



## MOSSEL BAY MUNICIPALITY: SMOKING POLICY (REVISED 2022)

### **PREAMBLE**

In the interest of healthy employees, a healthy environment and adherence to legislation, Mossel Bay Municipality (hereafter the employer) will not allow smoking at the workplace except for designated outdoor smoking areas and in accordance with the specific rules of this policy.

The employer recognises that there is clear scientific evidence that passive smoking exposure to Environment Tobacco Smoke (ETS), in other words, inhaling other people's tobacco smoke) is harmful to the health of both smokers and non-smokers.

Every person has a constitutional right in terms of section 24 of the Constitution of the Republic of South Africa, act 108 of 1996 to an environment which is not detrimental to his or her health or well-being.

The Tobacco Products Control Act, act 83 of 1993 enshrines the principle that every citizen has the right to clean smoke free air in all public places. Public places is defined to include any indoor or enclosed areas and includes the workplace.

The employer further recognises the obligations resting on it in terms of the stipulations of the Occupational Health and Safety Act No. 85 of 1993 in providing a safe and healthy work environment, that is free from ETS.

The Employer also recognises its duty under the Tabaco Products Control Act, as amended, ensuring that all non-smokers are protected at its premises.

### **DEFINITIONS:**

In this policy, "the Act" means the Tabaco Products Control Act. 83 of 1993, as amended, unless indicated otherwise.

"Smoke (smokes, smoking)" means to inhale, exhale, hold or otherwise have control over an ignited tobacco product, weed or plant, use of an e-cigarette or bubbly bubbly.

"Public place" means any indoor, enclosed or partially enclosed area which is open to the public, and includes a workplace and a public conveyance.

"Tobacco product" means a product containing tobacco that is intended for human consumption, and includes, but is not limited to, any device, pipe, water pipe, papers, tubes, filters, portion pouches or similar objects manufactured for use in the consumption of tobacco;

'Workplace' is defined as:

- (a) any indoor, enclosed or partially enclosed area in which employees perform the duties of their employment; and

- (b) includes any corridor, lobby, stairwell, elevator, cafeteria, washroom or other common area frequented by such employees during the course of their employment also included is any outdoor area where work is being performed in proximity to other employees; but
- (c) excludes any private dwelling, and any portion of an area mentioned in paragraph (a) specifically designated by the employer as a smoking area and which complies with the prescribed requirements in terms of the Tabaco Products Control Act. 83 of 1993 as amended.

"entrance" means the point of access to a public place and includes any adjoined covered surrounding area.

"Outdoor eating or drinking area" means any outdoor area, including, but not limited to streets and sidewalks, which is available to or customarily used by the public or an employee, and which is designed, established or regularly used by the public or an employee, and which is designed, established or regularly used for consuming food and/or beverages.

"outdoor event" means an organised public gathering attended by people in an outdoor public place for purposes of musical, dance, theatre, drama, entertainment, education, sport, performance or a community fair, parade, market or event;

"playground" means any part of a public area for use by children that has play or sports equipment installed or has been designated or landscaped for play or sports activities.;

"reasonable distance" means a distance that ensures that any person present in an area in which smoking is prohibited is not exposed to smoke created by any person smoking outside the area. This distance shall be a minimum of ten (10) metres;

"service area" means any area designed to be or regularly used by one or more persons to receive or wait to receive a service, enter a public place, or make a transaction whether or not such service includes the exchange of money including, but not limited to ATMs, telephone kiosks, ticket lines, bus stops, railway platforms and taxi ranks.;

"service line" means an outdoor queue in which one or more persons are waiting for or receiving service of any kind;

"ventilation inlet" means the part of a mechanical ventilation system designed to allow air into the building;

"window" means an operable window.

## **1. NO SMOKING IN THE WORKPLACE**

- 1.1. Smoking in the workplace is totally prohibited except for designated outdoor smoking areas and in accordance with the specific rules of this policy.
- 1.2. Any person who violates this principle will not only contravene the Tabaco Products Control Act, but also this policy.
- 1.3. No person may smoke any tobacco product in any public place under the control of the employer.

