

BEFORE THE BOARD OF NORTHEAST TRI COUNTY HEALTH DISTRICT

IN THE MATTER OF ADOPTING) RESOLUTION 05-2011
SMOKING IN PUBLIC PLACES –)
ENFORCEMENT POLICY/PROCEDURE) ADOPTING SMOKING IN PUBLIC PLACES –
) ENFORCEMENT POLICY/PROCEDURE

WHEREAS, the Board of Health of the Northeast Tri County Health District finds that there is a need for a Smoking in Public Places – Enforcement Policy/Procedure; AND

NOW, THEREFORE:

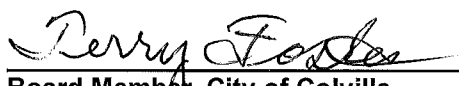
IT IS HEREBY RESOLVED by the Board of Health of the Northeast Tri County Health District that the attached is adopted as the "NORTHEAST TRI COUNTY HEALTH DISTRICT SMOKING IN PUBLIC PLACES – ENFORCEMENT POLICY/PROCEDURE".

Done this 20th day of April, 2011 in Cusick, Washington and effective immediately upon signatures as of this date.

Board Member, City of Republic



Board Member, Ferry County

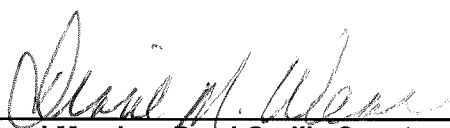


Board Member, City of Colville

Board Member, Ferry County



Board Member, City of Newport



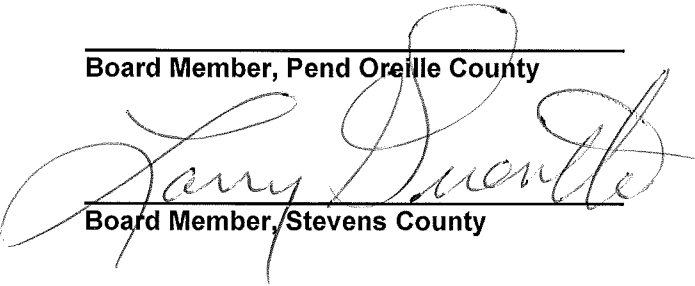
Board Member, Pend Oreille County



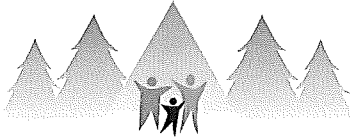
Health Officer

Board Member, Pend Oreille County

Board Member, Stevens County




Board Member, Stevens County



Northeast Tri County
HEALTH DISTRICT

NORTHEAST TRI COUNTY HEALTH DISTRICT POLICY/PROCEDURE

Title	Smoking in Public Places - Enforcement Policy/Procedure	
Reference	Chapter 70.160 RCW	
Effective Date	April 20, 2011	
Supersedes	NA	
Approved By		Date: 4/20/2011

Background/Policy Intent: On December 8, 2005, Chapter 70.160 RCW (*Smoking in Public Places Law*) was amended, prohibiting smoking in all indoor public spaces and workplaces. The law's core intent is to protect employees and the public from exposure to secondhand smoke. Northeast Tri County Health District (NETCHD) is responsible for enforcing the law with respect to businesses. Law enforcement agencies are responsible for enforcing the law with respect to individuals.

It is the intent of this policy/procedure to outline NETCHD's education efforts and enforcement protocols necessary to ensure compliance with Chapter 70.160 RCW.

Regulatory Requirements: NETCHD is responsible for enforcing the following provisions of the law:

1. Ensure owners of public places or places of employment prohibit smoking;
2. Ensure owners of public places or places of employment post signs prohibiting smoking in conspicuous locations.
3. Ensure owners prohibit smoking within a presumptively reasonable minimum distance of 25 feet of entrances, exits, open windows, etc

A violation of the provisions noted above requires NETCHD to issue a warning first. Subsequent violations are subject to a civil fine of \$100 for each day in which a violation occurs or is permitted to occur.

Procedures: The following procedures will be used to educate business owners of the provisions of the *Smoking in Public Places Law*, and seek enforcement steps when necessary to ensure compliance with the law.

