

ORDINANCE NO. 2025 - 93

AN ORDINANCE AMENDING CHAPTER 619 OF THE PARMA HEIGHTS CODIFIED ORDINANCES

WHEREAS, the Council Safety Committee is recommending the revision of Chapter 619 of the Parma Heights Codified Ordinances; and

WHEREAS, this Council desires to adopt the recommendation of its Safety Committee.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Parma Heights, County of Cuyahoga, and State of Ohio:

Section 1: That Chapter 619 of the Codified Ordinances as it previously existed is amended, and as amended, shall henceforth read as shown by edits set forth in Exhibit "A", which is attached hereto and incorporated by reference.

Section 2: This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council and that all deliberations of the Council and of any of its Committees comprised of a majority of the members of the Council that resulted in those formal actions were in meetings open to the public, in compliance with the law.

Section 3: That this Ordinance shall take effect and be in force from and after the earliest date provided for by law.

PASSED:	<u>December 8, 2025</u>	<u>Thomas Rounds</u> PRESIDENT OF COUNCIL
ATTEST:	<u>Barbara Allen</u> CLERK OF COUNCIL	<u>December 8, 2025</u> APPROVED
FILED WITH THE MAYOR:	<u>December 8, 2025</u>	<u>Marie Gallo</u> MAYOR MARIE GALLO

EXHIBIT A

CHAPTER 619

Smoking Ban Clean Indoor Air

619.01 Definitions. ~~Short title.~~

619.02 Smoking prohibitions. ~~Findings; intent.~~

619.03 Areas where smoking is not regulated by this chapter. ~~Definitions.~~

619.04 Construction; other applicable laws. ~~Smoking in public places.~~

619.05 Declaration of establishment as nonsmoking. ~~Smoking in places of employment.~~

619.06 Posting of signs; prohibition of ashtrays; responsibility of proprietors. ~~Exceptions to chapter.~~

619.07 Violations. ~~Designation of smoking areas.~~

~~619.08 Violations.~~

~~619.09 Enforcement by Fire Department.~~

~~619.10 Education.~~

~~619.11 Cooperation by governmental and educational agencies.~~

~~619.12 Interpretation of chapter.~~

CROSS REFERENCES

Smoking on school property - see Ohio R. C. 3313. 751

Smoking in places of public assembly - see Ohio R.C. 3791.031

Air pollution - see GEN. OFF. 660.17

~~619.01 SHORT TITLE.~~

~~—This chapter may be cited as the Parma Heights Clean Indoor Air Ordinance.~~

~~(Ord. 1987-28. Passed 8-10-87.)~~

~~619.02 FINDINGS; INTENT.~~

~~—(a) Council finds that tobacco smoke is a major contributor to indoor air pollution and that smoking in enclosed areas is detrimental to the health, welfare, comfort and environment of nonsmokers; that exposure to secondhand smoke is acutely harmful to~~

nonsmokers with cardiovascular or respiratory disease; that the United States Surgeon General has determined that involuntary smoking is a cause of disease, including lung cancer, in healthy nonsmokers; that smoking in certain enclosed areas is a public nuisance and a cause of material annoyance, discomfort and physical irritation to nonsmokers; that nonsmokers who suffer ill effects of breathing secondhand smoke may experience a loss of job productivity and may be prevented from using commercial establishments and other public places; that smoking is a major cause of fires, as well as burns and ash stains on merchandise and fixtures that cause losses to businesses in the City; that courtesy and voluntary smoking restrictions are not sufficient in all cases to adequately resolve concerns relating to secondhand smoke; and that nonsmokers presently have no adequate means to protect themselves from the damage inflicted upon them when they involuntarily inhale smoke emitted from cigarettes, cigars, pipes and other smoking materials.

