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Department : Public Safety
North West Provincial Government
REPUBLIC OF SOUTH AFRICA

SMOKING POLICY

“Promoting a Healthy and Safe Work Environment”

**NORTHWEST PROVINCE:
DEPARTMENT OF PUBLIC SAFETY
HUMAN RESOURCES POLICY**

POLICY NO: HR2009/010
NAME OF POLICY: SMOKING POLICY
EFFECTIVE ON:
DATE OF REVIEW: APRIL 2012

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PREAMBLE

The Department of Public Safety ("the Department"):

REALISES the need to provide a healthy working environment to all its employees, clients and visitors.

CONSIDERS that the effects of smoking on health calls for strong action to deter people from taking up smoking and encourage existing smokers to give up smoking.

Has developed and will implement this policy with a view to aligning the health system with the values of the Constitution as well as to enhance and protect the fundamental rights of citizens by discouraging the use of tobacco products in order to reduce the occurrence of tobacco related health problems and death.

1. ABBREVIATIONS AND DEFINITIONS

DCP:	
DENOSA:	Democratic Nursing Organisation of South Africa.
FEDHASA:	Federated Hospitality Association of South Africa.
HOD:	Head of Department.
MEC:	Member of the Executive Council.
NPPHCN:	National Progressive Primary Health Care Network.
PSCBC:	Public Service Co-ordinating Bargaining Council.
Department:	Department of Public Safety, North West.
Employee:	An employee includes all employees of the Department employed in terms of the Public Service Act of 1994, the Basic Conditions of Employment Act of 1998, as amended and includes contract workers, interns, volunteers and prospective employees.
Public Place:	any indoor or enclosed area which is open to the public or any part of the public including the workplace.
Smoke:	inhale, exhale, hold or otherwise have control over an ignited tobacco product, weed or plant, and "smoked" and "smoking" have corresponding meaning.
The Act:	refers to the Tobacco Product Control Act, 1993 (Act 83 of 1993) as Amended by the Tobacco Product Control Amendment Act, 1999(Act 12 of 1999).

2. PURPOSE AND OBJECTIVES

- 2.1 To provide a healthy and comfortable working environment for all employees;
- 2.2 To accommodate the needs of both smokers and non-smokers based on mutual tolerance, respect and common courtesy;

- 2.3 To promote health awareness; and
- 2.4 To protect and enhance our indoor air quality

3. PRINCIPLES

This policy seeks to:

- 3.1 secure a healthy and safe environment for employees and the public;
- 3.2 eliminate passive smoking within its premises. Moreover, the Department acknowledges the rights of individuals and therefore the provisions of this policy will not be applied to unfairly discriminate against smokers in any way.

4. LEGISLATIVE FRAMEWORK

- 4.1 The Constitution of the Republic of South Africa;
- 4.2 Promotion of Equality and Prevention of Unfair Discrimination Act, 2000;
- 4.3 The Occupational Health and Safety Act, 1993 (as amended);
- 4.4 Tobacco Products Control Act, 1993; (as amended);
- 4.5 Labour Relations Act, 1998 (as amended); and
- 4.6 Public Service Regulations, 2001 (as amended).

5. SCOPE OF APPLICATION

This policy will apply to:

- 5.1 All employees, clients, visitors and contractors of the Department and no exception to the policy will be made;
- 5.2 All buildings, premises or enclosed spaces occupied, owned, leased or controlled by the Department; and
- 5.3 All workplaces, which include all departmental buildings, corridors, toilets, stairwells, elevators, cafeterias or any other common areas frequented by employees, visitors or clients.

6. POLICY STATEMENT

Smoking is prohibited on all of the Department's premises except in designated areas.

7. POLICY PROVISIONS

- 7.1 Smoking is prohibited in the workplace, unless that area is a designated "smoking area". The designated "smoking area" shall in all respects comply with Section 3 of Government Notice R.975, "Notice relating to smoking tobacco products in public places issued under the Tobacco Products Control Amendment Act No 12 of 1999.
- 7.2 Designated smoking areas must be clearly marked as such.

