

ORDINANCE NO.: 2013-31

AN ORDINANCE OF THE CITY OF CHICKASAW, ALABAMA PROVIDING FOR A SMOKING BAN, PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR THE IMPOSITION OF CIVIL PENALTIES AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, scientific studies have found that tobacco smoke is a major contributor to indoor air pollution; and

WHEREAS, scientific studies, including studies conducted by the Surgeon General of the United States have shown that breathing secondhand smoke is a significant health hazard; and

WHEREAS, the Major and City Council of the City of Chickasaw find and declare that the purposes of this ordinance are to protect the public health and welfare of its citizens by prohibiting smoking in public places and places of employment.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICKASAW, ALABAMA:

SMOKING BAN ORDINANCE

Sec. 1 – Definitions.

As used herein:

- A. *"Bar"* means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.
- B. *"Business"* means a sole proprietorship, partnership, joint venture, corporation, or other business entity, either for-profit or not-for-profit including retail establishments where goods or services are sold; professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered; and private clubs.
- C. *"City"* means the City of Chickasaw, Alabama.
- D. *"Employee"* means any person who is employed by an employer for compensation or profit.

- E. *"Employer"* means any person, partnership, corporation, association or other entity which employs one (1) or more persons.
- F. *"Enclosed Area"* means all space between a floor and ceiling that is enclosed on all sides by permanent or temporary walls or windows (exclusive of doorways), which extend from the floor to the ceiling.
- G. *"Health Care Facility"* means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, long-term care facilities, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, psychiatrists, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.
- H. *"Place of employment"* shall mean 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, restrooms, employee lounges, conference rooms and employee cafeterias. A private residence does not constitute a "place of employment", unless it is used as a child care, adult day care or health care facility.
- I. *"Playground"* means any park or recreational area designed in part to be used by children that has play or sports equipment installed or that has been designated or landscaped for play or sports activities, or any similar facility located on public or private school grounds or on the City of Chickasaw grounds.
- J. *"Private Club"* means an organization, whether incorporated or not, which is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and which only sells alcoholic beverages incidental to its operation. The affairs and management of the organization are conducted by a board of directors, executive committee, or similar body chosen by the members at an annual meeting. The organization has established bylaws and/or a constitution to govern its activities. The organization has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. Section 501.
- K. *"Public place"* shall mean any area enclosed or otherwise, to which the public is invited or permitted, including but not limited to retail stores, retail service establishments, retail food production and marketing

establishments, restaurants, theaters, stadiums, sports facilities, waiting areas for any business, establishment, etc., restrooms, elevators, government or civic buildings, educational facilities, medical or health facilities, public transportation and hotels and motels. A private residence does not constitute a "public place", unless it is used as a child care, adult day care or health care facility.

- L. *"Restaurant"* means an eating establishment, including but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" shall include a bar area within the restaurant.
- M. *"Service Line"* means an indoor or outdoor line in which one (1) or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money, including but not limited to, ATM lines, concert lines, food vendor lines, movie ticket lines, and sporting event lines.
- N. *"Shopping Mall"* means an enclosed public walkway or hall area that serves to connect retail or professional establishments.
- O. *"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.
- P. *"Sports Arena"* means sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys, and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events.

Sec. 2 – Enforcement.

- A. The provisions of this Ordinance are enforceable by any duly authorized municipal code enforcement officer, police officer or fire department official, or as otherwise allowed by law.
- B. The Health Department, Fire Department, or their designees shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this Ordinance.

Sec. 3 – Violation; penalty.

- A. Any person found guilty of violating the provisions of this Ordinance shall be punished with a fine of seventy dollars (\$70.00) plus court costs, or by community service for a period not exceeding six (6) months, or by both fine and imprisonment and/or community service at the discretion of the judge.
- B. A person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the provisions of this Ordinance shall be guilty of an infraction, punishable by:
 - 1. A fine not exceeding one hundred dollars (\$100) for a first violation.
 - 2. A fine not exceeding two hundred dollars (\$200) for a second violation within one (1) year.
 - 3. A fine not exceeding five hundred dollars (\$500) for each additional violation within one (1) year.
- C. Each day on which a violation of this Ordinance occurs shall be considered a separate and distinct violation.

Sec. 4 – Application of Ordinance to City of Chickasaw Owned Facilities.

All enclosed facilities, including buildings and vehicles owned, leased, or operated by the City of Chickasaw, shall be subject to the provisions of this Ordinance.

Sec. 5 – Prohibition of Smoking in Enclosed Public Places.

Smoking shall be prohibited in all enclosed public places within the City of Chickasaw, including but not limited to the following:

- A. Aquariums, galleries, libraries, and museums.
- B. Areas available to and customarily used by the general public in businesses and non-profit entities patronized by the public, including but not limited to, banks, laundromats, professional offices, and retail service establishments.
- C. Bars.
- D. Bingo facilities.
- E. Child care and adult day care facilities.

- F. Convention facilities. Smoking may be permitted in designated outdoor smoking areas in the city's convention center and civic center when the building, in part or in whole, is leased for a private function where the general public is not invited. A damage deposit may be required in such instances for cleaning and smoke damage repair purposes.
- G. Educational facilities, both public and private.
- H. Elevators.
- I. Gaming facilities.
- J. Health care facilities, to include all private and semi-private rooms in nursing homes.
- K. Hotels and motels.
- L. Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities.
- M. Places of employment. Smoking shall be prohibited in all enclosed areas of employment without exception. This includes, without limitation, 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. This prohibition on smoking shall be communicated to all existing employees by the effective date of the article and to all prospective employees upon their application for employment.
- N. Polling places.
- O. Public transportation vehicles, including buses and taxicabs, under the authority of the City of Chickasaw, and ticket, boarding, and waiting areas of public transportation facilities, including bus, train, and airport facilities.
- P. Restaurants.
- Q. Restrooms, lobbies, reception areas, hallways, and other common-use areas.
- R. Retail stores.
- S. Rooms, chambers, places of meeting or public assembly, including school buildings, under the control of an agency, board, commission, committee

or council of the City of Chickasaw or a political subdivision of the State, to the extent the place is subject to the jurisdiction of the City of Chickasaw.

