

Submitted by: Assemblymembers TRAINI, COFFEY,
JENNINGS, TESCHE, SHAMBERG

Prepared by: Assembly Counsel

For reading: August 15, 2006

CLERK'S OFFICE

APPROVED

Date: 8-15-06

IMMEDIATE RECONSIDERATION

FAILED 8-15-06

ANCHORAGE, ALASKA

AO NO. 2006-86(S)

1 AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY REPEALING AND
2 REENACTING ANCHORAGE MUNICIPAL CODE CHAPTER 16.65, PROHIBITION
3 OF SMOKING IN PUBLIC PLACES, TO EXTEND SECONDHAND SMOKE
4 CONTROL.
5
6

7 WHEREAS, by Anchorage Ordinance 2000-91(S), effective December 31, 2000,
8 the Anchorage Assembly enacted AMC 16.65, prohibiting smoking in certain public
9 places; and

10
11 WHEREAS, since passage of AMC 16.65 in 2000, the harmful effects of
12 secondhand smoke have become more widely known, substantiated, and appreciated,
13 calling for further preventive action;

14
15 THE ANCHORAGE ASSEMBLY ORDAINS:

16
17 **Section 1.** Anchorage Municipal Code Chapter 16.65, Smoking in Public Places, is
18 hereby repealed and reenacted as follows, and as required under AMC § 1.05.050B,
19 the existing text of AMC Chapter 16.65 is appended.
20

21 **16.65.001 Title and Purpose.**

22
23 A. This chapter shall be known as "The Secondhand Smoke Control
24 Ordinance".

25
26 B. The purposes of this chapter are to:

27
28 1. Protect the public health, safety and general welfare by eliminating
29 exposure to secondhand smoke in public places, places of employment,
30 and places where child care is offered.

31
32 2. Acknowledge the need of nonsmokers, especially children, to
33 breathe smoke-free air, recognizing the danger to public health which
34 secondhand smoke causes.

35
36 3. Recognize that the need to breathe air free of the disease-causing
37 toxins in secondhand smoke should have priority over the desire and
38 convenience of smoking in public places, places of employment and
39

1 childcare.

2
3 4. Recognize the right and benefit to municipal residents and visitors
4 to be free from unwelcome secondhand smoke in public places and
5 places of employment.
6

7 **16.65.005 Definitions.**

8
9 In this Chapter:

10
11 *Business* means any natural person or legal entity (such as, without limitation, a
12 business-for-profit corporation, nonprofit corporation, partnership, limited liability
13 company or trust) that undertakes to provide goods or services to the public or to
14 persons who are members of a private group that is eligible to obtain the goods
15 or services, regardless of whether the business exists or is conducted for the
16 purpose of making a profit.

17
18 *Employee* means any person who is employed by any business for
19 compensation or works for a business as a volunteer without compensation.

20
21 *Enclosed area* means all interior space within a building or other facility between
22 a floor and a ceiling that is enclosed on all sides by walls, windows, or doors
23 extending from the floor to the ceiling.

24
25 *Place of employment* means **an any** area, under the control of **an any** employer,
26 that employees may frequent during the course of employment, including, but not
27 limited to, work areas, employee lounges, restrooms, conference rooms,
28 classrooms, cafeterias, hallways, and vehicles.

29
30 *Private club* means an organization (whether a legal entity or an informal
31 association of persons) that is the owner, lessee, or occupant of a building or
32 portion thereof used exclusively for club purposes at all times, which is operated
33 solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic
34 purpose, but not for pecuniary gain, and has been granted an exemption from the
35 payment of federal income tax as a club under 26 U.S.C. Section 501.

36
37 *Public place* means any enclosed area to which the public is invited or into which
38 the public is permitted, including but not limited to, educational facilities,
39 entertainment, food and beverage service, offices, retail stores, and
40 transportation facilities and vehicles accessible to the general public.

41
42 *Smoking* means inhaling, exhaling, burning or carrying any lighted tobacco

1 product.

2
3 ~~**Sports arena means any sports pavilion, gymnasium, health spa, boxing**~~
4 ~~**arena, swimming pool, roller and ice rink, bowling alley and other similar**~~
5 ~~**place where members of the general public assemble either to engage in**~~
6 ~~**physical activity, participate in athletic competition, or witness sports**~~
7 ~~**events.**~~
8

9 **16.65.010 Prohibition of smoking.**

10
11 A. Smoking is prohibited at the following places:

12
13 1. All enclosed public places within the Municipality of Anchorage,
14 including, but not limited to, all businesses visited by the public,
15 transportation facilities, waiting areas of public transit depots, buses,
16 taxicabs, sports arenas, and other enclosed areas open to the public.

