

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2010-04 S

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 BARS AND IN PRIVATE CLUBS LICENSED TO SELL FOOD  
OR ALCOHOLIC BEVERAGES, SET A MINIMUM REASONABLE DISTANCE  
FOR NON-SMOKING OUTSIDE PUBLIC PLACES, MAKE ADDITIONAL  
ENFORCEMENT REQUIREMENTS, 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 bars, as well as in private clubs that are licensed by the State of Alaska to sell alcohol or food. 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 requires certain enforcement actions to be taken by an owner, manager, operator or employee of a public place that prohibits smoking, and 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

1 bar and private club, and to amend the definition of “employee” to include anyone “who  
2 works for an employer as a 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 DC. “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           ED.   “Enclosed area” means all space between a floor and ceiling that is  
2           enclosed on all sides by solid walls or windows (exclusive of doorways),  
3           which extend from the floor to the ceiling.  
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- 5           FE.   “Health care facility” means an office or institution providing care or  
6           treatment of diseases, whether physical, mental, or emotional, or other  
7           medical, physiological, or psychological conditions, including, ~~but not~~  
8           ~~limited to~~, hospitals, rehabilitation hospitals or other clinics, including  
9           weight control clinics, nursing homes, homes for the aging or chronically  
10          ill, laboratories, and offices of surgeons, chiropractors, physical therapists,  
11          physicians, dentists, and all specialists within these professions. This  
12          definition shall include all waiting rooms, hallways, private rooms,  
13          semiprivate rooms, and wards within health care facilities.  
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- 15          GF.   “Place of employment” means an area under the control of a public or  
16          private employer that employees normally frequent during the course of  
17          employment, including, ~~but not limited to~~, work areas, employee lounges,  
18          private clubs, bars, restrooms, conference rooms, meeting rooms,  
19          classrooms, employee cafeterias, hallways, and vehicles. A private  
20          residence is not a “place of employment” unless it is used as a child care,  
21          adult day care, or health care facility.  
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- 23          HG.   “Private club” means an organization, whether incorporated or not, or  
24          whether a legal entity or an informal association of persons, that either  
25          owns, leases, or is an occupant of a building or portion of a building for  
26          which it has been issued a license by the State of Alaska to sell alcoholic  
27          beverages or to sell food.  
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- 29          IH.   “Public place” means an enclosed area to which the public is invited or in  
30          which the public is permitted, including, ~~but not limited to~~, banks,  
31          educational facilities, health care facilities, private clubs, bars, laundromats,  
32          public transportation facilities, reception areas, restaurants, retail food  
33          production and marketing establishments, retail service establishments,  
34          retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A  
35          private residence is not a “public place” unless it is used as a child care,  
36          adult day care, or health care facility.  
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- 38          IJ.   “Restaurant” means an eating establishment, including, ~~but not limited to~~,  
39          coffee shops, cafeterias, sandwich stands, and private and public school  
40          cafeterias, which gives or offers for sale food to the public, guests, or

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;:-

JF. 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:-







1       **PASSED, APPROVED, AND ADOPTED** by the Assembly of the City and  
2 Borough of Sitka, Alaska this \_\_\_ day of \_\_\_\_\_, 2010.

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Scott McAdams, Mayor

7 **ATTEST:**

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Colleen Ingman, MMC  
11 Municipal Clerk

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