

FINAL ORDINANCE

DIVISION 2. REGULATIONS TO BE EFFECTIVE NOVEMBER 15, 2006*

* **Editors Note:** Ord. No. 2168, § 1, adopted Nov. 4, 2003, set out provisions pertaining to smoking in public places to be effective Aug. 1, 2007. At the direction of the city these provisions have included as Div. 2, §§ 10-41--10-46.

Sec. 10-41. Definitions.

The following words, terms and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

City means the City of Auburn.

Employee means any person who is employed by an employer for compensation or profit.

Employer means any person, partnership, corporation, association or other entity, that employs five (5) or more persons.

Place of employment means any indoor area under the control of an employer to which employees have access during the course of employment, including, but not limited to: stores, offices and other commercial establishments, restaurants, public and private educational institutions, health care facilities, nursery and convalescent homes, government buildings, public transportation vehicles, elevators, restrooms, and other areas as described herein.

Smoking or *smoke* shall include the carrying, holding, or possession of lighted smoking materials in any form, including but not limited to, the possession of lighted cigarettes, cigars, pipes, or other tobacco products.

(Ord. No. 2168, § 1, 11-4-03)

Sec. 10-42. Prohibitions.

Except as provided in section 10-43, smoking is prohibited in any of the following public places:

- (1) Any commercial establishments, including but not limited to retail stores, restaurants, banks, office buildings, and offices;
- (2) Any vehicles of public transportation; including but not limited to buses, taxicabs, and limousines;
- (3) Elevators;
- (4) Restrooms;

- (5) Libraries, schools or other educational facilities, museums, auditoriums and art galleries;
- (6) Any public area of health care facilities, health clinics or ambulatory care facilities, including but not limited to laboratories associated with the rendition of health care treatment, hospital rest homes, doctors' offices and dentists' offices;
- (7) Any indoor places of entertainment or recreation, including but not limited to gymnasiums, theatres, concert halls, and arenas;
- (8) Any other enclosed areas used by the public or serving as a place of employment.
(Ord. No. 2168, § 1, 11-4-03)

Sec. 10-43. Exceptions.

Section 10-42 and the restrictions imposed therein shall not apply to:

- (1) An entire room or hall which is used for private social functions;
- (2) Performers upon the stage, provided that the smoking is part of a theatrical production;
- (3) A tobacco specialty retail shop; or
- (4) Hotel or motel rooms that are rented to guests and are permanently designated as smoking rooms.
(Ord. No. 2168, § 1, 11-4-03)

Sec. 10-44. Responsibility of proprietors.

The proprietor or other person having control of any area within section 10-42 shall:

- (1) Prominently post "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 bar across it. The proprietor or other person having control of such building or public place shall clearly and conspicuously post such sign in every room, building or other area where smoking is regulated by this article.
- (2) Post signs conspicuously in the lobby of every theatre stating that smoking is prohibited within the theatre or auditorium.
- (3) Request any person smoking in violation of this article to stop.
(Ord. No. 2168, § 1, 11-4-03)

Section 10-45. Reasonable Distance.

Smoking is prohibited within a reasonable distance of ten (10) feet outside an enclosed area where smoking is prohibited, so as to ensure tobacco smoke does not enter the area through entrances, windows, ventilation systems or other means.

Sec. 10-46. Enforcement.

The provisions of this article are enforceable by the Lee County Health Officer or a duly authorized representative thereof, or the city manager or his duly authorized representative or representatives.

(Ord. No. 2168, § 1, 11-4-03)

Sec. 10-47. Penalty.

The following persons shall be guilty of a misdemeanor subject to punishment as set forth in Section 1-9 of the City Code:

- (1) Any person who willfully smokes in an area where smoking is prohibited under this article; or
- (2) Any business proprietor or person in charge of a public place who fails or refuses to post appropriate signage or refuses to request that any person smoking cease to do so as required herein.

(Ord. No. 2168, § 1, 11-4-03)

Section 10-48. Effective Date.

This Ordinance shall be effective on the 15th day of November 2006, but shall, nonetheless, be published as required by law and codified in the Code of the City Auburn, Alabama.

Section 10-49. Repeal of Existing Ordinance.

This Ordinance repeals Ordinance No. 1417 adopted April 21, 1992.