

## Putnam County Board of Health

### 2007 Clean Indoor Air Regulation (As Amended 11-27-07)

**TITLE:**

This regulation shall be known as the Putnam County Clean Indoor Air Regulation.

**AUTHORITY:**

This Clean Indoor Air Regulation is adopted by the Putnam County Board of Health in accordance with the authority contained in West Virginia Code, Chapter 16-2A-3.

**FINDINGS AND PURPOSE:**

The United States Surgeon General and numerous other credible authorities and medical researchers have determined:

- (A) That involuntary inhalation of secondhand or environmental tobacco smoke can cause or contribute to numerous serious health problems and diseases, including heart disease, cancer, respiratory illness, and acute episodes of decreased respiratory function, including broncho-constriction and broncho-spasm in healthy non-smokers.
- (B) That the presence of secondary tobacco smoke is a major contributor to indoor air pollution.
- (C) That children, elderly people and individuals with cardiovascular and/or respiratory diseases are at increased risk.
- (D) That the simple separation of smokers and nonsmokers within the same airspace may reduce, but does not eliminate the exposure of nonsmokers to environmental tobacco smoke.

Smoking bans remain the most viable and cost-effective method of protecting patrons. The

Environmental Protection Agency (EPA) has classified secondhand smoke as a Group A

Carcinogen, known to cause cancer in humans.

Accordingly, the Putnam County Board of Health finds and declares the purpose of this regulation to:

- (A) Protect the health of the public by limiting to the extent possible, exposure of individuals to a proven harmful environmental toxin, i.e. secondhand smoke, in public places and places of employment.
- (B) Direct the proprietors of public places of indoor commerce to provide a smoke-free environment to minimize public exposure to this harmful toxin.

**DEFINITIONS:**

The following words and phrases, whenever used in this regulation, shall be construed as defined in this section:

- A. **"BAR"** means an area which is primarily devoted to the serving of beverages for consumption by guests on the premises and which the serving of food is only incidental to the consumption of such beverages. Although a restaurant may contain a bar, the term "bar" shall not include the restaurant dining area.
- B. **"BUSINESS"** means any entity formed for profit-making purposes.
- C. **"EMPLOYEE"** means any person employed for direct or indirect monetary wages or anything of value, or any person who volunteers for a non-profit entity.
- D. **"EMPLOYER"** means any entity which employs the paid or volunteer services of one or more persons.
- E. **"ENCLOSED AREA"** means all space between a floor and ceiling which is enclosed on all

sides by solid walls or windows (exclusive of door or passage ways) which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid "office landscaping" or similar structures.

- F. **"GROCERY STORE"** means any supermarket, convenience store, or other retail food production and marketing establishment.
- G. **"NON-PROFIT ENTITY"** means any entity whose operations are not committed to private financial gain. A public agency is not a "non-profit entity" within the meaning of this section.
- H. **"MINOR"** means any un-emancipated person 17 years of age or younger.
- I. **"PLACE OF EMPLOYMENT"** means any enclosed area which employees normally frequent during the course of employment. A private residence is not a "place of employment" unless it is used as a child care or health care facility.
- J. **"PUBLIC PLACE"** means any enclosed area to which the public is invited or which the public is permitted. A private residence is not a "public place".
- K. **"RESTAURANT"** means any establishment which is primarily devoted to the serving of food to the public, guests, patrons and employees; as well as the kitchens in which their food is prepared.
- L. **"RETAIL STORE"** means any establishment that sells goods or services directly to members of the general public including, but not limited to, speciality stores, department

stores, pharmacies, banks, grocery stores, automobile dealerships, showrooms, professional offices, service stations, repair or maintenance stores, barber or beauty shops, cleaners and laundromats.

M. **"RETAIL TOBACCO STORE"** means a retail store utilized primarily for the sale of tobacco products and in which the sale of other products is merely incidental.

N. **"SMOKING"** means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe or other smoking equipment in any manner or in any form.