- 1.4. Smoking in the employer's vehicles is prohibited. No person may, during working hours, while in the company of fellow employees, smoke in a vehicle in respect of which an employee receives a traveling allowance from the employer.
- 1.5. No person may smoke any tobacco product in the following outdoor public places in terms of the proposed regulations: *Smoking in Public Places and Certain Outdoor Public Places (R264 of 2012)*
  - (a) stadiums, sports facilities, playgrounds;
  - (b) child care facilities;
  - (c) health facilities;
  - (d) outdoor eating or drinking areas;
  - (e) venues when outdoor events take place;
  - (f) covered walkways and covered parking areas;
  - (g) service areas and service lines; and
  - (h) beaches where public bathing is permitted, not less than 50 metres away from the closest person near the demarcated swimming area.
- 1.6. Notwithstanding 1.5 where the employer is in control of an outdoor public place, the employer may designate outdoor smoking areas subject to 1.7.
- 1.7. No person shall smoke any tobacco product within a 10 metre radius from a window, ventilation inlet, doorway or entrance to a public place or within a 10 metre radius of any workplace.
- 1.8. No ashtray shall be placed in any area where smoking is prohibited.
- 1.9. The employer may totally prohibit smoking on the premises of any public place under its control in which case the relevant area will be clearly demarcated with the relevant signage.
- 1.10. Every Office Head shall designate an outdoor smoking area; which area, where possible will not be visible to the public. It will also be the responsibility of the Office Head to ensure that all employees who fall under him/her are made aware of the location of the said designated outdoor smoking area. The designated outdoor smoking area must comply with the proposed regulations: *Smoking in Public Places and Certain Outdoor Public Places (R264 of 2012)* quoted in italics below:

***Designated outdoor smoking areas***

- “4. (1) *The owner or person in control of a public place or employer in respect of a workplace may designate part of an outdoor area of the premises as an area in which smoking is permitted.*
- (2) Smoking shall be permitted in that area only and in no other part of the public place.*
- (3) The owner or person in control of a public place or employer in respect of a workplace shall display a notice at the area stating that –*
  - (a) the area is a designated outdoor smoking area; and*
  - (b) no person under 18 years old may be present in the area; and*
- (4) More than one designated outdoor smoking area may be permitted at the premises.*

(5) *The parts of an outdoor area of the premises that may be designated outdoor smoking areas shall be clearly demarcated*

(6) *A designated outdoor smoking area shall-*

- (a) *not be adjacent to an entrance to the premises; and*
- (b) *be in a position that minimises smoke from the area entering any area where smoking is prohibited; and*
- (c) *be set aside exclusively as a smoking area; and*
- (d) *not be adjacent to walkways and other areas where persons generally congregate or walk.*

#### ***Requirements for a designated outdoor smoking area***

5. *The owner or person in control of a public place or employer in respect of a workplace of premises at which there is a designated outdoor smoking area shall ensure that, in the designated outdoor smoking area-*

- (a) *no person under the age of 18 years is present;*
- (b) *no food or refreshment is served;*
- (c) *no entertainment is provided;*
- (d) *ashtrays are installed and the area regularly cleaned; and*
- (e) *smokers are discouraged from remaining in the area longer than is necessary to smoke a cigarette.”*

1.11 Staff members who use the designated outdoor smoking areas are required to keep the areas clean at all times. All cigarette butts are to be thrown away in the correct receptacles (ashtrays or dustbins/butt bins) provided, separated from other waste.

## **2. PROTECTION OF EMPLOYEES AND REPORTING OF CONTRAVENTIONS**

Employees are protected from tobacco smoke in the workplace. Any employee who is aware of, or has been affected by a contravention of this policy may report same to the immediate supervisor or the responsible official or to proceed in terms of the grievance procedure.

Restrictions and prohibitions upon smoking shall be implemented in a manner which accommodates the preferences and needs of non-smokers who wish not to be exposed to tobacco smoke.

## **3. APPLICATION**

The policy shall apply to all employees, clients, the public and visitors.

Smoking shall only be permitted in the designated smoking areas.

## **4. EMPLOYEE ASSISTANCE**

Any employee who needs assistance to stop smoking must contact the Employee Assistance Program Officer, who will assist by providing education and information on the harmful effects of smoking and the contents of this policy.

## **5. SMOKE BREAKS**

Even though the employer strives to have a smoke-free work environment, employees who do

smoke, will be accommodated in so far as they adhere to this policy.

Employees who smoke will be allowed to take two ten minute smoking breaks, one between 10h00 and 11h00, and one between 14h30 and 15h30.

Employees who work shifts will be allowed to take two ten minute smoking breaks:

- One to be taken between 2h 45min to 3h 45min from the commencement of the shift;
- The second to be taken between 1h to 2h after lunch.

It shall be the line manager's responsibility to ensure that productivity is not compromised through smoking at the workplace.

## **6. BREACH OF THE POLICY**

- Any breach of this policy will lead to Disciplinary Action against the relevant employee.
- Smoking in a public place, which includes the workplace, is a contravention of the Tabaco Products Control Act. 83 of 1993, as amended and could lead to criminal prosecution and if convicted a fine.

### **Authority:**

Referred to Local Labour Forum by Executive Management:

### **Date:**

POL163-05/2022

Accepted by Local Labour Forum:

23 June 2022: L41-06/2022

Approved by Council for implementation:

28 July 2022: E182-07/2022

