



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

November 28, 2007

R&R

Proposed No. BOH07-03.1

1 An amendment for the protection of the public health
2 through the regulation of smoking in public places and
3 places of employment and suspending the operation and
4 effect of a provision of chapter 19.04, BOHC 19.04.115;
5 adding a new chapter to the Code of the King County
6 Board of Health, BOHC Title 19 and repealing BOHC
7 19.04.010, 19.04.020, 19.04.030, 19.04.040, 19.04.050,
8 19.04.060, 19.04.070, 19.04.080, 19.04.090, 19.04.100,
9 19.04.105, 19.04.110, 19.04.116 and 19.04.120.

10
11 **BE IT ADOPTED BY THE KING COUNTY BOARD OF HEALTH:**

12 **SECTION 1.** The provisions of Code of the King County Board of Health
13 BOHC 19.04.010, 19.04.020, 19.04.030, 19.04.040, 19.04.050, 19.04.060, 19.04.070,
14 19.04.080, 19.04.090, 19.04.100, 19.04.105, 19.04.110, 19.04.116 and 19.04.120, are
15 each hereby repealed.

16 SECTION 2. The operation and effect of Code of King County Board of Health
17 BOHC 19.04.115 is suspended as applied to cigarettes, pending further review by the
18 King County Board of Health.

19 SECTION 3. Sections 4 through 11 of this rule and regulation should constitute
20 a new chapter in BOHC Title 19.

21 NEW SECTION. SECTION 4. Purpose and policy declared.

22 A. This chapter is enacted as an exercise of the board of health powers of King
23 County to protect and preserve the public peace, health, safety and welfare. Its
24 provisions shall be liberally construed for the accomplishment of these purposes.

25 B. It is expressly the purpose of this chapter to provide for and promote the
26 health, safety and welfare of the general public, and not to create or otherwise establish or
27 designate any particular class or group of persons who will or should be especially
28 protected or benefited by this chapter.

29 C. It is the specific intent of this chapter to place the obligation of complying
30 with its requirements upon the owner of each establishment within its scope, and no
31 provision nor term used in this title is intended to impose any duty whatsoever upon King
32 County or any of its officers or employees, for whom the implementation or enforcement
33 of this title shall be discretionary and not mandatory.

34 D. Nothing contained in this chapter is intended to be nor shall be construed to
35 create or form the basis for any liability on the part of King County, or its officers,
36 employees or agents, for any injury or damage resulting from the failure of any person
37 subject to this chapter to comply with this chapter, or by reason or in consequence of any

38 act or omission in connection with the implementation or enforcement of this chapter on
39 the part of King County by its officers, employees or agents.

40 NEW SECTION. SECTION 5. Citation. This chapter may be cited and
41 referred to, and shall be known as, the "Smoking in Public Places Regulations."

42 NEW SECTION. SECTION 6. Findings — Intent. The Board of Health
43 recognizes that exposure to second-hand smoke is known to cause cancer in humans and
44 is a known cause of other diseases including pneumonia, asthma, bronchitis, and heart
45 disease. Citizens are often exposed to second-hand smoke, and are likely to develop
46 chronic, potentially fatal diseases as a result of such exposure. Due to the health hazard
47 secondhand smoke poses to those exposed, the Board of Health adopts this regulation in
48 order to protect the health and welfare of all citizens, including workers in their places of
49 employment.

50 NEW SECTION. SECTION 7. Definitions. As used in this chapter, the
51 following terms have the meanings indicated unless the context clearly indicates
52 otherwise.

53 A. "Smoke" or "smoking" means the carrying or smoking of any kind of lighted
54 pipe, cigar, cigarette, or any other lighted smoking equipment.

55 B. "Public place" means that portion of any building or vehicle used by and open
56 to the public, regardless of whether the building or vehicle is owned in whole or in part
57 by private persons or entities, the state of Washington, or other public entity, and
58 regardless of whether a fee is charged for admission, and includes a presumptively
59 reasonable minimum distance, as set forth in RCW 70.160.020, of twenty-five feet from
60 entrances, exits, windows that open and ventilation intakes that serve an enclosed area

61 where smoking is prohibited. A public place does not include a private residence unless
62 the private residence is used to provide licensed child care, foster care, adult care or
63 other similar social service care on the premises.

