

Fourteen

HEALTH -  
Smoking in outdoor places prohibited

NB: We've been asked to draft possible amendments that also bar the use of electronic cigarettes or other tobacco substitutes. Such amendments are indicated in bold with a double underline for additions and ~~double strike through~~ for deletions. Furthermore, in order to bring the definition of tobacco products in line with state statutes, the City Attorney recommends that the ordinance's definition adopt by reference the general state statutory definitions found in 7 V.S.A. § 1001, such amendments being similarly indicated.

NB2: Please note that this year the VT Legislature, in Act 135 (H. 217), enacted changes to the state's various smoking statutes. It prohibited the use of tobacco substitutes on public school grounds (sec. 4), child care facilities (sec. 5), and in motor vehicles when a child is present (sec. 7). It added an exemption to the definition of "tobacco substitute" for products approved by the FDA for tobacco cessation or other medical purposes (sec. 6). It did not expand the existing restrictions on smoking in the workplace or in public places to include tobacco substitutes but it did expand the ban on smoking in public places to State-owned areas within 25 feet of a State-owned building and office (sec. 3)

That Chapter 17, Health, of the Code of Ordinances of the City of Burlington be and hereby is amended by adding a new section, Sec.17-8B. Smoking in outdoor places prohibited, thereto to read as follows:

Sec. 17-8B. Smoking in outdoor places prohibited.

(a) Purpose. The purpose of this ordinance is to protect the health of residents and visitors by limiting and eliminating exposure to secondhand smoke in outdoor places.

(b) Definitions.

(1) "Tobacco products" and "Tobacco substitute" shall ~~mean cigarettes, cigars, cheroots, stogies, refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco prepared in a manner suitable for smoking in a pipe or otherwise or for smoking.~~ have the meanings given in 7 V.S.A. § 1001.

(2) "Smoking" shall mean possession of lighted tobacco products or possession and use of tobacco substitutes.

(c) Prohibited activity. Smoking shall be prohibited outdoors ~~everyday from 7:00 a.m. to 9:00 p.m.~~ in the Church Street Marketplace District which includes all of Church Street and the properties which have frontage thereon, bounded on the north by the northernmost property line of properties bounded by Church and Pearl Streets, and bounded on the south by the southernmost property lines of properties at the northern

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corners of the Church and Main Street intersection, and more precisely shown on a plan entitled "Church Street Marketplace District" recorded with the chief administrative officer of the City of Burlington on June 27, 1979.

(d) Exceptions. The prohibition of smoking within the area designated for no smoking shall not apply to:

(1) Private property.

(e) Posting; supervision. The city shall properly post and maintain "No Smoking" signs or the international "No Smoking" symbol (a picture of a burning cigarette inside a red circle with a red bar across it) clearly and conspicuously throughout the designated smoke-free areas. The color of such signs, when not of the international type, shall have lettering that is distinct, contrasting to the background and easily read. These signs shall be placed so as to inform but not detract from the designated smoke-free areas.

(f) Enforcement. Any law enforcement officer may enforce the provisions of this ordinance. Prior to the issuance of a Vermont Municipal Complaint, a law enforcement officer shall warn the person to be issued of the prohibition and ask the person to cease smoking. The failure to immediately stop smoking in the prohibited smoking area after such warning shall be a civil ordinance violation punishable by a penalty of fifty dollars (\$50.00), the waiver penalty for which shall be fifty dollars (\$50.00). Law enforcement officers do not need to issue additional warnings to any person who has been previously warned of the prohibitions in this ordinance and a person so previously warned who engages in the activity prohibited by this ordinance shall be in violation of the ordinance, subject to a civil ordinance penalty of one hundred (\$100.00), the waiver penalty for which shall be fifty dollars (\$50.00).

\* Material underlined added.