordinance, adopted December 6, 2005, shall be effective January 1, 2006, in accordance with Michigan Compiled Laws 46.11(j), as amended.