1. Possible violations of the law reported by the public will be documented on a complaint intake/investigation form (See Appendix A). Complaints may be anonymous. This form may be completed by any Health District staff. If possible violations of the law are observed by staff in the course of their work, staff will document their observations on a complaint intake/investigation form or food service inspection report. Other regulatory agencies or law enforcement may submit reports documenting violations of the law to be attached to a complaint intake/investigation form.
 - a. NETCHD staff conducting food inspections will actively observe permitted food establishment for compliance with the law. Food safety staff is not expected to seek corrective action at the time but are requested to document non-compliance on the food inspection sheet and indicate that follow-up will be conducted by tobacco compliance staff.
2. When complaints are received, the complaint intake/investigation form and other documentation will be forwarded to tobacco compliance staff.
3. Tobacco compliance staff will investigate the validity of the complaint made by members of the public and document their detailed findings on the complaint intake/investigation form.
 - a. If tobacco compliance staff cannot confirm the validity of the complaint or if there are minor violations of the law (such as a lack of signage on all entrances, cigarette cans less than 25 feet to an entrances, etc), the business owner will be informed that NETCHD received a complaint regarding their establishment and be provided educational information about compliance with the law. If possible, the owner will be informed in person. In all cases, a follow-up letter will be completed and sent to the owner. See Appendix B for example letter. Tobacco compliance staff may opt to conduct an un-announced follow-up inspection to determine continued compliance.
 - b. If staff confirms the validity of the complaint, a warning letter (See Appendix C) will be provided, along with a compliance agreement (See Appendix D) to be completed by the owner and returned within seven days. Educational information will also be provided to the facility owner. The warning letter will be signed by the Health Officer or appointed designee.
4. Violations observed by NETCHD staff, regulatory agencies, or law enforcement will be considered verifiable and not require additional site visit. A warning letter (See Appendix C) will be provided, along with a compliance agreement (See Appendix D) to be completed

by the owner and returned within seven days. Educational information will also be provided to the facility owner. The warning letter will be signed by the Health Officer or appointed designee.

5. If the compliance agreement is returned and the violation corrected, no further action will be taken against the place of business.
 - a. To ensure compliance, an un-announced follow up inspection will be conducted by tobacco compliance staff within 30 days after receiving the signed compliance agreement.
6. If the compliance agreement is not returned, the violations not corrected, or if there are further violations in the future (with the same owner), then the Health Officer may refer the case to the appropriate county, city, or Health District attorney for legal action. The business may be subject to civil fines of up to \$100 per day, for each day of non-compliance. Prior to legal action, the health officer may also elect to issue a Health Officer Order and/or conduct an administrative conference in which the nature of the non-compliance is discussed and an agreement established to gain permanent compliance.

Process for rebutting the “Presumptively Reasonable Distance” requirement: Smoking is prohibited within a presumptively reasonable distance of 25 feet from entrances, exits, windows, and/or ventilation intakes to an enclosed area where smoking is prohibited. As provided for in Section 70.160.075 of the “Smoking in Public Places Law”, owners and agents of public places or places of employment may submit a request to NETCHD to rebut the presumption that 25’ is a reasonable minimum distance based upon the unique circumstances presented by their establishments. The burden of proof for distances of less than 25’ falls upon the applicant, and the request for rebutting this presumptive distance must be accompanied by documentation that clearly and convincingly demonstrates smoke will not infiltrate into the facility and therefore public health will be adequately protected by a lesser distance.

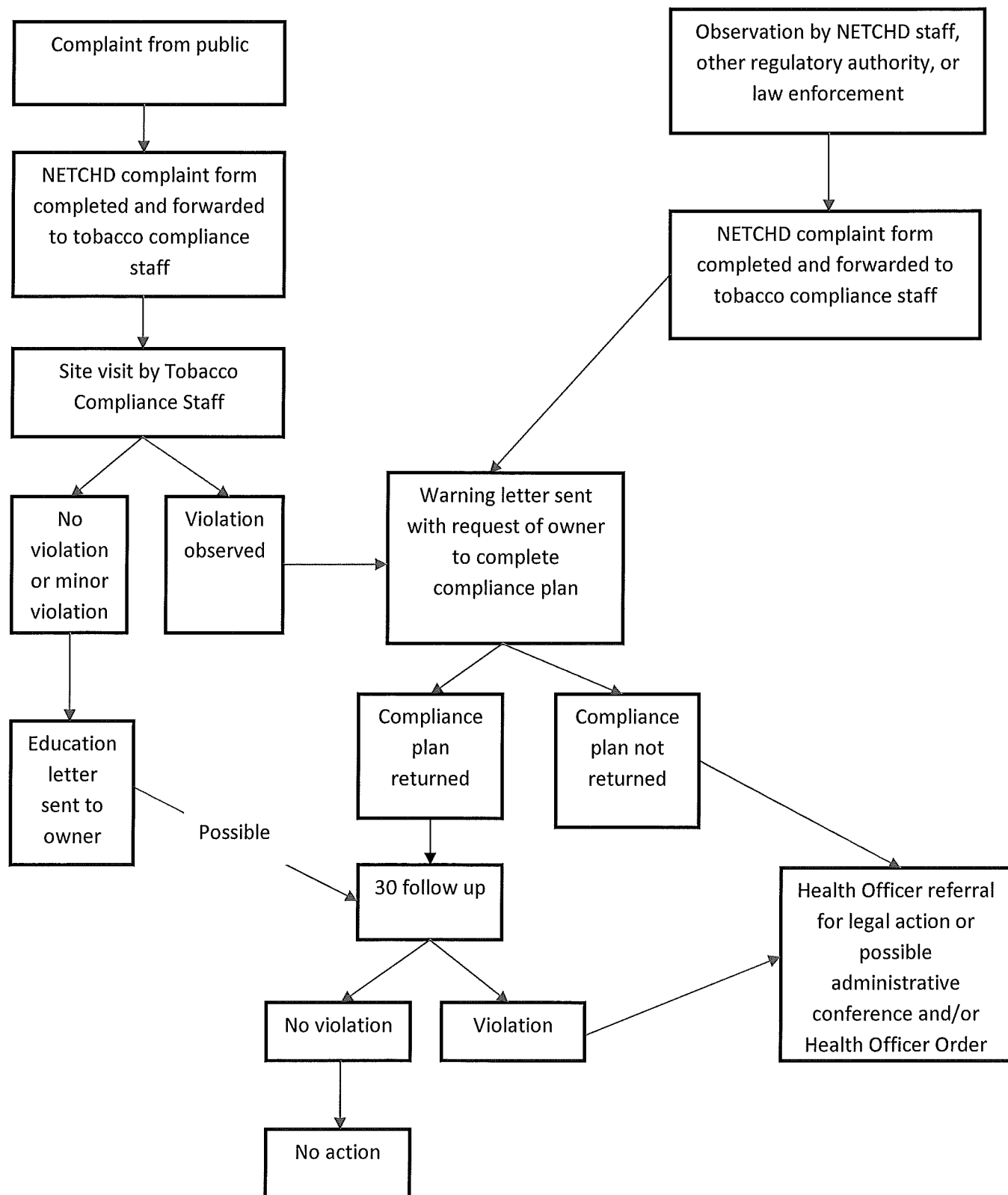
A request for rebutting the Presumptively Reasonable Distance requirement may be submitted to NETCHD for consideration. The request must be accompanied by all of the following:

1. A written description of the proposed reduction in the separation distance requirement.
2. A detailed map showing the specific area to be considered for a reduced separation distance along with the location of all entrances, exits, windows that open, and ventilation intakes within 25 feet of the proposed smoking area.
3. A written explanation describing why the presumptively reasonable distance of 25 feet cannot be met and why consideration for a reduced separation distance is necessary.

4. A written explanation describing the clear and convincing evidence that demonstrates that given the unique circumstances presented by the location of entrances, exits, windows that open, ventilation intakes or other factors, smoke will not infiltrate into the facility.
5. A written explanation describing how they will monitor the effectiveness of the reduced distance in keeping smoke from infiltrating into the facility, and what action they will take if smoke is determined to be entering the facility at a future time.

The request will be reviewed by NETCHD and a response provided to the requestor within 30 days.

Chapter 70.160 RCW "Smoking in Public Places Law" Education/Enforcement Flow Chart



Appendix A - Complaint Intake/Investigation Form

**NORTHEAST TRI COUNTY HEALTH DISTRICT
DIVISION OF ENVIRONMENTAL HEALTH
COMPLAINT REQUEST FOR SERVICE**

Date: _____	Time: _____	Received by: _____
Decade Program Element: _____		Log #: _____
Caller Name: _____ Address: _____ City/State _____ Phone #: _____		
Property owner:		Occupant:
Name: _____		Name: _____
Address: _____		Address: _____
Phone #: _____		Phone #: _____
Caller's request for service, description of problem or complaint:		
Directions to site:		
Special Considerations (i.e. safety, time, access):		
Response/referral:		
Verified: Yes No		Abated: Yes No
Date: _____		Date: _____
Referred to:		Date Referred:

