



**Municipality of Anchorage
Department of Health & Human Services
Environmental Services Division**



Policy Relating to Implementation of Revised AMC 16.65 July 1, 2007

Chapter 65 of Title 16 of the Anchorage Municipal Code (AMC 16.65) is the law that prohibits smoking in all enclosed public places and workplaces. Many of the restrictions in these provisions of the Code were developed to minimize secondhand smoke exposure to employees and the public. This “Policy” document is provided by the Environmental Services Division of the Municipality’s Department of Health and Human Services to provide guidance to the public about the interpretation and application of AMC 16.65. This Policy is a guidance document intended to explain the Municipality’s working interpretation of the law, and is not intended to change the law set forth in AMC 16.65 or impose any requirements or limitations that would be inconsistent with AMC 16.65. If there were to be conflict between this “Policy” and AMC 16.65, the latter would of course govern.

Outdoor areas and smoking

AMC 16.65 does not prohibit or regulate smoking in outdoor unenclosed areas such as decks and patios. Reasonable distance must be maintained between outdoor unenclosed areas in which smoking is permitted and all enclosed areas in which smoking is prohibited, so that smoke does not enter enclosed public places via doors, windows, air intakes, prevailing air currents or other means allowing smoke to drift or filter into enclosed public places or workplaces. In addition, the law establishes minimum distances and restrictions placed on specific outdoor places such that smoking is prohibited:

1. Within a 5-foot radius of each entrance to a premises licensed under state law to sell alcoholic beverages for consumption on the premises.
2. Within a 50-foot radius of each entrance to a hospital or medical clinic.
3. Within a 20-foot radius of each entrance to all other enclosed public areas.
4. In seating areas of outdoor arenas, stadiums, and amphitheatres.

For purposes of AMC 16.65, in outdoor areas such as decks and patios where smoking is permitted air exchange must be sufficient to keep smoke from accumulating. Questions have arisen about how much restriction can be put on air flow by means of physical barriers such as walls, fences, roofs and awnings before an area is regarded as “enclosed” within the meaning of the law and must be non-smoking. Guidance is available from the International Building Code (IBC) related to “open” parking garages. Under the IBC, if a parking garage is not “open” ventilation systems and other engineering is necessary to assure adequate air exchange. The IBC indicates that for natural ventilation purposes, the exterior side of the structure is to have uniformly distributed openings on two or more sides and the cumulative area of these openings in

exterior walls must be at least 20% of the total perimeter wall area. The cumulative length of the openings must be at least 40% of the perimeter. However, openings are not required to be distributed over 40% of the perimeter if the required openings are uniformly distributed over two opposing sides of the building.

The Code requirement is that the structure must allow the air to circulate freely so that smoke does not accumulate. Once walls, fences, ceilings, roofs, awnings, umbrellas and other restrictions to air movement are present the guidelines from the IBC may be sufficient or may not. If smoke accumulates modifications to the area will be necessary to assure adequate airflow.

Structures built to accommodate smoking

Some facility owners may wish to provide accommodations that provide shelter for customers who smoke, in compliance with AMC 16.65. Following the guidelines below, a structure may be constructed and used to shelter smoking patrons outside the enclosed public area. When modifications to existing structures or construction to accommodate smoking are planned operators are strongly encouraged to submit to and get approval by MOA Development Services Department Planning Section prior to beginning any such project as required in their codes.

A structure that has no interior access to the place of employment and that complies with reasonable distance requirements in AMC 16.65 is allowed so long as (1) employees provide no service to the area within the structure and (2) any entry or maintenance activities by employees occur after regular business hours when there is no smoking. The structure may not be a tent, and it must meet all Development Services building safety and Fire Department code requirements. Smoking is allowed as long as no service is provided and no alcoholic beverages are served, consumed, or otherwise present in the structure.

In the winter when the outdoor deck or patio is not used for food or beverage service, a structure or outdoor protected area as described above may be established on the deck or patio as approved by Development Services Department and Fire Department according to their codes. Smoking is allowed as long as no service is provided and no alcoholic beverages are served, consumed, or otherwise present in the structure.

Under AMC 16.65 employees may smoke in any location at which the public is allowed to smoke. The Code does not prohibit management of a business from establishing more restrictive policies for employees who smoke.

Enforcement

Environmental Services Division receives and takes action on complaints about smoking in public places and work places covered by AMC 16.65. Education of the public concerning public health concerns is a top priority for the Municipality. We strive to assist business operators and others in the community to achieve voluntary

compliance with legal requirements. When these efforts are not sufficient to gain compliance, enforcement action is taken as appropriate to assure that the requirements are met and public health protected.

Enforcement procedures with respect to violations of new provisions of the Code will be similar to those utilized with the initial smoking ordinance that became law in 2000 unless there are unusual circumstances:

- First complaint – packet sent to owner/manager of facility including a letter explaining code requirements, a list of frequently asked questions with answers, public health educational materials about second hand smoke, copy of the code and no smoking signs.
- Second complaint about the same facility – a second, more strongly worded letter sent as well as public health educational materials and signs.
- Third complaint about the same facility -
 - For facilities under health permit, site visit by an Environmental Health Specialist code enforcement officer to explain code requirements, help operator understand public health and other impacts of non-compliance, discuss options for compliance, and set completion date for compliance
 - For facilities not under health permit, copies of letters and all notes forwarded to APD for follow up
- Subsequent complaint(s) for facilities under health permit – Site visit to confirm compliance/non-compliance, if still out of compliance provide more public health education, ascertain plans for compliance and whether more time is needed to complete what is necessary to be in compliance, if necessary take appropriate enforcement action which may include a Compliance Order, Notice of Violation or Citation or combination.

For questions related to AMC 16.65 or other local environmental health codes and to file a complaint, phones at the Environmental Services Customer Service Counter are answered each day during regular business hours and message recording is available after hours at the same number, 343-4200.