

ORDINANCE NO. 4 - 2005

**HEADLAND ENVIRONMENTAL TOBACCO SMOKE
ORDINANCE FOR FOOD AND BEVERAGE ESTABLISHMENTS
AND ALL PUBLIC RECREATIONAL PARKS**

WHEREAS, Environmental tobacco is a leading public health problem in the City of Headland and throughout the United States; and,

WHEREAS, the use of lighted smoking products inherently creates a health hazard of second hand smoke, which affects the public health, and the enjoyment of public places; and,

WHEREAS, there exists conclusive evidence that environmental tobacco smoke causes cancer, cardiovascular disease, respiratory disease, negative birth outcomes, allergies and irritation of the eyes, ears, nose and throat of both smokers and non-smokers; and

WHEREAS, environmental tobacco smoke, which includes both exhaled and side stream smoke from burning cigarettes, causes the death of numerous Americans each year; and

WHEREAS, the harmful effects of environmental tobacco smoke are not confined to smokers but also cause severe discomfort and illness to non-smokers; and

WHEREAS, the food and beverage establishments and recreational parks have been shown to be locations of significant exposure to environmental tobacco smoke by the citizens of the City of Headland; and

WHEREAS, both the Public Health Services National Toxicology program and the World Health Organizations International Agency for Research on Cancer identify environmental tobacco smoke as a human Class A Carcinogen and state that there is no safe level of exposure; and

WHEREAS, there are laws and regulations in place that protect workers from other environmental hazards, including Class A. Carcinogens such as asbestos, arsenic and benzene, but none which regulate exposure to environmental tobacco smoke; and

WHEREAS, the United States Surgeon General, the American Cancer Society, the American Lung Association and the Alabama Department of Public Health have concluded that involuntary smoking is a cause of disease, including lung cancer in non-smokers,

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HEADLAND, ALABAMA that the Council recognizes the rights of those who want to breathe smoke free air and establishes this regulation to protect and improve the public health and welfare by requiring each food and beverage establishment and each public recreational park to be totally smoke free, except hereinafter provided in Paragraph 3 of SECTION TWO.

SECTION ONE. DESIGNATING FOOD AND BEVERAGE ESTABLISHMENTS
SMOKE FREE

1. It is hereby declared that every food and beverage establishment located within the corporate limits and police jurisdiction of the City of Headland shall be smoke free.

2. No smoking by any persons (employees or patrons) at any time will be allowed in any part of the enclosed areas of the establishment. Enclosed areas shall mean any area bounded by walls and served by heating, ventilating and air conditioning systems and through which air can circulate from one portion to another, including, but not limited to offices, rooms, hallways, customer service areas, foyers, common areas, waiting areas, restrooms, lounges, and eating areas.

3. All food and beverage establishments shall have signs posted conspicuously on or adjacent to each and every door to the establishment that is generally accessed by patrons or employees plainly visible from the exterior of the building to persons entering through the door.

4. All food and/or beverage establishments as used herein means any establishment which is required to have a business license from the City of Headland and which provides food and/or beverage and a permit from the health department and/or an "on

premises" liquor license from the Alcohol and Beverage Control (ABC) Board.

5. Smoking shall mean inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe, or other lighted tobacco product in any form or manner.

SECTION TWO. DESIGNATING ALL PUBLIC RECREATIONAL PARKS
SMOKE FREE.

1. All public recreational parks located within the corporate limits or police jurisdiction of the City of Headland are hereby designated Smoke Free, except as hereinafter provided.

2. For all public recreational parks herein designated as Smoke Free, there shall be no smoking by any persons, including employees or patrons, at any time on any part of the public recreational park premises, except as provided in the following Paragraph 3.

3. Smoking is permitted in designated parking areas of all public recreational parks.

SECTION THREE. VIOLATIONS.

1. It shall be the responsibility of the owner, business agent, manager or other person having control of such food and/or beverage establishment to insure compliance with all sections of this ordinance pertaining to his/her place of business.

2. Any person found guilty of violating the provisions of this section shall be punished by a fine of not less than \$25.00 nor more than \$500.00 or by imprisonment in the jail or at hard labor for a period not exceeding six months or by both such fine and imprisonment at the discretion of the judge.

3. Each calendar day an owner, business agent, manager or other person having control of a food and beverage establishment operates in violation of any provision of this ordinance shall be deemed a separate violation; each calendar day a patron violates this ordinance shall be deemed a separate violation.

4. If the owner, business agent, manager or other person having control of such food and beverage establishment attempts to enforce this ordinance and a patron violates it (smokes in a portion thereof designated as Smoke Free), then the owner,

business agent, manager or other person having control shall not be deemed to be in violation of this ordinance and the patron shall be subject to the penalty provided herein.

5. For violations in the public recreational parks the Headland Police Department shall be responsible for bringing charges and enforcement of this ordinance.

SECTION FOUR.

ENFORCEMENT

1. The general authority to enforce this ordinance shall be held by the City of Headland, through any of its subsidiary departments or designees.

2. An owner, manager, operator or employee of an establishment regulated by this ordinance shall inform persons violating this ordinance of the appropriate provisions thereof.

3. The City of Headland's Fire Department or its designee, the Henry County Health Department or its designee, the Headland Police Department or its designee, shall, while in an establishment that is undergoing otherwise mandated inspection, or at any other time deemed necessary by these entities, inspect for compliance with this ordinance.

4. Any citizen who desires to register a complaint under this ordinance may initiate enforcement with the Headland Police Department or with any magistrate authorized to issue warrants for trial of City of Headland cases.

SECTION FIVE.

SEVERABILITY

If any provision, clause, sentence or paragraph or word of this ordinance or the application thereof to any person, entity or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this ordinance which can be given effect and without the invalid provision or application and to this end the provisions of this ordinance are declared severable.

SECTION SIX.

EFFECTIVE DATE.

This ordinance shall become effective immediately upon its passage and publication as required by law.

ATTEST:

John Anderson
CITY CLERK

W. G. Thibault
MAYOR