Appendix B - Education Letter

<<<Date>>>

<<<Name>>>

<<<Address>>>

RE: Smoking in Public Places Law – Complaint Investigation Follow-up

Dear <<<Name>>>:

Northeast Tri County Health District has received a complaint on <<<date>>> regarding your business in violation of Chapter 70.160 RCW “Smoking in Public Places Law.” A community member reported <<<state specific observation from complaintant.>>>

A follow up investigation was conducted by Health District staff, at which time a violation was not confirmed(<<<or indicate mirror corrections were necessary>>>).

This law’s primary intent is to protect employees and the public from exposure to secondhand smoke. To comply with the law, you need to:

- **Post “no-smoking” signs that are visible in your establishment**
- **Prohibit smoking within your place of business**
- **Prohibit smoking within 25 feet of entrances, exits, windows that open, and ventilation intakes that serve the enclosed area where smoking is prohibited**

Enclosed are resources that will assist you in maintaining full compliance with these provisions and answer questions you may have.

The Health District’s intent is to work with business owners to achieve compliance with this law through education. However, as a reminder, owners of facilities who are determined to be in violation of the “Smoking in Public Places Law” can be fined up to \$100 per day.

Thank you for your attention to this important issue. Should you need any additional assistance, please contact me at <<<phone number>>>.

Sincerely,

<<<NETCHD Staff>>>

Appendix C – Warning Letter

<<<Date>>>

CERTIFIED MAIL

<<<Name>>>

<<<Address>>>

RE: Violation of Chapter 70.160 RCW, Smoking in Public Places Law

Dear <<<>>>:

The Health District has received complaints that your business is in violation of Washington’s “Smoking in Public Places Law”, Chapter 70.160 RCW. Based on these complaints, a site visit was conducted of your facility in which it was confirmed that you are in violation of this law. <<<state specific violation>>>

Washington’s Smoking in Public Places Law requires that you:

- **Post “no-smoking” signs that are visible in your establishment**
- **Prohibit smoking within your place of business**
- **Prohibit smoking within 25 feet of entrances, exits, windows that open, and ventilation intakes that serve the enclosed area where smoking is prohibited**

Enclosed are resources that will assist you in compliance with these provisions.

Under the requirements of RCW 70.160.050, this notice will be your warning. Complete the attached form to assist the Health District in monitoring your compliance. **Return this form within seven (7) days to:** Northeast Tri County Health District, 260 South Oak, Colville, WA. 99114, ATTN: <<<Tobacco Compliance Staff Name>>>

Continued non-compliance with this law will result in referral to the appropriate city, county, or Health District attorney for a Court Order to correct the violation and assess civil penalties of \$100 per day for each day you do not comply with RCW 70.160.

The Health District is committed to assist you in complying with the “Smoking in Public Places Law.” Should you have any questions, please contact me at 509-684-2262.

Sincerely,

<<<Name>>>

Health Officer

Enclosures: Compliance Plan Form, I-901 Compliance Checklist

cc: Washington State Liquor Control Board

Appendix D – Compliance Plan



Northeast Tri County Health District

**Compliance Plan for RCW 70.160
Smoking in Public Places Law**

Facility Name: _____

Address: _____

Facility Owner: _____

Telephone: _____

E-mail: _____

Fax: _____

Please provide a roughly scale drawing of your facility or facilities indicating doors, opening windows, interior walls, and ventilation intakes. On the drawing, indicate where you will post “No Smoking” signs and where you will direct staff or patrons to smoke if they choose. If needed, attach drawing(s) on another sheet of paper.

A large, empty rectangular box with a black border, intended for a hand-drawn scale drawing of the facility. The box is currently blank.

When will you brief your staff on the requirements of RCW 70.160 "Smoking in Public Places Law?"

How will you enforce the provisions of the "Smoking in Public Places Law" with your staff?

How will you inform your patrons, business partners, customers, clients, patients, or other visitors to your place of business of the requirement that they may not smoke in your place of business?

How will you enforce the provisions of "Smoking in Public Places Law" with visitors to your business?

When will you fully implement the provisions of the "Smoking in Public Places Law?"

Signature of Owner: _____ Date: _____

**Return this for within seven days to: Northeast Tri County Health District,
260 South Oak Street, Colville WA 99114**