~~—(b) Council intends that the restrictions and limitations of this chapter be viewed as minimum standards and should not be construed as limiting in any way the authority of the persons in charge of public places or places of employment from entirely prohibiting smoking within their establishments or any part thereof. It is not the intent of Council to prohibit smoking or the sale of tobacco products, but rather to affirm the right of nonsmokers to breathe clean air.~~

~~{Ord. 1987-28. Passed 8-10-87.}~~

619.03 DEFINITIONS.

~~—As used in this chapter~~

~~—(a) “Bar” means any establishment licensed by the Ohio Department of Liquor Control to sell intoxicating beverages for consumption on the premises and in which the service of food is only incidental to the consumption of such beverages.~~

~~—(b) “Eating establishment” means any restaurant, coffee shop, cafeteria, luncheonette, tavern, cocktail lounge, sandwich stand, soda fountain or other establishment (excluding bars) where cooked or otherwise prepared food is sold to members of the general public for consumption on the premises.~~

~~—(c) “Employee” means any person who is employed by any employer in consideration of direct or indirect monetary wages or profit or as a volunteer.~~

~~—(d) “Employer” means any person who employs the services of an individual person or any person in charge of a place of employment. Such term excludes building owners and managers in areas leased, rented or otherwise controlled by tenants.~~

~~—(e) “Enclosed indoor area” means closed in by a roof and walls on at least three sides with appropriate openings for ingress and egress.~~

~~—(f) “Establishment” means any physical facility operated by a commercial enterprise, nonprofit entity, government agency or any other person.~~

~~—(g) “Grocery store” means any supermarket, convenience store or other retail food production and marketing establishment.~~

~~—(h) “Health care facility” means a laboratory associated with the rendition of health care treatment or any hospital, rest home, nursing home, doctor’s office, dentist’s office or other establishment involved in the provision of health care.~~

~~—(i) “Indoor places of entertainment and recreation” means enclosed indoor areas used for play, amusement, diversion, relaxation or social activities, including but not limited to bowling alleys, roller and ice skating rinks, dance halls, swimming pools and bingo halls.~~

~~—(j) “Members of the general public” means shoppers, customers, patrons, patients, students, clients and other similar invitees of any establishment, and excludes employees thereof, sales representatives, service repair persons and persons delivering goods, merchandise or services to such establishment.~~

~~—(k) “Person” means any individual, firm, partnership, association, corporation, company, organization or legal entity of any kind.~~

~~—(l) “Place of employment” means that portion of any enclosed, indoor area under the control of a public or private employer, which area employees normally frequent during the course of employment, but to which members of the general public are not normally invited, including but not limited to such areas in office work places, factories, warehouses and laboratories. The dining area of an eating establishment is not a place of employment.~~

~~—(m) “Polling place” means the entire room, hall, garage or other facility in which persons cast ballots in an election, but only during such time as election business is being conducted.~~

~~—(n) “Proprietor” means the owner, manager, operator or other person in charge of a public place. Such term excludes building owners and managers in areas leased, rented or otherwise controlled by tenants.~~

~~—(o) “Public place” means that portion of any enclosed, indoor area to which members of the general public are invited or in which members of the general public are permitted.~~

~~—(p) “Retail stores and service establishments” means establishments that sell goods or services directly to members of the general public, including but not limited to grocery stores, specialty stores, department stores, pharmacies, automobile dealerships, showrooms, banks, professional offices, service stations, repair or maintenance stores, barber or beauty shops, cleaners and laundromats.~~

~~—(q) “Retail tobacco store” means a retail store used primarily for the sale of smoking materials and smoking accessories and in which the sale of other products is incidental. “Retail tobacco store” does not include a tobacco department of a larger retail store, such as a department store or a discount store.~~

~~—(r) “Service line” means any indoor line at which one or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.~~

~~(s) "Sign" means legible, English lettering on a contrasting background to clearly indicate where smoking is permitted or not permitted and to provide related information. 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) may be used on, or substituted for, a sign indicating that smoking is prohibited. A sign shall be of sufficient size to be clearly legible to a person of normal vision throughout the area it is intended to mark.~~

~~(t) "Smoking material means any cigar, cigarette, pipe, weed, plant or other smoking equipment in any form.~~

~~(u) "Vehicles of public transportation" means trains, buses, trolleys, limousines for hire, taxicabs, courtesy vehicles, ferries and similar conveyances, as well as their associated terminals.~~

~~(v) "Work area" means any room, desk, station or other area normally occupied by an employee while carrying out his or her primary work functions.~~

~~(Ord. 1987-28. Passed 8-10-87.)~~

~~619.04 SMOKING IN PUBLIC PLACES.~~

~~(a) Smoking Prohibited. Except as provided in Section 619.06, the possession of lighted smoking materials in any form is prohibited in any of the following public places, excluding portions to which members of the general public are not normally invited:~~

