

CHAPTER 50
SMOKING POLLUTION CONTROL ORDINANCE

50.01 TITLE

This ordinance shall be known as the City of Lapeer Smoking Control Ordinance.

50.02 FINDINGS AND PURPOSE

The Lapeer City Commission does hereby find that:

Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution; and

Reliable studies have shown that breathing secondhand smoke is a significant health hazard for several population groups, including elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory functions, including asthmatics and those with obstructive airway disease, and

Health hazards induced by breathing secondhand smoke include lung cancer, respiratory infection, decreased exercise tolerance, decreased respiratory functions, bronchoconstriction, and bronchospasm; and

Non-smokers who suffer allergies, respiratory diseases and other ill effects of breathing secondhand smoke may experience a loss of job productivity or may be forced to take periodic sick leave because of such adverse reactions; and

Courts are increasingly awarding compensation for disability, worker's compensation, unemployment, and entitlement to damages under traditional common law tort liabilities; and

Smoke is a potential cause of fires, and cigarette and cigar burns and ash staining on fixtures and furniture cause unnecessary losses; and

The State of Michigan has passed the Clean Indoor Air Act with amendment (1986 P.A. 198 as amended by 1988 P.A. 294, 296, and 315) which states that an individual shall not smoke in a public place or at a public meeting except in a designated smoking area.

Accordingly, the City of Lapeer finds and declares that the purpose of this ordinance is:

- (1) To protect the public in health and welfare by prohibiting smoking in enclosed areas of City facilities, and
- (2) To strike a reasonable balance between the needs of persons who smoke and the need of nonsmokers to breathe smoke-free air; to recognize that when these needs conflict, that the need to breathe smoke-free air shall have priority.

50.03 DEFINITIONS

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

- (1) “Employee” means any person who is employed by the City of Lapeer in consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services for nonprofit.
- (2) “Employer” means the City of Lapeer, Michigan.
- (3) “Enclosed Area” means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows 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. Also, confined space areas such as trenches and manhole areas are considered enclosed areas.
- (4) “Place of Employment” or “work area” means any enclosed area under the control of the City of Lapeer which employees normally frequent during the course of employment, including employee lounges, restrooms, conference and class rooms, hallways and corridors, entryways and lobbies, stairs and stairwells, and closets and storerooms and including all City vehicles.
- (5) “Public Place” means an enclosed, indoor area owned or operated by the City of Lapeer and used by the general public or serving as a place of work for public employees or a meeting place for a public body.
- (6) “Smoking” or “Smoke” means inhaling exhaling burning or carrying any lighted cigar, cigarette, weed, plant or other lighted smoking device.

50.04 APPLICATION OF CHAPTER

All buildings and facilities, enclosed areas, public places, and work areas owned, operated or controlled by the City of Lapeer shall be subject to the provisions of this chapter.

50.05 PROHIBITION OF SMOKING

- (A) No person shall smoke in a public place, enclosed area, work area, or at any meeting of a public body in such areas.
- (B) No person who supervises manages, operated or otherwise controls the use of a public place, enclosed area, or work area owned, operated, or controlled by the City of Lapeer shall knowingly and willingly permit a violation of this ordinance, nor shall such a person fail or refuse to promptly act on a reliable report of a violation of this chapter.

50.06 ENFORCEMENT

- (A) Any person observing a violation of this chapter may report it to the appropriate manager, supervisor, department head, city manager (or manager’s designee) or to any peace officer.
- (B) In addition to any other enforcement action authorized by law, a person alleging a violation of this chapter may bring a civil action for appropriate injunctive relief.

50.07 VIOLATIONS AND PENALTIES

Any person who violates any provisions of this ordinance shall be subject to the following penalties:

- (1) A civil fine not exceeding one hundred dollars (\$200.00) for a first violation.
HISTORY: (Intro 09-06-11, Adopt 09-19-11, Publication 09-22-11; -)
- (2) A civil fine not exceeding two hundred dollars (\$250.00) for a second violation within one (1) year.
HISTORY: (Intro 09-06-11, Adopt 09-19-11, Publication 09-22-11; -)
- (3) A civil fine not exceeding five hundred dollars (\$500.00) for a third or subsequent violation within one (1) year.

50.08 OTHER APPLICABLE LAWS

This ordinance shall not be interpreted or construed to permit smoking where it is otherwise restricted or prohibited by other applicable laws.

50.09 SEVERABILITY

If any provision, clause, sentence, or paragraph of this ordinance on the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this ordinance, or application, and to this end the provisions of this ordinance are declared to be severable.

50.10 EFFECTIVE DATE

This ordinance shall be effective December 6, 1993.