

## Chapter 16.65 SECONDHAND SMOKE CONTROL ORDINANCE\*

\_\_\_\_\_\*Editor's note--AO No. 2006-86(S), § 1, effective July 1, 2007, amended [Chapter 16.65](#), in its entirety. History of former Chapter 16.65 is as set out below. The user is also directed to the Code Comparative Table. It should be noted that the provisions of AO No. 2006-86(S) become effective July 1, 2007.

16.65.005 Definitions.

(AO No. 2000-91(S), § 1, 12-31-00)

16.65.010 Application of chapter to municipal facilities.

(AO No. 2000-91(S), § 1, 12-31-00)

16.65.015 Prohibition of smoking in public places.

(AO No. 2000-91(S), § 1, 12-31-00)

16.65.020 Prohibition of smoking in places of employment.

(AO No. 2000-91(S), § 1, 12-31-00)

16.65.025 Reasonable distance.

(AO No. 2000-91(S), § 1, 12-31-00)

16.65.030 Where smoking not regulated.

(AO No. 2000-91(S), § 1, 12-31-00)

16.65.035 Posting of signs.

(AO No. 2000-91(S), § 1, 12-31-00)

16.65.040 Non-retaliation.

(AO No. 2000-91(S), § 1, 12-31-00)

16.65.045 Violations and penalties.

(AO No. 2000-91(S), § 1, 12-31-00)

16.65.050 Public education.

(AO No. 2000-91(S), § 1, 12-31-00)

16.65.055 Other applicable laws.

(AO No. 2000-91(S), § 1, 12-31-00)

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[16.65.001 Title and purpose.](#)

[16.65.005 Definitions.](#)

[16.65.010 Prohibition of smoking.](#)

[16.65.020 Reasonable distance.](#)

[16.65.030 Exceptions: areas where smoking is not prohibited.](#)

[16.65.040 Obligations of property owners and employers.](#)

[16.65.050 Violations and penalties.](#)

[16.65.060 Public education.](#)

16.65.070 Non-retaliation and non-discrimination.

**16.65.001 Title and purpose.**

- A. This chapter shall be known as "The Secondhand Smoke Control Ordinance."
- B. The purposes of this chapter are to:
  - 1. Protect the public health, safety and general welfare by eliminating exposure to secondhand smoke in public places, places of employment, and places where child care is offered.
  - 2. Acknowledge the need of nonsmokers, especially children, to breathe smoke-free air, recognizing the danger to public health which secondhand smoke causes.
  - 3. Recognize that the need to breathe air free of the disease-causing toxins in secondhand smoke should have priority over the desire and convenience of smoking in public places, places of employment and childcare.
  - 4. Recognize the right and benefit to municipal residents and visitors to be free from unwelcome secondhand smoke in public places and places of employment.

(AO No. 2006-86(S), § 1, 7-1-07)

**16.65.005 Definitions.**

In this chapter:

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

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

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

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

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

*Public place* means any enclosed area to which the public is invited or into which the

public is permitted, including but not limited to, educational facilities, entertainment, food and beverage service, offices, retail stores, and transportation facilities and vehicles accessible to the general public.

*Smoking* means inhaling, exhaling, burning or carrying any lighted tobacco product.

(AO No. 2006-86(S), § 1, 7-1-07)

### **16.65.010 Prohibition of smoking.**

A. Smoking is prohibited at the following places:

1. All enclosed public places within the Municipality of Anchorage, including, but not limited to, all businesses visited by the public, transportation facilities, waiting areas of public transit depots, buses, taxicabs, sports arenas, and other enclosed areas open to the public.
2. All enclosed areas that are places of employment.
3. All enclosed areas on properties owned or controlled by the Municipality of Anchorage, including the Anchorage School District, and including every room, chamber, place of meeting or public assembly under the control of any municipal board, council, commission, committee, or municipal authority.
4. All areas within 20 feet of each entrance to enclosed areas on properties owned or controlled by the Municipality of Anchorage including the Anchorage School District, and including every room, chamber, place of meeting or public assembly under the control of any municipal board, council, commission, committee, or municipal authority.
5. All areas within 50 feet of each entrance to a hospital or medical clinic.
6. All enclosed areas where a person provides child care on a fee for service basis.
7. Seating areas of outdoor arenas, stadiums, and amphitheatres.
8. All areas within five feet of the entrance to a premises licensed under state law to sell alcoholic beverages for consumption on the premises. When a licensed premises includes an outdoor area such as a patio or deck, the minimum reasonable distance under sub[Section 16.65.020](#) shall be five feet.

