

COPY



**REGENT OF
BANJARNEGARA
CENTRAL JAVA PROVINCE
REGIONAL REGULATION OF
BANJARNEGARA REGENCY
NUMBER 3 OF 2019**

ON

SMOKE - FREE AREA

BY THE BLESSING OF THE ALMIGHTY GOD

THE REGENT OF BANJARNEGARA,

- Considering : that in order to implement the provisions of Article 52 of Government Regulation Number 109 of 2012 concerning the Safeguarding of Materials Containing Addictive Substances in the Form of Tobacco Products for Health, it is necessary to establish a Regional Regulation on Smoke- Free Areas;
- Observing : 1. Article 18, paragraph (6) of the 1945 Constitution of the Republic of Indonesia;
2. Law Number 13 of 1950 concerning the Formation of Regency Areas within the Central Java Province;
3. Law Number 8 of 1981 concerning the Criminal Indonesia of 1981 Number 76, Supplement to the Gazette of the Republic of Indonesia Number 3274);
4. Law Number 23 of 2002 concerning Child Protection Number 109, Supplement to the State Gazette of Republic of Indonesia Number 4235);
5. Law Number 36 of 2009 concerning Health (State 144, Supplement to the State Gazette of the Republic Indonesia Number 5063);
6. Law Number 12 of 2011 concerning the Formation of of 2011 Number 82, Supplement to the State Gazette the Republic of Indonesia Number 5233);

7. Law Number 23 of 2014 concerning Regional Government (State Gazette of the Republic of Indonesia of 2014 Number 244, Supplement to the State Gazette of the Republic of Indonesia Number 5587) as amended by Law Number 9 of 2015 concerning the Second Amendment to Law Number 23 of 2014 concerning Regional Government (State Gazette of the Republic of Indonesia of 2015 Number 58, Supplement to the State Gazette of the Republic of Indonesia Number 5679);
8. Government Regulation Number 32 of 1950 concerning the Commencement of the Enforcement of Law Number 13 of 1950 on the Formation of Regency Areas within the Province of Central Java;
9. Government Regulation Number 41 of 1999 concerning Air Pollution Control (State Gazette of the Republic of Indonesia of 1999 Number 86, Supplement to the State Gazette of the Republic of Indonesia Number 3853);
10. Government Regulation Number 109 of 2012 concerning the Security of Materials Containing Addictive Substances in the Form of Tobacco Products for Health (State Gazette of the Republic of Indonesia of 2012 Number 278, Supplement to the State Gazette of the Republic of Indonesia Number 5380);

With the Joint Approval
of

THE HOUSE OF REPRESENTATIVES OF BANJARNEGARA
REGENCY

and

THE REGENT OF

BANJARNEGARA HAS DECIDED :

To enact : REGIONAL REGULATION ON SMOKE-FREE AREA

CHAPTER 1 GENERAL PROVISIONS

Article 1

In this Regional Regulation, the following definitions apply:

1. Region refers to Banjarnegara Regency.
2. Regent refers to the Regent of Banjarnegara.
3. Regional Apparatus refers to elements assisting the Regent and the House of Representatives in managing government affairs within the authority of the Region.
4. Health refers to a state of physical, mental, spiritual, and social well-being that allows every person to live productively in a social and economic context.

