

Town of Reading Board of Health Regulations

Section 6 Restriction of Smoking in Food Service/ Retail Food Establishments

6.1 DEFINITIONS

For the purpose of these regulations, the following definitions shall apply:

- 6.1.1 *Food Service Establishments*: any place where food is prepared and intended for individual portion service, and includes the site at which individual portions are provided. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term includes, but is not limited to, delicatessens that offer prepared food in individual service portions and catering operations.
- 6.1.2 *Non-Smoking Area*: that area of a Food Service Establishment and posted by the proprietor or other person in charge, where smoking by patrons or employees shall be prohibited.
- 6.1.3 *Retail Food Store*: any establishment or section of an establishment where food and food products are offered to the consumer and intended for off-premises consumption. The term does not include roadside markets that offer only fresh fruits and fresh vegetables for sale; food service establishments; bakeries; or food and beverage vending machines.
- 6.1.4 *Smoking*: the lighting of, or the having in one's possession, of any lighted cigar, cigarette, pipe, or other tobacco product.
- 6.1.5 *Smoking Area*: all areas of a Food Service Establishment unless smoking is prohibited by sanitation or fire safety codes or regulations.

6.2 REGULATED CONDUCT

- 6.2.1 No person shall smoke in any Retail Food Store
- 6.2.2 No person shall smoke in any Food Service Establishment with a seating capacity of forty or more persons except in an area which has been specifically designated as a Smoking Area. The Non-Smoking Area shall comprise no less than twenty-five (25) percent of the seating capacity of the Food Service Establishment. In addition, if the Food Service Establishment has seventy-five (75) or more seats the Non-Smoking section shall be no less than two hundred (200) square feet of floor space. Smoking and Non-Smoking Areas in any Food Service Establishment need not be separated by walls, partitions or other physical barriers. In the case where an entire room or hall is used for a private social function, and during the course of that function, there need not be a Non-Smoking Area.

6.3 **IMPLEMENTATION AND ENFORCEMENT**

- 6.3.1 The owner, manager or other person in charge of Retail Food Store shall post conspicuously a notice at each entrance indicating that smoking is prohibited therein.
- 6.3.2 The owner, manager or other person in charge of Food Service Establishment shall post conspicuously notices or signs at each entrance that smoking is prohibited therein except in specifically designated areas, and shall post conspicuously notice or signs indicating which is the Non-Smoking Area and which is the Smoking Area. The owner, manager or other person in charge shall direct patrons seated in a Non-Smoking Area to refrain from smoking.
- 6.3.3 The owner, manager or other person in charge of a Food Service Establishment who permits smoking in a designated Non-Smoking Area or the owner, manager or other person in charge of a Retail Food Store who permits smoking therein shall be subject to a fine of fifty dollars (\$50) per offense. Each day that the offense continues shall constitute a separate offense.
- 6.3.4 The willful failure of the owner, manager or person in charge of a Food Service Establishment or Retail Food Store to comply with any provision of these regulations shall be subject to a fine of two hundred dollars (\$200) and/or suspension of any license issued by the Board of Health for the establishment for each day of non-compliance.
- 6.3.5 Nothing in these regulations shall prohibit smoking in a completely enclosed private office used by an individual(s) in a Food Service Establishment or Retail Food Store.
- 6.3.6 Nothing in these regulations shall make lawful smoking in any area in which smoking is or may be hereafter be prohibited by law.
- 6.3.7 Any person aggrieved by the willful failure or refusal to comply with any provisions of these regulations may complain in writing to the Board of Health. An agent of the Board shall respond, in writing, within fifteen days to the complainant that (s)he has inspected the area described in the complaint and has enforced the provisions of these regulations. A copy of the original complaint and the response thereto shall be sent to the Massachusetts Department of Public Health.