

*Tompkins County, NY
Tuesday, October 7, 2014*

Chapter 72. SMOKING

[HISTORY: Adopted by Tompkins County as indicated in article histories. Amendments noted where applicable.]

Article I. County-Owned or -Occupied Buildings or Vehicles

[Adopted by the Board of Supervisors (now County Legislature) 7-10-1990 by L.L. No. 6-1990]

§ 72-1. Legislative intent.

This article implements the smoking policy adopted by the Tompkins County Board of Representatives as a result of negotiations with the Tompkins County Unit, Local 855, Civil Service Employees' Association, Inc. and the Tompkins County Deputy Sheriffs' Association and reflects said Board's concern for the health and safety of County employees and members of the general public that use County-owned or -occupied buildings and vehicles.

§ 72-2. Prohibitions.

No person shall smoke or carry a lighted cigar, cigarette, pipe, or any other form of smoking object or device in any County-owned or -occupied building or vehicle.

§ 72-3. Construal of provisions.

Insofar as the provisions of this article are inconsistent with the provisions of any other local law or act, the provisions of this article shall be controlling.

Article II. Places of Employment, Restaurants and Taverns

[Adopted by the County Legislature 8-5-2003 by L.L. No. 3-2003]

§ 72-4. Purpose.

This article implements smoking restriction designed to protect the health and safety of County residents.

§ 72-5. Legislative intent.

- A. The Tompkins County Legislature declares that the intent and purpose of this article is to preserve and improve the public's health by improving indoor air quality in bars, restaurants and places of employment.
- B. This Legislature hereby finds that the effects of secondary and tertiary smoke generated by the smoking of cigars, cigarettes, pipes and similar articles poses a threat to the health, safety and well-being of the citizens of the County who do not smoke.
- C. This Legislature further finds that the Surgeon General's 1984 report on smoking hazards for the first time linked high levels of involuntary smoke exposure to reduced breathing ability in passive smokers, buttressing the need to provide more protection to nonsmokers in public settings.
- D. This Legislature further finds and determines that human health is seriously threatened by exposure to environmental tobacco smoke (ETS) and that recent findings by the federal Environmental Protection Agency (EPA) make clear that ETS, or secondhand smoke, is a human carcinogen responsible for lung cancer deaths in nonsmoking adults.
- E. This Legislature finds that the EPA has concluded that exposure to ETS increases the risks of respiratory and middle ear diseases in children, contributing to cases of bronchitis and pneumonia in infants and young children. Further, exposure to ETS significantly worsens the condition of asthmatic children and contributes to new cases of asthma in once-healthy children.
- F. This Legislature finds that primary tobacco use is a major cause of mortality and morbidity, directly causing an estimated 434,000 deaths per year in the United States, more deaths than are caused by the use of any other legal or illegal substance or drug.
- G. This Legislature further finds that individuals are subject to ETS at their places of employment and have no practical alternative but to suffer the exposure so as to keep their employment. ← Amendment made
- H. Therefore, the purpose of this legislation is to place reasonable limitations on smoking within the County while striking a balance between the health needs of all nonsmoking individuals, the rights of smokers and the imposition of regulatory burdens on business.

§ 72-6. Definitions.

As used in this article, the following terms shall have the meanings indicated:

BAR

Any area, including outdoor seating areas, devoted to the sale and service of alcoholic beverages for on-premises consumption and where the service of food is only incidental to the consumption of such beverages.

FOOD-SERVICE ESTABLISHMENT

Any area, including outdoor seating areas, or portion thereof in which the business is the sale of food for on-premises consumption.

PLACE OF EMPLOYMENT

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, offices, school grounds, retail stores, banquet facilities, theaters, food stores, banks, financial institutions, factories, warehouses, employee cafeterias, lounges, auditoriums, gymnasiums, restrooms, elevators, hallways, museums, libraries, bowling establishments, employee medical facilities, rooms or areas containing photocopying equipment or other office equipment used in common, and company vehicles.

SMOKING

The burning of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco.

← Amendment made

§ 72-7. Smoking restrictions.

- A. Smoking shall not be permitted and no person shall smoke in the following areas:
 - (1) Places of employment;
 - (2) Bars;
 - (3) Food service establishments.
- B. This article shall in no way limit any restriction on smoking imposed by state law.
- C. The exceptions and defenses that exist in Article 13-E of State Public Health Law as of July 25, 2003, are incorporated into this article.

§ 72-8. Enforcement.

- A. For the purpose of this article the term “enforcement officer” shall mean the Tompkins County Board of Health, or its designee.
- B. If the enforcement officer determines after a hearing that a violation of this article has occurred, a penalty may be imposed by the enforcement officer pursuant to this article. Nothing herein shall be construed to prohibit an enforcement officer from commencing a proceeding for injunctive relief to compel compliance with this article.
- C. The enforcement officer may bring an action to recover all penalties provided in this article as well as for all cost and attorneys fees incurred as a result of any violation of this article.
- D. The owner, operator, manager, or person in charge of any premises subject to this article shall permit the Director of the County Health Department or designee entrance to the facility to determine compliance with this article.

§ 72-9. Penalties for offenses.

- 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 article to fail to comply with any of its provisions.
- B. It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this article.
- C. Penalty by the Board of Health. Pursuant to the provisions of § 309 of the Public Health Law, the Board of Health may impose a penalty not to exceed \$1,000 upon a person for any violation of or failure to comply with any provisions of this article or any order made pursuant to such article after holding a hearing thereon. Each day on which such violation or failure continues shall constitute a separate offense. Nothing herein contained shall be construed to exempt an offender from any other prosecution or penalty provided by law.

§ 72-10. Severability.

If any section of this article or the application thereof to any individual, partnership, or circumstance shall be adjudged invalid or unconstitutional by any court of competent jurisdiction, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the controversy in which such order or judgment was rendered.