

Filed 3/18/03

Submitted by: Assemblymember Tesche  
Prepared by: Assembly Department  
For reading: February 25, 2003

ANCHORAGE, ALASKA  
AO NO. 2003-51

AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY ADDING AN EXCEPTION TO ANCHORAGE MUNICIPAL CODE 16.90.010 — SMOKING IN MUNICIPAL STRUCTURES — TO AUTHORIZE THE SALE OF TOBACCO PRODUCTS IN MUNICIPAL STRUCTURES OWNED BY THE ANCHORAGE PARKING AUTHORITY THAT ARE LEASED TO A PRIVATE INDIVIDUAL OR ENTITY FOR THE TERM OF THEIR LEASE AND ONE FIVE-YEAR RENEWAL THEREAFTER.

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THE ANCHORAGE ASSEMBLY ORDAINS:

**Section 1.** AMC 16.90.010 is hereby amended to add a new subsection C.

**16.90.010 Smoking in municipal structures.**

A. Except as provided in subsections [SUBSECTION] B and C of this section, it shall be unlawful for a person to smoke a cigarette, cigar or pipe or to offer tobacco for sale in any indoor place of a building, structure or other real property which is owned, leased or otherwise used or operated by the municipality.

B. A structure which is owned, leased or used by the municipality and operated by an independent contractor may contain smoking areas designated in accordance with AS 18.35.300--18.35.350.

C. A municipal structure operated by the Anchorage Parking Authority leased to a private individual or entity may sell tobacco products during the original term of the lease and for one five-year renewal period.

**Section 2.** This ordinance shall become effective immediately upon its passage and approval by the Assembly.

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2 PASSED AND APPROVED by the Anchorage Assembly this \_day of  
3 \_\_\_\_\_, 2003.  
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7 Chair  
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10 ATTEST:  
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15 Municipal Clerk  
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## MUNICIPALITY OF ANCHORAGE

### ASSEMBLY MEMORANDUM

No. AM 225 -2003

Meeting Date: March 18, 2003

1 FROM: Mayor

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3 SUBJECT: AO 2003-51, AN ORDINANCE ADDING AN EXCEPTION TO AMC  
4 16.90.010 TO AUTHORIZE THE SALE OF TOBACCO PRODUCTS  
5 IN MUNICIPAL STRUCTURES OWNED BY THE ANCHORAGE  
6 PARKING AUTHORITY  
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9 AO 2003-51 would allow tobacco sales in facilities operated by the Anchorage Parking  
10 Authority. This ordinance has apparently been introduced at the request of the owners of  
11 the Bus Stop Grocery located in the 6<sup>th</sup> Avenue Mall. In light of the introduction, a brief  
12 history of the lease to the Bus Stop Grocery and the banning of tobacco sales in the 6<sup>th</sup>  
13 Avenue Mall are appropriate.

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15 The initial lease for Bus Stop Grocery was entered into in February 1992 with Mr. and  
16 Mrs. Brooks. This was a 10-year lease that allowed the sale of "traditional convenience  
17 grocery store items."

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19 In December of 1994, the Brooks' assigned the remainder of the lease to Mr. Inn Soo  
20 Hann. The Anchorage Parking Board of Directors approved this assignment as required  
21 in the lease. As part of the Assignment, the landlord and new tenant agreed to amend  
22 the lease to include a provision allowing a 4-year extension of the lease to be negotiated  
23 in good faith at the end of the initial term. The agreement specifically allowed the  
24 Landlord to change the terms of the lease and allowed that the tenant could accept or  
25 reject the offered extension.

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27 In February 1998, the Municipal Attorneys office informed Anchorage Parking that AMC  
28 16.90.010 prohibited the sale of tobacco products in the 6<sup>th</sup> Avenue Mall. In February  
29 1998, Mr. Han requested assignment of the remainder of the lease to Mr. Yang Kim and  
30 Ms. Sonny Lee. During review of the assignment and before approval by the Anchorage  
31 Parking Board of Directors, Anchorage Parking informed both parties that the "traditional  
32 convenience grocery store items." language would be honored for the original term of the  
33 lease (through January 2002). **They were also informed at that time that any**  
34 **negotiated extension would prohibit the sale of tobacco products.**

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2 in December 2001, Anchorage Parking began negotiating with Ms. Lee regarding an  
3 extension of the Bus Stop Grocery lease. Ms. Lee challenged the decision that AMC  
4 16.90.010 applied to the 6<sup>th</sup> Avenue Mall. At that point, Anchorage Parking requested a  
5 written legal opinion from the Municipal Attorney on this issue. The opinion was received  
6 in April of 2002 and confirmed that AMC 16.90.010 applied to the 6<sup>th</sup> Avenue Mall. At that  
7 point, the Anchorage Parking Board of Directors made a final determination that tobacco  
8 products would no longer be sold in the 6<sup>th</sup> Avenue Mall. The Board of Directors was also  
9 concerned that tobacco products not be sold in a public facility frequented by so many  
10 young people.

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12 in exchange for the prohibition of tobacco sales, Anchorage Parking provided a significant  
13 reduction in the monthly lease rate for the Bus Stop Grocery of approximately \$500.00  
14 per month.