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- 7.3 The number, location and distribution of designated smoking areas will be determined by the Department.
- 7.4 Designated "smoking areas" must be properly ventilated. Ventilation from designated "smoking areas" will be directed out of the building so as to ensure that this smoke-filled air is not circulated into other areas of the workplace.
- 7.5 All designated smoking areas will be clearly marked with a sign stating that it is a "smoking area".
- 7.6 The Department on a regular basis will monitor designated "smoking areas" for compliance with the policy.
- 7.7 Changes will be implemented to the work environment:
In all workplaces, particular areas shall be designated as non-smoking areas. These are :
- (a) Any area in which a fire or safety hazard exists, including employer's state owned vehicles;
 - (b) training, conference and staff rooms;
 - (c) rooms where meetings are in progress;
 - (d) common areas, including elevators, staircases, lobbies waiting rooms, copier rooms, mailrooms, libraries, store-rooms, reception areas, customer service areas and rest rooms/ toilets;
 - (e) areas where equipment can be damaged e.g. computer and production areas; or recreation areas;
 - (f) offices where facilities are shared, including open plan/communal offices; and
 - (g) any area not specifically designated "smoking permitted".
- 7.8 The Department will allow employees who do smoke, to take short breaks during the day to smoke in designated areas. However, the specific times and number of smoke breaks will be dependent upon the following factors:
- (a) The effect on workflow and organisation of employees being absent from the workplace;
 - (b) The requirements of the workplace and the work-processes in that particular area, including considerations relating to client liaison;
 - (c) The impact of absence from the workplace on employees, who remain in that workplace, particularly, if the employees, who remain at their workplaces, will have to perform tasks normally performed by those employees who are absent from their workplaces;
 - (d) The Department recognizes and acknowledges that employees have the right to work in a safe and healthy environment and therefore the Department will attempt to minimise the exposure of non-smoking employees to designated "smoking areas". Despite this, consideration must also be given to the operational needs and requirements of the business of the Department. Bearing in mind, non-smoking employees, who liaise with the public must acknowledge that in certain circumstances, they be required to perform their services in areas of the workplace, which are designated "smoking areas";
- 7.9 Time wasted as a result of officials leaving the Department's premises to smoke, must be monitored by the Supervisors and such time must be made up.
- 7.10 The employer will give assistance to those who want to give up smoking to establish an environment which is supportive, through the Employee Assistance Programme.
- 7.11 Education and information programmes shall be provided to all staff on the effects of smoking on health.

8. RESPONSIBILITIES AND OBLIGATIONS

8.1 Employer

- (a) Shall ensure that all the public areas become no smoking areas and are to display **NO SMOKING** stickers.
- (b) If a suitable area is available, a designated smoking area can be established subject to it complying with the conditions as laid down in the Act.

8.2 Employees

- (a) Must cooperate and comply with all non-smoking, safety rules and procedures provided;
- (b) Report unhealthy or unsafe conditions; and
- (c) Take care of his/her own health and safety as well as that of other persons who may be affected by his/her actions or negligence to act.

8.3 Sub-Directorate Human Resources

The Sub-Directorate: Human Resources will be responsible for facilitating the implementation of this policy and for monitoring compliance.

8.4 Occupational Health and Safety Committee

- (a) The Departmental Occupational Health and Safety Committee ("the Committee") will be responsible for review of concerns, complaints, or questions about the application of this policy as referred to them by management or staff.
- (b) The Committees will review such referrals and make recommendations to the department to resolve any problems arising from this policy.

9. SMOKING CESSATION PROGRAMMES

- 9.1 To assist employees who wish to stop smoking, the Department may make arrangements to provide smoking cessation programmes for employees who wish to stop smoking provided there is a sufficient demand for such programme.
- 9.2 Information regarding smoking cessation programmes is available from organizations such as the:

- (a) National Council Against Smoking;
- (b) Cancer Association of South Africa;
- (c) Heart Foundation;
- (d) National Cancer Registry;
- (e) Medical Research Council;
- (f) Human Sciences Research Council;
- (g) UCT School of Economics—Economics of Tobacco Control Project;
- (h) National Progressive Primary Health Care Network;
- (i) Tobacco Action;
- (j) South African Medical Association;
- (k) Freedom of Commercial Speech Trust;
- (l) Tobacco Institute;
- (m) Vending Machine Association; and

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- (n) Federated Hospitality Association of South Africa.

