

CLERK'S OFFICE
AMENDED AND APPROVED
Date: 6-30-00

Submitted by: Assemblymembers Tesche, Abney, Taylor,
Tremaine, Von Gemmingen

For reading: JUNE 13, 2000

ANCHORAGE, ALASKA
AO NO. 2000-91(S)

AN ORDINANCE OF THE ANCHORAGE ASSEMBLY AMENDING TITLE 16 OF THE ANCHORAGE MUNICIPAL CODE TO ADD A NEW CHAPTER 16.65 TO PROVIDE FOR THE CONTROL AND ELIMINATION OF SMOKING IN WORK PLACES AND ENCLOSED PUBLIC PLACES

WHEREAS, numerous studies have found that tobacco is a major contributor to indoor air pollution, and that breathing second-hand smoke is a cause of disease, including lung cancer, in non-smokers; and

WHEREAS, at special risk are children, elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease; and

WHEREAS, health hazards induced by breathing second-hand smoke include lung cancer, heart disease, respiratory infection, and decreased respiratory function, including bronchoconstriction and broncho-spasm; and

WHEREAS, the Anchorage Assembly finds and declares that the prohibition of smoking in work places and enclosed public places is necessary to protect the right of all citizens, regardless of physical condition or susceptibility to health problems caused by second-hand smoke, to equality of employment opportunity as guaranteed by Section 7 of the Bill of Rights of the Anchorage Municipal Charter, Article II; and

WHEREAS, accordingly, the Anchorage Assembly finds and declares that it is in the public interest to protect the public health and welfare by prohibiting smoking in public places and places of employment.

NOW, THEREFORE, THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1: Based upon the foregoing findings and statements of purpose, Title 16 of the Anchorage Municipal Code is amended by enactment of a new Chapter 16.65, to read:

Chapter 16.65

16.65.005 Definitions

In this Chapter:

"Bar" means a premise licensed under AS 04.11.090 which does not employ any person under the age of 21 and which does not serve any person under the age of 21 unless accompanied by a parent or legal guardian, ~~is not also designated or licensed as a restaurant~~

~~or eating place~~ and where tobacco smoke cannot filter into any other area where smoking is prohibited through a passageway, ventilation system, or other means.

"Business" means any sole proprietorship, partnership, joint venture, corporation or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered.

"Employee" means any person who is employed by any employer in the consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services for a nonprofit entity.

"Employer" means any person, partnership, corporation, including a municipal corporation or nonprofit entity, who employs the services of one or more individual persons.

"Enclosed Area" means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of door or passage ways) which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid, "office landscaping" or similar structures.

"Place of Employment" means any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference and classrooms, employee cafeterias and hallways. A private residence is not a *"place of employment"* unless it is used as a child care, adult care or health care facility.

"Public Place" means any enclosed area to which the public is invited or in which the public is permitted, including but not limited to, banks, educational facilities, health facilities, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, theaters and waiting rooms. A private residence is not a *"public place."*

"Restaurant" means any coffee shop, cafeteria, sandwich stand, private and public school cafeteria, and any other eating establishment which gives or offers for sale food to the public, guests, or employees, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities.

"Retail Tobacco Store" means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

"Service Line" means any indoor line at which one (1) or more persons are waiting for or receiving service of any kind, whether or not service involves the exchange of money.

"Smoking" means inhaling, exhaling, burning or carrying any lighted ~~cigar, cigarette, pipe, weed, plant or other combustible substance in any manner or in any form.~~ tobacco product.

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3
4 "Sports Arena" means sports pavilions, gymnasiums, health spas, boxing arenas, swimming
5 pools, roller and ice rinks, bowling alleys and other similar places where members of the general
6 public assemble either to engage in physical exercise, participate in athletic competition, or witness
7 sports events.
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10 16.65.010 Application of Chapter to Municipal Facilities

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12 All enclosed facilities owned by the Municipality of Anchorage, including the Anchorage
13 School District, shall be subject to this Chapter.
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16 16.65.015 Prohibition of Smoking in Public Places

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18 A. Smoking is prohibited in all enclosed public places within the Municipality of
19 Anchorage including, but not limited to, the following places:

