MOBILE COUNTY HEALTH DEPARTMENT

REGULATIONS GOVERNING SECONDHAND SMOKE IN FOOD ESTABLISHMENTS

Rule No. 10-1
Adopted May 18, 2010
Effective September 1, 2010
MOBILE COUNTY BOARD OF HEALTH

REGULATIONS GOVERNING SECONDHAND SMOKE IN FOOD ESTABLISHMENTS

Chapter 1

General Provisions

1.1. Authority

The Mobile County Board of Health is authorized to promulgate these Regulations under and by virtue of the authority of Section 22-2-2, 22-3-2, and 22-20-5 (Code of Alabama, 1975).

1.2. Purpose and Intent

These regulations are intended as a supplement to the Rules of the State Board of Health, Chapter 420-3-22, Food Establishment Sanitation. The purpose of these Regulations is to protect the public health and safety within Mobile County. These Regulations are promulgated to require that a consumer advisory warning the public of the hazards of secondhand smoke be posted in all food establishments in which the management allows smoking of tobacco products.

1.3. Definitions

The following definitions used in these Regulations shall apply in the interpretation and enforcement of these Regulations:

A) **Board**—the Board of Health of Mobile County Alabama as defined by Section 22-3-1, Code of Alabama, 1975, or the County Health Officer or his designee, when acting for the Board, for the purpose of these regulations.

B) **Health Department** – The Mobile County Health Department or any office, agent or employee authorized to act for the department.

C) **Management** – Any individual, partnership, corporation, association or other legal entity, responsible for the operation of a food establishment.

D) **Secondhand Smoke** – sometimes referred to as environmental tobacco smoke (ETS), is the smoke given off by the burning ends and mouthpieces of, but not limited to, cigarettes, pipes, cigars, cigar bidis, kreteks as well as the smoke exhaled from the lungs, noses or mouths of smokers.

E) **Toxic Air Contaminant (TAC)** – An air pollutant, including secondhand tobacco smoke, which may cause or contribute to an increase in mortality or in serious illness, or which may pose a present or potential hazard to human health.
1.4. Severability

1.4.1. The provisions of these Regulations are severable. If any provision of these Regulations is found to be invalid or if the application of these Regulations to any person or circumstances is invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application.

1.4.2. If a provision of these Regulations is found to be in conflict with a provision of any other statutes, rules or requirements, then the more restrictive of such provisions shall apply.

Chapter 2

Secondhand Smoke

2.1. Secondhand Smoke as a Toxic Air Contaminant

Secondhand smoke is classified as a Class A carcinogen by the Environmental Protection Agency (EPA), the most dangerous designation possible for a cancer causing agent. Secondhand smoke contains more than 50 cancer-causing chemicals and is dangerous at any level of exposure.

2.1.1. In addition to “Poisonous or Toxic Materials” listed in the “FDA Food Code”, secondhand smoke shall be considered as an additional category since it is a toxic air contaminant.

2.2. Requirements for Permitted Food Establishments

The Board of Health encourages all food establishments to prohibit smoking inside their facilities for the health of their workers and patrons.

2.2.1. The Health Department shall post a consumer advisory warning the public of the hazards and presence of secondhand smoke at all food establishments in which the management allows smoking. The consumer advisory shall be posted by the Health Department in a conspicuous place, such as the front door and/or front window, so that it is visible and can be read by patrons prior to entering the food establishment.

2.2.2. Where management allows secondhand smoke in any area of the food establishment or any area that shares a common ventilation system with the food establishment, it shall be debited as a critical item violation. The critical item violation shall be marked on the Food Establishment Inspection Report under “Toxic or poisonous items” and shall be noted that management allows secondhand smoke in the food establishment.

2.2.3. A legal notice shall not be issued for the critical item of allowing secondhand smoke when the consumer advisory is continuously posted.
Chapter 3

Appeals Process

3.1. Appeal Process

A person who has been given notice of an intent to suspend, revoke, or withdraw a permit, license or authorization pursuant to the provisions of these rules shall be given notice of the facts or conduct which warrants the intended action and within ten (10) days following the receipt of the notice may contest such action or decision by applying in writing for an informal hearing to the Health Officer of the Mobile County Health Department, or his/her designee.

If the person is not satisfied with the decision of the Health Officer, or his/her designee following the informal hearing, he/she may make further appeal for a formal hearing to the Mobile County Board of Health within fifteen (15) days following notice of the unfavorable determination. The Board of Health shall then schedule a time for a hearing at which person(s) may appear, either individually or through an attorney, and present any facts or evidence concerning the particular situation. The Board of Health shall then confer and inform the person of its decision within thirty (30) days of the hearing date.

The appeal process is limited to these supplemental rules.
WARNING
SECONDHAND SMOKE IS HAZARDOUS TO YOUR HEALTH.

The Surgeon General has determined that secondhand smoke causes cancer and other life-threatening illnesses.

The management allows smoking in this facility.

Property of the Mobile County Health Department