10. DISPUTE RESOLUTION

- (a) The Departments of Transport, Roads and Community Safety reserve the right to take disciplinary action against any person who does not comply with the policy in accordance with the Labour Relations Act 1998 (as amended) and Resolution 2 of 1999 as amended by Resolution 1 of 2003.
- (b) The **procedure** to follow in dealing with disciplinary matters is governed by the provisions of Resolution 1 of 2003 (Disciplinary Code and Procedures for the Public Service, hereafter referred to as the DCP). (**Annexure A**).
- (c) The **basic principles** of procedural and substantive fairness in handling disciplinary matters must be adhered to. Procedural fairness means that the department must follow a fair procedure in terms of the DCP. Substantive fairness means that the department must take disciplinary action for a fair reason, and that the sanction must be commensurate with the offence. (**Annexure B**).

10.1 Grievance Procedure

When dealing with grievances Resolution 14 of 2002 should be taken into consideration. Steps to be followed:

10.2 Informal Grievance Procedure

- (a) Should an employee feel aggrieved the matter should be taken up with his or her manager (need not to be in writing).
- (b) If the answer given by the manager is not satisfactory or if the manager is not in a position to resolve the grievance, the matter may be taken up with a higher authority i.e. head of office.

10.3 Formal Grievance Procedure

- (a) In the event of the dispute not being resolved then it can be escalated to the employee designated (**Rule F.1**) to facilitate the resolution of grievances in the department on the prescribed form. (**Rule F.2**) within 90 days (**Rule D.3**) from which the employee became aware of the official act or omission which adversely affects him or her.
- (b) The designated employee acknowledges receipt on the prescribed form.
- (c) The designated employee must liaise with the relevant structures of authority of the Department to attempt to resolve the grievance (**Rule F.3**)
- (d) The designated employee must inform the aggrieved employee about the status and the progress made towards the resolution of the grievance (**Rule F.5**).
- (e) If the grievance is resolved to the satisfaction of the aggrieved employee, the confirmation thereof will be reduced to writing by the designated employee on the prescribed form.
- (f) If the grievance cannot be resolved the executing authority (MEC) must inform the aggrieved employee accordingly (**Rule F.7**).
- (g) If the aggrieved employee is still dissatisfied after being supplied with the outcome he or she must inform the executing authority within 10 days.
- (h) the executing authority must in terms of section 35(1) of the Public Service Act of 1994 forward the grievance and any relevant documentation to the Public Service Commission for a recommendation within 5 days of being informed by the aggrieved employee (**Rule F.9 (a) and (b)**).

- (i) If however the grievance constitutes an alleged unfair labour practice as defined in the Labour Relations Act (Act 66 of 1995) the employee may inform the executing authority in writing that he or she wishes to utilize the dispute resolution mechanism provided for in the constitution of the General Public Service Sectoral Bargaining Council and the Public Service Commission should therefore not consider the grievance (**Rule F.10**)
- (j) On receipt of the Commission's recommendations the executing authority must within 5 days inform the employee and the Commission of his or her decision in writing (Rule G.2).

11. MONITORING EVALUATION AND REVIEW

In order to have this policy amended the following processes shall be followed:

- 11.1 The proposed amendments shall be submitted in writing to the Sub-Directorate: Human Resources Management, which shall investigate the validity, practicality and cost effectiveness of the inputs.
- 11.2 All amendments shall be forwarded to the HOD/MEC for approval; and All amendments made to this policy shall be presented to Labour in the Departmental Bargaining Chamber for consultation and negotiation.
- 11.3 The policy shall be reviewed after a period of five years from the date of commencement.

12. RELATED POLICIES

The Smoking Policy should be read with related human resources policies, which include the Employee Wellness Policy, Official Working Hours Policy, Overtime policy and the Anti-substance and drug abuse policy

13. COMMENCEMENT OF THE POLICY

This policy shall be implemented by the Department with effect from the date of approval and signature by the HOD.

APPROVED


OB MONGALE
HEAD OF DEPARTMENT

21/09/2009
Date: