

## *DIVISION 2. REGULATIONS*

### **Sec. 66-71. Prohibition of smoking and vaping in enclosed areas.**

Except as permitted by section 66-73, smoking and vaping shall be prohibited in all enclosed areas in the following places:

- (1) Public property.
- (2) Public places.
- (3) Private clubs.
- (4) Places of employment.
- (5) Correctional facilities.
- (6) All pre-primary, primary, and secondary school buildings providing instruction for students at or below the 12th-grade level, the campuses of such schools, any buildings on the campuses of such schools, and all school buses.
- (7) All schools other than those covered in subsection (6) of this section including, but not limited to, community colleges, technical training establishments, specialty schools, colleges and universities.

(M.C.S., Ord. No. 26201, § 1, 1-22-15)

### **Sec. 66-72. Prohibition of smoking and vaping in unenclosed areas.**

Except as permitted by section 66-73, smoking and vaping shall be prohibited in unenclosed areas in the following places:

- (1) In and within five feet of Richard & Annette Bloch Cancer Survivors Plaza.
- (2) In and within five feet of Lafayette Square.
- (3) In all outdoor sports arenas, stadiums, recreational areas with playground equipment, and amphitheatres, except when being used for concerts, fairs, farmers' markets, festivals, and parades. Smoking and vaping shall also be prohibited in bleachers and grandstands for use by spectators at sporting events.
- (4) Places of employment, including, but not limited to, work areas, construction sites, temporary offices such as trailers, restroom facilities, and vehicles.

(M.C.S., Ord. No. 26201, § 1, 1-22-15; M.C.S., Ord. No. 26333, § 1, 4-9-15, eff. 4-22-15)

### **Sec. 66-73. Areas where smoking and vaping are not prohibited.**

The following areas shall not be subject to the smoking and vaping restrictions of this article:

- (1) Private homes, private residences, and private vehicles; except that this subsection shall not apply if any such home, residence, or vehicle is being used for child care or day care or as a health care facility

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or if a private vehicle is being used for the public transportation of children or as part of health care or day care transportation in which case smoking and vaping are prohibited.

- (2) Any tobacco business.
- (3) Private and semiprivate rooms or apartments in assisted living residences that are occupied by one or more persons who have all requested in writing to be placed in a room where smoking or vaping is permitted; provided that smoke or vapor from such rooms or apartments does not infiltrate into areas where smoking or vaping is prohibited under the provisions of this article.
- (4) All places of employment of any manufacturer, importer, wholesaler or distributor of tobacco products, of any tobacco leaf dealer or processor, and all tobacco storage facilities.
- (5) Cigar bars, limited only to the smoking of cigars.
- (6) Hookah bars, limited only to the smoking of hookahs.
- (7) Private and semi-private rooms in nursing homes and other long-term care facilities that are occupied by one or more persons who have all requested in writing to be placed in a room where smoking or vaping is permitted; provided that smoke or vapor from such rooms or apartments does not infiltrate into areas where smoking or vaping is prohibited under the provisions of this article.
- (8) Designated smoking or vaping sections of outdoor seating, serving areas, balconies, and courtyards of bars, restaurants, casinos, and facilities licensed and regulated for the operation of slot machines, pari-mutuel wagering facilities, and off-track wagering facilities pursuant to the provisions of Chapter 4 and 11 of Title 4 and Chapters 4, 5, 6, and 7 of Title 27 of the Louisiana Revised Statutes of 1950.
- (9) The sidewalks, streets, balconies, and public rights of way along Bourbon Street from Canal Street to Esplanade Avenue.
- (10) Any electronic smoking device business as defined in section 66-36 including but not limited to retail, wholesale, and manufacturing facilities primarily engaged in sales of electronic smoking devices or their components.
- (11) Convention facilities during the time such facilities are being used for professional meetings and trade shows which are not open to the public that are produced or organized by tobacco or electronic smoking device businesses or convenience store associations where tobacco products are displayed and limited to the location of such meetings or shows and during the time such facilities are used by a carnival organization, traditionally known as a krewe or a courir de Mardi Gras for the purpose of the conduct of a Mardi Gras ball and limited to the location of such ball.
- (12) Enclosed, semi-enclosed and non-enclosed areas in hotels and motels and other such similar facilities during the time these areas are being used exclusively for private functions related to professional meetings and trade shows which are not open to the public that are produced or organized by tobacco or electronic smoking device businesses, such that the areas are under the control of the sponsor or organizer of the function and where the general public may not attend.

