

**POLICY NUMBER:**

**APM-1-91**

**DATE:**

**4/30/2019**

**ISSUED BY:**

**Emilio Gonzalez**

City Manager/Designee



**SIGNATURE**

# CITY OF MIAMI



## ADMINISTRATIVE POLICY

<u>REVISIONS</u>	
<u>REVISED</u>	<u>DATE OF</u>
<u>SECTION</u>	<u>REVISION</u>
Established	12/02/9
Formerly LMP-1-91	2/24/9
Definitions No. 15	2/24/9
Section A	2/24/9
Clean-up	2/24/9
Revised	4/19

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**SUBJECT:**

## CITYWIDE SMOKING POLICY

**PURPOSE:** To provide for the enforcement of Florida's Clean Indoor Air Act pertaining to the designation of smoking areas and the posting of signs in public places.

Pursuant to Florida Statutes 386.207

Law Implemented: 386.205 and 386.206, Florida Statutes

Effective this date, said Administrative Policy supersedes all previous directives on this subject.

### **I DEFINITIONS:**

For the purposes of this policy, the following words and phrases shall have the meanings indicated:

- A** Common Areas – Hallways, corridors, lobbies, aisles, water fountains, restrooms, stairwells, entryways, kitchens, and conference rooms.
- B** Department – The Department of Health.
- C** Government Buildings -- Any building or any portion of any building owned by or leased to municipalities or any political subdivision thereof and used for governmental purposes.
- D** Open Work Space – An area where two or more people are routinely assigned to work where there are no existing physical barriers.
- E** Person – Any individual, partnership, firm, company, corporation, trustee, association, or any public or private entity.
- F** Physical Barrier – Floor to ceiling walls in rooms with closable doors shall remain closed at all times when tobacco smoke is present.
- G** Public – Two or more people.
- H** Public Meeting – All meetings open to the public in City-owned or operated facilities, unless such meetings are held in a private residence.
- I** Smoking Policy – A written set of guidelines that designate those areas within a public place which are "smoking permitted" areas.

**J** Auditoriums – Any public enclosed indoor area designed to accommodate an audience.

**K** Educational Facilities – Any building under public or private ownership, which is used for the purpose of education.

**L** Restaurants – Any food service establishment operated or under the control of the City.

**M** Recreational Facility – Any building or part of a building which is not part of a private residence, and which is connected with or intended for use by more than one person for the purpose of leisure, social, or competitive activities.

**N** Public Place – Means the following enclosed indoor areas used by the general public:

1. Arenas;
2. Auditoriums;
3. Educational Facilities;
4. Elevators;
5. Government Buildings;
6. Places of employment;
7. Public means of mass transportation and their associated terminals not subject to federal smoking regulation;
8. Recreational facilities;
9. Buses or vans;
10. Theaters;
11. Daycare Centers;
12. Health Care Facilities

**O** Smoking – Possession of a lighted cigarette, lighted cigar, lighted pipe, or any other lighted tobacco product, use of electronic cigarettes and any other nicotine dispensing devices.

## II Designation of Smoking Areas

**A** All public places shall be nonsmoking areas except in such areas that are specifically designated as smoking areas pursuant to this rule.

**B** The Department Heads may only designate smoking areas. If such areas are designated, they shall be in accordance with the following provisions:

1. Not more than one-half of the total square footage in any public place within a single enclosed indoor area used for a common purpose shall be designated as a smoking area.
2. Existing physical barriers shall be used to minimize smoke in adjacent nonsmoking areas. Doors between smoking and nonsmoking areas shall remain closed at all times. If there is no door between two separate rooms or areas, or if

doors between separate areas remain open, then those areas shall be considered to be one area for the purposes of this rule.

3. Such designated areas shall take into consideration the proportion of smokers to nonsmokers.
4. An open workspace may not be designated as a smoking area unless all people routinely assigned to work in that area at the same time agree. If one worker in an open workspace disagrees, the area shall be designated as a non-smoking area.

**C** Smoking areas shall not be designated in the following areas:

1. Elevators, as regulated by Sections 386.205 and 812.12, Florida Statutes.
2. Buses or vans
3. Public means of mass transportation not subject to federal smoking regulation.
4. Restrooms
5. Areas containing or providing access to common facilities such as hallways, lobbies, entryways, stairwells, locker rooms, concourses and kitchens.
6. Any food storage or preparation area or any area where utensils are cleaned or stored in any food service establishment.

**III** **Posting of Signs**

**A** In a workplace, a City department head or person in charge of the office shall implement, and post sign(s) regarding the designation or non-designation of smoking areas. Where smoking areas are designated, signs shall be conspicuously posted indicating that smoking is permitted or that the area is a designated smoking area. All signs shall be:

1. Sufficient in size to be clearly readable at a distance of ten feet by persons with normal vision.
2. Sufficient in number to ensure that all entrances to any designated smoking area are posted.

**B** Areas containing no signs shall be regarded as nonsmoking areas.

**C** Signs indicating the designation of nonsmoking areas are optional.

**D** There shall be posted at places of employment a copy of the employer's smoking policy in a conspicuous place in an area routinely designated for employee information such as: Employee bulletin boards, or by time clocks, employee entrances, in employee break rooms, or in any other place where employees can refer to the policy easily and often.

**IV** **Enforcement and Penalties**

**A** Upon report of any observed potential violation, the Department of Health shall issue a notice to comply with to the alleged violator. The notice shall allow the person in charge 30 days in which to report back to the Department of Health detailing the actions taken to comply.

- B** After 30 days, if no action has been taken to comply or the Department of Health has reason to believe there is noncompliance, the Department of Health personnel may investigate the alleged violation within 10 working days.
- C** Upon determining that a violation of 386.205 or 386.206, F.S. exists, the Department of Health may assess a civil penalty of up to \$100.00 for the first violation and up to \$500.00 for each subsequent violation.
  - 1.** Administrative complaint procedures for the imposition of such fines shall be in accordance with Chapter 120, F.S.
  - 2.** In determining the amount of subsequent fines to be imposed, the following facts shall be considered:
    - a)** Actions taken by the person in charge to correct the violation.
    - b)** Any previous violations.
- D** If a person refuses to comply with ss. 386.205 and 386.206, F.S. after having been assessed three such penalties; the Department of Health shall, within ten (10) working days file a complaint in the circuit court of the county in which such place is located to require compliance.
- E** Fines collected pursuant to ss. 386.207, F.S., shall be deposited in the Children's Medical Services Programs.
- F** Specific Authority: 386.207, Florida Statutes.

## **V Exemptions**

- A** Exemptions to requirements found in ss. 386.205 and 386.206, F.S., may be requested. All requests for exemption shall be filed with the Department of Health. Such requests shall be granted or denied by the Department of Health on a case-by-case basis within 30 days of receipt of such request. Exemptions may be granted by the Department of Health in the following cases:
  - 1.** In places of employment which, after having received the initial 30 day compliance notice, meet the following criteria:
    - a)** Proprietors make a timely response to the 30 days notice.
    - b)** Prompt action taken by the person in charge to comply.
    - c)** No previous violations.
- B** Notification of all requests for exemption received by the Department of Health shall be distributed to all affected parties.
- C** Exemptions may be rescinded at any time if the Department of Health has reason to believe that proprietors have not acted in good faith.

Specific Authority: 386.207, Florida Statutes

Law Implemented: 386.207(3), Florida Statutes

History: January 16, 1990