

ORDINANCE NO. 324

AN ORDINANCE TO REGULATE SMOKING
IN CERTAIN PUBLIC PLACES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BAYOU LA BATRE, ALABAMA, as follows:

Section 1. Purpose.

Whereas, the United States Surgeon General has long warned smokers that smoking tobacco, or any other weed or plant, is hazardous to their health; and evidence now indicates that smoke is a material annoyance, inconvenience and health hazard to non-smokers who are present in confined areas. In order to serve public health, safety and welfare, the declared purpose of this Ordinance is to prohibit the smoking of tobacco, or any weed or plant, in all municipal buildings and facilities owned by or leased to the City of Bayou La Batre, except in designated smoking areas or facilities exempted from this Ordinance.

Section 2. Definitions.

- A. "City" means the City of Bayou La Batre, Alabama.
- B. "Smoke" or "smoking" shall include carrying or holding of a lighted pipe, cigar or cigarette of any kind, or any other lighted smoking equipment; or the lighting or emitting or exhaling the smoke of a pipe, cigar or cigarette of any kind.
- C. "Municipal buildings and facilities" shall mean any enclosed area owned, leased and operated by the City of Bayou La Batre, its agents, servants or employees.

Section 3. Prohibitions.

No person shall smoke in any "municipal building or facility" which has been designated as a "no smoking" area. Such non-smoking areas shall be identified by clearly, sufficiently and conspicuously posted "no smoking" signs and/or signs with the international "no smoking" symbol.

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Section 4. Designation of Smoking Areas.

A. Smoking areas may be designated in municipal buildings and facilities except where smoking is prohibited by other laws, ordinances or regulations.

B. Each department head shall have the responsibility of providing smoke-free areas for non-smokers to the maximum extent possible within existing municipal buildings and facilities, but department heads are not required to incur any expense or make structural or other physical modifications in providing these areas.

C. Any department head who, in good faith, develops and promulgates a policy regarding smoking and non-smoking in the workplace shall be deemed to be in compliance with this Ordinance, provided that a policy which designates an entire workplace as a smoking area shall not be deemed a good faith policy.

D. Any municipal building or facility may be designated in its entirety as a non-smoking area by the Mayor of the City.

E. No public place shall be designated as a smoking area in its entirety.

Section 5. Posting of Signs.

A. Signs which designate smoking or non-smoking areas established by this Ordinance shall be clearly, sufficiently and conspicuously posted in every room, building or other "municipal building or facility" so covered by this Ordinance.

B. The manner of such posting, including the wording, size, color, design and place of posting, whether on walls, doors, tables, counters, stands or elsewhere, shall be at the discretion of the department head having control of such room, building or other place, so long as clarity, sufficiency and conspicuousness are apparent in communicating the intent of this Ordinance.

Section 6. Enforcement and Appeal.

A. Any person who smokes in a posted "no smoking" area is

in violation of this Ordinance. Also, any person who willfully destroys or defaces any sign posted in compliance with this Ordinance is in violation of this Ordinance.

B. The provisions of this Ordinance are enforceable by any duly sworn police officer employed by the City, the Fire Marshal or his duly authorized representative, or as otherwise allowed by law.

Section 7. Violation; Penalty.

Any person found guilty of violating the provisions of this Ordinance shall be punished by a fine or not less than fifty (\$50.00) dollars, nor more than five hundred (\$500.00) dollars, or by imprisonment in the jail or at hard labor or community service for a period not exceeding six (6) months, or by both such fine and imprisonment and/or community service at the discretion of the judge.

Section 8. Severability.

If any section, sentence, clause or phrase of this Ordinance is, for any reason, held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decisions shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

This Ordinance shall be in full force and effect upon its adoption and publication as provided by law.

ADOPTED on this the 28th day of June, 1990.



MAYOR

ATTEST:



CITY CLERK