

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2010-09

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA AMENDING
SITKA GENERAL CODE AT CHAPTER 9.20 ENTITLED "SMOKING IN
PUBLIC PLACES AND PLACES OF EMPLOYMENT" TO PROHIBIT
SMOKING IN MORE PLACES OF EMPLOYMENT AND PUBLIC PLACES,
INCLUDING BARS AND PRIVATE CLUBS LICENSED TO SELL ALCOHOLIC
BEVERAGES OR FOOD, SET A MINIMUM REASONABLE DISTANCE
OUTSIDE FOR NON-SMOKING, PROVIDE FOR ADDITIONAL VIOLATION
CONSEQUENCES, AND MAKE CLARIFYING AMENDMENTS, AND
CONTAINING A BALLOT MEASURE FOR THE OCTOBER 5, 2010
MUNICIPAL REGULAR ELECTION

1. **CLASSIFICATION.** Section 4 of this Ordinance is of a permanent nature and is intended to become a part of the Sitka General Code ("SGC") if approved by the majority of the voters at the October 5, 2010 municipal regular election. Sections 2, 3, and 6 are of a permanent nature, but are not intended to become part of the SGC. Section 5 is of a temporary nature and not intended to become part of the SGC.

2. **SEVERABILITY.** If any provision of this Ordinance or any application to any person or circumstance is held invalid, the remainder of this Ordinance and application to any person or circumstance shall not be affected.

3. **PURPOSE.** This Ordinance creates a ballot proposition to be placed on the next municipal regular election on October 5, 2010 that will amend SGC at Chapter 9.20 entitled "Smoking in Public Places and Places of Employment." The proposed amendments to SGC Chapter 9.20 are contained in this Ordinance at section 4.

The principal purpose of the amendments is to prohibit smoking in more places of employment and public places, including bars as well as in private clubs that are licensed by the State of Alaska to sell alcohol or food. These amendments are to ensure that more people are protected from the dangers of secondhand smoke in public places and places of employment. Also, the amendments establish 10 feet as the minimum reasonable distance from entrances, windows and ventilation systems for smoking outside public places where smoking is prohibited. Additionally, this Ordinance provides for additional violation consequences concerning any City and Borough of Sitka permit or license for the non-smoking establishment. Further, this Ordinance makes clarifying edits, including amending the definition section to add definitions for bar and private club, and to amend

1 the definition of “employee” to include anyone “who works for an employer as a
2 volunteer without compensation.”

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4 Many of the amendments to this Ordinance are modeled after amendments to
5 similar provisions in the municipal codes for Anchorage and Juneau.

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7 4. **NOW, THEREFORE, BE IT ENACTED** by the Assembly of the City
8 and Borough of Sitka that SGC at Chapter 9.20 is amended as follows (new language
9 underlined; deleted language stricken):

10 **Chapter 9.20**

11 **SMOKING IN PUBLIC PLACES AND PLACES OF EMPLOYMENT**

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14 **9.20.005 Definitions.**

15 The following words and phrases, whenever used in this chapter, shall be
16 construed as defined in this section:

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18 A. “Bar” means a business, other than a restaurant or a liquor store, that is
19 licensed by the State of Alaska to sell alcoholic beverages, that serves
20 alcoholic beverages for consumption by guests on the premises, and in
21 which any serving of food is only incidental to the consumption of
22 alcoholic beverages, and includes taverns, nightclubs, and cocktail lounges.

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24 BA. “Business” means a sole proprietorship, partnership, joint venture,
25 corporation, or other business entity formed for profit-making purposes,
26 including retail establishments where goods or services are sold as well as
27 professional corporations and other entities where legal, medical, dental,
28 engineering, architectural, or other professional services are delivered.

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30 CB. “Employee” means a person who is employed by an employer for
31 compensation or profit ~~in consideration for direct or indirect monetary~~
32 wages or profit, or who works for an employer as a volunteer without
33 compensation or profit.

