

# **THE BOROUGH OF MANVILLE SMOKING POLLUTION CONTROL ORDINANCE - # 2001-1**

## Section 1.

### Name of Ordinance

This ordinance shall be known as the Smoke Free Ordinance #2001-1.

## Section 2

### Intent of Ordinance

The Board of Health of the Borough of Manville has concluded that breathing second-hand smoke is a major cause of disease, placing at special risk children, elderly, and individuals with cardiac or respiratory disease or dysfunction. Food service workers are at particularly high risk.

In this ordinance we are addressing the individual's "right to smoke". We are protecting the non-smoker's health by restricting and removing real and proven hazards to their everyday health and well-being that could not be otherwise reasonably avoided.

The Board of Health of Manville declares that to fulfill our public trust to safeguard the welfare of the citizens of Manville we must prohibit smoking in public places and places of employment.

## Section 3.

### Definitions and meanings

The language of this document has been found to be clear. No usage differs from commonly understood usage.

## Section 4.

### Regulation of smoking in public places

Smoking shall be prohibited in all enclosed public places within the boundaries of the

Borough of Manville, including, but not limited to, the following places:

1. Elevators
2. Buses
3. Taxicabs
4. Rest rooms
5. Retail Stores
6. All businesses and non-profit entities available to and customarily used by the general public, including, but not limited to, offices, banks, and laundromats
7. Museums, galleries, and libraries
8. Auditoriums, stages, performance halls, recital halls or any venue wherein performance or demonstration occurs
9. Sports arenas or gymnasium
10. Schools
11. All areas of all health care facilities
12. All lobbies, hallways, or common areas of any multi-unit commercial facilities
13. All lobbies, hallways, or common areas of multi-unit residential buildings
14. Polling places
15. Private residences that are used as child-care or health-care facilities

**ADDITIONALLY:** The owner or operator or manager of any establishment not specifically covered in the above list may declare the entire establishment **SMOKEFREE** and by posting notices as per the provisions of this ordinance and by registering that establishment with the Board of Health, have that establishment covered under all provisions of this ordinance.

Bars are excluded by state law from mandatory inclusion in the restrictions of this ordinance. Voluntary compliance, as described above is clearly in keeping with the intent of this ordinance to protect the workers in such establishments. The owner or operator or manager of each bar and restaurant is encouraged to request voluntary inclusion of the bar or restaurant in the provisions of this ordinance.

#### Section 5.

Regulations prohibiting smoking on all recreational areas owned or maintained by the Borough.

Many recreational programs are run within the Borough of Manville on fields owned or leased to the Borough. Smoking in and around these recreational facilities creates the peculiar circumstance of young people being encouraged and coached by adults to do things beneficial to their health while at the same time they observe adults smoking

and/or are adversely effected as the result of secondary environmental smoke. The Borough has jurisdiction over the recreational areas that are utilized for recreational activities and has an obligation to maintain those facilities and to prohibit those activities which it deems to be unsatisfactory and contrary to the good health of the youth who are encouraged to participate in these many and varied recreational activities.

Now, therefore the Borough of Manville hereby specifically prohibits any smoking on any recreational field owned or leased to the Borough of Manville when recreational programs are being conducted on these fields. For purposes of this ordinance smoking shall include the smoking of lighted cigarettes, cigars, and pipes. For purposes of this ordinance, the no smoking prohibition shall not apply to parking areas surrounding the recreation field.

This section of the Ordinance shall be enforced by any member of the police department, as well as recreational employees or employees of the Board of Health.

#### Section 6.

##### Regulations of smoking in places of employment

All employers within the boundaries of Manville shall provide a smoke free workplace for all employees. Smoking shall be prohibited in all enclosed facilities within the workplace without exception. This includes all common work areas, auditoriums, classrooms, conference rooms, meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, rest rooms, and all other enclosed areas. The employer shall provide a written policy to this effect within 90 days of the effective date of this ordinance. Standard policies will be provided to employers at no expense. The employer will provide all employees with a copy of the policy within 3 weeks of its adoption. All prospective employees will receive a copy of the policy.

#### Section 7.

##### Entranceway to buildings used by the public

All outdoor entranceways of buildings used by the public shall be smoke free. Smoking a lighted cigarette or cigar or pipe at the main entranceway to the building is prohibited.

#### Section 8.

##### Specific exclusions

The only enclosed areas in which smoking is not regulated by this ordinance are:

- (1) private residences not used as child-care or health-care facilities
- (2) bars and restaurants

The owner or manager of a bar or restaurant may declare the establishment smoke free and by posting notices according to the procedure in this ordinance, and registering the establishment with this Board of Health, that location shall be subject to the provisions of this ordinance.

#### Section 9.

##### Posting Notices

“NO SMOKING” signs or the international “No Smoking” symbol shall be clearly, sufficiently, and conspicuously posted in every building or other place where smoking is regulated by this article, by the owner, operator, manager, or other person having control of such building or other place. Appropriate signs will be provided upon request by the Manville Board of Health.

Every building or area regulated by this ordinance shall have posted at every entrance a conspicuous sign clearly stating that smoking is not allowed.

#### Section 10.

##### Enforcement

The enforcement of this ordinance will be implemented by the Board of Health or their designee. The Manville Police Department is hereby designated by the Board of Health to have the power to enforce this ordinance.

Any citizen may initiate enforcement by registering a complaint with the Board of Health.

The Health Inspector or Police Department may periodically inspect all regulated establishments and all establishments voluntarily registering with the Board of Health under this ordinance.

Any citizen may inform any person perceived to be violating this ordinance of the provisions of this ordinance.

#### Section 11.

## Violations and Penalties

It shall be a violation of this ordinance for any owner, operator, manager, or controller of any premises subject to this ordinance to fail to comply with any of its provisions.

It shall be unlawful to smoke where smoking is prohibited.

Any person who violates any provision of this ordinance shall be guilty of an infraction, punishable by:

1. A fine not exceeding \$100 for the first violation
2. A fine not exceeding \$200 for the second violation
3. A fine not exceeding \$500 for the third or any further violations

## Section 12.

### Non-retaliation

No person or employer shall discharge, refuse to hire, or in any manner retaliate against any employee or applicant for employment because such employee or applicant exercises any right to a smoke free environment afforded by this article.

## Section 13.

### Public Education

The Board of Health shall engage in a continuing program to explain and clarify the purpose and requirements of this ordinance to citizens affected by it, and to guide owners, operators, and managers in their compliance with it. Such a program may include publication of a brochure for affected businesses and individuals explaining the provisions of this ordinance, public forums, or specific communications of instruction.

## Section 14.

### Other Applicable Laws

No provision of this ordinance shall be construed or interpreted to allow smoking where it is otherwise restricted by other laws.

## Section 15.

### Severability

If any provision or application or section of this ordinance shall be held invalid, such invalidity shall pertain only to that specific provision or application or section, and shall not affect the other provisions and applications or sections of this ordinance which can be given effect without the invalid provision or application or section, and to this end the provisions of this ordinance are declared severable.

Section 16.

Effective Date

Upon acceptance of this ordinance, an effective date not less than thirty days and not greater than ninety days hence shall be selected and appended to this document. Publication notification, including, but not limited to, announcements in the newspapers serving the community shall be placed no less than weekly for no less than two weeks from the date of approval of this ordinance to the effective date.