



# GENERAL ORDER OPS-06 SMOKING BAN

EFFECTIVE JULY 9, 2007

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This General Order contains the following numbered sections:

- I. POLICY
- II. OVERVIEW OF SMOKING BAN
- III. EXCEPTIONS
- IV. ENFORCEMENT PROCEDURES
- V. CANCELLATION

## **I. POLICY**

The Howard County Department of Police (HCPD) shall maintain the peace and encourage voluntary compliance through education and enforcement of local ordinance violations regarding smoking within Howard County. These ordinances, located in Sections 12.600 through 12.613 of the Howard County Code, shall be enforced only when necessary, and with the collaboration of the Howard County Health Department.

## **II. OVERVIEW OF SMOKING BAN**

- A. Subject to certain exceptions, smoking is prohibited in any public place or at any public meeting within Howard County. Enforcement activities are primarily the responsibility of the County Health Department, supported by the HCPD.
- B. Smoking is prohibited in the following areas:
  - 1. Enclosed indoor areas that are open to or used by the general public.
  - 2. Fifteen (15) from the entrance of exit of an indoor area that is open to or used the public.
  - 3. All bars and restaurants including designated outdoor areas.
  - 4. All vehicles owned or leased by Howard County government.
  - 5. Any place of employment.
  - 6. Public transportation vehicles.
  - 7. Outdoor seating or viewing areas that are used by the public to:
    - a. Observe a concert, motion picture, stage drama, lecture, musical recital, or other similar performance; OR
    - b. Observe or participate in an athletic event including the bleacher area of a ball field or sports arena.

## **III. EXCEPTIONS**

The following areas within the County are exempt from the smoking ordinance:

- A. Until February 1, 2008: a private club or lodge owned and operated by a membership association with no paid employees, licensed under the Maryland Annotated Code.
- B. Hotel and Motel rooms that have at least seventy-five (75%) percent of all its sleeping rooms as smoke-free.

- C. Outdoor seating areas of a restaurant or bar, provided that such areas:
  - 1. Adjoin an enclosed restaurant or bar; AND
  - 2. Have seating that constitutes no more than forty (40%) percent of the total enclosed capacity of the establishment; AND
  - 3. Not be enclosed or partially enclosed; AND
  - 4. Is located in such a way to minimize the likelihood that smoke from the outdoor seating area will infiltrate enclosed areas where smoking is prohibited.
- D. Smoking as an integral part of a theatrical performance held in a facility primarily used for theatrical performances, until February 1, 2008.
- E. A retail tobacco store, so long as smoke from the establishment does not infiltrate any other location.

**IV. ENFORCEMENT PROCEDURES<sup>1</sup>**

The Howard County Health Department will enforce these ordinances when an establishment is not in compliance. The HCPD will be notified when individuals refuse to comply with the ordinance and shall take the following action:

- A. Violations not witnessed by an officer:
  - 1. The officer shall inform the owner of the establishment or his representative that the alleged violation has been reported; AND
  - 2. Inform the individual in question that he has allegedly committed a violation of this ordinance, which shall be explained if the situation permits, and request his voluntary compliance henceforth.

B. Violations witnessed by an officer:

The primary goal is to achieve voluntary compliance through education. The issuance of a citation is discretionary; however, officers are encouraged to issue a verbal warning as appropriate. Refer to Appendix A for a listing of applicable charges; the issuance of a Civil Citation is governed by Section 24.106 of the Howard County Code (see Appendix B).

C. Repeat Violators

When an officer is notified that an establishment is a habitual (more than twice) offender of this ordinance, he shall notify the Director of Tobacco Control within the Health Department by e-mail, citing all relevant information.

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<sup>1</sup> CALEA 1.2.6 & 1.2.7

- D. The officer will advise Communications of one of the following dispositions when clearing a Smoking Violation:
1. No Report – Gone On Arrival
  2. No Report – Unfounded
  3. No Report – Abated
  4. Report – Citation Issued and copy forwarded to the Health Department for follow up.