~~—(1) Retail stores and service establishments;~~

~~—(2) Vehicles of public transportation;~~

~~—(3) Enclosed theaters, auditoriums, concert halls, arenas and public meeting rooms, except portions of the lobby associated with such establishments if a smoking area is designated therein pursuant to subsection (b) hereof;~~

~~—(4) Elevators, elevator lobbies, stairwells, escalators and hallways;~~

~~—(5) Indoor service lines;~~

~~—(6) Public restrooms;~~

~~—(7) Courtrooms, jury waiting rooms and deliberations rooms;~~

~~—(8) Educational facilities;~~

~~—(9) Polling places;~~

~~—(10) Health care facilities;~~

~~—(11) Gymnasiums, exercise rooms and health spas;~~

~~—(12) Libraries;~~

~~—(13) Places of exhibition, including, but not limited to, museums, aquariums and galleries;~~

~~—(14) Areas of food preparation; and~~

~~—(15) City parks, as set forth in Section 961.09 of the Codified Ordinances of the City of Parma Heights.~~

~~—(b) Smoking Prohibited Except in Designated Section. Except as provided in Sections 619.06 and 619.07, the possession of lighted smoking materials in any form is prohibited in any public place or portion thereof not identified in division (a) of this section, excluding portions to which members of the general public are not normally invited, including but not limited to:~~

~~—(1) Eating establishments;~~

~~—(2) Hotels and motels, including rooms rented to guests;~~

~~—(3) Indoor places of entertainment and recreation;~~

~~—(4) Enclosed shopping centers and malls, except retail stores and service establishments therein listed in division (a)(1) of this section;~~

~~—(5) Waiting areas and lobbies, except elevator lobbies listed in division (a)(1) and (7) through (13) of this section;~~

~~—(6) Buildings and enclosed structures (or any portion thereof) owned, leased or operated by the City; and~~

~~—(7) Any other enclosed indoor area used by members of the general public.~~

~~—(c) Responsibilities of Proprietors. The proprietor of a place set forth in division (a) or (b) of this section shall utilize his or her best efforts to ensure that the following provisions are met with regard to such place:~~

~~—(1) Signs. Signs indicating whether or not smoking is permitted shall be clearly, sufficiently and conspicuously posted in every room, building or other place where smoking is regulated by this chapter, and as follows:~~

~~— A. In grocery stores, signs indicating that smoking is prohibited shall be visible to people entering the store, to people at meat and produce counters and to people in all checkout lines.~~

~~— B. In theaters, auditoriums, concert halls and public meeting rooms, signs stating that smoking is prohibited shall be conspicuously posted within such areas and in associated lobbies. In the case of motion picture theaters, such information shall be shown upon the screen for at least five seconds prior to the showing of each feature motion picture.~~

~~— C. At indoor service lines, signs indicating that smoking is prohibited shall be visible to people in such lines.~~

~~— D. In an eating establishment, a sign shall be posted at the entrance clearly stating that a no-smoking section is available, and individual table signs indicating that smoking is prohibited shall be placed on all tables in the no-smoking section of the dining room.~~

~~— E. In hotels and motels, signs indicating that no-smoking rooms are available shall be posted at registration areas.~~

~~— F. Signs indicating that smoking is prohibited in elevators, elevator lobbies, stairwells, escalators and hallways shall be posted in elevators, in elevator lobbies on each floor and in stairwell and escalator entrances on each floor.~~

~~— (2) Public seating. Where seating is provided for the public and a smoking area has been designated under Section 619.07, seating shall be arranged to provide a contiguous no-smoking area of sufficient size to meet customer demand. A seat in a no-smoking area shall be provided for each person requesting such a seat, and, in the case of controlled seating, each customer shall be asked as to his or her preference for smoking or no-smoking seating.~~

~~— (3) Ashtrays. Ashtrays shall be removed from areas where smoking is prohibited, except that an ashtray may be placed by the entrance of a no-smoking area, provided that such area is clearly marked as a no-smoking area.~~

~~— (4) Enforcement. Smokers shall be affirmatively directed to designated smoking areas and persons smoking in violation of this chapter shall be requested to stop.~~