- 20
21 1 Elevators.
22
23 2 Restrooms, lobbies, reception areas, hallways, and any other common-use
24 areas.
25
26 3. Buses, taxicabs, and other means of public transit under the authority of the
27 Municipality of Anchorage, and ticket, boarding, and waiting areas of public
28 transit depots.
29
30 4. Service lines
31
32 5. Retail stores
33
34 6. All areas available to and customarily used by the general public in all
35 businesses and nonprofit entities patronized by the public, including but not
36 limited to, attorneys' offices and other offices, banks, laundromats, hotels,
37 and motels.
38
39 7. Restaurants.
40
41 8 Public areas of aquariums, galleries, libraries and museums when open to
42 the public.
43
44 9 Any facility which is primarily used for exhibiting any motion picture, stage,
45 drama, lecture, musical recital or other similar performance, except
46 performers when smoking is a part of stage production.
47
48 10. Sports arenas and convention halls, including bowling facilities^{and pool halls.}
49
50

11 Every room, chamber, place of meeting or public assembly, including school buildings under the control of any board, council, commission, committee, including joint committees, or agencies of the Municipality of Anchorage or any political subdivision of the State during such time as a public meeting is in progress, to the extent such place is subject to the jurisdiction of the Municipality of Anchorage.

12 Waiting rooms, hallways, wards, and semiprivate rooms of health facilities, including, but not limited to, hospitals, clinics, physical therapy facilities, doctors' offices, and dentists' offices.

13. Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities.

14. Polling places

~~15. ---Bingo games.~~

B Notwithstanding any other provision of this Chapter, any owner, operator, manager or other person who controls any establishment or facility may declare that entire establishment or facility as a nonsmoking establishment.

16.65.020 Prohibition of Smoking in Places of Employment

A. It shall be the responsibility of employers to provide a smoke-free workplace for all employees, but employers are not required to incur any expense to make structural or other physical modifications to discharge this responsibility.

B ~~By Within 90 days of~~ the effective date of this Chapter, each employer having an enclosed place of employment located within the Municipality of Anchorage shall adopt, implement, make known and maintain a written smoking policy which shall contain the following requirements:

Smoking shall be prohibited in all enclosed facilities within a place of employment without exception. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles, and all other enclosed facilities.

C The smoking policy shall be communicated to all employees within three (3) weeks of its adoption.

D. All employers shall supply a written copy of the smoking policy upon request to any existing or prospective employee.

16.65.025 Reasonable Distance

To ensure that tobacco smoke does not enter the area through entrances, windows, ventilation systems or any other means, smoking may occur, when otherwise prohibited by the property owner, only at a reasonable distance outside any enclosed area within which smoking is prohibited.

16.65.030 Where Smoking Not Regulated

A. Notwithstanding any other provision of this Chapter to the contrary, the following areas shall not be subject to the smoking restrictions of this Chapter:

1. Private residences, including private residences used as places of employment, except during hours used as a child care, adult care or health care facility.
2. Places of employment with four (4) or less employees. For the purpose of this exception, the four (4) or less employee limit includes on-site business owner(s), with the exception that in all uses cited in AMC 16.65.015 smoking shall not be permitted.
3. Twenty-five percent (25%) of hotel and motel rooms rented to guests.
4. Retail tobacco stores.
5. Restaurants, hotel and motel conference or meeting rooms and public and private assembly rooms while these places are being used for private functions.
6. Bars.
7. See amendment below.

B. Notwithstanding any other provision of this section, any owner, operator, manager or other person who controls any establishment described in this section may declare that entire establishment as a nonsmoking establishment.

16.65.035 Posting of Signs

- A. "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly, sufficiently and conspicuously posted in every building or other area where smoking is prohibited by this Chapter, by the owner, operator, manager or other person having control of such building or other area.
- B. Every public place where smoking is prohibited by this Chapter shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.

7. Bingo halls and pull tab establishments where a non-smoking section which is an enclosed area is also offered to its patrons.

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- 3
- 4 C. All ashtrays and other smoking paraphernalia shall be removed from any area where
- 5 smoking is prohibited by this Chapter by the owner, operator, manager or other
- 6 person having control of such area.
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9 16.65.040 Non-retaliation

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11 No person or employer shall discharge, refuse to hire or in any manner retaliate against any

12 employee, applicant for employment, or customer because such employee, applicant, or customer

13 exercises any right to a smoke-free environment afforded by this Chapter.