5. Cigarette refers to processed tobacco wrapped in various forms, including cigars or other forms derived from *Nicotiana Tabacum*, *Nicotiana Rustica*, and other species, or its synthetic variants containing nicotine and tar, with or without additional substances. It also includes electronic nicotine delivery systems consisting of a battery, heating element, and a cartridge containing liquid with nicotine, propylene glycol, or glycerin, with or without flavor additives.
6. Smoking is the activity of burning and/or inhaling tobacco, or heating liquid in a device and/or inhaling it.
7. Smoke-Free Area refers to a place, room, or area where smoking, producing, selling, advertising, and/or promoting cigarettes or tobacco products is prohibited.
8. A Closed Place or Building is a location or space that is covered by a roof and/or enclosed by one or more walls, regardless of the material used, with either a permanent or temporary structure.
9. Health Service Facility refers to any equipment and/or place used to provide health services, including promotive, preventive, curative, and rehabilitative efforts conducted by central government, regional government, and/or the community. This includes places used for health services, whether owned and/or managed by the government, private entities, community, and/or individuals.
10. A Learning Process Place is a location used for teaching and learning activities and/or education and/or training.
11. Children's Play Area refers to a place or space designated for children's activities.
12. A place of worship is a place used for religious activities.
13. Public Transportation refers to any motor vehicle provided for use by the public for a fee.
14. Workplace refers to any room or area, whether open or closed, movable or stationary, where workers work or frequently enter for the purposes of an enterprise and where there are sources of danger. This includes any enclosed or open space, whether movable or stationary, used for work with normal compensation (salary/wages), including other places traversed by workers within the Smoke-Free Area.
15. Public Place refers to any location or space where many people gather to engage in activities, either temporarily or continuously, whether or not payment is required. It includes all enclosed spaces accessible to the general public and/or places used collectively for community activities, regardless of ownership or usage rights managed by the government, private entities, and/or the community.
16. Manager, leader, and/or person responsible for the building refers to individuals and/or legal entities who, by virtue of their position, lead and/or are responsible for activities and/or operations in a place or area designated as a Smoke-Free Area, whether it is owned by the government or private entities.
17. Entity refers to a group of individuals and/or capital that forms a unit, whether engaged in business or not, including limited liability companies, commanditaire vennootschap, other forms of corporations, state-owned or regional enterprises under any name or form, partnerships, joint ventures, cooperatives, foundations, mass organizations, socio-political organizations or similar organizations, pension funds, permanent establishments, and other forms of entities.

CHAPTER II PRINCIPLES AND OBJECTIVES

Article 2

This Regional Regulation is based on the principle of:

- a. the interest of human health quality;
- b. balance;
- c. utility;
- d. integration and harmony;
- e. sustainability;
- f. participation;
- g. fairness and certainty; and
- h. transparency and accountability.

Article 3

The purpose of establishing this Regional Regulation is to:

- a. provide protection from the dangers of tobacco smoke for active and/or passive smokers;
- b. provide clean and healthy spaces and environments for the community;
- c. protect public health from the adverse effects of smoking, both direct and indirect;
- d. create a clean and healthy environment free from tobacco smoke;
- e. ensure the safety and comfort of residents;
- f. enhance awareness, willingness, and ability to live healthily; and
- g. reduce the number of smokers and prevent new smokers.

CHAPTER III SMOKE-FREE AREA

Article 4

- (1) Smoke-Free Areas include:
 - a. healthcare facilities;
 - b. educational institutions;
 - c. places where children play;
 - d. places of worship;
 - e. sports facilities;
 - f. public transportation;
 - g. places of work; and
 - h. public places and other designated areas
- (2) The leaders or persons in charge of the places referred to in paragraph (1) are required to establish and enforce Smoke-Free Areas.

Article 5

- (1) Smoke-Free Areas as referred to in Article 4, paragraph (1), points a, b, c, d, e, and f are prohibited from providing designated smoking areas and are smoke-free areas that are free from cigarette smoke up to the outermost boundaries.
- (2) Smoke-Free Areas as referred to in Article 4, paragraph (1), points g and h are areas that are free from cigarette smoke up to the extent of the outermost drip line of the roof and where a smoke-free areas may be established.

Article 6

- (1) In Non-Smoking Areas as referred to in Article 5 paragraph (2), a designated smoking area may be provided.
- (2) The designated smoking area referred to in paragraph (1) shall not be established inside the building.
- (3) The designated smoking area referred to in paragraph (1) must meet the requirements:
 - a. it is an open space or a space directly connected to the outside air, allowing for good air circulation;
 - b. it is separated from the main building/place/room and other areas used for activities;
 - c. it is far from entrances and exits; and
 - d. it is far from areas where people pass by.