~~— (5) Resolution of disputes. In any dispute arising under this chapter, the rights of the nonsmoker shall be given preference over consideration of the smoker.~~

~~{Ord. 1987-28. Passed 8-10-87; Ord. 2012-21. Passed 6-11-12.}~~

~~619.05 SMOKING IN PLACES OF EMPLOYMENT.~~

~~— (a) Smoking Prohibited. Except as provided in Section 619.06, the possession of lighted smoking materials in any form is prohibited in any of the following areas within a place of employment:~~

~~— (1) Employee stationary work areas;~~

~~— (2) Elevators, elevator lobbies, stairwells, escalators and hallways;~~

~~— (3) Indoor service lines;~~

~~— (4) Employee restrooms;~~

~~— (5) Vehicles used to transport employees in the scope of their employment;~~

~~— (6) Conference rooms, meeting rooms, classrooms and auditoriums; and~~

~~— (7) Medical facilities.~~

~~—(b) Smoking Prohibited Except in Designated Sections. Except as provided in Sections 619.06 and 619.07, the possession of lighted smoking materials in any form is prohibited in any area within a place of employment not identified in division (a) of this section, including, but not limited to:~~

~~—(1) Cafeterias, lunchrooms and employee lounges;~~

~~—(2) Waiting areas and lobbies, except elevator lobbies listed in division (a)(2) of this section; and~~

~~—(3) Any other enclosed indoor area used by employees.~~

~~—(c) Responsibilities of Employers. The employer in charge of a place set forth in division (a) or (b) of this section shall utilize his or her best efforts to ensure that the following provisions are met with regard to such places:~~

~~—(1) Smoking policy. Within one week of the effective date of this section (Ordinance 1987-28, passed August 10, 1987), each employer of ten or more employees shall adopt, implement and maintain a written smoking policy which contains, at a minimum, the restrictions in this section, the rights and responsibilities of employees and actions that will be taken to ensure that the policy is effective. The policy shall be communicated to all employees within three weeks of its adoption and at least yearly thereafter. All employers shall supply a written copy of the smoking policy to any prospective employee who so requests and to all new employees within one week of commencing their employment. This division shall not be interpreted or construed to exempt employers of fewer than ten employees from any other requirement of this chapter.~~

~~—(2) Signs. Signs indicating whether or not smoking is permitted shall be clearly, sufficiently and conspicuously posted in every room, building or other place managed by the employer and regulated by this chapter. The employer shall provide signs indicating that smoking is prohibited to any employee requesting such signs for the purpose of identifying his or her work area as a no-smoking area. Signs indicating that smoking is prohibited in elevators, elevator lobbies, stairwells, escalators and hallways shall be posted in elevators, in elevator lobbies on each floor and in stairwell and escalator entrances on each floor.~~

~~—(3) Ashtrays. Ashtrays shall be removed from areas where smoking is prohibited, except that an ashtray may be placed by the entrance of a no-smoking area, provided that such area is clearly marked as a no-smoking area.~~

~~—(4) Enforcement. Persons smoking in violation of the employer's smoking policy or this chapter shall be requested to stop.~~

~~—(5) Resolution of disputes. In any dispute arising under the employer's smoking policy or this chapter, the rights of the nonsmoker shall be given preference over consideration of the smoker.~~

~~—(6) Work areas. If, due to the proximity of smokers, size of the work area, poor ventilation or other factors, the restrictions in this section do not reduce the effects of~~

smoke in an employee's work area to the satisfaction of the employee, the employer shall make additional accommodation by reassigning the employee to a different work area, by further restricting smoking in the place of employment or by implementing other measures reasonably designed to minimize or eliminate the effects of smoke on the employee.

