



TOWN OF RANDOLPH
INC. 1793

Town of Randolph

Office of

BOARD OF HEALTH

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The Board of Health, Randolph, Massachusetts, acting under the authority of the General Laws and amendments and additions thereto, and by an other power thereto enabling, and acting thereunder and in accordance therewith, have, in the interest of and for the preservation of the public health, duly made and adopted the following rules and regulations:

COMMENTS AS TO LEGAL SIGNIFICANCE:

This Local Regulation will limit smoking in certain areas as defined in this law in the Town of Randolph. This Local Regulation defines the following:

- a. "Acceptable air-cleaning system"
- b. "Air Change"
- c. "Air Cleaning Device"
- d. "Bar"
- e. "Restaurant"
- f. "Employee"
- g. "Enclosed"
- h. "Make-up Air System"
- i. "Person"
- j. "Smoking"
- k. "Tertiary Smoke"

Smoking will be prohibited in every publicly or privately-owned coffee shop, cafeteria, short order café, luncheonette, sandwich shop, soda fountain, restaurant or other eating establishment serving food.

- a. This prohibition shall not apply to an establishment maintaining a contiguous non-smoking area comprised of three-fourths (3/4) of the seating capacity or floor space in which customers are served.

- b. This prohibition shall not apply to any such establishment which installs an acceptable air-cleaning system (including placement of same) which has been approved by the Board of Health of the Town of Randolph. Said air-cleaning system must be mechanically maintained and continually operated the same whenever smoking occurs in the establishment.

Section One. Intent

This Board of Health hereby finds that the effects of secondary and tertiary smoke generated by the smoking of cigars, cigarettes, pipes and similar articles in restaurants poses a threat to the health, safety, and well-being of the citizens of Randolph who do not smoke.

This Board of Health further finds that the Surgeon General's 1984 report on smoking hazards, for the first time linking high levels of involuntary smoke exposure to reduced breathing ability in passive smokers, buttresses the need to provide more protection to non-smokers in public settings.

Therefore, the purpose of this Regulation is to place reasonable limitations on smoking in restaurants within the Town of Randolph while striking a balance between the health needs of all non-smoking individuals, the rights of smokers, and the imposition of regulatory burdens on business.

Section Two. Definitions

- a. "Acceptable air-cleaning system" shall mean a mechanical unit comprised of an air-cleaning device and an air circulating fan approved by the Randolph Board of Health.
- b. "Air change" shall mean the volume of the air occupying the room in which an air-cleaning device is installed.
- c. "Air-cleaning device" shall mean a device, or combination of devices properly located, providing six (6) air changes per hour and capable of removing particles as small as .03 microns, including smoke, dust, bacteria, and 99 percent of all pollens with cleaned air discharged into the room in such a manner so as to prevent short circuiting from the outlet to the inlet of the device.
- d. "Bar" shall mean an area which is devoted to the serving of alcoholic beverages in which the service of food is only incidental to the consumption of such beverage.
- e. "Restaurant" shall mean every publicly or privately owned coffee shop, cafeteria, short order café, luncheonette, sandwich shop, soda fountain, restaurant, or other eating establishment serving food.

f. "Employee" shall mean any person working in a food service establishment.

g. "Enclosed" shall mean closed in by a roof and four walls with appropriate opening for ingress and egress and is not intended to mean areas commonly described as public lobbies.

h. "Make-up air system: shall mean a system capable of providing a minimum ventilation rate of seven (7) cubic feet per minute of outside air per person occupying the room in which the acceptable air-cleaning system is installed.

i. "Person" shall mean any natural person, state agency, municipal corporation, corporation, unincorporated association, firm partnership, joint venture, joint stock association, or other business organization of any kind.

j. "Smoking" shall mean the combustion of any cigar, cigarette, tobacco, or any similar article or any other combustible substance in any manner or in any form.

k. "Tertiary Smoke" shall mean the involuntary ingestion of tobacco smoke by the unborn fetus of a non-smoking woman.

SECTION 3 LIMITATIONS ON SMOKING

Smoking is prohibited in every publicly or privately owned coffee shop, cafeteria, short-order café, luncheonette, sandwich shop, soda fountain, restaurant, bar or other eating establishment.

I. This prohibition shall not apply to any such establishment maintaining a contiguous non-smoking area of not less than three-fourths (3/4) of both the seating capacity and the floor space in which customers are being served, excluding from said calculations any portion of such facility which is located outdoors.

II. At the request of a patron, the patron shall be seated in a non-smoking area if a seat is available.

III. This prohibition shall not apply to any such establishment which installs an acceptable air-cleaning system for each room in which customers are being served by said establishment.

IV. Except where other signs are required, whenever smoking is prohibited, conspicuous signs shall be posted by the employer so stating, containing all capital lettering not less than one-half inch (1/2") in height, on a contrasting background.

The smoking policy shall be communicated to all employees within one (1) month of its adoption.

SECTION 4 POSTING OF SIGNS

Except where other signs are required, whenever smoking is prohibited by this regulation, conspicuous signs shall be posted so stating, where applicable and at major entrances, capital letter size, not less than one-half inch (1/2"), on a contrasting background, in accordance with Board of Health Rules and Regulations. Said signs shall be placed by the owner, operator, manager, or other persons having control of such room, building, or other place where smoking is prohibited.

SECTION 5 PENALTIES

A. Any persons who shall violate any provision of these regulations shall upon conviction be fined for the first offense not more than one hundred dollars for a subsequent offense not more than five hundred dollars.

B. Any person who shall fail to comply with any order issued pursuant to the provisions of these regulations shall upon conviction be fined for the first offense not more than one hundred dollars and for a subsequent offense not more than five hundred dollars. Each day's failure to comply with an order shall constitute a separate violation.

C. Holders of Food Service Establishment Permits who fail to comply with the above regulations may be subject to revocation of said permit by the Board of Health.

SECTION 6 REMEDIES

Nothing in this law shall be construed to create a cause of action by one person against another person for violation of any provision of this regulation.

SECTION 7 SEPARABILITY

If any part of or provisions of this Regulation, or the application thereof to any person or circumstance shall be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part of or provision of or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Regulation, or the application thereof to other persons or circumstances.

EFFECTIVE DATE

A. This regulation shall take effect on January 1, 1999 and thereafter applicants for Food Establishment Permits for the year 1999 must show proof that they are in compliance with this regulation.

B. After January 1, 1999 it is mandatory that any new food establishment must have an acceptable air-cleaning system.