Article 7

Healthcare facilities as referred to in Article 4 paragraph (1) point a include:

- a. hospitals;
- b. maternity clinics;
- c. polyclinics;
- d. community health centers;
- e. medical centers;
- f. integrated service posts;
- g. integrated development posts;
- h. pharmacies;
- i. private practices of doctors/midwives/nurses;
- j. private healthcare practices;
- and k. other healthcare facilities.

Article 8

Learning and teaching places as referred to in Article 4 paragraph (1) point b include:

- a. schools;
- b. higher education institutions;
- c. education and training centers;
- d. vocational training centers;
- e. tutoring centers;
- f. training centers; and
- g. other learning and teaching places.

Article 9

Places for children to play as referred to in Article 4 paragraph (1) point c include:

- a. children's play areas;
- b. child care centers;
- c. early childhood education buildings;
- d. kindergarten building; and
- e. other places for children to play.

Article 10

The places of worship as referred to in Article 4 paragraph (1) point d include:

- a. mosque/prayer room;
- b. church;
- c. monastery;
- d. temple;
- e. klenteng (Chinese temple);
- and f. other places of worship.

Article 11

Sports facilities as referred to in Article 4 paragraph (1) point e, include:

- a. sports field;
- b. stadium;
- c. swimming pool;
- d. gym; and
- e. other sports facilities.

Article 12

Public transportation, as referred to in Article 4 paragraph (1) point f, include:

- a. public buses;
- b. city transportation including tourist vehicles, school buses, and employee buses; and
- c. other public transportation.

Article 13

Workplaces, as referred to in Article 4 paragraph (1) point g, include:

- a. government offices, both civil and Indonesian National Armed Forces and Indonesian National Police;
- b. private offices;
- c. industries; and
- d. other workplaces.

Article 14

Public places as referred to in Article 4 paragraph (1) point h, include:

- a. modern markets;
- b. traditional markets or public markets;
- c. tourist attractions;
- d. sports venues;
- e. entertainment venues;
- f. hotels and restaurants;
- g. bus stops;
- h. public transportation terminals;
- and
- i. other public places.

Article 15

Further provisions regarding other places designated as referred to in Article 4 paragraph (1) point h are regulated by the Regent's Regulation.

CHAPTER IV OBLIGATIONS AND PROHIBITIONS

Article 16

The regional government is obligated and responsible for implementing the designation of smoke-free areas, in the form of:

- a. collecting data and information about smoke-free areas in the region;
- b. educating the public about the dangers of smoking;
- c. socializing regulations related to smoke-free areas; and
- d. monitoring and evaluating the implementation of smoke-free areas.

Article 17

- (1) Every person who produces tobacco products is prohibited from using additives unless it has been scientifically proven that the additives are not harmful to health.
- (2) Every person is prohibited from selling tobacco products using vending machines, to individuals under the age of 18 (eighteen), and to pregnant women.
- (3) Every person is prohibited from broadcasting and depicting, in the form of images or photos, showing, displaying, or revealing people smoking, cigarette sticks, cigarette smoke, cigarette packaging, or anything related to tobacco products, as well as any form of tobacco product information in print media, broadcast media, and information technology media that is related to commercial activities/advertising or that encourages people to smoke.
- (4) Every person who produces and/or imports tobacco products is prohibited from providing tobacco products and/or items resembling tobacco products free of charge to children, adolescents, and pregnant women.
- (5) Every person is prohibited from asking individuals under the age of 18 (eighteen) to sell, purchase, or consume tobacco products.
- (6) Any events sponsored by tobacco products and/or intended to promote tobacco products are prohibited from involving individuals under the age of 18 (eighteen).
- (7) Every person is prohibited from consuming, advertising, promoting, sponsoring, producing, selling, and/or purchasing cigarettes/tobacco products in smoke-free areas.
- (8) The prohibition on selling as referred to in paragraph (2) is exempted for public places that have a license to sell cigarettes.
- (9) Every person selling cigarettes in public places is prohibited from clearly displaying the types and products of cigarettes.