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16 16.65.045 Violations and Penalties

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- 18 A. It shall be unlawful for any person who owns, manages, operates or otherwise
- 19 controls the use of any premises subject to regulation under this Chapter to fail to
- 20 comply with any of its provisions.
- 21
- 22 B. It shall be unlawful for any person to smoke in any area where smoking is prohibited
- 23 by the provisions of this Chapter.
- 24
- 25 C. In addition to the penalties and remedies available under AMC 1.45.010 of this Code
- 26 and as allowed under AMC 16.02.040, any person aggrieved by a violation or
- 27 threatened violation of this Chapter may bring a civil action under AMC 1.45.010(B)
- 28 to enjoin that violation and to obtain the relief described in that section.
- 29

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31 16.65.050 Public Education

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33 The Department of Health and Human Services shall engage in a continuing program to

34 explain and clarify the purposes and requirements of this Chapter to citizens affected by it, and to

35 guide owners, operators and managers in their compliance with it. Such program may include

36 publication of a brochure for affected businesses and individuals explaining the provisions of this

37 Chapter.

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40 16.65.055 Other Applicable Laws

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42 This Chapter shall not be interpreted or construed to permit smoking where it is otherwise

43 restricted by other applicable laws.

44

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46 Section 2: If any provision, clause, sentence or paragraph of this Chapter or the

47 application thereof to any person or circumstances shall be held invalid, such invalidity shall not

48 affect the other provisions of this Chapter which can be given effect without the invalid provision or

49 application, and to this end the provisions of this Chapter are declared to be severable.

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Section 3: Ordinance Review

Within ^{one year} ~~two years~~ after the initial implementation of this ordinance, the Mayor, in conjunction with the Health and Human Services Department and the Anchorage Police Department, shall review the ordinance and report and make recommendations to the Municipal Assembly and the Health and Human Services Commission concerning the effectiveness of the ordinance. The report shall specifically include the following information:

1. Effectiveness of the continuing public education program and ongoing efforts to work with affected businesses and individuals.
2. Effect on reducing secondhand smoke exposure.
3. Practicality of enforcing the ordinance and any problems with enforcement.
4. Number of violations and amount of penalties.
5. Any needed revisions to the ordinance.
6. Overall economic impact.

Section 4: This ordinance shall be effective ^{12/31/00} ~~420 thirty (30)~~ days from and after the date of its approval.

PASSED AND APPROVED by the Anchorage Assembly this 20th day of June, 2000

Fay Von Henningsen
Chair

ATTEST:

Alyson Ferguson
Municipal Clerk



MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

NO. AM 585-2000

Meeting Date: JUNE 13, 2000

From: Assemblymember Tesche

Subject: AO 2000-91(S) - ELIMINATION OF SMOKING IN WORK PLACES AND
ENCLOSED PUBLIC PLACES

This 'S' version of AO 2000-91 provides the following changes:

Page 1, Lines 49-51 Better clarifies the definition of "Bar".

Page 4, Line 34: Better clarifies the timeline for employers to adopt a written smoking policy (given the ordinance's effective date of 120 days after Assembly approval).

Page 5, Lines 17-18: Better clarifies that private residences used as places of employment are not subject to the smoking restrictions.

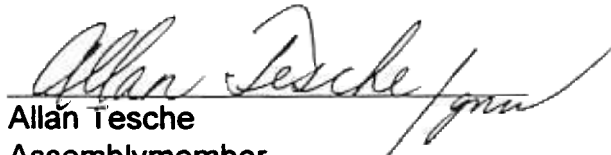
Page 5, Lines 21-23: Adds places of employment with four or less employees as an exemption to the smoking restrictions.

Page 7, Lines 4-23: Adds an Ordinance Review to review the ordinance's effectiveness within two years after initial implementation.

Page 7, Line 26: Changes the ordinance's effective date to 120 days after Assembly approval.

Approval of AO 2000-91(S) is recommended.

Respectfully submitted


Allan Tesche
Assemblymember



MUNICIPALITY OF ANCHORAGE
ASSEMBLY INFORMATION MEMORANDUM

AIM NO. 61-2000

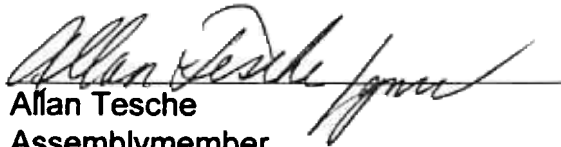
Meeting Date: JUNE 13, 2000

From: Assemblymember Tesche

**Subject: Summary of Economic Effects - AO 2000-91(S), Smoking In Work
Places and Enclosed Public Places**

Attached is a Summary of Economic Effects for AO 2000-91(S).

Respectfully submitted:


Allan Tesche
Assemblymember

MUNICIPALITY OF ANCHORAGE
Summary of Economic Effects - General Government

AO Number: 2000-91(S)

Title: Smoking In Work Places and Enclosed Public Places

Sponsor: Assemblymember Tesche

Preparing Agency: Assembly Office

Others Affected: H&HS, APD

CHANGES IN EXPENDITURE AND REVENUES (Thousands of Dollars)

Operating Expenditures	FY 94	FY 95	FY 96	FY 97	FY 98
1000 Personal Services					
2000 Supplies					
3000 Other Services					
4000 Debt Service					
5000 Capital Outlay					
TOTAL DIRECT COSTS:					

ADD: 6000 Charge from Others					
LESS: 7000 Charge to Others					
FUNCTION COSTS:					

REVENUES:					
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CAPITAL:					

POSITIONS: FT/PT and Temp.					