~~—(7) Nondiscrimination. No employer shall discharge, refuse to hire or in any manner discriminate against any employee or applicant for employment because such employee or applicant exercises on behalf of himself, herself or others any rights afforded him or her by the employer's smoking policy or by this chapter.~~

~~(Ord. 1987-28. Passed 8-10-87.)~~

~~619.06 EXCEPTIONS TO CHAPTER.~~

~~—The restrictions in Sections 619.04 shall not apply to:~~

~~—(a) An entire room or hall which is being used for a private social function, provided that the seating arrangements are under the control of the sponsor of the function and not of the proprietor or person in charge of the place;~~

~~—(b) A limousine for hire or a taxicab, where the driver and all passengers affirmatively consent to smoking in such vehicle;~~

~~—(c) Retail tobacco stores;~~

~~—(d) Any private room in a health care facility, or any semiprivate room in a health care facility if both occupants have requested, in writing, to be placed in a room where smoking is permitted;~~

~~—(e) Bars;~~

~~—(f) An eating establishment that seats fewer than 30 people, provided that:~~

~~—(1) Such establishment comprises a single room.~~

~~—(2) Such establishment was open to the public prior to the effective date of this chapter (Ordinance 1987-28, passed August 10, 1987).~~

~~—(3) A sign stating that a no-smoking area is not available is conspicuously posted on all public entrances or in a position clearly visible on entry into the establishment.~~

~~—(g) Hotel and motel rooms needed for smoking guests during conventions, while such conventions are in progress;~~

~~—(h) A single room in a business establishment, provided that:~~

~~—(1) Such room is not normally used by members of the general public for the primary purpose of the establishment.~~

~~—(2) Such room is enclosed by walls on all sides and openings adjacent to no-smoking areas are generally kept closed.~~

~~—(3) Such room occupies less than 20% of the total floor space of the establishment.~~

~~—(i) A private work area, enclosed by floor-to-ceiling walls with appropriate openings for ingress and egress, which is occupied exclusively by smokers, even though such office may be visited by nonsmokers, provided that:~~

~~—(1) This exemption shall not be permitted where it conflicts with the requirements in Section 619.05(c)(6).~~

~~—(2) This exemption shall not be construed to permit smoking in the reception areas of lobbies or offices.~~

~~—(j) Private residences, except those portions of a private residence used as a child care or health care facility or, serving as a place of employment;~~

~~—(k) Bowling centers; and~~

~~—(l) Areas of public lobbies located on the ground floor of multi-tenant establishments where no seating is made available.~~

~~—This section shall not be interpreted or construed to require proprietors or employers in charge of places set forth in divisions (a) through (i) of this section to permit smoking therein.~~

~~{Ord. 1987-28. Passed 8-10-87.}~~

~~619.07 DESIGNATION OF SMOKING AREAS.~~

~~—Smoking areas may be designated in accordance with this Section by proprietors or employers in charge of places set forth in Sections 619.04(b) and 619.05(b), except in places in which smoking is otherwise prohibited by laws. Where smoking areas are designated, signs indicating that smoking is permitted shall be posted pursuant to Sections 619.04(c)(1) and 619.05(c)(2).~~

~~—(a) Number and Size. Not more than 50% of the total floor space of any establishment, or portion thereof, within Section 619.04(b) or 619.05(b) may be designated as a smoking area. In the case of establishments consisting of a single room, not more than 50% of the room may be designated as a smoking area. In the case of establishments consisting of more than one room, not more than 50% of the rooms may be designated as smoking areas. Rooms with a total floor space of fewer than 2,500 square feet may not be separated into smoking and no-smoking areas, except that this restriction does not apply to eating establishments.~~

~~—(b) Barriers and Ventilation. Smoking areas may be designated using existing barriers and ventilation systems to the maximum extent practicable, consistent with good engineering practices, to minimize the migration of smoke to adjacent no-smoking areas.~~

~~Where modifications are made to existing establishments for other reasons, barriers shall be consistent with good engineering practices to further minimize the migration of smoke to adjacent no-smoking areas, provided that persons undertaking such modification shall not be required to incur any expense to meet the requirements of this division. Where new establishments are constructed, barriers and ventilation systems shall be designed and operated to the maximum extent practicable, consistent with good engineering practices, to minimize the migration and recirculation of smoke to no-smoking areas.~~

~~—(c) Placement. A smoking area may not be designated adjacent to an indoor service line or between a no-smoking area and the source of fresh air. Where practicable, smoking areas shall not be designated such that nonsmokers would be required to pass through such areas on a routine basis in order to perform job duties, to patronize an establishment or to reach a no-smoking area. Special consideration shall be given to individuals with a hypersensitivity to tobacco smoke.~~

