

**North Adams Board of Health
Environmental Tobacco Smoke Tobacco Regulations
Effective Date: January 1, 2013**

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A. Statement of Purpose:

Whereas conclusive evidence exists that tobacco smoke causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose, and throat; and severe discomfort and illness to nonsmokers; and whereas environmental tobacco smoke [hereinafter ETS], which includes both exhaled smoke and the side stream smoke from burning tobacco products, causes the death of 53,000 Americans each year (McGinnis JM, Foegen W, "Actual Causes of Death in the United States", JAMA 1993 270:2207-2212); and whereas the United States Environmental Protection Agency classified secondhand smoke as a known human carcinogen (U.S EPA, 2003) and the International Agency for Research on Cancer (IARC) of the World Health Organization also classified secondhand smoke as a known human carcinogen (IARC-WHO,2002); now, therefore, the Board of Health in the City of North Adams recognize the rights of those who wish to breathe smoke-free air and establishes this regulation to protect and improve the public health and welfare by prohibiting smoking in workplaces.

B. This regulation is promulgated under the authority granted to the North Adams Board of Health pursuant to Massachusetts General Laws Chapter 111, Section 31 that "boards of health may make reasonable health regulations." It is also promulgated pursuant to Massachusetts General Laws Chapter 270, Section 22(j) which states in part that "nothing in this section shall permit smoking in an area in which smoking is or may hereafter be prohibited by law including, without limitation: any other law or . . . health . . . regulation. Nothing in this section shall preempt further limitation of smoking by the commonwealth . . . or political subdivision of the commonwealth."

C. Definitions: For the purposes of this regulation, the following words shall have the meanings respectively ascribed to them by this paragraph:

Bar: An adult-only establishment whose business is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages.

Business Agent: An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.

Board: The Boards of Health of the City of North Adams and their designated agent.

City: City of North Adams.

City owned property: All property in which the City of North Adams is owner of record and has the legal authority to make decision on such property.

City sponsored events: Any public or private event in which the City of North Adams has a part in sponsoring.

provided by the Massachusetts Department of Public Health and available from the City of North Adams Board of Health 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) and comparable in size to the sign provided by the Massachusetts Department of Public Health and available from the North Adams Board of Health.

F. Exceptions:

Notwithstanding the provisions of Paragraph D of this regulation, smoking may be permitted in the following places and/or circumstances:

1. Private residences except those portions used as a childcare or health care office when operation as such.
2. Hotel and motel rooms rented to guest that are designated as "smoking rooms", provided that at least 80% of the rooms be smoke-free at all times. A room so assigned shall have signs posted indicating that smoking is allowed therein and shall have self-closing doors. No change in room designations shall take place without prior written approval of the appropriate Board of Health.

G. Violations:

Any employer, or his or her business agent, who violates any provision of this regulation shall receive:

1. In the case of a first violation, a fine of one hundred dollars (\$100.00).
2. In the case of a second violation within a 24 months of the sate of the first violation, a fine of two hundred dollars (\$200.00).
3. In the case of three or more violations within 24 months of the current violation, including the current violation, a fine of three hundred dollars (\$300.00).
4. In case of a food service establishment the Board of Health may revoke a food service permit granted pursuant to this regulation upon determination that permit holder has committed a violation of this regulation. The permit holder shall have an opportunity to be heard at such hearing and shall be notified of the Board's decision and the reasons therefore, in writing.

Each day on which any violation exists shall be deemed to be a separate offense.

H. Enforcement:

This regulation shall be enforced by the appropriate Board of Health and its designees.

This regulation of enforcement may be periodic, unannounced inspections of those establishments subject to this regulation. Any citizen who desires to register a complaint under this regulation may request that the appropriate Board of Health initiate an investigation.

I. Severability:

If any paragraph or provision for this regulation to be illegal or against public policy or unconstitutional, it shall not affect the legality of any remaining paragraphs or provisions.

J. Conflict with Other Laws or Regulations:

Notwithstanding the provisions of the foregoing Paragraph D of this regulation, nothing in this regulation shall be deemed to amend or repeal applicable fire, health or other regulations.

K. Effective Date: January 1, 2013