

Chapter 6.18

SMOKING REGULATIONS

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6.18.010 Title. This chapter shall be known as the Ross Secondhand Smoke Ordinance. (Ord. 602 (part), 2007; Ord. 475 §1(part), 1989).

6.18.020 Definitions. The following words and phrases, whenever used in this article, shall have the following meanings:

A. "Business" means any sole proprietorship, partnership, joint venture, corporation or other business entity formed for profit-making purposes.

B. "Employee" means any person who is employed by any employer in consideration for direct or indirect monetary wages or.

C. "Employer" means any person, partnership, corporation, including a municipal corporation, which employs the services of one or more individual persons.

D. "Enclosed space" means a structure enclosed by roof and four walls with or without windows and appropriate openings for ingress and egress.

E. "Openings" shall include main entrances, exits, operable windows and ventilation intake systems.

F. "Nonprofit entity" means any corporation, unincorporated association or other entity created for charitable, religious, philanthropic, educational, character-building, political, social or other similar purposes, the net proceeds from the operations of which are committed to the promotion of the objectives or purposes of the entity and not to private gain. A public agency is not a "nonprofit entity" within the meaning of this section.

G. "Person" means any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee or any other legal entity.

H. "Place of employment" means any area under the legal or actual control of an employer or sole proprietor which employees normally frequent during the course of employment.

I. "Public place" means any area or building open to the general public, including for example: restaurants, bars, retail stores, banks, theatres, healthcare facilities, parks, playgrounds, government facilities, and bus shelters.

J. "Retail tobacco store" means any business establishment the main purpose of which is the sale of tobacco products, including, but not limited to, cigars, pipe tobacco, and smoking accessories.

K. "Recreation area" means any area open to the general public for recreational purposes, including, for example, sports facilities, parks, public gardens, children's play areas and playgrounds.

L. "Service area" means any area at which one or more persons are waiting for a transaction, entry or service of any kind, whether or not such service involves the exchange of money, including, for example, ATMs, bank teller windows, telephones, ticket lines, bus stops and cab stands.

M. "Smoking" means and includes the carrying of a lighted pipe, cigar or cigarette of any kind; the emitting or exhaling of smoke from a lighted pipe, cigar or cigarette of any kind; and the lighting of a pipe, cigar or cigarette of any kind. (Ord. 602 (part), 2007; Ord. 475 §1(part), 1989).

6.18.030 Prohibition of smoking in enclosed public places. Except as otherwise provided, smoking shall be prohibited in all enclosed public places within the town of Ross, such as:

1. Places of employment, including retail stores, banks, restaurants, bars and healthcare facilities;
2. Town-owned facilities, except residential facilities;
3. Recreation and exercise facilities, including theatres, auditoriums, galleries, museums, libraries, gyms and sports facilities;
4. Service areas, including ATM and ticket lobbies;
5. Lobbies, hallways, elevators, dining areas, laundry rooms, public restrooms and other common areas in multiple-unit housing, assisted living facilities and nursing homes;
6. A minimum of fifty percent of guest rooms in every hotel and bed-and-breakfast facility must be permanently designated as completely nonsmoking. (Ord. 602 (part), 2007; Ord. 475 §1(part), 1989).

6.18.040 Prohibition of smoking in certain unenclosed public places. A. Except as otherwise expressly authorized by state or federal law, smoking shall be prohibited in the

following unenclosed public places:

1. Town-owned recreation areas, including parks and playing fields;
2. Town-owned sites of public events, including but not limited to sports events, entertainment, ceremonies and parades;
3. Service areas, including bus stops, ticket lines and ATMs;
4. Outdoor dining areas of restaurants;
5. Courtyards and other areas where air circulation may be impeded by architectural, landscaping or other barriers;
6. Within 20 feet of any entrance, opening or exit of any enclosed area within which smoking is prohibited, except while passing on the way to another destination.

B. No person shall dispose of smoking waste within the boundaries of an area in which smoking is prohibited. (Ord. 602 (part), 2007; Ord. 475 §1(part), 1989).

6.18.050 Smoking optional areas. A. Except as otherwise prohibited by state or federal law, the following areas shall not be subject to the smoking prohibitions of this article:

1. Private residences, except when used as a child care or health care facility subject to licensing requirements;
2. Retail tobacco stores, except where smoke from such stores enters an adjacent enclosed area where smoking is not permitted.
3. By performers during theatrical performances, if smoking is an integral part of the story in the theatrical production.

B. Nothing in this chapter shall be construed to prevent any owner, operator, manager or other person who controls any establishment or facility from declaring and enforcing a nonsmoking policy. (Ord. 602 (part), 2007; Ord. 475 §1(part), 1989).

6.18.060 Duty of person, employer, business or nonprofit entity. A. No person, employer, business or nonprofit entity shall knowingly permit smoking in an area which is under the legal or actual control of the person, employer, business or nonprofit entity and in which smoking is prohibited by law and the person, employer, business or nonprofit entity is not otherwise compelled to act under state or federal law.

B. No person, employer, business or nonprofit entity shall knowingly or intentionally permit the presence or placement of ash receptacles, such as, for example, ashtrays or ash cans, within an area which is under the legal or actual control of the person, employer, business or nonprofit entity and in which smoking is prohibited. (Ord. 602 (part), 2007; Ord. 475 §1(part), 1989).

6.18.070 Enforcement. A. Notice of this chapter shall be provided to all applicants for

a business license or renewal thereof that have a business establishment in Ross frequented by the public. However, lack of such notice shall be no defense to a violation of this chapter.

B. Enforcement of this chapter shall be the responsibility of the Police Chief. Any peace officer or code enforcement official also may enforce this chapter.

C. Any citizen may make a complaint under this chapter to the Police Chief or his/her designee. (Ord. 602 (part), 2007; Ord. 475 §1(part), 1989).

16.18.080 Violation -- penalty. A. It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation under this chapter to refuse to comply with any of its provisions, or to permit any employee or patron to violate this chapter.

B. It shall be unlawful for any person to smoke in any area where smoking is prohibited under this chapter.

C. Causing, permitting, aiding, abetting or concealing a violation of any provision of this ordinance shall also constitute a violation.

D. Any person, employer, business or nonprofit entity, tobacco retailer, or owner, manager or operator of any establishment subject to this chapter who violates any provision of this chapter shall be deemed guilty of an infraction, punishable by:

1. A fine not exceeding one hundred dollars for the first violation;
2. A fine not exceeding two hundred dollars for a second violation of this chapter within one year;
3. A fine not exceeding five hundred dollars for each additional violation of this chapter within five years.

E. The remedies provided by this chapter are cumulative and in addition to any other remedy available at law or in equity. (Ord. 602 (part), 2007; Ord. 475 §1(part), 1989).

6.18.090 Retaliation prohibited. No person or employer shall discharge or in any manner retaliate against any employee because such employee exercises any right to a smoke free environment afforded by this chapter. (Ord. 602 (part), 2007; Ord. 475 §1(part), 1989).

6.18.100 Other applicable laws. This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws. (Ord. 602 (part), 2007; Ord. 475 §1(part), 1989).

6.18.110 Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this chapter, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this chapter, or its application to any other person or circumstance. The Ross Town Council hereby declares that it would have adopted each section,

subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof is declared invalid or unenforceable. (Ord. 602 (part), 2007; Ord. 475 §1(part), 1989).