~~—(d) Prohibition Permitted. This section shall not be interpreted or construed to require persons in charge of places set forth in Section 619.04(b) or 619.05(b) to provide smoking areas. Notwithstanding any other provision of this chapter, any proprietor or employer in charge of an establishment may declare the entire establishment as a no-smoking area.~~

~~{Ord. 1987-28. Passed 8-10-87.}~~

~~619.08 VIOLATIONS.~~

~~—(a) No person who owns, manages, operates or otherwise controls the use of any establishment subject to the restrictions of this chapter shall fail to comply with its provisions, except that no violation of this division shall be presumed solely on the basis of a violation of division (b) of this section.~~

~~—(b) No person shall smoke in any area restricted by this chapter.~~

~~—(c) Whoever violates any of the provisions of this section is guilty of a minor misdemeanor. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.~~

~~{Ord. 1987-28. Passed 8-10-87.}~~

~~619.09 ENFORCEMENT BY FIRE DEPARTMENT.~~

~~—Enforcement of this chapter shall be implemented by the Fire Department which shall:~~

~~—(a) Establish a telephone number through which all complaints by citizens relating to violations of this chapter may be directed or referred;~~

~~—(b) Require, while an establishment is undergoing otherwise mandated inspections, a "self-certification" from the owner, manager, operator or other person having control of such establishment that all requirements of this chapter have been complied with. Other~~

~~Municipal departments conducting otherwise mandated inspections shall cooperate with the Fire Department in obtaining such self-certifications.~~

~~—(c) For establishments found out of compliance with this chapter or receiving repeated citizen complaints:~~

~~—(1) Provide to the proprietor or employer a copy of this chapter and such advisory assistance to rectify future violations as may be necessary to achieve compliance with this chapter;~~

~~—(2) Follow up such investigation and advice with a written directive explaining, in detail, the steps required in order to achieve future compliance with this chapter; and~~

~~—(3) If the violations do not cease within 30 days after issuing such directive, request commencement of a civil and/or criminal proceeding by the Department of Law, as may be appropriate pursuant to Section 619.08.~~

~~{Ord. 1987-28. Passed 8-10-87.}~~

~~619.10 EDUCATION.~~

~~—The Fire Department shall engage in a continuing program to inform and clarify the purposes of this chapter to citizens affected by it, and to guide proprietors and employers in their compliance. The Fire Department shall prepare guidelines for the designation of smoking areas, including but not limited to the number, size, barriers, ventilation and placement of such areas, and shall encourage proprietors and employers to utilize the guidelines in designating such areas.~~

~~{Ord. 1987-28. Passed 8-10-87.}~~

~~619.11 COOPERATION BY GOVERNMENTAL AND EDUCATIONAL AGENCIES.~~

~~—The Mayor shall annually request such governmental and educational agencies not under the jurisdiction of the City, having offices within the City, to establish local operating procedures to cooperate and comply with this chapter, and shall urge enforcement of their existing smoking restrictions.~~

~~{Ord. 1987-28. Passed 8-10-87.}~~

~~619.12 INTERPRETATION OF CHAPTER.~~

~~—This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by law, or to relieve any proprietor, employer or other responsible party from any liability arising from exposure to tobacco smoke.~~

~~{Ord. 1987-28. Passed 8-10-87.}~~

Section 619.01 – Definitions.

As used in this chapter:

(a) "Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated tobacco product or plant product intended for inhalation in any manner or in any form. "Smoking" includes the use of an electronic smoking device and a vapor product. "Smoking" does not include the burning of incense in a religious ceremony.

(b) "Public place" means an enclosed area to which the public is invited or in which the public is permitted and that is not a private residence.

(c) "Place of employment" means an enclosed area under the direct or indirect control of an employer that the employer's employees use for work or any other purpose, including but not limited to, offices, meeting rooms, sales, production and storage areas, restrooms, stairways, hallways, warehouses, garages, and vehicles. An enclosed area as described herein is a place of employment without regard to the time of day or the presence of employees.

(d) "Employee" means a person who is employed by an employer, or who contracts with an employer or third person to perform services for an employer, or who otherwise performs services for an employer for compensation or for no compensation.

(e) "Employer" means the state or any individual, business, association, political subdivision, or other public or private entity, including a nonprofit entity, that employs or contracts for or accepts the provision of services from one or more employees.