Public Sector Economic Effects:

When considering the public sector economic effects of a smoking restriction ordinance, the major area of impact is health and the resulting public health costs. Reports available on health impacts show:

Tobacco is responsible for one out of five deaths in Alaska, or almost 500 deaths a year.

From 1992-1994, smoking accounted for 19.8% of all deaths in Alaska.

There is no official estimate for total deaths in Alaska caused by exposure to secondhand smoke, however, active smoking is estimated to kill 419,000 Americans each year, and passive smoking is estimated to kill 53,000 non-smokers. Using this same ratio (approx. one death from passive smoking for every eight deaths from active smoking), one can estimate that approximately 60 Alaskans die each year from diseases related to secondhand smoke exposure. Others suffer non-fatal episodes of bronchitis, pneumonia, and asthma.

It is estimated that passive smoking is responsible for 7% of all deaths in Alaska among infants under the age of 12 months.

A 1998 survey of Anchorage adults found that 20% are exposed to secondhand smoke at work.

It is difficult to place an absolute dollar figure on the economic effects, however, the total medical expenditures in Alaska attributable to smoking are estimated at \$154 million annually. Of this total, Medicaid pays about \$23.6 million. Further, an analysis of monetary costs related to smoking conducted by the National Center for Tobacco Free Kids concluded that additional annual expenditures in Alaska for babies' health problems caused by mothers smoking or being exposed to secondhand smoke during pregnancy range from \$4 million to \$12 million. The report stated: "Additional health care expenditures caused by tobacco include the costs related to direct exposure to secondhand smoke, smoking-caused fires, and smokeless tobacco use. Although these additional health expenditures certainly total in the tens of millions of dollars in Alaska, and increase the Alaska government's Medicaid burden, there are no good state estimates currently available."

Private Sector Economic Effects.

The major private sector economic impact of a smoking restriction ordinance will focus on the "hospitality industry" - restaurants, bars, etc. There are studies available from other cities where a smoking restriction ordinance has been adopted, specifically analyzing sales receipts of these establishments before and after passage of the ordinance - many of these studies find no adverse economic effects on business.

Certainly, those establishments with both "bar" and "restaurant" designations, which decide to keep both designations and remodel their physical layout instead of going smokefree, may incur major reconstruction costs in order to be in compliance. On the other hand, those establishments deciding to be smokefree, or just be designated as a "bar", will not incur these reconstruction costs.

Municipality of Anchorage
MUNICIPAL CLERK'S OFFICE
AGENDA DOCUMENT CONTROL SHEET

AO 00-91(S)

1	SUBJECT OF AGENDA DOCUMENT	DATE PREPARED <i>6-9-00</i>
	<i>AO 2000-91(S) - Smoking in Work Places & Enclosed Public Places</i>	INDICATE DOCUMENTS ATTACHED
		<i>AO, AM</i>
2	DEPARTMENT NAME <i>Assembly</i>	DIRECTOR'S NAME
3	THE PERSON THE DOCUMENT WAS ACTUALLY PREPARED BY	HIS/HER PHONE NUMBER
4	COORDINATED WITH AND REVIEWED BY	INITIALS
		DATE
	Mayor	
	Municipal Clerk	
	Municipal Attorney	
	Employee Relations Director	
	Municipal Manager	
	Finance	
	Community Development and Planning	
	Property and Facility Management	
	Management Information Systems	
	Office of Management and Budget	
	Purchasing	
	Operations Manager	
	Cultural and Recreational Services	
	Fire	
	Health and Human Services	
	Police	
	Public Works	
	Transit	
	Merrill Field (Airport)	
	Municipal Light and Power	
	Anchorage Water and Wastewater	
	Port	
	Solid Waste Services	
5	SPECIAL INSTRUCTIONS/COMMENTS	
	<i>Addendum</i>	
	<i>12.0.2. New Public Hearings</i>	
6	ASSEMBLY MEETING DATE <i>6-13-00</i>	7
		PUBLIC HEARING DATE REQUESTED <i>6-13-00</i>

1735
RECEIVED
 Office of Municipal Clerk
 JUN 9 2000
 P.O. Box 196650
 Anchorage, AK 99519-6650