

CITY AND BOROUGH OF SITKA
ORDINANCE NO. 2018-36

BALLOT PROPOSITION OCTOBER 2018

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA ADDING A BALLOT QUESTION ON THE NEXT MUNICIPAL REGULAR ELECTION TO BE HELD ON OCTOBER 2, 2018, ON WHETHER TO EXEMPT THE MUNICIPALITY FROM THE PROVISIONS OF AS 18.35.301 – 18.35.350, AN ACT PROHIBITING SMOKING IN CERTAIN PLACES (EFFECTIVE OCTOBER 1, 2018), AND, IF EXEMPTED, SITKA GENERAL CODE, CHAPTER 9.20 “SMOKING IN PUBLIC PLACES AND PLACES OF EMPLOYMENT”, WOULD CONTINUE TO BE THE LAW FOR THE MUNICIPALITY AS TO BANNING SMOKING IN CERTAIN PUBLIC PLACES

**POSTPONED INDEFINITELY ON SECOND AND
FINAL READING AUGUST 14, 2018**

1. CLASSIFICATION. This ordinance is not of a permanent nature and is not intended to become part of the Sitka General Code.

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. The State of Alaska Legislature adopted new statutory provisions, effective October 1, 2018, at AS 18.35.301 – 18.35.350, containing comprehensive provisions which prohibit smoking in certain places, relate to education on the smoking prohibition, relate to municipal regulation of smoking in certain places, relate to established villages and local option elections to allow smoking in public places, and provides for an effective date of October 1, 2018. This new law would supersede existing municipal law in Sitka General Code, Chapter 9.20, known as the “Sitka Clean Indoor Air Law of 2005”, thereby eliminating many areas where smoking is currently not regulated, e.g., bars and private clubs. The new law also expands the areas outside where smoking is prohibited. In particular, the new law would prohibit smoking in the bars and private clubs in the municipality that have chosen not to declare their establishments as nonsmoking under existing municipal law, i.e., Ernie’s Bar, Pioneer Bar, Moose and American Legion. The new law imposes an unreasonable restriction on personal behavior and causes an unreasonable negative financial impact on establishments that, under the existing law, have chosen to remain exempt from the smoking prohibition. The exemption from the new law intends to keep the status quo. The declared purposes of the existing law under Ordinance No. 2005-29 are (1) to protect the public health and welfare by prohibiting smoking in public places and places of employment, and, (2) to guarantee the right of nonsmokers to breathe smokefree air, and to recognize that the need to breathe smokefree air shall have priority over the desire to smoke. Those purposes continue to be satisfied by keeping the status quo.

4. ENACTMENT. NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka as follows:

Section 1. The City and Borough of Sitka shall be exempted from the provisions of AS 18.35.301 – 18.35.350, effective October 1, 2018, relating to smoking in certain public places, if the exemption is approved by the voters of the City and Borough of Sitka.

Section 2. The exemption created by Section 1 of this ordinance shall apply during such times as the City and Borough of Sitka has in effect an ordinance banning smoking in certain places enacted under former AS 18.35.300 – 18.35.365 as those statutes provided prior to October 1, 2018, which it currently does under Sitka General Code, Chapter 9.20.

Section 3. An election is to be held on Tuesday, October 2, 2018, in the City and Borough of Sitka, and the following proposition shall be submitted to the qualified voters of the City and Borough of Sitka for approval or rejection. A majority of those electors qualified and voting in favor of the proposition shall be required for approval.

Proposition No. ____

Shall the City and Borough of Sitka, Alaska, exempt itself from the provisions of AS 18.35.301 – 18.35.350, relating to smoking in certain public places?

☐ YES

☐ NO

Informational: An affirmative vote of this ballot proposition would exempt the City and Borough of Sitka from the provisions of AS 18.35.301 – 18.35.350, relating to smoking in certain public places. In that case, Sitka General Code, Chapter 9.20, entitled "Smoking in Public Places and Places of Public Employment", would remain in effect. Under Chapter 9.20, smoking is prohibited or regulated in certain public places. However, under Chapter 9.20, smoking is not prohibited or regulated in "bars" and "private clubs", except if declared by the establishment as "nonsmoking." If the question is rejected, the new law, AS 18.35.301 – 18.35.350, would prohibit smoking in certain enclosed public places, including "bars" and "private clubs".

6. EFFECTIVE DATE. This ordinance shall become effective on the day after certification of the next regular municipal election of October 2, 2018, provided a majority of voters vote in favor of the proposition.

Matthew Hunter, Mayor

ATTEST:

Sara Peterson, MMC
Municipal Clerk

1st reading 7/31/18

2nd and final reading POSTPONED INDEFINITELY 8/14/18

Sponsors: Wein / Bean