- T. Service lines.
- U. Shopping malls.
- V. Sports arenas, including enclosed places in outdoor arenas.
- W. Theaters and other facilities used for exhibiting motion pictures, stage dramas, lectures, musical recitals, or other similar performances.

Sec. 6 – Prohibition of Smoking in Outdoor Areas.

Smoking shall be prohibited in the following outdoor places:

- A. Within a reasonable distance of 15 feet outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited, so as to ensure that tobacco smoke does not enter those areas.
- B. In all outdoor arenas, stadiums, and amphitheaters. Smoking shall also be prohibited in, and within 15 feet of, bleachers and grandstands for use by spectators at sporting and other public events.
- C. In, and within 15 feet of, all outdoor public transportation stations, platforms, and shelters under the authority of the City of Chickasaw.
- D. In all outdoor service lines.
- E. In outdoor common areas of apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities, except in designated smoking areas, not to exceed twenty-five percent (25%) of the total outdoor common area, which must be located at least 15 feet outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited.
- F. In, and within 15 feet of, outdoor playgrounds.

Sec. 7 – Exceptions.

The following are exempted from the requirements of this Ordinance:

- A. Private houses, apartments, condominiums, townhouses, patio homes, except when used as a childcare, adult day care, or health care facility;

private facilities of private social clubs; and stores that deal exclusively in tobacco products and accessories.

- B. Not more than twenty percent (20%) of hotel and motel rooms rented to guests and designated as smoking rooms. All smoking rooms on the same floor must be contiguous and smoke from these rooms must not infiltrate into areas where smoking is prohibited under the provisions of this Ordinance. The status of rooms as smoking or nonsmoking may not be changed, except to add additional nonsmoking rooms.
- C. Outdoor areas of places of employment may be designated as smoking sections. Smoking areas should be designated by appropriate signs, clearly visible to patrons in or entering the area and should contain ashtrays, containers or other facilities for extinguishment of smoking materials, and should not be closer than 15 feet to entrance of building.

Sec. 8 – Regulations regarding posting, etc.

- 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 and conspicuously posted in every public place and place of employment where smoking is prohibited by this Ordinance, by the owner, operator, manager, or other person in control of that place. The absence of such a "no smoking" or "designated smoking area" sign as required by this Ordinance shall be a violation of 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 owner, operator, manager or other person 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 and giving notice to the public of the respective designation in every room of every facility, building, business, corporation, partnership, vehicle, or other public place or place of employment so regulated by this Ordinance.
- C. Any person who smokes in a posted "no smoking" area is in violation of this Ordinance.
- D. No person shall willfully destroy, remove or deface any sign posted in compliance with this Ordinance, any such prohibited conduct is a violation of this Ordinance.
- E. With the exception of the areas enumerated in section 7 A through C no public place, as defined in this Ordinance, shall be designated as a

smoking area in its entirety, or allow smoking to be conducted in any place other than clearly posted designated smoking areas.

Sec. 9 – Duty of owner, manager, employer, etc., of facility, etc.

- A. It shall be the duty of the owner, operator and/or manager of any facility, business, corporation, partnership, agency or vehicle within the purview of this Ordinance to comply herewith. Such owner, operator or manager shall post or cause to be posted all "no smoking" and "designated smoking" area signs required by this Ordinance.
- B. Such owner, operator or manager shall inform persons smoking in restricted areas that they are in violation of the law and shall promptly report such violators of the law to the proper authorities.
- C. It shall be the responsibility and duty of the owner, operator and/or manager of any facility, business, corporation, partnership or agency which employs two (2) or more employees to disseminate information concerning the provisions of this Ordinance to said employees.
- D. Every owner, manager and employer in the city except those exempted by this Ordinance, shall adopt, implement and maintain a written smoking policy.
- E. Any owner, manager or employer of any public place or place of employment within the city, or its police jurisdiction, 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 provision of this Ordinance.

Sec. 10 – Tobacco products in vending machines.

It shall be unlawful and an offense against this city for any business owner or manager of any retail establishment within the jurisdiction of this city, to allow the existence of a vending machine containing tobacco products in any area where minors are allowed.

Sec. 11 – Other Applicable Laws.

This Ordinance shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

Sec. 12 – Liberal Construction.

This Ordinance shall be liberally construed so as to further its purposes.

Sec. 13 – Severability.

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


Sec. 14 – Effective Date.

This Ordinance shall be effective thirty (30) days from and after the date of its adoption.

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF
CHICKASAW, ALABAMA THIS 26 DAY OF NOVEMBER 2013.**



Byron Pittman
Mayor

Attest:


Rachael Stubbs
City Clerk

I, the undersigned qualified and acting Clerk of the City of Chickasaw, Alabama, do hereby certify that the above and foregoing is a true copy of an Ordinance lawfully passed and adopted by the City Council of the City named therein, at a regular meeting of such Council held on the 26 day of November 2013, and that such Ordinance is of record in the Minute Book of the City.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal of the City on this the 26 day of November 2013.


Rachael Stubbs
City Clerk