17
18 2. All enclosed areas that are places of employment.

19
20 3. All enclosed areas on properties owned or controlled by the
21 Municipality of Anchorage, including the Anchorage School District, and
22 including every room, chamber, place of meeting or public assembly under
23 the control of any municipal board, council, commission, committee, or
24 municipal authority.

25
26 4. All areas within ~~20~~ **50** feet of each entrance to enclosed areas on
27 properties owned or controlled by the Municipality of Anchorage including
28 the Anchorage School District, and including every room, chamber, place
29 of meeting or public assembly under the control of any municipal board,
30 council, commission, committee, or municipal authority.

31
32 5. All areas within 50 feet of each entrance to a hospital or medical
33 clinic.

34
35 6. All enclosed areas where a person provides child care on a fee
36 for service basis premises offering child care by person(s) other than
37 the child's parent.

38
39 7. ~~Outdoor~~ Seating areas of outdoor arenas, stadiums, and
40 amphitheaters.

41
42 8. All areas within five (5) feet of the entrance to a premises

1 licensed under state law to sell alcoholic beverages for consumption
2 on the premises. When a licensed premises includes an outdoor
3 area such as a patio or deck, the minimum reasonable distance
4 under subsection 16.65.020 shall be five (5) feet.
5

- 6 B. Smoking is prohibited on any property not listed in subsection A of this
7 section, with or without enclosure, if the owner, operator, manager, or
8 other person having control of the property chooses to prohibit smoking.
9

10 **16.65.020 Reasonable distance.**

11
12 To ensure that smoke does not enter any enclosed area where smoking is
13 prohibited through entrances, windows, ventilation systems or any other means,
14 smoking shall occur only at a reasonable distance outside any enclosed public
15 place or place of employment where smoking is prohibited. Unless otherwise
16 stated under this chapter, or increased by the owner, operator, manager, or other
17 person having control of the property, the minimum reasonable distance is 20
18 feet.
19

20 **16.65.030 Exceptions; areas where smoking is not prohibited.**

- 21
22 A. Smoking is not prohibited in the following places:
23

24 1. A maximum of twenty-five percent of hotel and motel sleeping
25 rooms rented to guests designated as smoking rooms if the hotel or motel
26 designates at least 75% of its guest rooms as permanently nonsmoking.
27

28 2. Private clubs that are not licensed for the sale of alcoholic
29 beverages under state law and are not places of employment; however,
30 if an enclosed area is ,~~when not~~ being used for a purpose, event, or
31 function to which the general public is invited, then smoking is
32 prohibited.
33

34 3. Outdoor areas of places of employment except the outdoor areas
35 identified under AMC 16.65.010.
36

37 4. Private residences, except enclosed areas during the time
38 unless child care is provided on a fee for service basis offered on the
39 premises by person(s) other than the child's parent. Individuals
40 providing day care on a fee for service basis shall not expose
41 children to secondhand smoke.
42

- B. Nothing in this chapter shall be construed or interpreted to provide any

1 person a right to smoke on premises or property owned, leased or under
2 the legal control of another.

3
4 **16.65.040 Obligations of property owners and employers.**

- 5
6 A. "No Smoking" signs or the international "No Smoking" symbol (consisting
7 of a pictorial representation of a burning cigarette enclosed in a red circle
8 with a red bar across it) shall be clearly, sufficiently, and conspicuously
9 posted by the owner, operator, manager, or other person having control of
10 a building or other area where smoking is prohibited by this chapter.
11
12 B. Every public building owned or controlled by the Municipality of Anchorage
13 shall have posted at every entrance a conspicuous sign clearly stating that
14 smoking is prohibited within 20 50 feet of the entrance to the building and
15 within the building.
16
17 C. Every hospital and health care facility to which this chapter applies shall
18 have posted at every entrance a conspicuous sign clearly stating that
19 smoking is prohibited within 50 feet of the entrance to the building and
20 within the building.
21
22 D. All ashtrays and other smoking **accessories offered for on-premises**
23 **use paraphernalia** shall be removed by the building owner, operator,
24 manager, or other person having control of a building or other area where
25 smoking is prohibited by this chapter.
26
27 E. It shall be the responsibility of employers to provide a smoke-free
28 workplace, and neither an employer nor person having legal control of the
29 premises may permit an employee, customer, or other person to smoke
30 inside enclosed areas that are places of employment.
31
32 ~~F. Each employer within the Municipality of Anchorage shall adopt,~~
33 ~~implement and maintain a written smoke-free policy by which~~
34 ~~smoking shall be prohibited within enclosed areas at places of~~
35 ~~employment. The smoke-free policy required by this subsection shall~~
36 ~~be communicated to all existing employees and to all prospective~~
37 ~~employees upon their application for employment.~~

