

Kamie Yagumo

ORDINANCE NO. 992

**AN ORDINANCE ESTABLISHING A SMOKING/NON-SMOKING
POLICY IN PUBLIC PLACES IN
ALEXANDER CITY, ALABAMA**

WHEREAS, The United States Surgeon General has concluded that involuntary smoking is a cause of disease, including lung cancer, in non-smokers; and

WHEREAS, the possession of lighted smoking materials in public places is a nuisance and is hazardous to the public health, safety, comfort, convenience, and indoor environment; and

WHEREAS, the simple separation of smokers and non-smokers within the same air space may reduce, but does not eliminate, the exposure of non-smokers to environmental tobacco smoke; and

WHEREAS, the City Council of the City of Alexander City, Alabama, finds that it is necessary to prohibit smoking in public places except in areas designated as "smoking" areas.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Alexander City, Alabama, that it hereby establishes regulations governing smoking in public places as follows:

SECTION 1. Definitions.

(a) "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;

(b) "Public" or "Public Place" shall mean any enclosed area that is used by the general public, or that is a place of business or employment, or that is a public meeting area, and includes, but is not limited to: stores, offices and other commercial establishments, restaurants, public and private educational institutions, health care facilities, nursing and convalescent homes, government buildings, public transportation vehicles, elevators, restrooms, and other areas described in Section 2;

(c) "Service Line" means any indoor line at which one or more persons are waiting for or receiving service of any kind, regardless of whether such service involves the exchange of money;

(d) "Employee" means any person who is employed by an employer for compensation or profit;

(e) "Employer" means any person who employs for compensation or profit one or more employees;

(f) "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 work areas, employee lounges, employee restrooms, conference rooms and employee cafeterias. A private residence is not a place of employment.

SECTION 2. Offenses

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Except as provided in Section 3 and 4, smoking is prohibited in any of the following public places:

- (a) Any commercial establishment, including but not limited to retail stores, restaurants, banks, office buildings and offices;
- (b) Any vehicle of public transportation.
- (c) Elevators.
- (d) Restrooms.
- (e) Libraries, schools or other educational facilities and auditoriums.
- (f) Any public area of a health care facility, health clinics or ambulatory care facilities, including but not limited to laboratories associated with the rendition of health care treatment, hospitals (with exceptions in patient rooms) rest homes, doctors' offices and dentists' offices;
- (g) Any indoor place of entertainment or recreation, including but not limited to gymnasiums, theatres, arenas and enclosed swimming pools;
- (h) Any other enclosed area used by the public or serving as a place of work;
- (i) Hospitals shall accommodate non-smokers by prohibiting smoking in all patient rooms, except where all occupants thereof consent to smoking. Hospitals may set aside designated lounge area for smoking.

SECTION 3. Exceptions.

Section 2 and the restrictions imposed therein shall not apply to:

- (a) Areas which are specifically designated as smoking areas in accordance with Section 4 of this Ordinance.
- (b) An entire room or hall which is used for private social functions, provided that the event is under the control of the sponsor of the function and not of the proprietor or person in charge of the establishment or hall;
- (c) A separated bar area of a restaurant; or a licensed lounge;
- (d) A private, enclosed office provided that this exception shall not be construed to permit smoking in the reception areas of lobbies or offices unless designated as smoking areas;
- (e) Performers upon stage, provided that the smoking is part of a theatrical production;
- (f) A tobacco specialty shop;
- (g) Any restaurant between the hours of 12 midnight and 5 a.m.;

SECTION 4. Designation of smoking areas.

- (a) Smoking areas may be designated by proprietors or other persons in charge of a public place as designated in Section 2, except in places in which smoking is otherwise prohibited by the Fire Department of the City of Alexandria or by other statute, ordinance, or resolution.