64 "Public place" includes, but is not limited to, schools, elevators, public
65 conveyances or transportation facilities, museums, concert halls, theaters, auditoriums,
66 exhibition halls, indoor sports arenas, hospitals, nursing homes, health care facilities or
67 clinics, enclosed shopping centers, retail stores, retail service establishments, financial
68 institutions, educational facilities, ticket areas, public hearing facilities, state legislative
69 chambers and immediately adjacent hallways, public restrooms, libraries, restaurants,
70 waiting areas, lobbies, bars, taverns, bowling alleys, skating rinks, casinos, reception
71 areas and no less than seventy-five percent of the sleeping quarters within a hotel or
72 motel that are rented to guests. "Public place" does not include a private residence. This
73 chapter is not intended to restrict smoking in private facilities that are occasionally open
74 to the public except upon the occasions when the facility is open to the public.

75 C. "Place of employment" means any area under the control of a public or
76 private employer which employees are required to pass through during the course of
77 employment, including, but not limited to, entrances and exits to the places of
78 employment, and including a presumptively reasonable minimum distance of twenty-
79 five feet from entrances, exits, windows that open and ventilation intakes that serve an
80 enclosed area where smoking is prohibited, work areas, restrooms, conference and
81 classrooms, break rooms and cafeterias and other common areas. A private residence or
82 home-based business, unless used to provide licensed child care, foster care, adult care,
83 or other similar social service care on the premises, is not a "place of employment."

84 NEW SECTION. SECTION 8. Owners, lessees to post signs prohibiting
85 **smoking.** Owners, or in the case of a leased or rented space the lessee or other person in
86 charge, of a place regulated under this chapter shall prohibit smoking in public places and
87 places of employment and shall post signs prohibiting smoking as appropriate under this
88 chapter. Signs shall be posted conspicuously at each building entrance. In the case of
89 retail stores and retail service establishments, signs shall be posted conspicuously at each
90 entrance and in prominent locations throughout the place.

91 NEW SECTION. SECTION 9. Application to modify presumptively
92 **reasonable minimum distance.** Owners, operators, managers, employers or other
93 persons who own or control a public place or place of employment may seek to rebut the
94 presumption that twenty-five feet is a reasonable minimum distance by making
95 application to the director of the Seattle-King County Department of Public Health. The
96 presumption will be rebutted if the applicant can show by clear and convincing evidence
97 that, given the unique circumstances presented by the location of entrances, exits,
98 windows that open, ventilation intakes or other factors, smoke will not infiltrate or reach
99 the entrances, exits, open windows or ventilation intakes or enter into the public place or
100 place of employment and, therefore, the public health and safety will be adequately
101 protected by a lesser distance.

102 NEW SECTION. SECTION 10. Exceptions. This chapter is not intended to
103 regulate smoking in a private enclosed workplace, within a public place, even though
104 such a workplace may be visited by nonsmokers, excepting places in which smoking is
105 prohibited by the chief of the Washington state patrol, through the director of fire
106 protection, or by other law, ordinance or regulation.

107 NEW SECTION. SECTION 11. Enforcement – Smoking in Public Places

108 **Regulations.**

109 A. The director of the Seattle-King County Department of Public Health or the
110 director's authorized representative is authorized to enforce the restrictions and
111 requirements of this chapter in accordance with the provisions of BOHC chapter 1.08,
112 consistent with subsection B. of this section.

113 B. When violations of this chapter occur, a warning shall first be given to the
114 owner or other person in charge. Any subsequent violation is subject to a civil penalty of
115 up to one hundred dollars. Each day upon which a violation occurs or is permitted to
116 continue constitutes a separate violation.

117 SECTION 12. Severability. If any provision of this rule or its application to
118 any

119 person or circumstance is held invalid, the remainder of the rule or the application of the
120 provision to other persons or circumstances is not affected.
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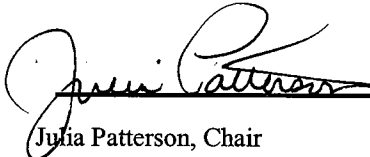
R&R was introduced on and passed by the Board of Health on 10/18/2007, by the following vote:

Yes: 9 - Mr. Ferguson, Ms. Lambert, Ms. Patterson, Mr. Hutchinson, Dr. Nicola, Ms. Manning, Dr. Counts, Mr. Phillips and Mr. Sherman

No: 0

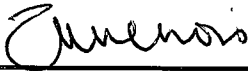
Excused: 6 - Mr. von Reichbauer, Mr. Dunn, Mr. Conlin, Ms. Clark, Mr. Rasmussen and Ms. Frisinger

BOARD OF HEALTH
KING COUNTY, WASHINGTON



Julia Patterson, Chair

ATTEST:



Anne Noris, Clerk of the Board

Attachments None