

## **CHAPTER 23**

### **SMOKING PROHIBITED IN CERTAIN PUBLIC AREAS**

#### **SECTION 23-1. STATEMENT OF INTENT.**

Because smoking of tobacco, or any other weed or plant, is a positive danger to the health of the inhabitants of the City of Winchester, and is further a material annoyance, inconvenience, discomfort, and a health hazard to those who are present in confined spaces in which smoking occurs, and in order to serve the public health, safety, and welfare, the declared purpose of this chapter is to prohibit the smoking of tobacco, or any weed or plant, in certain public places as defined herein, except in designated smoking areas.

(Ord. No. 008-87, 3-10-87)

#### **SECTION 23-2. DEFINITIONS.**

For the purpose of this chapter, these words and phrases shall have the following meanings:

- (a) Municipal Building - any portion of a building owned or leased by and exclusively managed and controlled by the government of the City of Winchester, or any of its component departments, offices, and agencies which is open to the public, or in which the public is invited or permitted;
- (b) Smoke or Smoking - the act of smoking or carrying a lighted or smoldering cigar, cigarette, or pipe of any kind, or the lighting of a cigar, cigarette, or pipe of any kind.

(Ord. No. 008-87, 3-10-87)

#### **SECTION 23-3. PROHIBITION OF SMOKING.**

- (a) In addition to any other smoking prohibitions contained in the Code of Virginia or other applicable law, it shall be unlawful for any person to smoke in any of the following facilities:

1. Municipal Buildings
2. School buses and Public Conveyances including but not limited to covered bus shelters maintained by the City of Winchester and/or Winchester Transit
3. Any places governed under §15.2-2824 or 15.2-2825 of the Code of Virginia

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4. All parking garages owned by the City of Winchester and/or the Winchester Parking Authority
  5. Any other public location owned by the City of Winchester where signage is posted in accordance with Section 23-6 of this Chapter
- (b) The following shall specifically apply to all public park and other recreational property operated by the Winchester Parks and Recreation Department:
1. The use of tobacco will not be permitted within 50 feet of all athletic fields, in and around spectator bleachers, on and around all playgrounds and on and around other facilities including the BMX track, R/C Car Track, horseshoe courts, the War Memorial Building & Active Living Center, Christianson Familyland, Wilkins Lake, the outdoor pool facility and other park facilities where no tobacco signage is posted.
  2. Tobacco use will be permitted outside of these restricted areas including  
in  
personal vehicles, in and around shelters and in all open spaces where organized activities are not taking place unless otherwise posted in accordance with Section 23-6 of this Chapter.
  3. Park user groups are permitted to restrict tobacco use during events occupying park open space and facilities with permission from the City Manager or his designee and compliance with the posting provisions of Section 23-6 of this Chapter.  
(Ord. No. 008-87, 3-10-87; Ord. No. 2010-59, 11-9-10)

**State Law Reference--**Code of Virginia §§15.2-2824; 15.2-2823; 15.2-2829; and 15.2-2830

### **SECTION 23-4. EXCEPTIONS.**

The prohibition of this chapter shall not apply to the following:

- (a) Lawfully designated smoking areas;
- (b) Private offices.  
(Ord. No. 008-87, 3-10-87)

**State Law References--**Code of Virginia, §15.1-839 (1981) granting municipal corporations power to take steps necessary or desirable to secure and promote health and safety of inhabitants and Code of Virginia, §15.1-291.4.A. *See also:* Code of Virginia §15.2-1102.

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**SECTION 23-5. DESIGNATED SMOKING AREA.**

The person or entity in charge of any building in which smoking is prohibited may designate separate rooms or areas in which smoking is permitted, provided that:

- (a) Designated smoking rooms or areas shall be reasonably separate from the rooms or areas entered by the public in the normal course of business or use of the facilities, and shall be indicated by signs(s) in the area:
- (b) In designated smoking areas, existing physical barriers and/or ventilation systems shall be used when possible to minimize the toxic effect of smoke in adjacent non-smoking areas. In any event, it shall be the responsibility of the person or entity in charge of such to provide smoke-free areas for non-smokers within the building.  
(Ord. No. 008-87, 3-10-87)

**SECTION 23-6. POSTING OF SIGNS.**

- (a) The person or entity in charge of any building or other public location in which smoking is prohibited shall post conspicuous signs(s) at least five inches in height which shall read as follows:

NO SMOKING  
CITY ORDINANCE  
PROHIBITS THE CARRYING  
OF LIGHTED TOBACCO  
PRODUCTS OF ANY KIND  
\$25.00 FINE

- (b) The letters in the words "No Smoking" on the sign required by this section shall be at least one and one-half (1-1/2) inches in height.  
(Ord. No. 008-87, 3-10-87; Ord. No. 2010-59, 11-9-10)
- (c) For parks and other recreational properties owned by the City of Winchester as indicated in Section 23-3(B) of this Code, the language on the posted signs shall read as follows:

NO TOBACCO USE  
CITY ORDINANCE PROHIBITS  
THE USE OF TOBACCO  
PRODUCTS OF ANY KIND  
\$25.00 FINE

(Ord. No. 2012-11, 5-8-12)

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### **SECTION 23-7. PENALTY.**

Any person violating any of these provisions of this chapter shall be subject to a fine of up to \$25.00. Each day a violation of this chapter continues shall constitute a separate violation.

(Ord. No. 008-87, 3-10-87)

### **SECTION 23-8. EFFECTIVE DATE.**

The provisions of this chapter shall become effective thirty days after adoption by the Common Council.

(Ord. No. 008-87, 3-10-87)