(b) Where smoking areas are designated, each smoking area shall:

1. Be set apart from non-smoking areas; and
2. Be situated so existing barriers and functioning ventilation systems are used to minimize the irritating and toxic effects of smoke in adjacent non-smoking areas; and
3. Be designated by appropriate signs which are clearly visible to patrons in or entering the area via the front entrance to the premises; and
4. Contain ashtrays, containers or other facilities for the extinguishment of smoking materials; and
5. Not include service lines or cashier areas; and
6. Not include meat or produce counter areas in any store.

(c) No public place within Section 2, other than those places enumerated as exceptions under Section 3, shall be designated as a smoking area in its entirety.

SECTION 5. Responsibility of Proprietors.

The proprietor or other person having control of any area within Section 2 shall:

(a) Provide a seat in a non-smoking area for any persons requesting such a seat;

(b) Prominently post "Smoking" or "No Smoking" signs, whichever may be appropriate, 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 a sign in every room, building or other area where smoking is regulated by this Ordinance;

(c) Post signs conspicuously in the lobby of every theatre stating that smoking is prohibited within the theatre or auditorium, and in the case of motion picture theatres such information shall be shown upon the screen prior to the showing of each feature motion picture;

(d) Request persons smoking in violation of this Ordinance to stop, or to leave the non-smoking area and move to a designated smoking area.

SECTION 6. Regulation of Smoking in the Workplace.

Each employer in the City of Alexander City shall implement and maintain a smoking policy for its employees within sixty (60) days after this Ordinance becomes law. The policy shall contain, at a minimum, the following provisions and requirements:

(a) The employer shall accommodate, insofar as possible, the preferences of non-smoking and smoking employees. An employer is not required by this provision to incur any expense for making structural or other physical modifications to accommodate the preference of non-smoking or smoking employees.

(b) The smoking policy shall be announced within three weeks of adoption to all employees working in the place of employment and posted conspicuously in all workplaces under the employer's control.

SECTION 7. Enforcement.

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The provisions of this Ordinance are enforceable by the County Health Officer or a duly authorized representative thereof.

SECTION 8. Penalty.

Any person who willfully smokes in an area where smoking is prohibited under this Ordinance; or

Any business proprietor or person in charge of a public place who fails or refuses, five days after warning, to designate smoking and non-smoking areas as required herein or who, being asked to do so, fails or refuses to enforce the designations, or

Any employer who fails or refuses to adopt and implement a smoking policy for the workplace which shall reasonably accommodate, insofar as possible as herein provided, the preference of smoking and non-smoking employees;

Shall be guilty of an "offense" and shall be subject to punishment by a fine of not less than \$1 or more than \$500 for each such offense.

SECTION 9. Miscellaneous.

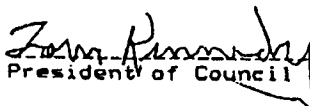
(a) Nothing in this Ordinance excuses non-compliance with any federal or state law, other City of Alexander City ordinance, or any rule or regulation which prohibits smoking.

(b) Validity or constitutionality. If any portion of this Ordinance shall be held unconstitutional, invalid or unenforceable, such holding shall not affect the remaining portions or render the remaining portions invalid, and to that end the provisions hereof are declared to be severable.

SECTION 10. Effective Date.


This ordinance shall be effective immediately upon adoption, and publication as required by law.

ADOPTED, this 2nd day of August, 1993


President of Council

APPROVED this 2nd day of August, 1993


Mayor

ATTEST: 
City Clerk

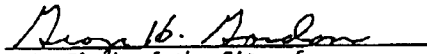
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CERTIFICATE OF CITY CLERK

The undersigned, as Clerk of the City of Alexander City, Alabama, hereby certifies that the foregoing is a true, correct, and complete copy of Ordinance No. which was duly adopted by the City Council on the 2nd day of August, 1993.

WITNESS MY SIGNATURE, as Clerk of the City of Alexander City, Alabama, under the seal thereof, this 2nd day of August, 1993.


As Clerk of the City of
Alexander City, Alabama

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