Article 18

Every smoke-free area manager is required to:

- a. conduct internal supervision at the places and/or locations under their responsibility;
- b. prohibit everyone from smoking in the smoke-free areas under their responsibility;
- c. remove ashtrays or similar items from the places and/or locations under their responsibility;
- d. install no-smoking signs according to the requirements at all main entrances and in places deemed necessary, and ensure they are easily readable and/or audible;
- e. further provisions regarding the form, size, and requirements of no-smoking signs as referred to in point d are regulated by the Regent's Regulation.

CHAPTER V COORDINATION, GUIDANCE, AND SUPERVISION

Part One Coordination

Article 19

- (1) The Regent coordinates with regional apparatus in the organization and management of smoke-free areas.
- (2) The Regent coordinates with government and non-governmental agencies in the organization and management of smoke-free areas.
- (3) Coordination as referred to in paragraphs (1) and (2) includes regulation and implementation.

Part Two Guidance and Supervision

Article 20

- (1) The Regent carries out guidance and supervision of the implementation of smoke-free areas in villages and urban neighborhoods.
- (2) In carrying out the guidance and supervision referred to in paragraph (1), the Regent may delegate this responsibility to the Sub-district Head.
- (3) Guidance and supervision as referred to in paragraph (1) include:
 - a. socialization and coordination;
 - b. provision of guidelines;
 - c. consultation;
 - d. monitoring and evaluation;
 - and/or e. awarding recognition.

Article 21

Further provisions regarding the implementation of coordination, guidance, and supervision as referred to in Articles 19 and 20 are regulated by the Regent's Regulation.

CHAPTER VI
COMMUNITY
PARTICIPATION

Article 22

- (1) Community participation in the management of smoke-free areas may include:
 - a. providing suggestions, opinions, and thoughts, proposals, and considerations related to the monitoring and implementation of smoke-free area policies;
 - b. participating in providing guidance and counseling as well as disseminating information to the public about smoke-free areas;
 - c. reminding or admonishing smokers not to smoke in smoke-free areas;
 - d. notifying the owner, manager, and person responsible for the smoke-free area if a violation occurs; and
 - e. reporting violations to the relevant authorities.
- (2) The regional government shall disseminate information regarding community participation in the organization and management of smoke-free areas.

CHAPTER VII
RECRUITMENT OF SMOKE-FREE AREA ENFORCEMENT TASK

FORCE Article 23

- (1) In the guidance and supervision of smoke-free areas as referred to in Article 20, the Regent forms a Smoke-Free Area Enforcement Task Force. (2) The Smoke-Free Area Enforcement Task Force consists of:
 - a. The Regent as the Coordinator;
 - b. The Vice Regent as the Deputy Coordinator;
 - c. The Regional Secretary of Banjarnegara as the Chairperson;
 - d. The Head of the Regional Apparatus handling health affairs as the Secretary; and
 - e. Heads/Chairpersons of vertical agencies and heads of regional apparatus.

CHAPTER VIII
INVESTIGATIVE
PROVISIONS

Article 24

- (1) Certain Civil Servant Investigators within the regional government are given special authority as investigators to conduct investigations into criminal offenses in the field of legal aid, as referred to in the Criminal Procedure Code.
- (2) The authority of the investigators referred to in paragraph (1) is:
 - a. receiving, seeking, collecting, and examining information or reports related to criminal offenses in the field of legal aid to ensure that the information or reports are complete and clear;
 - b. examining, seeking, and collecting information about individuals or entities regarding the truth of actions related to criminal offenses in the field of legal aid;

- c. requesting statements and evidence from individuals or entities concerning criminal offenses in the field of legal aid;

- d. Examining books, records, and other documents related to criminal acts in the field of legal aid;
 - e. Conducting searches to obtain evidence of bookkeeping, records, and other documents, and seizing such evidence;
 - f. Requesting expert assistance in the execution of duties related to the investigation of criminal acts in the field of legal aid;
 - g. Ordering individuals to stop and/or prohibiting them from leaving a room or place during an ongoing investigation and checking the identity of individuals and/or documents being carried;
 - h. Photographing individuals related to criminal acts in the field of legal aid;
 - i. Summoning individuals to be heard for their testimony and examined as suspects or witnesses;
 - j. Terminating the investigation; and
 - k. Taking other necessary actions to ensure the smooth investigation of criminal acts in the field of legal aid according to applicable law.
- (3) The investigator as referred to in paragraph (1) shall notify the commencement of the investigation and submit the results of the investigation to the Public Prosecutor through the Investigator of the Indonesian National Police, in accordance with the provisions stipulated in the Criminal Procedure Code.