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35 DE. “Employer” means a person, business, partnership, association, corporation,
36 including a municipal corporation, trust, or nonprofit entity, that employs
37 the services of one or more individual persons.

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1 employees, as well as kitchens and catering facilities in which food is
2 prepared on the premises for serving elsewhere.

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4 KJ. “Retail tobacco store” means a retail store utilized primarily for the sale of
5 tobacco products and accessories and in which the sale of other products is
6 merely incidental.

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8 LK. “Service line” means an indoor line in which one or more persons are
9 waiting for or receiving service of any kind, whether or not the service
10 involves the exchange of money.

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12 ML. “Shopping mall” means an enclosed public walkway or hall area that serves
13 to connect retail or professional establishments.

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15 NM. “Smoking” means inhaling, exhaling, burning, or carrying any lighted
16 tobacco product in any form, with the exemption of religious ceremonies.

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18 ON. “Sports arena” means sports pavilions, stadiums, gymnasiums, health spas,
19 boxing arenas, swimming pools, roller and ice rinks, bowling alleys, and
20 other similar enclosed places where members of the general public
21 assemble to engage in physical exercise, participate in athletic competition,
22 or witness sports or other events.

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25 **9.20.015 Prohibition of smoking in public places.**

26 Smoking shall be prohibited in all enclosed public places within the city
27 and borough of Sitka including, ~~but not limited to,~~ the following places:

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29 A. Aquariums, fish hatcheries, galleries, libraries, and museums;:-

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31 B. Areas available to and customarily used by the general public in businesses
32 and nonprofit entities patronized by the public, including, ~~but not limited to,~~
33 professional offices, banks, laundromats, hotels, and motels;:-

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35 C. Areas and/or buildings that host youth agencies;:-

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37 D. Bars;

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39 ED. Bingo facilities;:-

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41 FE. Convention facilities;:-

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GF. Elevators;:-

HG. Facilities primarily used for exhibiting a motion picture, stage, drama, lecture, musical recital, or other similar performance;:-

IH. Health care facilities;:-

JH. Licensed child care and adult day care facilities;:-

KJ. Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities;:-

LK. Polling places;:-

M. Private clubs;

NE. Public transportation facilities, including buses and taxicabs, under the authority of the city and borough of Sitka and ticket, boarding, and waiting areas of public transit depots;:-

OM. Restaurants;:-

PN. Restrooms, lobbies, reception areas, hallways, and other common-use areas;:-

QO. Retail stores;:-

RP. 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 and borough of Sitka or a political subdivision of the state when a public meeting is in progress, to the extent the place is subject to the jurisdiction of the city and borough of Sitka;:-

SQ. Service lines;:-

TR. Shopping malls;:-

US. Sports arenas, including enclosed places in outdoor arenas; and:-

9.20.035 Declaration of establishment as nonsmoking—Prohibition of children in places of employment where smoking is permitted.

Notwithstanding any other provision of this chapter, an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of Section 9.20.040 is posted. Children under the age of eighteen shall not be permitted in any place of employment where smoking is allowed under Section 9.20.030, unless an owner, operator, manager, or other person in control of such an establishment, facility or outdoor area declares it to be non-smoking.

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9.20.055 Violations and penalties.

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D. In addition to the fines established by this section, violations of this chapter by a person who owns, manages, operates, or otherwise controls an establishment regulated by this chapter may result in the denial, refusal to renew, suspension, or revocation of any applicable City and Borough of Sitka permit or license for the establishment.

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5. **BALLOT MEASURE.** The ballot measure shall read as follows:

CITY AND BOROUGH OF SITKA

PROPOSITION __

Shall the Sitka General Code at Chapter 9.20 entitled “Smoking in Public Places and Places of Employment” be amended to prohibit smoking in bars and in private clubs licensed to sell alcoholic beverages or food, set a minimum reasonable distance outside for non-smoking, add violation consequences, and make clarifying amendments to further protect people from the effects of secondhand smoke?

YES ___

NO ___

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Informational: See Ord. 2010-009 for the amendments.