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

(AO No. 2006-86(S), § 1, 7-1-07)

### **16.65.020 Reasonable distance.**

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

(AO No. 2006-86(S), § 1, 7-1-07)

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

- A. Smoking is not prohibited in the following places:
  - 1. A maximum of 25 percent of hotel and motel sleeping rooms rented to guests designated as smoking rooms if the hotel or motel designates at least 75 percent of its guest rooms as permanently nonsmoking.
  - 2. Private clubs that are not licensed for the sale of alcoholic beverages under state law and are not places of employment; however, if an enclosed area is being used for a purpose, event, or function to which the general public is invited, then smoking is prohibited.
  - 3. Outdoor areas of places of employment except the outdoor areas identified under AMC 16.65.010.
  - 4. Private residences, except enclosed areas during the time child care is provided on a fee for service basis. Individuals providing day care on a fee for service basis shall not expose children to secondhand smoke.
- B. Nothing in this chapter shall be construed or interpreted to provide any person a right to smoke on premises or property owned, leased or under the legal control of another.

(AO No. 2006-86(S), § 1, 7-1-07)

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

- 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 by the owner, operator, manager, or other person having control of a building or other area where smoking is prohibited by this chapter.
- B. Every public building owned or controlled by the Municipality of Anchorage shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited within 20 feet of the entrance to the building and within the building.
- C. Every hospital and health care facility to which this chapter applies shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited within 50 feet of the entrance to the building and within the building.
- D. All ashtrays and other smoking accessories offered for on-premises use shall be removed by the building owner, operator, manager, or other person having control of a building or other area where smoking is prohibited by this chapter.
- E. It shall be the responsibility of employers to provide a smoke-free workplace, and neither an employer nor person having legal control of the premises may permit an employee, customer, or other person to smoke inside enclosed areas that are places of employment.

(AO No. 2006-86(S), § 1, 7-1-07)

#### **16.65.050 Violations and penalties.**

- A. It shall be unlawful for any person to smoke in any area where smoking is prohibited and for any person who owns, manages, operates, or otherwise controls the use of premises subject to this chapter to fail to comply with the provisions of this chapter.
- B. A person who smokes in an area where smoking is prohibited by the provisions of this chapter shall be subject to a fine of \$100.00.
- C. A person, owner, manager, employer, or operator who controls an enclosed area or place of employment or child care in violation of this chapter shall be subject to the following penalties:
  - 1. A fine not exceeding \$100.00 for a first violation;
  - 2. A fine not exceeding \$200.00 for a second violation; and
  - 3. A fine not exceeding \$500.00 for each additional violation.
- D. Any person aggrieved by a violation or threatened violation of this chapter may bring a civil action under AMC 1.45.010.B to enjoin the violation and to obtain the relief described in that section.

(AO No. 2006-86(S), § 1, 7-1-07)

#### **16.65.060 Public education.**

- A. The Department of Health and Human Services shall engage in a continuing program of education about the public health purposes, benefits and requirements of this chapter for municipal residents and visitors and to guide owners, managers, employers, and operators concerning the requirements of this chapter.
- B. The continuing education program may include publication of a brochure for affected businesses and individuals explaining the provisions of this chapter, the requirement to post "No Smoking" signage, the obligation to provide a smoke-free work place, and other actions consistent with AMC 16.65.040, to property owners, managers, employers, and operators.

(AO No. 2006-86(S), § 1, 7-1-07)

#### **16.65.070 Non-retaliation and non-discrimination.**

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

(AO No. 2006-86(S), § 1, 7-1-07)