CHAPTER VIII CRIMINAL PROVISIONS

Article 25

Anyone who violates the provisions as referred to in Article 17 paragraphs (2), (5), and (6) shall be punished with imprisonment for a maximum of 3 (three) days and/or a minimum fine of Rp 100,000.00 (one hundred thousand rupiah).

Article 26

Anyone who violates the provisions as referred to in Article 17 paragraphs (3), (7), (8), and (9) shall be punished with imprisonment for a maximum of 7 (seven) days and/or a maximum fine of Rp 1,000,000.00 (one million rupiah).

Article 27

Anyone who violates the provisions as referred to in Article 17 paragraphs (1) and (4) shall be punished with imprisonment for a maximum of 3 (three) months and/or a maximum fine of Rp 50,000,000.00 (fifty million rupiah).

Article 28

Any manager of a Non-Smoking Area who violates the provisions as referred to in Article 18 shall be punished with imprisonment for a maximum of 15 (fifteen) days and/or a maximum fine of Rp 50,000,000.00 (fifty million rupiah).

CHAPTER
IX CLOSING

Article 29

This regulation comes into effect one year after the date of its promulgation.

In order that every person may know hereof, it orders the promulgation of this Regional Regulation by placing it in the Official Gazette of Banjarnegara Regency.

Issued in Banjarnegara
On January 9, 2019

THE REGENT OF
BANJARNEGARA,

Signed stamp,

BUDHI SARWONO

Promulgated in
Banjarnegara
On February 4, 2019

REGIONAL SECRETARY OF THE BANJARNEGARA
REGENCY

***Signed
stamp,***

INDARTO

REGIONAL GAZETTE OF BANJARNEGARA REGENCY NUMBER 3 OF
2019

REGISTRATION NUMBER OF REGIONAL REGULATION OF
BANJARNEGARA REGENCY, CENTRAL JAVA PROVINCE NUMBER :
(3/2019)

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NUMBER 3 OF 2019

ON

SMOKE FREE-

AREA I. GENERAL

Cigarettes contain addictive substances that are very dangerous to human health. An addictive substance is one that, when consumed, causes addiction or dependency and can trigger various diseases such as cardiovascular diseases, stroke, chronic obstructive pulmonary disease, lung cancer, oral cancer, impotence, and pregnancy and fetal disorders.

Global tobacco epidemiology data show that tobacco kills more than 5 million people every year. If this continues, it is projected that there will be 10 million smoking-related deaths by 2020, with 70% of these deaths occurring in developing countries. Indonesia is the 7th largest tobacco producer in the world. In terms of the number of smokers, Indonesia is the 3rd largest country after China and India. In 2007, the smoking prevalence among adults (15 years and older) was 33.08%. The Global Youth Tobacco Survey (GYTS) Indonesia 2006 reported that more than 37.3% of students aged 13-15 years had a smoking habit.

Tobacco smoke is harmful not only to smokers but also to those around them (passive smokers). Tobacco smoke consists of mainstream smoke, which contains 25% of harmful substances, and sidestream smoke, which contains 75% of harmful substances. Tobacco smoke contains over 4,000 chemical compounds, approximately 400 of which are toxic (dangerous) and 69 are classified as carcinogens.

Passive smoke is a highly complex substance containing a mixture of gases and fine particles released from burning tobacco. Secondhand smoke is very dangerous for non-smokers who inhale smoke from others. Passive smokers face the same high risks as active smokers. One of the carcinogenic substances in tobacco smoke is Benzo(a)pyrene, which is a cancer-causing agent found in non-smokers who live close to active smokers.

