

TRAVERSE CITY CODE OF ORDINANCES

ORDINANCE AMENDMENT NO. _____

Effective date: _____

TITLE: SMOKE FREE AREAS

THE CITY OF TRAVERSE CITY ORDAINS:

That Section 608.04, *Smoke Free Areas*, of the Traverse City Code of Ordinances enacted and codified to read in its entirety as follows:

Section 608.04 SMOKE FREE AREAS

- (a) Purpose. The purpose of this Ordinance is to protect the public health and welfare by regulating smoking in work sites, public places and certain other areas.
- (b) Findings. The United States Surgeon General has determined that: (1) secondhand smoke exposure causes disease and premature death in people who do not smoke; (2) children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome, acute respiratory problems, ear infections and asthma attacks; (3) exposure of adults to secondhand smoke has adverse effects on the cardiovascular system and causes heart disease and lung cancer; and (4) there is no risk-free level of exposure to secondhand smoke. These findings are adopted.

It is also found that tobacco smoke is a major contributor to indoor air pollution. People who are at special risk from secondhand smoke include infants, children, teens, pregnant women, elderly people, nonsmokers with long-term exposure to secondhand smoke, individuals with cardiovascular disease, and individuals with impaired respiratory function. Establishing smoke-free work places is the most effective way to ensure that exposure to secondhand smoke does not occur in the workplace.

- (c) Definitions.
 - (1) "Business" means any partnership, joint venture, corporation or other for-profit or not-for-profit entity, including but not limited to any retail establishment, where goods are sold or services are delivered.
 - (2) "Business Vehicle" means a car, bus, van or other motorized unit which is owned or leased by an employer for the use of employees.
 - (3) "Employee" means any person who is employed by any employer, whether for wages, profit, or on a volunteer basis.
 - (4) "Employer" means any person or business, including any governmental entity, that has one or more employees besides the owner of the Business.
 - (5) "Enclosed Area" means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of door or passage ways) which extend from the floor to the ceiling, including all of the space inside.
 - (6) The term "Food Service Establishment" has the same meaning as it does in the Michigan Public Health Code, 1978 PA 368, as amended, and includes bars. When a portion of a facility is licensed as a Food Service Establishment, then only that portion of the facility shall be considered a Food Service Establishment under this ordinance.

- (7) "Public Place" means any enclosed area to which the public is invited or in which the public is permitted, including but not limited to any business, retail store, health facility, manufacturing facility, convention hall, meeting hall, sports arena, theater, gymnasium, health spa, swimming pool, roller rink, ice rink, bowling alley, laundromat, professional office, school, or public building.
 - (8) "Smoking" means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe, weed, plant or related substance or product.
 - (9) "Tobacco Specialty Store" means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.
 - (10) "Worksite" means any Enclosed Area under the control of an Employer which Employees frequent during the course of their employment, including but not limited to: work areas, common areas, lounges, restrooms, lobbies, conference rooms, class rooms, cafeterias and hallways. A private residence is not a "Worksite" unless it is used as a child care, adult day care or health care facility.
- (d) Prohibitions. Smoking is prohibited in all enclosed areas of all of the following places and sites:
- (1) Worksites;
 - (2) Public Places;
 - (3) Buses, taxicabs, and other means of public transit and including bus shelters;
 - (4) Business vehicles that are occupied by more than one person;
 - (5) Semi-private rooms of health facilities;
 - (6) Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities;
 - (7) Public Places where bingo games are held;
 - (8) Public Places in hotels and motels, plus at least eighty percent (80%) of the rooms rented to guests at each hotel and motel;
 - (9) Any facility, site or vehicle where the owner, operator, or manager of such facility, site or vehicle has prohibited smoking and has posted that prohibition prominently in writing or has given actual notice of the prohibition to the person who is smoking or who is intending to smoke.
- (e) Responsibility. Both the person who is smoking and the employer, owner, operator, or manager of the area in which smoking is prohibited is responsible for violations of this Ordinance.
- (f) Outside Smoking. Smoking is prohibited within 15 feet of entrances, open windows and ventilation systems of all places where smoking is otherwise prohibited by this Ordinance. This prohibition shall not apply to persons who pass by such an entrance, open window, or ventilation system while traveling on a public street or sidewalk.
- (g) Exemptions. The following areas are exempt from the requirements of this Ordinance:
- (1) Food Service Establishments;

- (2) Private residences and private vehicles, except when used or in connection with the child care, health care facility or adult day care facility;
- (3) Tobacco Specialty Stores.
- (h) Non-Retaliation. It shall be unlawful for any person or Employer to discharge, refuse to hire, or in any manner retaliate against any Employee or applicant for employment because that person seeks enforcement of this Ordinance.
- (i) Other Laws. This Ordinance shall not be interpreted or construed to permit smoking where it is otherwise restricted or prohibited by other applicable laws or public health regulations.
- (j) Penalty. A person found to violate this Ordinance shall be guilty of a municipal civil infraction subject to the sanctions as provided in this Code of Ordinances.

The effective date of this Ordinance shall be the _____ day of _____, 2007.

I hereby certify the above ordinance amendment was introduced on _____, 2007, at a regular meeting of the City Commission and was enacted on _____, 2007, at a regular meeting of the City Commission by a vote of Yes: ___ No: ___ at the Commission Chambers, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan.

Linda Smyka, Mayor

Debbra A. Curtiss, City Clerk

I hereby certify that the above ordinance was published in the Traverse City Record Eagle, a daily newspaper published in Traverse City, Michigan, on _____, 2007.

Debbra A. Curtiss, City Clerk