

Outdoor Smoking Areas and Compliance with Oregon's Indoor Clean Air Act

This document provides information for businesses about the restrictions and requirements of Oregon's Indoor Clean Air Act regarding *outdoor* smoking areas.

Oregon's Indoor Clean Air Act prohibits smoking in almost all *indoor* workplaces and *indoor* public places. (Indoor smoking is allowed only in certified cigar bars and smoke shops, and in designated hotel/motel rooms). This document does **not** cover *indoor* smoking restrictions in detail. For information about *indoor* smoking see <http://www.oregon.gov/DHS/ph/smokefree/index.shtml>.

Restrictions and Requirements on Outdoor Smoking

The Indoor Clean Air Act does not specifically allow or prohibit smoking in *outdoor* workplaces or *outdoor* public places (see "Indoors and Outdoors" below for definitions). However, for businesses that choose to allow *outdoor* smoking, the Indoor Clean Air Act restricts *outdoor* smoking, and requires businesses to take certain actions.

- Smoking is **not** allowed within 10 feet of any entrance, exit, window and/or air intake vent of any indoor workplace or public place.
- Businesses are required to post "no smoking within 10 feet" signs at all building entrances and exits. (These signs can be downloaded or ordered through the Oregon Tobacco Education Clearinghouse at <http://www.phcnw.com/pages/otec>.)
- Businesses must remove all ashtrays and other receptacles for smoking debris (butts, ashes, etc.) from *indoor* workplaces or public places and from *outdoor* locations within 10 feet of entrances, exits, windows, and ventilation intakes.

Businesses have some flexibility around allowing *outdoor* smoking:

- Businesses do **not** have to allow smoking anywhere on their property – they can choose to be smokefree.
- Businesses can keep smoking **farther** than 10 feet from any entrance, exit, window, or air intake vent of the indoor part of the business.
- Businesses can choose to keep ashtrays and other receptacles for smoking debris **farther** than 10 feet from any entrance, exit, window, or air intake vent of the indoor part of the business.

Indoors and Outdoors

Smoking areas must **not** be enclosed. According to the Indoor Clean Air Act an enclosed area includes all space between a floor and ceiling that is enclosed on three or more sides by permanent or temporary walls or windows that extend from the floor to ceiling. Temporary walls include walls constructed of plastic, mesh or other screening materials, slats, louvered blinds, fabric or blankets, or other non-permanent material. So any outdoor smoking shelter with three walls could be determined to be an enclosed space, even if there are substantial holes, gaps, or windows in the walls.

Other Laws

Smoking areas must be in compliance with all other state, city, and county laws, including building codes and fire regulations.

Indoor Clean Air Act Enforcement

If the local or state health department receives a complaint about smoking at a business, the department will investigate the complaint. You could be found in violation of the law if any of the following situations related to **outdoor** smoking are observed by the local health department:

- You construct a smoking area that is enclosed on three or more sides by permanent or temporary walls or windows that extend from the floor to ceiling.
- People are observed to be smoking within 10 feet of an entrance, exit, window that opens, or ventilation intake.
- Ashtrays or other equipment for disposal of tobacco products are seen within 10 feet of an entrance, exit, window that opens, or ventilation intake.
- Any business entrance or exit does not have proper signage posted.

If any violations are found, the business owner will be required to develop and carry out a plan to come into compliance with the law. If the violation is not appropriately dealt with, a business could face fines of up to \$500 per day (to a maximum of \$2,000 per month) as well as the possibility of other legal action.

The State of Oregon is responsible for Indoor Clean Air Act enforcement steps that could lead to fines and other legal action. The State has the final authority to make decisions about enforcement of the law.

More information about the Indoor Clean Air Act is available here:

<http://www.oregon.gov/DHS/ph/smokefree/index.shtml>

The Oregon Administrative Rules relating to the Indoor Clean Air Act is available here:

http://arcweb.sos.state.or.us/rules/OARs_300/OAR_333/333_015.html

On-line reporting of a violation of the Indoor Clean Air Act is available here:

<https://apps.state.or.us/wems/complaintForm.wems>