V. **CANCELLATION**

This General Order replaces General Order OPS-06, Smoking Ban, dated August 8, 2006.

AUTHORITY:

  
William J. McMahon  
Chief of Police

**APPENDIX A  
 APPLICABLE CIVIL CHARGES**

Officers may cite individuals in violation of the Howard County Code, Title 12: Health and Social Services, Subtitle 6: Smoking In Public Places with the following:

| <u>Violation</u>                                                                                        | <u>HCMC</u> | <u>Civil Fine</u> |
|---------------------------------------------------------------------------------------------------------|-------------|-------------------|
| Smoking in a public place                                                                               | 12.602(A)   | \$100.00          |
| Smoking at a public meeting                                                                             | 12.602(B)   | \$100.00          |
| Smoking in a government vehicle                                                                         | 12.602(C)   | \$100.00          |
| Smoking in a place of employment                                                                        | 12.602(D)   | \$100.00          |
| Smoking within 15 feet of a public entrance or exit of an enclosed public place or place of employment. | 12.603      | \$100.00          |

An owner or person who manages, operates, or otherwise controls the use of any public place is covered by this legislation and may be found in violation of any of the following:

| <u>Violation</u>                                                                                                                               | <u>HCMC</u> | <u>Civil Fine</u> |
|------------------------------------------------------------------------------------------------------------------------------------------------|-------------|-------------------|
| Failure to post appropriate signs at entrances to the establishment.                                                                           | 12.606(A)   | \$250.00          |
| Failure to conspicuously display a No Smoking sign with letters of not less than 1 inch in height.                                             | 12.606(B)   | \$250.00          |
| Failure to post appropriate signs – sale of tobacco products to minors prohibited.                                                             | 12.606(C)   | \$250.00          |
| Failure of owner, manager, or operator of a theatre or auditorium to post signs in lobby prohibiting smoking within the theatre or auditorium. | 12.606(D)   | \$250.00          |
| Failure to remove from any area where smoking is prohibited all ashtrays and other smoking paraphernalia.                                      | 12.607(A)   | \$250.00          |
| Failure to refuse to serve or seat any person who smokes where smoking is prohibited.                                                          | 12.607(B)   | \$250.00          |
| Failure to ask any person to leave an establishment if that person continues to smoke after an initial warning.                                | 12.607(B)   | \$250.00          |

For each of the above (both individual and owner, operator, or manager), each day that a violation continues beyond the first day is considered a separate offense and may be fined separately.

**APPENDIX B**

**SECTION 24.106 HOWARD COUNTY CODE  
ISSUANCE OF CITATION**

Unless law provides otherwise, the following provisions regarding citations shall be used:

**I. Continuing violations:**

Each day that a violation continues after issuance of a citation shall be a separate violation. An inspection which indicates that a violation continues to exist shall be prima facie proof of a continuing violation which has existed since the last inspection.

**II. Authority to issue citation:**

If law or regulation does not require the issuance of a notice of violation, the enforcement official may issue a citation when he/she determines that a violation exists or has occurred.

**III. Content of citation:**

The citation shall contain:

- A. Certification by the enforcement official attesting to the best of his/her knowledge that a violation exists or has occurred;
- B. The name and address of the person charged;
- C. The nature of the violation;
- D. The time when the violation occurred and the place;
- E. The amount of the fine;
- F. The manner, location and time in which the fine may be paid; and
- G. Notice informing the person of the right to stand trial for the violation.

**IV. Delivery of citation:**

The enforcement official shall mail a copy of the citation to the last-known address of the person charged. Instead of mailing, the enforcement official may deliver the citation personally to the person charged. In addition, a copy of the citation may be posted in a conspicuous place on the property where the violation exists or has occurred.

**V. Enforcement official to retain copy:**

The enforcement official shall retain a copy of the citation.

**VI. Citation not appealable:**

The issuance of a citation is not appealable to any county board or commission.