

Town of Millville

Environmental Tobacco Smoke (ETS) Regulations

A. Statement of Purpose:

Whereas conclusive evidence exists that tobacco smoke causes cancer (U.S. Surgeon General, 1986), respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose and throat; and whereas the harmful effects of tobacco smoke are not confined to smokers but also cause 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 cigarettes, causes the death of 53,000 Americans each year; and whereas in 2000, the Public Health Service's National Toxicology Program listed ETS as a known human carcinogen (U.S. DHHS, 2000, citing Cal. EPA, 1997), now, therefore, the Town of Millville recognizes the right of those who wish to breath smoke-free air and recognizes that the need to breathe smoke-free air shall have priority over the desire to smoke and establishes this regulation to protect and improve the public health and welfare by prohibiting smoking in certain public places.

B. Authority:

This regulation is promulgated under the authority granted to the Millville Board of Health under Massachusetts General Laws Chapter 111, Section 31, so that the Board of Health may implement G.L.C. 270, s22.

C. Definitions:

For the purposes of this regulation, the following definitions shall apply:

Bar/Lounge: An 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. Revenue generated from the serving of alcoholic beverages must be equal to or greater than eighty percent (80%) of the total combined revenue generated by the service of such beverages and food.

Bar Area of a Restaurant: An area of a restaurant that is devoted to the serving of alcoholic beverages for consumption by guests or restaurant patrons on the premises and in which the serving of food is only incidental to the consumption of such beverages.

Board: The Board of Health of the Town of Millville.

Employee: An individual person who performs services for an employer.

Employer: An individual, person, partnership association, corporation, trust, or other organized group of individuals, including the Town of Millville or any agency thereof, which utilizes the services of one (1) or more individual employees.

Enclosed Area: A space bound by walls continuous from the floor to the ceiling and enclosed by doors. The construction of walls, floors, ceilings, and doors shall be of such material that will prevent the permeation of tobacco smoke pollutants. All doors must be self-closing.

Health Care Facility: Any office or institution providing care or treatment of diseases, whether physical, mental or emotional, or other medical, physiological or psychological conditions including but not limited to rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, offices of any surgeon, chiropractor, physical therapist, physician, dentist and all specialists within these professions.

Incidental Food: Snack food that is already prepared, that can be served as is or with minimal heating.

Municipal Buildings: Any building or facility owned, operated, or leased by the municipality, including school buildings and grounds.

Municipal Vehicle: Any vehicle owned, operated, or leased by the Town of Millville.

Pouring License: A Section 12 License, approved by the Massachusetts Alcoholic Beverages Control Commission that permits the sale of alcoholic beverages to be drunk on the premises.

Public Place: An enclosed area that is used by or otherwise accessible by the general public including but not limited to the following facilities:

1. Auditoriums;
2. Automobile sales rooms, dealerships, and service stations;
3. Bank and automatic teller machines (ATM) lobbies;
4. Clinics and other health care facilities;
5. Clubs, rooms, and halls when used for public meetings or gatherings;
6. Common areas of apartment buildings and condominiums;
7. Elevators accessible to the public;
8. Entranceways accessible to the public;
9. Game arcades;
10. Gas stations;
11. Grocery stores, supermarkets, and convenience stores;
12. Halls and rooms used for public meetings or gatherings;
13. Hallways accessible to the public;

14. Hair salons and cosmetology establishments;
15. Health and fitness centers;
16. Indoor/outdoor sports arenas;
17. Indoor stairwells accessible to the public;
18. Laundromats;
19. Libraries;
20. Licensed child care locations, including child care homes;
21. Municipal buildings and vehicles
22. Museums and galleries;
23. Nursing homes;
24. Places of public worship;
25. Public rest rooms;
26. Restaurant, Bar/Lounge;
27. Retail stores;
28. Retail food establishments;
29. Schools and other educational facilities;
30. Theaters or other facilities used for a stage production, play, lecture, musical recital, or other similar performance, except when smoking is part of said performance;
31. Video rental stores;
32. Workplace.

Restaurant: Any coffee shop, cafeteria, sandwich stand, private and public school cafeteria, and any other eating establishment which gives or offers food for sale to the public, guests, or employees for on-premises consumption, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities, except that the term “restaurant” shall not include a “bar/lounge” area as defined in these regulations.

Retail Food Store: Any establishment commonly known as a supermarket, grocery store, bakery, or convenience store in which the primary purpose is the sale of food items to the public for off-premises consumption.

Retail Store: Any establishment whose primary purpose is to sell or offer for sale to consumers, but not for resale, any goods, wares, merchandise, or articles, or other things, including retail food stores. “Retail store” shall not include restaurants as defined herein.

Seating Capacity: The capacity designated on the occupancy permit of a food service establishment.

Smoking: The lighting of any cigar, cigarette, pipe or other tobacco product or having possession of any lighted cigar, cigarette, pipe or other tobacco product.

Sports Arena: Any sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar recreational

facilities where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.

Town: The Town of Millville.

Ventilation System: A mechanical system to remove tobacco smoke and exchange inside air by bringing in fresh air. The air being ventilated shall be under negative pressure sufficient to prevent tobacco smoke from entering all non-smoking areas. Particulate air cleaners or filtration systems are not considered a ventilation system.

Workplace: Any area within a structure or portion thereof at which one or more employees perform services for their employer, but not including the personal residence of the employer. It also includes employee lounges, rest rooms, conference rooms, hallways, stairways, and entranceways.

D. Prohibition of Smoking in Public Places:

1. Smoking or the use of any tobacco product shall be prohibited in all public places, and workplaces within the Town of Millville including, but not limited to, all places defined in Section C of this regulation.
2. It shall be unlawful for any person having control of the premises upon which smoking is prohibited by this regulation, or the agent or designee of such person, to permit a violation of this regulation.
3. The owner, operator, manager, or person in charge of any public place shall prevent smoking in non-smoking areas by requiring patrons or others who may be smoking in a non-smoking area to refrain from smoking or to leave the premises and to use any legal means which may be appropriate and reasonable to enforce this regulation.
4. Board of Health agents may, upon witnessing a person in possession of a burning tobacco product in a non-smoking area of a public place, issue a fine of \$50.00 to that person.

E. Prohibition of Smoking in Municipal Buildings, Grounds, & Vehicles:

Smoking shall be prohibited in all areas of municipal buildings including school buildings and grounds.

Smoking is prohibited in all municipal vehicles.

It shall be unlawful for any person having control of the premises upon which smoking is prohibited by this regulation, or the agent or designee of such person, to permit a violation of this regulation.

J. Conflict with Other Laws or Regulations:

Notwithstanding the provisions of the foregoing, this regulation shall be deemed to neither amend nor repeal applicable fire, health or other regulations so as to permit smoking in areas where it is prohibited by such fire, health or other regulation.

K. Severability:

If any provision of these regulations is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

L. Effective Date:

Adopted October 1, 2008

Millville Board of Health

Thomas Houle, Chairman_____

David Stanley, Vice-Chairman_____

Dustin Ciccarelli, Member_____