(f) "Enclosed Area" means an area with a roof or other overhead covering of any kind and walls or side coverings of any kind, regardless of the presence of openings for ingress and egress, on all sides or on all sides but one.

(g) "Proprietor" means an employer, owner, manager, operator, liquor permit holder, or person in charge or control of a public place or place of employment.

(h) "Retail tobacco store" means a retail establishment that derives more than eighty per cent of its gross revenue from the sale of lighted or heated tobacco products and related smoking accessories and in which the sale of other products is merely incidental. "Retail tobacco store" does not include a tobacco department or section of a larger commercial establishment or of any establishment with a liquor permit or of any restaurant.

(i) "Retail vapor store" means a retail establishment that derives more than eighty per cent of its gross revenue from the sale of vapor products, electronic smoking devices, or other electronic smoking product accessories and for which the sale of other products is merely incidental. "Retail vapor store" does not include a section of a larger commercial establishment or of an establishment with a liquor license or that is a restaurant.

(j) "Outdoor patio" means an area that is either: enclosed by a roof or other overhead covering and walls or side coverings on not more than two sides; or has no roof or other overhead covering regardless of the number of walls or other side coverings.

(k) "Vapor product" and "electronic smoking device" have the same meanings as in section 2927.02 of the Revised Code.

Section 619.02 – Smoking prohibitions.

(a) No proprietor of a public place or place of employment, except as permitted in section 619.03 of this chapter, shall permit smoking in the public place or place of employment or in the areas directly or indirectly under the control of the proprietor immediately adjacent to locations of ingress or egress to the public place or place of employment.

(b) A proprietor of a public place or place of employment shall ensure that tobacco smoke does not enter any area in which smoking is prohibited under this chapter through entrances, windows, ventilation systems, or other means.

(c) No person or employer shall discharge, refuse to hire, or in any manner retaliate against an individual for exercising any right, including reporting a violation, or performing any obligation under this chapter.

(d) No person shall refuse to immediately discontinue smoking in a public place, place of employment, or establishment, facility or outdoor area declared nonsmoking under section 619.05 of this chapter when requested to do so by the proprietor or any employee of an employer of the public place, place of employment or establishment, facility or outdoor area.

(e) Lack of intent to violate a provision of this chapter shall not be a defense to a violation.

Section 619.03 – Areas where smoking is not regulated by this chapter.

The following shall be exempt from the provisions of this chapter:

(a) Private residences, except during the hours of operation as a child care or adult care facility for compensation, during the hours of operation as a business by a person other than a person residing in the private residence, or during the hours of operation as a business, when employees of the business, who are not residents of the private residence or are not related to the owner, are present.

(b) Rooms for sleeping in hotels, motels and other lodging facilities designated as smoking rooms; provided, however, that not more than twenty per cent of sleeping rooms may be so designated.

(c) Family-owned and operated places of employment in which all employees are related to the owner, but only if the enclosed areas of the place of employment are not open to the public, are in a freestanding structure occupied solely by the place of employment, and

smoke from the place of employment does not migrate into an enclosed area where smoking is prohibited under the provisions of this chapter.

(d) Any nursing home, as defined in division (A) of section 3721.10 of the Revised Code, but only to the extent necessary to comply with division (A)(18) of section 3721.13 of the Revised Code. If indoor smoking area is provided by a nursing home for residents of the nursing home, the designated indoor smoking area shall be separately enclosed and separately ventilated so that tobacco smoke does not enter, through entrances, windows, ventilation systems, or other means, any areas where smoking is otherwise prohibited under this chapter. Only residents of the nursing home may utilize the designated indoor smoking area for smoking. A nursing home may designate specific times when the indoor smoking area may be used for such purpose. No employee of a nursing home shall be required to accompany a resident into a designated indoor smoking area or perform services in such area when being used for smoking.

(e)(1) Retail tobacco stores in operation prior to December 7, 2006. The retail tobacco store shall annually file with the department of health by the thirty-first day of January an affidavit stating the percentage of its gross income during the prior calendar year that was derived from the sale of cigars, cigarettes, pipes, or other smoking devices for smoking tobacco and related smoking accessories.

(2) Any retail tobacco store that begins operation after December 7, 2006, or any existing retail tobacco store that relocates to another location after December 7, 2006, may only qualify for the exemption authorized by division (e) of this section if located in a freestanding structure occupied solely by the business and smoke from the business does not migrate into an enclosed area where smoking is prohibited under the provisions of this chapter.

