

## Chapter 219

### SMOKING

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[HISTORY: Adopted by the Village Board of the Village of Albany at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Amendments noted where applicable.]

#### GENERAL REFERENCES

Cigarettes -- See Ch. 95.

Regulation of smoking -- See Ch. 202, §202-17.

**§219-1. Title.**

This chapter shall be known as the "Smoking Pollution Control Ordinance."

**§219-2. Findings and purpose.**

The Albany Village Board does hereby find that:

A. Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution and that breathing secondhand smoke is a cause of disease, including lung cancer, in nonsmokers. At special risk are children, elderly people, individuals with cardiovascular disease and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease; and

B. Health hazards induced by breathing secondhand smoke include lung cancer, heart disease, respiratory infection and decreased respiratory function, including bronchoconstriction and bronchospasm.

C. Accordingly, the Albany Village Board finds and declares that the purposes of this chapter are to protect the public health and welfare by prohibiting smoking in village facilities; and to guarantee the right of nonsmokers to breathe smoke-free air and to recognize that the need to breathe smoke-free air shall have priority over the desire to smoke.

**§219-3. Definitions.**

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section:

DINING AREA -- Any enclosed area containing a counter or tables upon which food or snacks are served.

ENCLOSED AREA -- 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.

SMOKING -- Inhaling, exhaling, burning or carrying any lighted cigar, cigarette, weed, plant or other combustible substance in any manner or in any form.

SPORTS ARENA -- Sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition or witness sports events.

#### **§219-4. Prohibition of smoking in public facilities.**

A. Smoking shall be prohibited:

(1) Within the following structures owned by the Village of Albany: the Village Hall and Village Shop, except private residences leased from the village.

(2) Within any structure leased by the Village of Albany, provided that this prohibition shall apply only to those areas of the structure actually being leased by the village.

(3) Within buses, taxicabs and other means of public transit under the authority of the Village of Albany.

(4) Every room, chamber, place of meeting or public assembly, including school buildings under the control of any board, council, commission, committee, including joint committees, or agencies of the village or any political subdivision of the state during such time as a public meeting is in progress, to the extent such place is subject to the jurisdiction of the village.

(5) Polling places.

B. Notwithstanding any other provision of this section, any owner, operator, manager or other person who controls any establishment or facility may declare that entire establishment or facility as a nonsmoking establishment.

#### **§219-5. Reasonable distance.**

Smoking shall occur at a reasonable distance outside any enclosed area where smoking is prohibited to ensure that tobacco smoke does not enter the area through entrances, windows, ventilation systems or any other means.

#### **§219-6. Posting of signs.**

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, sufficiently and conspicuously posted in every building or other place where smoking is regulated by this chapter, by the owner, operator, manager or other person having control of such building or other place.

B. Every dining area within a facility owned or leased by the Village of Albany shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.

C. All ashtrays and other smoking paraphernalia shall be removed from any area where smoking is prohibited by this chapter by the owner, operator, manager or other person having control of the area.

#### **§219-7. Enforcement.**

A. Enforcement of this chapter shall be implemented by the Department of Health or the Chief of Police.

B. Any citizen who desires to register a complaint under this chapter may initiate enforcement with the Department of Health or the Chief of Police.

C. Any owner, manager, operator or employee of any establishment regulated by this chapter may inform persons violating this chapter of the appropriate provisions thereof.

D. Notwithstanding any other provision of this chapter, a private citizen may bring legal action to enforce this chapter.

#### **§219-8. Violations and penalties.**

A. It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation under this chapter to fail to comply with any of its provisions.

B. It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this chapter.

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

(1) A fine not exceeding \$100 for a first violation.

(2) A fine not exceeding \$200 for a second violation of this chapter within one year.