

**CITY OF WASILLA
ORDINANCE SERIAL NO. 05-54**

AN ORDINANCE OF THE WASILLA CITY COUNCIL ENACTING WMC CHAPTER 8.16, PROHIBITING SMOKING IN PUBLIC PLACES, AND AMENDING WMC 1.20.030(C), TO ESTABLISH FINES FOR OFFENSES RELATED TO SMOKING IN PUBLIC PLACES.

* **Section 1. Classification.** This ordinance is of a general and permanent nature and shall become part of the city code.

* **Section 2. Amendment of section.** WMC 1.20.030.C, Disposition of scheduled offenses – Fine schedule, is amended to add, Smoking in Public Places in the table, as follows:

Code Section	Description of Offense	Fine
WMC 8.16.045	Smoking in Public Places	\$250

* **Section 3. Adoption of Chapter.** WMC 8.16, Prohibition of Smoking in Public Places, is adopted to read as follows:

Chapter: 8.16, Prohibition of Smoking in Public Places

8.16.005 Definitions.

8.16.010 Application of chapter to city facilities.

8.16.015 Prohibition of smoking in public places.

8.16.020 Prohibition of smoking in places of employment.

8.16.025 Smoking outside enclosed area.

8.16.030 Where smoking not regulated.

8.16.035 Posting of signs.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

8.16.040 Non-retaliation.

8.16.045 Violations and penalties.

8.16.050 Public education.

8.16.055 Other applicable laws.

8.16.005 Definitions.

The following words or phrases, when used in this chapter, shall have the meanings set forth in this section:

“Bar” means a premises 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, 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 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.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

"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 or similar structures which do not extend to the ceiling or are not solid.

"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 or more persons are waiting for or receiving service of any kind, whether or not service involves the exchange of money.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

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

“Sports arena” means sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.

8.16.010 Application of chapter to city facilities.

All enclosed facilities owned by the City of Wasilla shall be subject to this chapter.

8.16.015 Prohibition of smoking in public places.

A. Smoking is prohibited in all enclosed public places within the City of Wasilla including, but not limited to, the following places:

1. Elevators.
2. Restrooms, lobbies, reception areas, hallways, and any other common-use areas.
3. Buses, taxicabs, and other means of public transit, and ticket, boarding, and waiting areas of public transit depots.
4. Service lines.
5. Retail stores.
6. All areas available to and customarily used by the general public in all businesses and nonprofit entities patronized by the public, including but not limited to, attorneys' offices and other offices, banks, laundromats, hotels, and motels.
7. Restaurants.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

8. Public areas of aquariums, galleries, libraries and museums when open to the public.

9. Any facility which is primarily used for exhibiting any motion picture, stage, drama, lecture, musical recital or other similar performance, except performers when smoking is a part of stage production.

10. Sports arenas and convention halls, including bowling facilities and pool halls.

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 City of Wasilla 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 City of Wasilla.

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.

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.

8.16.020 Prohibition of smoking in places of employment.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

A. It shall be 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 the effective date of this chapter, each employer having an enclosed place of employment located within the City of Wasilla shall adopt, implement, make known and maintain a written smoking policy which shall contain the following requirements:

1. 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 weeks of its adoption.

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

8.16.025 Smoking outside enclosed area.

Outside an enclosed area within which smoking is prohibited, smoking otherwise permitted by the property owner may occur only at locations where smoke cannot enter the enclosed area through an entrance, window, ventilation system or other means.

8.16.030 Where smoking not regulated.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

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 other than those described in paragraphs 1 through 14 of WMC 8.16.015(A) where no more than four persons (including business owners and employees) work.

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

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.

8.16.035 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

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

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.

C. All ashtrays and other smoking paraphernalia shall be removed from any area where smoking is prohibited by this chapter by the owner, operator, manager or other person having control of such area.

8.16.040 Non-retaliation.

No person or employer shall discharge, refuse to hire or in any manner retaliate against any employee, applicant for employment, or customer because such employee, applicant, or customer exercises any right to a smoke-free environment afforded by this chapter.

8.16.045 Violations and penalties.

A. It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation under this chapter to fail to comply with any of its provisions.

B. It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this chapter.

C. In addition to the penalties and remedies available under WMC 1.20.010 of this Code and as allowed under WMC 8.16.040, any person aggrieved by a violation or threatened violation of this chapter may bring a civil action under WMC 1.20.010(B) to enjoin that violation and to obtain the relief described in that section.

8.16.050 Public education.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

The code compliance division shall engage in a continuing program to explain and clarify the purposes and requirements of this chapter to citizens affected by it, and to guide owners, operators and managers in their compliance with it. Such program may include publication of a brochure for affected businesses and individuals explaining the provisions of this chapter.

8.16.055 Other applicable laws.

Where a provision of this chapter conflicts with a restriction on smoking in another provision of law, the more restrictive provision shall govern.

* **Section 4. Effective date.** This ordinance shall take effect on September 1, 2005.

POSTPONED INDEFINITELY by the Wasilla City Council on June 27, 2005.



**CITY OF WASILLA
LEGISLATION STAFF REPORT**

RE: ORDINANCE SERIAL NO. 05-54: PROHIBITING SMOKING IN PUBLIC PLACES.

Agenda of: June 13, 2005
Originator: City Clerk for Council Member Noel Lowe

Date: June 8, 2005

Route to:	Department	Signature/Date
x	Police	<i>[Signature]</i> 6/8/05
	Recreational and Cultural Services Library, Museum	
	Public Works Planning	
X	Finance *signature required	<i>[Signature]</i>
X	Clerk	<i>[Signature]</i>

REVIEWED BY MAYOR DIANNE M. KELLER: *[Signature]* for Mayor Keller

FISCAL IMPACT: yes no Funds Available yes no

Account name/number:

Attachments: none

SUMMARY STATEMENT: Council Member Noel Lowe is sponsoring Ordinance Serial No. 05-54, which prohibits smoking in public places in the city of Wasilla.