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16 The current request to exempt the 6<sup>th</sup> Avenue Mall from restrictions applied to other public  
17 facilities is neither requested nor supported by Anchorage Parking. In this instance, there  
18 appears no logical justification for treating this Municipal facility differently from other  
19 Municipal facilities.

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22 Prepared by: Kevin J. Kinney, Anchorage Parking Authority

23 Concur: Harry J. Kieling, Jr. Municipal Manager

24 Respectfully submitted: George P. Wuerch, Mayor  
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## Content Information

AM 225-2003

Content ID : 000682

Type: AM\_OtherServices - Other Services Memorandum

Title: AM IN OPPOSITION TO AO 2003-51, AN ORDINANCE ADDING AN EXCEPTION TO AMC 16.90.010 TO AUTHORIZE THE SALE OF TOBACCO PRODUCTS IN MUNICIPAL STRUCTURES OWNED BY THE ANCHORAGE PARKING AUTHORITY

Author: alanodr

Initiating  
Dept: OMB

Date  
Prepared: 3/7/03 12:03 PM

Director  
Name: Denis C. LeBlanc

Web Location: [HTTP://huffpuff/stellent/groups/public/documents/am\\_otherservices/000682.doc](http://huffpuff/stellent/groups/public/documents/am_otherservices/000682.doc)

## Workflow History

Workflow Name	Action Date	Action	User	Security Group	Content ID	Revision
OtherServicesAMWorkflow	3/7/03 12:06 PM	Checkin	alanodr	Public	000682	0
OMB_SubWorkflow	3/7/03 4:04 PM	Approve	leblancdc	Public	000682	0
OtherServicesAMWorkflow	3/10/03 4:29 PM	Reject	kielinghj	Public	000682	0
OtherServicesAMWorkflow	3/10/03 4:41 PM	Checkin	alanodr	Public	000682	0
OMB_SubWorkflow	3/10/03 4:43 PM	Approve	leblancdc	Public	000682	0
MuniManager_SubWorkflow	3/10/03 5:25 PM	Approve	kielinghj	Public	000682	0
MuniMgrCoord_SubWorkflow	3/10/03 6:07 PM	Approve	bealejl	Public	000682	0

NEW PUBLIC HEARINGS - REFERENCE AO 2003-51

7D  
CL  
IS OFFICE  
2003 MAR 11 AM 9:45  
M.O.A

Municipality of Anchorage  
MUNICIPAL CLERK'S OFFICE  
**Agenda Document Control Sheet**

*Ad 2003-51*

(SEE REVERSE SIDE FOR FURTHER INFORMATION)

<b>1</b>	<b>SUBJECT OF AGENDA DOCUMENT</b>  An Ordinance Adding an Exception to AMC 16.90.010, Smoking in Municipal Structures, for Leases to Private Individuals and Entities	<b>DATE PREPARED</b> 2/25/03		
		Indicate Documents Attached <input checked="" type="checkbox"/> AO <input type="checkbox"/> AR <input type="checkbox"/> AM <input type="checkbox"/> AIM		
<b>2</b>	<b>DEPARTMENT NAME</b> Assembly	<b>DIRECTOR'S NAME</b>  		
<b>3</b>	<b>THE PERSON THE DOCUMENT WAS ACTUALLY PREPARED BY</b> Assembly Counsel Administrative Assistant	<b>HIS/HER PHONE NUMBER</b> 4420		
<b>4</b>	<b>COORDINATED WITH AND REVIEWED BY</b>	<table style="width: 100%;"> <tr> <th style="width: 40%;">INITIALS</th> <th style="width: 60%;">DATE</th> </tr> </table>	INITIALS	DATE
INITIALS	DATE			
	Mayor			
	Heritage Land Bank			
	Merrill Field Airport			
	Municipal Light & Power			
	Port of Anchorage			
	Solid Waste Services			
	Water & Wastewater Utility			
	<b>Municipal Manager</b>			
	Cultural & Recreational Services			
	Employee Relations			
	Finance, Chief Fiscal Officer			
	Fire			
	Health & Human Services			
	Office of Management and Budget			
	Management Information Services			
	Police			
	Planning, Development & Public Works			
	Development Services			
	Facility Management			
	Planning			
	Project Management & Engineering			
	Street Maintenance			
	Traffic			
	Public Transportation Department			
	Purchasing			
	<b>Municipal Attorney</b>			
	<b>Municipal Clerk</b>			
	<b>Other</b>			
<b>5</b>	<b>Special Instructions/Comments</b>  <div style="text-align: center; font-style: italic;"> <i>Addendum -              State Auditor</i> </div>			
<b>6</b>	<b>ASSEMBLY HEARING DATE REQUESTED</b> 2/25/03	<table style="width: 100%;"> <tr> <td style="width: 50%; text-align: center; vertical-align: top;"><b>7</b></td> <td style="width: 50%; vertical-align: top;"> <b>PUBLIC HEARING DATE REQUESTED</b>   </td> </tr> </table>	<b>7</b>	<b>PUBLIC HEARING DATE REQUESTED</b>  
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11:0 A  
 2008 FEB 25 AM 11:40  
 CLERK'S OFFICE