38
39 **16.65.050 Violations and penalties.**

- 40
41 A. It shall be unlawful for any person to smoke in any area where smoking is
42 prohibited and for any person who owns, manages, operates, or otherwise

1 controls the use of premises subject to this chapter to fail to comply with
2 the provisions of this chapter.

3
4 B. A person who smokes in an area where smoking is prohibited by the
5 provisions of this chapter shall be subject to a fine of \$100.

6
7 C. A person, owner, manager, employer, or operator who controls an
8 enclosed area or place of employment or child care in violation of this
9 chapter shall be subject to the following penalties:

10
11 1. A fine not exceeding \$100 for a first violation;

12
13 2. A fine not exceeding \$200 for a second violation; and

14
15 3. A fine not exceeding \$500 for each additional violation.

16
17 D. Any person aggrieved by a violation or threatened violation of this chapter
18 may bring a civil action under AMC 1.45.010.B to enjoin the violation and
19 to obtain the relief described in that section.

20
21 **16.65.060 Public education.**

22
23 A. The Department of Health and Human Services shall engage in a
24 continuing program of education about the public health purposes,
25 benefits and requirements of this chapter for municipal residents and
26 visitors and to guide owners, managers, employers, and operators
27 concerning the requirements of this chapter.

28
29 B. The continuing education program may include publication of a brochure
30 for affected businesses and individuals explaining the provisions of this
31 chapter, the requirement to post "No Smoking" signage, the obligation to
32 provide a smoke-free work place, and other actions consistent with AMC
33 16.65.040, to property owners, managers, employers, and operators.

34
35 **16.65.070 Non-retaliation and non-discrimination.**

36
37 No person or employer shall discharge, refuse to hire, or in any other manner
38 retaliate or discriminate against any employee, applicant for employment, or
39 customer because such employee, applicant for employment or customer insists
40 upon compliance with any requirement of this chapter.

41
42 **Section 2.** This ordinance shall become effective July 1, 2007 ~~sixty (60) days after~~

1 ~~its passage and approval by the Assembly, except that subsection 16.65.040.F~~
2 ~~shall take effect ninety (90) days after passage and approval by the Assembly.~~

3
4 PASSED AND APPROVED by the Anchorage Assembly this 15th day of
5 August, 2006.

6
7 
8 _____
Chair

9 ATTEST:

10 
11 _____
12 Municipal Clerk

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

AO 2006-86(S)

(SEE REVERSE SIDE FOR FURTHER INFORMATION)

1	SUBJECT OF AGENDA DOCUMENT S VERSION - SECONDHAND SMOKE CONTROL	DATE PREPARED 8/10/06	
		Indicate Documents Attached <input checked="" type="checkbox"/> AO <input type="checkbox"/> AR <input type="checkbox"/> AM <input type="checkbox"/> AIM	
2	DEPARTMENT NAME Assembly	DIRECTOR'S NAME Daniel A. Sullivan, Chairman	
	THE PERSON THE DOCUMENT WAS ACTUALLY PREPARED BY Julia Tucker, Assembly Counsel	HIS/HER PHONE NUMBER 343-4719	
4	COORDINATED WITH AND REVIEWED BY	INITIALS	DATE
	Mayor Municipal Clerk Municipal Attorney Employee Relations Municipal Manager Anchorage Parks & Recreation Fire Health & Human Services Merrill Field Airport Municipal Light & Power Office of Management and Budget Police Port of Anchorage Office of Economic & Community Development Solid Waste Services Public Transportation Anchorage Water & Wastewater Utility Executive Manager Planning Department Chief Fiscal Officer Heritage Land Bank Information Technology Department Project Management & Engineering Purchasing Other		
5	Special Instructions/Comments		
	ADDENDUM - OLD BUSINESS		
6	ASSEMBLY HEARING DATE REQUESTED 8/15/06	7	PUBLIC HEARING DATE REQUESTED 8/15/06

M.O.A.
2006 AUG 10 AM 10:27
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