

**ARTICLE XXII**

**REGULATION OF SMOKING IN CERTAIN PUBLIC AREAS**

**22.1.0 - Declaration of Policy**

It is hereby declared to be the health policy of the Rockland County Health District to protect the general public from the adverse effects of tobacco smoke in public areas.

In this regard, New York State Public Health Law Article 13-E Regulation of Smoking in Certain Public Areas is hereby adopted in its application to Rockland County by reference, as now promulgated or as subsequently amended, with the same force and effect as though fully incorporated herein and set forth at length. In the event of a conflict between this Article and any provision of the New York State Public Health Law, the more stringent provision shall apply.

**22.2.0 – Definitions**

**22.2.1 Commissioner**

The term “**Commissioner**” shall mean the Rockland County Commissioner of Health or any representative appointed or designated by the Commissioner to enforce the Rockland County Sanitary Code.

**22.2.2 Department**

The term “**department**” shall mean the Rockland County Department of Health or its authorized representatives.

**22.2.3 Employer**

The term “**employer**” shall mean any person, partnership, association, limited liability company, corporation or nonprofit entity which employs one or more persons, including the legislative, executive and judicial branches of government and any political subdivision.

**22.2.4 Hookah**

The term “**hookah**” shall mean any hookah, shisha or sheesha product, which contains ingredients including but not limited to tobacco, herbs, molasses and/or any flavoring, or the apparatus utilized for smoking such product.

**22.2.5 Lounge**

The term “**lounge**” shall mean any area or a room in a business establishment, regardless if used by the public, including but not limited to areas or rooms within a place of employment (i.e. employee lounge), retail establishments, and/or any areas or rooms conducive to smoking or the use

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of tobacco, tobacco related products or hookah or a retail tobacco business that elects to place any furnishings within the business establishment as set forth in this Article.

**22.2.6 Membership Association**

The term "**membership association**" shall mean a not-for-profit entity, which has been created or organized for a charitable, philanthropic, educational, political, social or other similar purpose. This definition shall exclude non-members of the association, a person or member that receives any form of compensation or benefits that is related to activities occurring at the association, or a membership association that may be established within a place of employment that acts in circumvention to the purpose of this Article.

**22.2.7 Nuisance** (\*Revised 7/18/12.)

The term "**nuisance**" shall mean conditions detrimental to life and the public health or causes of danger or injury to life and health.

**22.2.8 Place of Employment**

The term "**place of employment**" shall mean any indoor area or portion thereof under the control of an employer in which employees of the employer perform services, and shall include, but not be limited to, school grounds, retail stores, banquet facilities, theaters, food stores, banks, financial institutions, factories, warehouses, cafeterias, lounges, auditoriums, gymnasiums, restrooms, elevators, hallways, museums, libraries, bowling establishments, medical facilities, offices, including but not limited to private home offices where the public is invited, private business offices located within a place of employment, food service establishments, bars, multiple dwelling common areas, including but not limited to hallways and laundry rooms, company vehicles, municipal vehicles, any indoor place where any form of compensation is paid, including but not limited to fire houses and veteran halls and under the contiguous overhangs or awnings of any indoor area covered by this Article. (\*Amended 7/18/12.)

**22.2.9 Retail Tobacco Business**

The term "**retail tobacco business**" shall mean a sole proprietorship, limited liability company, corporation, partnership or other business enterprise in which the primary activity is the retail sale of tobacco and/or hookah products and accessories, and in which the sale of other products is merely incidental. This definition shall exclude any licensed food service establishment, bar, place of employment or lounge as defined herein. No retail tobacco business shall contain a lounge as defined herein that acts in circumvention to the purpose of this Article.

**22.2.10 Smoking**

The term "**smoking**" shall mean the burning of a lighted cigar, cigarette, pipe, including but not limited to hookah, shisha or sheesha pipes, or any other matter or substance that contains tobacco or hookah.

**22.3.0 - Smoking Restrictions Inapplicable**

This article shall not apply to:

22.3.1 Private homes, private residences, including private living space within a multiple dwelling, and private automobiles used solely for private purposes, provided smoke from such private homes, residences and automobiles does not create a nuisance. (\*Amended 7/18/12.)

22.3.2 Retail tobacco businesses for the purpose of sampling tobacco and/or hookah products only

22.3.2.1 A ventilation system designed by a NYS licensed architect or engineer and reviewed and approved by the Commissioner must be installed and maintained at all times. (\*Revised 7/18/12.)

22.3.2.2 Should a retail tobacco business elect to place any furnishings, within the business, including but not limited to couches, chairs, stools, tables or lockers, regardless if in a separate area, the entire establishment shall be deemed a lounge and smoking shall be prohibited throughout the entire establishment.

22.5.3 Membership associations

**22.4.0 - General Provisions**

22.4.1 The provisions of this article shall apply to the legislative, executive and judicial branches of government and any political subdivision thereof.

22.4.2 Smoking may not be permitted where prohibited by any other law, rule, or regulation of any municipal agency or any political subdivision thereof. Nothing herein shall be construed to restrict the power of any city, town, or village to adopt and enforce additional local laws, ordinances, or regulations which comply with at least the minimum applicable standards set forth in this article.

**22.5.0 – Fee** (\*Added 7/18/12.)

A fee shall be charged for each plan review in accordance with Article I of the Rockland County Sanitary Code. This fee shall be paid by cash, check or money order made payable to the Commissioner of Finance of Rockland County. Payment shall accompany the submission of plans.

**22.6.0 – Effective Date**

This Sanitary Code shall be effective as of June 16, 2010. Added to, amended and revised July 18, 2012.