(3) A change of ownership of a retail tobacco store in operation prior to December 7, 2006, does not, in itself, constitute the beginning of a new operation or the relocation of an existing operation for the purposes of division (e)(2) of this section and does not, in itself, necessitate that the retail tobacco store relocate to a freestanding structure, as described in that division, in order to retain an exemption from the provisions of this chapter.

(f) Outdoor patios. All outdoor patios shall be physically separated from an enclosed area. If windows or doors form any part of the partition between an enclosed area and the outdoor patio, the openings shall be closed to prevent the migration of smoke into the enclosed area. If windows or doors do not prevent the migration of smoke into the enclosed area, the outdoor patio shall be considered an extension of the enclosed area and subject to the prohibitions of this chapter.

(g) Private clubs as defined in division (B)(13) of section 4301.01 of the Revised Code, provided all of the following apply: the club has no employees; the club is organized as a not-for-profit entity; only members of the club are present in the club's building; no persons under the age of eighteen are present in the club's building; the club is located in a freestanding structure occupied solely by the club; smoke from the club does not migrate

into an enclosed area where smoking is prohibited under the provisions of this chapter; and, if the club serves alcohol, it holds a valid D4 liquor permit.

(h) An enclosed space in a laboratory facility at an accredited college or university, when used solely and exclusively for clinical research activities by a person, organization, or other entity conducting institutional review board-approved scientific or medical research related to the health effects of smoking or the use of tobacco products. The enclosed space shall not be open to the public and shall be designed to minimize exposure of nonsmokers to smoke. The program administrator shall annually file a notice of new research with the department of health on a form prescribed by the department.

(i) A retail vapor store, insofar as the provisions of this chapter apply to smoking via vapor products and electronic smoking devices. The provisions of this chapter apply to retail vapor stores with regard to all other forms of smoking. The retail vapor store shall annually file with the department of health by the thirty-first day of January an affidavit stating the percentage of its gross income during the prior calendar year that was derived from the sale of vapor products, electronic smoking devices, or other electronic smoking product accessories.

Section 619.04 – Construction; other applicable laws.

Because medical studies have conclusively shown that exposure to secondhand smoke from tobacco causes illness and disease, including lung cancer, heart disease, and respiratory illness, smoking in the workplace is a statewide concern and, therefore, it is in the best interests of public health that smoking of tobacco products be prohibited in public places and places of employment and that there be a uniform statewide minimum standard to protect workers and the public from the health hazards associated with exposure to secondhand smoke from tobacco.

The provisions of this chapter shall be liberally construed so as to further its purposes of protecting public health and the health of employees and shall prevail over any less restrictive state or local laws or regulations. Nothing in this chapter shall be construed to permit smoking where it is otherwise restricted by other laws or regulations.

Section 619.05 – Declaration of establishment as nonsmoking.

Notwithstanding any other provision of this chapter, the owner, manager, operator, or other person in charge or control of an establishment, facility, or outdoor area which does not otherwise qualify as a public place or place of employment may declare such establishment, facility, or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place declared nonsmoking under this section where a sign conforming to the requirements of section 619.06 is posted.

Section 619.06 – Posting of signs; prohibition of ashtrays; responsibilities of proprietors.

In addition to the prohibitions contained in section 619.02 of this chapter, the proprietor of a public place or place of employment shall comply with the following requirements:

(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 conspicuously posted in every public place and place of employment where smoking is prohibited by this chapter, including at each entrance to the public place or place of employment. Signs shall be of sufficient size to be clearly legible to a person of normal vision throughout the areas they are intended to mark. All signs shall contain a telephone number for reporting violations.

(b) All ashtrays and other receptacles used for disposing of smoking materials shall be removed from any area where smoking is prohibited by this chapter.

619.07 Violations.

(a) No person who owns, manages, operates or otherwise controls the use of any establishment subject to the restrictions of this chapter shall fail to comply with its provisions, except that no violation of this division shall be presumed solely on the basis of a violation of division (b) of this section.

(b) No person shall smoke in any area restricted by this chapter.

(c) Whoever violates any of the provisions of this section is guilty of a minor misdemeanor. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.