



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15 each hereby repealed.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.

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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.  
121

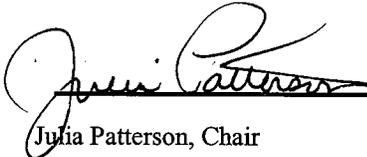
R&R was introduced on and passed by the Board of Health on 10/18/2007, by the following vote:

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

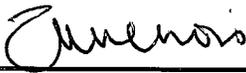
No: 0

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:

  
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Anne Noris, Clerk of the Board

Attachments      None