There is no safe level of exposure to secondhand smoke. The dangers of secondhand smoke also affect unborn babies whose mothers smoke and individuals in rooms where smoke has been left by smokers. Immediate effects of exposure to secondhand smoke include coughing, sneezing, shortness of breath, and dizziness. Long-term effects can lead to serious health problems. Health impacts of secondhand smoke on adults include heart and vascular diseases, lung and breast cancer, and various respiratory illnesses.

Women living with smokers are at high risk of breast cancer. Secondhand smoke can trigger asthma attacks and cause asthma in healthy individuals. Pregnant women who smoke during pregnancy can affect the baby's growth, leading to low birth weight, preterm birth, and death.

Babies and children of smokers exposed to secondhand smoke are at risk of sudden infant death syndrome, lower respiratory infections (LRI), asthma, bronchitis, and middle ear infections which may lead to hearing loss. They also suffer from impaired lung function growth, which can lead to various lung diseases in adulthood. Children of smokers have a higher risk of learning difficulties, behavioral problems such as hyperactivity, and reduced concentration compared to children of non-smokers.

In addition to the health impacts, secondhand smoke also affects the economy of individuals, families, and communities due to lost income from illness and inability to work, medical expenses, and treatment costs.

Health is a fundamental human right. The right of non-smoking individuals to a healthy environment, free from contamination and health risks from tobacco smoke, must be protected. Likewise, active smokers need to be made aware of the harmful effects of smoking on their health and those around them.

Law Number 36 of 2009 concerning Health mandates regional governments to establish Smoke-Free Areas. This regulation aims to prevent and address the adverse effects of tobacco smoke. Article 115

Paragraph 2 stipulates that regional governments must designate smoke-

free areas within their jurisdictions. Smoke-free areas include: health service facilities, educational institutions, children's play areas, places of worship, public transportation, workplaces, public places, and other designated locations. The concept of this regulation is to prohibit smoking, tobacco advertising, and tobacco sales within smoke-free areas as previously outlined, except in public places where tobacco transactions are still permitted.

Smoke-free areas are the responsibility of all national components, including individuals, communities, government and non-governmental institutions, to protect the rights of current and future generations to a healthy self and environment. A cross-sectoral and multi-element commitment will greatly influence the success of smoke-free areas.

II. ARTICLE BY

ARTICLE Article 1

Sufficiently
clear.

Article 2

Point a

The term "principle of human health quality interest" means that the implementation of the Non-Smoking Area policy in the region is oriented towards improving the degree and quality of public health in the region.

Point b

The term "principle of balance" means that the implementation of the Non-Smoking Area policy in the region is carried out to achieve a balance between human health and a clean and healthy environment, free from cigarette smoke in the region.

Point c

The term "principle of utility" means that the implementation of the Non-Smoking Area policy in the region is carried out by prioritizing and must provide benefits to the wider community in the region.

Point d

The term "principle of integration and harmony" means that the implementation of the Non-Smoking Area policy in the region is carried out in an integrated manner with relevant agencies and harmoniously according to their respective duties and functions..

Point e

The term "principle of sustainability" means that the implementation of the Non-Smoking Area policy in the region is carried out with attention to and orientation towards achieving environmental sustainability.

Point f

Sufficiently

clear. Point g

The principle of "justice and certainty" refers to the implementation of the Smoke-Free Area policy being carried out in an integrated manner, while considering the sense of justice within the community and based on the applicable regulations.

Point h

The principle of "transparency and accountability" means that the implementation of the Smoke-Free Area policy in the region should be conducted in a transparent manner and be accountable to the community in the area.

Article 3

Sufficiently

clear. Article 4

Sufficiently

clear. Article 5

Paragraph (1)

The term "designated smoking area" refers to a specific area for smoking that is separated from the building and extends to the limit of water drainage from the outermost roof.

Paragraph (2)

Sufficiently

clear.

Article 6

Sufficiently

clear. Article 7

Sufficiently clear.

Article 8

Sufficiently

clear. Article 9

Sufficiently clear.

Article 10

Sufficiently clear.

Article 11
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clear. Article 29
Sufficiently clear.

SUPPLEMENT TO THE REGIONAL GAZETTE OF BANJARNEGARA
REGENCY NUMBER 268