(M.C.S., Ord. No. 26201, § 1, 1-22-15; M.C.S., Ord. No. 26340, § 1, 4-9-15, eff. 4-22-15; M.C.S., Ord. No. 26366, § 1, 4-9-15, eff. 4-22-15)

### **Sec. 66-73.1. Marijuana smoking prohibited outside of private residences.**

Notwithstanding any other provision of this Code to the contrary, smoking marijuana outside of a private home or residence shall be a violation of this article. Marijuana smoking shall not be permitted within a private home or residence that is being used for childcare or daycare or as a health care facility.

(M.C.S., Ord. No. 28744, § 1, 8-5-21, eff. 9-15-21)

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**Sec. 66-74 Notice of prohibition of smoking and vaping.**

- (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 by the owner, operator, manager, employer, or other person in control in every location where smoking or vaping is prohibited by this article. Except as provided hereinbelow, the size, style and location of such signs shall be determined in accordance with rules and regulations that may be promulgated by the director of the department of health, but in promulgating such rules and regulations, the director shall take into consideration the concerns of the various types of establishments regulated herein with respect to the style and design of such signs. In the event such rules and regulations have not been promulgated, the size, style and location of such signs shall be determined in accordance with best practices relative thereto.
- (b) The owner, operator, manager, employer, or other person in control shall remove all ashtrays from any area where smoking is prohibited by this article.

(M.C.S., Ord. No. 26201, § 1, 1-22-15)

**Sec. 66-75. Restrictions as to property near schools, churches, etc.**

It is hereby declared that the sense and policy of this section is that no tobacco retailer shall be permitted to sell, donate, distribute, or deliver to any person(s), whether or not any form of consideration is provided, tobacco products within 300 feet of any park, church, public library, school, or any childcare facility or similar entity providing structured, organized care for youth.

(M.C.S., Ord. No. 26201, § 1, 1-22-15)

**Sec. 66-76. How distance measured.**

- (a) The 300-foot distance provided for in section 66-75 shall be measured as a person walks, using the sidewalk, from the nearest point of the property line of the park, church, public library, school, or childcare facility or similar entity providing structured, organized care for youth, to the nearest point of the tobacco retailer.
- (b) Any tobacco retailer lawfully operating such business prior to the adoption of section 66-75 and this section shall not be affected.
- (c) If a tobacco retailer has an interruption of the continuity of business for a period in excess of six months, in order to reopen for business, the requirements set forth above must be complied with.

(M.C.S., Ord. No. 26201, § 1, 1-22-15)

**Sec. 66-77. Tobacco retailers prohibited in residential and park districts.**

No tobacco retailer shall be permitted to establish or open in any residential district or park and recreation district of the city as defined in the comprehensive zoning ordinance of the city, as now or hereafter amended. The provisions of this section shall not be construed to apply to any premises which, at the time of the passage of this section, were lawfully operating as tobacco retailers.

(M.C.S., Ord. No. 26201, § 1, 1-22-15)

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**Sec. 66-78. No discrimination or retaliation.**

An individual, person, entity, or business establishment subject to the smoking or vaping prohibitions of this article shall not discriminate or retaliate in any manner against a person for making a complaint regarding a violation of this article or for furnishing information concerning a violation to an enforcement authority.

(M.C.S., Ord. No. 26201, § 1, 1-22-15)

**Secs. 66-79—66-100. Reserved.**