Chapter 127, SMOKING AND TOBACCO PRODUCTS

[HISTORY: Adopted by the Board of County Commissioners of Charles County 5-1-2006 by Bill No. 2006-05. Amendments noted where applicable.]

ARTICLE II, Smoking in Public Places

§ 127-7. Legislative findings and purpose.

The Board of County Commissioners of Charles County finds that:

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

B. Reliable studies have shown that breathing secondhand smoke is a cause of disease, including lung cancer, in healthy nonsmokers. At special risk are elderly people, children, people with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease; and

C. Health hazards induced by breathing secondhand smoke include lung cancer, respiratory infection, decreased exercise tolerance, decreased respiratory function, bronchoconstriction, and bronchospasm.


In this article, the following words and phrases have the meanings indicated:

EATING AND DRINKING ESTABLISHMENT -- Any enterprise that prepares or sells food or drink for human consumption on or off the premises. Eating and drinking establishment includes:

A. Any restaurant, coffee shop, cafeteria, short-order cafe, luncheonette, sandwich stand, soda fountain; and

B. Any food service facility in an industry, institution, hospital, club, school, church, catering kitchen, or camp.

NON-RESTAURANT BAR -- An establishment in which alcoholic beverages are served for consumption by guests on the premises. Fifty percent or more of annual gross revenues from the entire non-restaurant bar premises shall be realized from the sale of alcoholic beverages in order to qualify as a non-restaurant bar. A non-restaurant bar shall not be located within any portion of a restaurant and shall include no dining area. Non-restaurant bars located in a building with other businesses shall have separate entrances and heating, ventilation and air conditioning (HVAC) systems from such other businesses and shall be separated from all common passageways by solid walls that extend from the floor to the ceiling and solid doors that shall be closed when not in use.
RETAIL STORE -- Any establishment employing 20 or more full-time persons whose primary purpose is to sell to consumers any goods, wares, food for consumption off the premises, or merchandise.

SERVICE LINE -- Any indoor line at which one or more persons wait for or receive services of any kind, whether or not such service involves the exchange of money.

SMOKE:

A. (When used as a noun): Airborne material, whether visible or not, produced by the burning of tobacco in any form.

B. (When used as a verb): The act of inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, weed, plant, pipe, or other combustible substance in any manner or in any form.

TOBACCONIST ESTABLISHMENT -- A retail store utilized primarily for the sale of tobacco products and accessories in which the sale of other products is merely incidental.

§ 127-9. Applicability to County-owned and leased facilities.

All enclosed facilities and other designated areas owned or leased by Charles County or the Charles County Board of Education shall be smoke-free.

§ 127-10. Smoking prohibited in public places.

Smoking shall be prohibited in all enclosed public places within Charles County including, but not limited to, the following places:

A. Elevator, except elevators in single-family dwellings as provided by state law;
B. Rest rooms;
C. Service lines;
D. Retail stores;
E. All areas available to and customarily used by the general public in all businesses and nonprofit entities patronized by the public, including, but not limited to, eating and drinking establishments, offices, banks, hotels, and motels;
F. Public areas of aquariums, galleries, libraries, and museums when open to the public;
G. Any building not open to the sky which is used primarily for exhibiting motion pictures, stage, drama, lectures, musical recitals, or other similar performances, except when smoking is part of the stage production;
H. Sports arenas and convention halls; and
I. Every room, chamber, place of meeting or public assembly, including school buildings
and grounds under the control of any board, council, commission, committee, including joint committees, or agency of the County.


Notwithstanding any other provision of this article to the contrary, the following areas shall not be subject to the smoking restrictions of this article:

A. Tobacconist establishments;
B. In a vehicle, when used in the course of employment and occupied by only one individual;
C. When smoking is necessary to the conduct of scientific research into the health effects of tobacco smoke and is conducted at an analytical or educational laboratory;
D. In any part of a private residence which is not open to the public for business purposes;
E. In up to 40% of the sleeping rooms in a hotel or motel; and
F. In up to 40% of the premises of a fraternal, religious, patriotic, or charitable organization or corporation or fire company or rescue squad during an event that the organization or corporation holds on its own property and which is open to the public.
G. In the bar and dining area of an eating and drinking establishment that:
   (1) Is a club as defined in the state Alcoholic Beverages Law;
   (2) Has an alcoholic beverages license issued to private or nonprofit clubs under the state Alcoholic Beverages Law; and
   (3) Allows consumption of alcoholic beverages on its premises.
H. In a non-restaurant bar.
I. In a work place:
   (1) To which the public does not have access; and
   (2) Meets the requirements for a designated smoking area as provided by COMAR 09.12.23.04, as the same may be amended from time to time.

§ 127-12. Optional smoking restrictions.

The owner or person in control of any property not covered in § 127-10 or exempted under § 127-11 may prohibit or restrict smoking as provided in this article by notifying, in writing, the department designated to enforce this section and by posting appropriate signs. The department must enforce the prohibition or restriction wherever signs are posted until the owner or person in
control of the property notifies the department in writing that the owner or person in control has revoked the prohibition or restriction and removed all signs.

§ 127-13. Duty to prevent smoking in certain areas.

The owner or person in control of a building or area covered by this section must refuse to serve or seat anyone who smokes where smoking is prohibited, and must ask the person to leave the building or area if the person continues to smoke after proper warning.


A. "Smoking" or "No Smoking" signs, whichever are appropriate, with letters of not less than one inch in height or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly, sufficiently, and conspicuously posted in every building or other place where smoking is regulated by this article, by the owner, operator, manager, or other person having control of such building or other place.

B. Every theater owner, manager, or operator shall conspicuously post signs in the lobby stating that smoking is prohibited within the theater or auditorium.


No person or employer shall discharge, refuse to hire, or in any manner retaliate against any employee or applicant for employment because such employee or applicant exercises any rights afforded by this article.

§ 127-16. Interpretation.

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

B. This article adds to, and does not replace or restrict, any other applicable federal, state, or county laws or regulation.

§ 127-17. Enforcement.

A. Enforcement of this article shall be the responsibility of the Charles County Department of Health. The Charles County Health Officer, or his/her designee, shall be authorized to issue civil citations for violations of this article. Violations shall be prosecuted pursuant to the procedures and requirements pertaining to civil infractions set forth in Article 25B § 13C, Annotated Code of Maryland, as the same may be amended from time to time.

B. Any person who desires to report an alleged violation of this article may file a written
complaint with the Charles County Department of Health. Upon receipt of a complaint, representatives of the Charles County Department of Health shall inspect the premises and document their findings.

C. If, during routine inspections of establishments covered by this article, any state or county agency finds that the requirements of this article are not being met, it shall report such noncompliance to the Charles County Department of Health.

D. Written warnings and civil citations for alleged violations of this article shall be issued by representatives of the Charles County Department of Health in accordance with the procedures and requirements pertaining to civil infractions set forth in Article 25B § 13C, Annotated Code of Maryland, as the same may be amended from time to time.

E. All fines collected shall be paid to Charles County.

§ 127-18. Violations and penalties.

Any person who violates any provision of this article shall be guilty of a civil infraction and shall be punished as follows:

A. For the first and second violation, upon a written acknowledgment of the violation by the violator, representatives of the Charles County Department of Health shall provide information concerning the requirements of this article and issue a written warning. A subsequent violation shall be treated as a first offense.

B. All violations other than those disposed of pursuant to the above subsection shall be punished by a fine in accordance with the following schedule.

(1) For a first offense: $100.

(2) For a second offense: $200.

(3) For a third or subsequent offense: $300.