

**ARLINGTON COUNTY CODE**

**Chapter 12**

**SMOKING**

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**§ 12-1. Definitions.**

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

“Food store” means any supermarket, grocery store, or other retail food store which is designed and arranged to display and sell food products to the general public for consumption off the premises, or which derives a substantial proportion of its income therefrom.

“Health care facility” means 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 hospitals, clinics, nursing homes, homes for the aging or chronically ill, laboratories, offices of any physician, dentist, psychologist, psychiatrist, physiologist, podiatrist, optometrist or optician.

“Person” means any person, firm, partnership, association, corporation, company or organization of any kind.

“Public meeting” means any meeting or assembly held in a public building or building leased for a public purpose which is open to the public for the conduct of the affairs of, and the transaction of business by, any legislative or administrative body or agency of the county, including boards, commissions, authorities, councils, committees, subcommittees, and other subordinate groups thereof, receiving or expending and supported in whole or in part by public funds.

“Retail store” means any establishment whose primary purpose is to sell or offer for sale to consumers, not for resale, any goods, wares, merchandise, articles or other things and all activities, operations and services connected therewith or incidental thereto. "Retail store" shall not include food stores, hotels, motels, restaurants, and those restaurant facilities which are an integral part of a retail store, bars, lounges, catering establishments and other similar facilities.

“Smoking or to smoke” means the act of smoking or carrying a lighted or smoldering cigar, cigarette or pipe of any kind or lighting a cigar, cigarette or pipe of any kind.

“Theater” means any indoor facility, open to the public, which is primarily used for or designed for the purpose of exhibiting any motion picture, stage drama, musical recital, dance, lecture or other similar performance.

(4-29-78)

**§ 12-2. Smoking Prohibited in Certain Areas.**

It shall be unlawful for any person to smoke in any of the following areas:

- A. In an elevator, regardless of capacity, except in those elevators in single-family dwellings.
- B. In any retail store in which more than eight (8) persons are regularly employed at any one time.
- C. In any food store in which more than eight (8) persons are regularly employed at any one time.
- D. In any health care facility, regardless of capacity but with the exception of private rooms.
- E. In any public meeting attended by more than eight (8) persons.
- F. In any theater, except smoking by performers as part of the production.
- G. In any art gallery, library, museum, or similar cultural facility, supported in whole or in part with public funds.
- H. In any elementary or secondary school building, whether public or private.
- I. In any indoor facility used for recreational purposes, supported in whole or in part with public funds.
- J. In the designated no-smoking area of any restaurant that is subject to the provisions of § 12-4.1 of this chapter.
- K. In any building in which a Juvenile and Domestic Relations, General District or Circuit Court is located.

(4-29-78; Ord. No. 87-7, 5-1-87; Ord. No. 89-22, 8-12-89)

**§ 12-3. Exceptions.**

The prohibitions of this chapter shall not apply to the following:

- A. In lawfully designated smoking areas.
- B. In those areas of enclosed shopping centers or malls that are external to the retail stores and are used by customers as a route of travel from one store to another, and that consist primarily of walkways and seating arrangements.
- C. In an area of a theater commonly referred to as a lobby if physically separated from the spectator area.
- D. In the offices or work area not entered by the public in the normal course of business or use of the premises.
- E. During the hours in which the particular business or institution is not open to the public.
- F. In any tobacco shop or store primarily concerned with selling tobacco and smoking implements.
- G. In the in-patient sleeping quarter of any health care facility, except hospitals. Each such facility shall make a reasonable effort to assign patients to sleeping rooms according to the patient's individual nonsmoking or smoking preference.

- H. The sleeping quarters of nonambulatory hospital patients, when the physician writes an order in the patient's record allowing the patient to smoke. Each such facility shall make a reasonable effort to assign patients to sleeping rooms according to the patient's individual nonsmoking or smoking preference.

(4-29-78)

**§ 12-4. Designated Smoking Areas.**

The owner or person in charge of any building, structure, space, place or area in which smoking is prohibited may designate separate rooms or areas in which smoking is permitted, provided that:

- A. Designation of such rooms or areas shall be reasonably separate from those rooms or areas entered by the public in or normal course of use of the particular business or institution.
- B. In designated smoking areas, existing physical barriers and ventilation systems shall be used when possible to minimize the toxic effect of smoke in adjacent nonsmoking areas.
- C. The smoking area shall be no more than twenty-five percent (25%) of the entire area in which smoking is prohibited.

(4-29-78)

**§ 12-4.1. Designated No-Smoking Areas in Restaurants.**

A. Any restaurant having a seating capacity for fifty (50) or more persons shall have a designated no-smoking area comprised of at least twenty-five percent (25%) of the seating capacity of such restaurant. The designated no-smoking area shall be located in a separate room if one is available in the restaurant or, if no separate room is available, it shall be located in a compact and contiguous area as far removed from areas where smoking is permitted as is reasonably possible, using the seating capacity of the room permitted by the building code and fire regulations.

B. In determining whether a restaurant is subject to the provisions of subsection A above, the following shall not be included:

- 1. Seats in the bar or lounge area of a restaurant.
- 2. Seats in any separate room of a restaurant which is used exclusively for private functions.

(Ord. No. 87-7, 5-1-87; Ord. No. 92-46, 9-12-92)

**§ 12-5. Posting of Signs.**

Any person who owns, manages or otherwise controls any building, facility, room, area, or place in which smoking is prohibited, is required to post or cause to be posted conspicuously, signs at least five (5) inches in height, which read:

NO SMOKING

County Ordinance

Prohibits the Carrying

of Lighted Tobacco

Products of Any Kind

\$25 Fine

The letters in the words "No Smoking" shall be at least one and one-half (1 1/2) inches in height.  
(4-29-78)

**§ 12-6. Penalty.**

Any person violating any of the provisions of this chapter shall be fined up to twenty-five dollars (\$25.00). Each day a violation of this chapter shall continue constitutes a separate violation. Any law enforcement officer may issue a summons regarding a violation of this chapter.  
(4-29-78; Ord. No. 92-39, 8-8-92)