

# MONONGALIA COUNTY COMMISSION

COURT HOUSE

MORGANTOWN, WEST VIRGINIA 26505

Elizabeth M. Martin, Commissioner  
Florence L. Merow, Commissioner  
Eugene J. Sellaro, Commissioner

Telephone: 304 291-7257



## ORDINANCE

AN ORDINANCE OF THE COUNTY COMMISSION OF MONONGALIA COUNTY, WEST VIRGINIA, PROHIBITING SMOKING IN COUNTY OWNED AND OPERATED PROPERTIES; DEFINING TERMS; ESTABLISHING PENALTIES FOR VIOLATION; ALL UNDER THE AUTHORITY OF CHAPTER 7, ARTICLE 1, SECTION 3, OF THE WEST VIRGINIA CODE, AS AMENDED.

It appearing to the County Commission of Monongalia County, West Virginia, that said Commission should prohibit smoking in County owned and operated properties, define terms and establish penalties for violation pursuant to the power granted the Commission by Chapter 7, Article 1, Section 3 of the West Virginia Code, as amended, the Commission hereby adopts the following ordinance and it shall be read as follows:

### Section 1. Title

This article shall be known as the Monongalia County Clean Indoor Air Ordinance.

### Section 2. Findings and Purpose

The Monongalia County Commission does hereby find that: The United States surgeon General has determined that involuntary inhalation of tobacco smoke is (a) a cause of numerous diseases in healthy non-smokers; and (b) is a major contributor to indoor air pollution; and (c) that children, elderly people, individuals with cardiovascular and/or respiratory disease are at special risk.

Accordingly, the Monongalia County Commission finds and declares that the purposes of this ordinance are to protect the public health and welfare by prohibiting smoking in enclosed public places and places of employment.

### Section 3. Definitions

(1) "Employee" means any person employed for direct or indirect monetary wages or anything of value, or any person who volunteers for a non-profit entity.

(2) "Enclosed Area" means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of door or passage ways) which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid, "office landscaping" or similar structures.

(3) "Place of Employment" means any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment.

(4) "Public Place" means any enclosed area to which the public is invited or in which the public is permitted.

(5) "Smoking" means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe, plant or other smoking equipment in any manner or in any form.

### Section 4. Application of Ordinance

All enclosed facilities owned, leased, rented or operated by the Monongalia County Commission shall be subject to the provisions of this Ordinance.

### Section 5.

Prohibition of Smoking in Enclosed Public Places.

Smoking shall be prohibited in all enclosed places within Monongalia County Commission owned and operated facilities, included, but not limited to, the following:

1. All offices
2. Elevators
3. Hallways
4. Restrooms
5. All means of public transit, including boarding and waiting areas
6. All waiting areas and lobbies

7. All patient rooms, waiting rooms and other public areas in health facilities, juvenile facilities and senior centers

#### Section 6. Posting of Signs

Because this Ordinance prohibiting smoking is primarily self-enforcing, its success depends heavily upon adequate signage.

"No Smoking" signs shall be conspicuously posted in every building or other place where smoking is prohibited by this Ordinance.

#### Section 7. Enforcement

Although smoking ordinances are primarily self-regulating through social pressure, enforcement of this Ordinance shall be the ultimate responsibility of the County Commission or their designated agent, the Monongalia County Health Department.

#### Section 8. Violations and Penalties

It shall be unlawful for any person to smoke where smoking is prohibited by the provisions of this Ordinance.

It shall be unlawful for any person who controls use of any premises subject to regulation under this Ordinance to fail to comply with any of its provisions.

Any person who violates any provision of this article shall be guilty of an infraction.

1. The first infraction shall result in a warning.
2. A second violation within a twelve month period shall result in a fine between twenty-five (\$25) and fifty (\$50) dollars.
3. A fine between fifty (\$50) and one hundred dollars (\$100) shall be levied for each additional violation of this article within a twelve-month period.

#### Section 9. Nonretaliation

No person or employer shall discharge, refuse to hire or in any manner retaliate against any employee, applicant for employment or member of the public because such person exercises any rights afforded by this Ordinance.

Section 10. Severability

The provisions of this Ordinance are severable, and if any provisions or part thereof shall be declared invalid or unconstitutional or inapplicable to any person or circumstances, such invalidity, unconstitutionality or inapplicability shall not affect or impair the remaining provisions of this Ordinance.

Section 11. Effective Date

This Ordinance shall become effective on and after passage and upon Adoption by the Monongalia County Commission.

26 FIRST READING by the County Commission was held the 26 day of November, 1990.

A SECOND READING and public hearing was held on the 17<sup>th</sup> day of December, 1990, after notice of a public hearing on the said Ordinance was published as a Class II legal advertisement.

Following said public hearing on a motion of Merow, seconded by Sellaro, the Ordinance was passed onto THIRD READING, set for the 18<sup>th</sup> day of December, 1990.

It is now Ordered that the aforesaid Ordinance be, and is hereby approved and adopted by the County Commission of Monongalia County. West Virginia.

DATED THIS 18<sup>th</sup> DAY OF December, 1990.

Eugene J. Sellaro  
President

Elizabeth M. Martin  
Commissioner

Florence L. Merow  
Commissioner

