

**Section 14-21. Prohibition of smoking in certain places.**

(a) Except as otherwise provided in this article, smoking shall be prohibited in all enclosed places within the County, including but not limited to, the following places:

- (1) Patient rooms, wards, waiting rooms, lobbies, and public hallways of public and private health care facilities, including, but not limited to, hospitals, clinics, and physicians' and dentists' offices.
- (2) Restaurants and bowling alleys, except as outlined in sections 14-21(a)(2)(A) and 14-21(a)(2)(B) below. If a restaurant or bowling alley contains an outdoor, open air or partially enclosed seating area where food and beverages are served, smoking is prohibited in this area of the establishment.
  - (A) Through August 31, 2004, smoking shall be permitted in a separate bar area of a restaurant when the business operating the restaurant refrains from designating the area as nonsmoking. A "separate bar area of a restaurant" means an indoor area of a restaurant that is in compliance with all of the following:
    - (i) The area is devoted primarily to the serving of alcoholic beverages for consumption by patrons in the area.
    - (ii) On a monthly basis, the gross sales of food to patrons for consumption in the area are less than one-third of the gross sales of alcoholic beverages to patrons for consumption in the area.
  - (B) Beginning September 1, 2004, a restaurant may continue to operate a separate bar area, as defined above, provided that:
    - (i) There is a physical separation (consisting of solid walls with no door or window opening into the restaurant area) between the separate bar area and restaurant;
    - (ii) The entrance into the bar area is totally separate and at least fifteen feet from the entrance into the restaurant; and
    - (iii) The restaurant and separate bar area have separate ventilation systems.
- (3) Any enclosed or partially enclosed area or building owned, leased, operated, or maintained by the County, except for residential dwelling units which shall be regulated herein as multifamily dwellings.
- (4) Except as provided in section 14-22, all business and not-for-profit establishments, including but not limited to, auditoriums, theaters, halls, museums, libraries, galleries, classrooms, private offices, conference or meeting rooms and all other enclosed facilities. This also includes common areas, including but not limited to, work areas, elevators, hallways, cafeterias, employee lounges, stairs, and restrooms.
- (5) All enclosed or partially enclosed areas within multifamily dwellings that are open to the common use of all unit owners or residents, including but not limited to, lobbies, elevators, restrooms, hallways, corridors, stairways, waiting areas and recreation areas.
- (6) All enclosed or partially enclosed areas within commercial buildings not subject to the exclusive use and possession of a tenant and open to the common use of the tenants of the building and their employees and customers, including but not limited to, common entrance areas, restrooms, lobbies, elevators, malls, hallways, corridors, escalators, stairways, and waiting or rest areas within commercial buildings.
- (7) In the event a building is both a multifamily dwelling and a commercial building, as defined in this article, all common use areas except for private residences.
- (8) All enclosed or partially enclosed areas within hotels that are open to the common use of the public, hotel guests, or hotel employees, including but not limited to, restrooms, lobbies, elevators, hallways, corridors, stairways, waiting areas, recreation areas, banquet halls, banquet rooms, and ballrooms.
- (9) In the event a building is both a commercial building and a hotel, all common use areas except for hotel rooms rented to guests and designated as smoking rooms.
- (10) All vehicles owned or leased by the County.
- (11) Taxicabs.
- (12) In any motor vehicle, whenever occupied by a person less than eighteen years of age.

- (13) Private residences, during hours of operation, when used as a licensed child care, adult day care or health care facility, except in residences where the care facility is physically detached from the residence or is separated from the owner's area.
- (14) Smoking is prohibited, pursuant to HRS 328J-6, within a presumptively reasonable minimum distance of twenty feet from any entrance to, exit from, or any fresh air intake of any enclosed area where smoking is prohibited to insure that tobacco smoke does not enter the enclosed area through entrances, windows, ventilation systems, or other means.
- (15) Areas within private residences, during hours of operation, that are used for the care of patients or clients in licensed residential care homes, except in residences where the care facility is physically detached from the residence or is completely separated by a solid wall with no other openings except closable doors or windows, which shall remain closed during hours of operation from the owner's area where clients or patients are not allowed.

(b) Except as otherwise provided in this article, smoking of cigarettes or tobacco products, or use of any tobacco products shall be prohibited at all County parks and recreational facilities listed in section 15-68.1.

(1977, Ord. No. 279, sec. 2; Am. 1977, Ord. No. 302, sec. 1; Am. 1982, Ord. No. 812, sec. 1; Am. 1987, Ord. No. 87-1, sec. 2; Am. 2003, Ord. No. 03-112, sec. 2; Am. 2007, Ord. No. 07-4, sec. 2; Am. 2008, Ord. No. 08-56, sec. 1; Am. 2010, Ord. No. 10-33, sec. 1.)

#### **Section 14-22. Exceptions.**

- (a) Notwithstanding any other provision of this article to the contrary, the following areas shall be exempt:
  - (1) Private residences, except as prohibited in sections 14-21(a)(12) and 14-21(a)(14).
  - (2) Individual hotel and motel rooms that are rented to guests and are designated as smoking rooms.
  - (3) Bars.

(1977, Ord. No. 279, sec. 2; Am. 1987, Ord. No. 87-1, sec. 2; Am. 2003, Ord. No. 03-112, sec. 2.)

#### **Section 14-23. Posting of signs.**

- (a) "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly and conspicuously posted in every public place and place of employment where smoking is prohibited by this article, by the owner, operator, manager, or other person having control of such place.
- (b) Alternate means of notification may be employed provided the effect thereof is equivalent to the notice given by signs described in subsection (a).
- (c) Every public place and place of employment where smoking is prohibited by this article shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.
- (d) Any person violating any of the provisions of this section shall be issued a notice of violation and shall comply with the provisions of this section within ten days. Thereafter, the violation shall carry a fine as provided in section 14-24(b) and/or 14-24(c). Each violation cited shall constitute a separate offense.

(1977, Ord. No. 279, sec. 2; Am. 1987, Ord. No. 87-1, sec. 2; Am. 2003, Ord. No. 03-112, sec. 2.)

#### **Section 14-24. Violations and penalties.**

- (a) It is unlawful for any person to smoke in a place within the County where smoking is prohibited.
- (b) Any person violating any of the provisions of subsection 14 21(a) shall be fined not less than \$25 and not more than \$50. Any person violating subsection 14-21(b) shall be fined \$100 for each separate offense.
- (c) A person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the provisions of this article shall be guilty of an infraction, punishable by:
  - (1) A fine not exceeding \$100 for a first violation;
  - (2) A fine not exceeding \$200 for a second violation within one year of the date of the first violation; and
  - (3) A fine not exceeding \$500 for each additional violation within one year of the date of the preceding violation.

(1977, Ord. No. 279, sec. 2; Am. 1987, Ord. No. 87-1, sec. 2; Am. 2003, Ord. No. 03-112, sec. 2; Am. 2007, Ord. No. 07-4, sec 3.)