#### **REGULATION OF SMOKING IN ENCLOSED PUBLIC PLACES**

Unless otherwise stipulated all private businesses licensed to operate in Putnam County, WV may choose to allow smoking. However, for those businesses who choose to allow smoking, minors (those persons 17 years of age or younger) are prohibited from entering the premises of businesses who choose to allow smoking for any reason whatsoever. In addition, smoking is prohibited as follows;

1. Elevators
2. Restrooms
3. All means of public transit, including ticket, boarding, transport and waiting areas.
4. All licensed child care and health care facilities.
5. Every room, chamber, place of meeting or public assembly, including school buildings, under the control of any board, council, commission, committee including joint committees or any political subdivision of the State during such time as a public meeting or business is

in progress.

6. All patient rooms, waiting rooms and other public areas in health facilities, including but not limited to hospitals, clinics, pharmacies, physical therapy facilities, doctors' offices and dentists' offices.

### **REGULATION OF SMOKING IN ENCLOSED PLACES OF EMPLOYMENT**

- A. It shall be the responsibility of employers to provide smoke-free areas for non-smoking employees within existing facilities to the maximum extent possible, but employers are not required to incur any expense to make structural or other physical modifications in providing these areas.
- B. Non-smoking areas shall be designated such that an employee would not be required to pass through smoking areas on a routine basis in order to perform job duties or to reach a non-smoking area.
- C. Each employer shall adopt, implement, make known and maintain a smoking policy which recognizes that where the need to breathe smoke-free air conflicts with the desire to smoke, the need to breathe smoke-free air shall have priority. The policy shall include at a minimum the following requirements:
  1. In any dispute arising under the smoking policy, the health concerns of the non-smoker shall be given precedence.
  2. The smoking policy shall be shared with any existing or prospective employee who requests it.
  3. Notwithstanding any other provision of this section, every employer shall have the right to

designate any place of employment, or any portion thereof, as a non-smoking area.

**POSTING OF SIGNS**

- A. "Smoking" or "No Smoking" signs, whichever are appropriate, shall be conspicuously posted by the owner, operator, manager or other person having control of such building or other place where smoking is controlled by this regulation, including restrooms and elevators.
- B. Every public place where smoking is allowed by this regulation shall have posted at every entrance a conspicuous sign that reads:

**"HEALTH WARNING"**

**"SMOKING IS PERMITTED WITHIN THIS FACILITY. YOU WILL BE EXPOSED TO SECONDHAND SMOKE. SUCH EXPOSURE CAN CAUSE OR CONTRIBUTE TO CANCER, HEART DISEASE, RESPIRATORY ILLNESS AND OTHER SERIOUS HEALTH PROBLEMS"**

**"SINCE THESE BUSINESS'S HAVE CHOSEN TO ALLOW SMOKING, PERSONS 17 YEARS OF AGE OR YOUNGER ARE NOT PERMITTED HEREIN"**

**ENFORCEMENT**

- A. Enforcement of the Regulation shall be the ultimate responsibility of the Putnam County Board of Health.
- B. Any owner, operator, manager or other person of any establishment regulated by the Regulation shall inform persons violating this Regulation of the appropriate provision thereof.

**NON-RETALIATION**

No person or employer shall discharge, refuse to hire or in any manner retaliate against any

employee, applicant for employment or member of the public because such person exercises

rights afforded by this Regulation.

#### **OTHER APPLICABLE LAWS**

This regulation shall not be interrupted or construed to permit smoking where it is otherwise restricted by other applicable laws, ordinances or regulations.

#### **SEVERABILITY**

If any portion of this Regulation or the application thereof shall be held invalid, the other provisions of this Regulation shall not be affected, and to this end the provisions of this Regulation are declared to be severable.

#### **VIOLATIONS AND PENALTIES**

- A. It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this Regulation.
- B. It shall be unlawful for any person who controls the use of any premises subject to regulation under this Regulation to fail to comply with any of its provisions.
- C. Any person who violates any provision of this Regulation shall be guilty of an infraction.
- D. Penalties for violation of Health Department Regulations are provided for in West Virginia Code, Chapter 16-2-15.

“Any person willfully violating any of the provisions of this article, for which a penalty is not otherwise provided, or any of the rules, regulations or orders adopted or issued pursuant thereto, shall be guilty of a misdemeanor, and upon conviction shall be punishable by a fine of not more

than two hundred dollars or by imprisonment for not more than thirty (30) days or both”.

**EFFECTIVE DATE**

This Regulation shall be effective on March 1, 2008.