

IN THE SUPREME COURT OF THE STATE OF ALASKA

Fraternal Order of Eagles, Juneau-Douglas)
Aerie 4200, Mark Page, Brian Turner,)
R.D. Truax and Larry Paul,)

Appellants,)

v.)

City and Borough of Juneau,)

Appellee.)

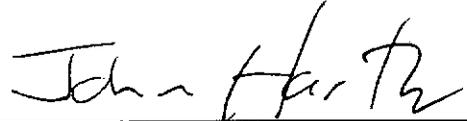
Supreme Court No. S-13748

Superior Court Case No. 1JU-08-00730 CI

APPEAL FROM THE SUPERIOR COURT
FIRST JUDICIAL DISTRICT AT JUNEAU
THE HONORABLE PHILIP M. PALLEMBERG, PRESIDING

**APPELLEE'S EXCERPT OF RECORD
VOLUME 1 OF 1**

CITY AND BOROUGH OF JUNEAU



By: John W. Hartle
City Attorney
City and Borough of Juneau
155 S. Seward Street
Juneau, Alaska 99801
(907) 586-5340
Alaska Bar No. 9112116

Filed in the Supreme Court of
the State of Alaska this ____
day of _____, 2010.

By: _____
Deputy Clerk

APPELLEE'S EXCERPT OF RECORD

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Presented by: The Manager
Introduced: 08/20/2001
Drafted by: J.R. Corso

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2001-40(am)

An Ordinance Amending the Health and Sanitation Code to
Control Environmental Tobacco Smoke in Enclosed Public
Places and in the Workplace, and Providing for a Penalty.

WHEREAS, in a 1992 report entitled *Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders* the United States Environmental Protection Agency found that exposure to environmental tobacco smoke, also known as "secondhand smoke":

1. can cause lung cancer in adult nonsmokers,
2. is linked to an increased risk of heart disease among nonsmokers,
3. causes about 3,000 lung cancer deaths annually among adult nonsmokers,
4. causes coronary heart disease and death in nonsmokers,
5. accounts for as many as 62,000 deaths from coronary heart disease annually in the United States,
6. causes respiratory problems in children, such as greater number and severity of asthma attacks and lower respiratory tract infections,
7. increases children's risk for sudden infant death syndrome and middle ear infections, and
8. annually causes as many as 300,000 lower respiratory tract infections, such as pneumonia and bronchitis in children, and

WHEREAS, the Assembly finds that in order to protect the public health it is necessary to control the amount of tobacco smoke in public places, and

WHEREAS, in exercising this control pursuant to its home rule authority, it is the intent of the Assembly to supplement and extend the values and policies inherent in the AS 18.35.300-18.35.365, and not to interfere or conflict with them.

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NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the City and Borough code.

Section 2. New Chapter. There is adopted a new chapter 36.60, reading:

Chapter 36.60

Smoking in Public Places

Sections:

- 36.60.005 Definitions.
- 36.60.010 Smoking prohibited.
- 36.60.020 Smoking in enclosed places of employment.
- 36.60.025 Reasonable distance.
- 36.60.030 Where smoking not regulated.
- 36.60.035 Posting of signs.
- 36.60.040 Non-retaliation.
- 36.60.045 Violations and penalties.
- 36.60.050 Other applicable laws.

36.60.005 Definitions. In this chapter,

"Bar" means a beverage dispensary, other than a bar restaurant, licensed by the State of Alaska under AS 04.11.090 or AS 04.11.400(d)

"Bar Restaurant" means a beverage dispensary authorized to include a dining room by a license, the issuance or transfer of which was approved pursuant to AS 04.11.090 but not 04.11.400(d) by the State of Alaska prior to the effective date of the ordinance codified at this chapter.

"Business" means any sole proprietorship, partnership, joint venture, corporation or other business entity formed for profit-making purposes.

"Employee" means any person who is employed by any employer in consideration for direct or indirect monetary wages or profit, and any person who provides volunteer services for a nonprofit entity.

"Employer" means any person, partnership, corporation, including a municipal corporation, or nonprofit entity, but not including the state or federal government, who employs the services of one or more individual persons.

"Enclosed area" means a space which is inside a building and surrounded on all sides by impermeable surfaces, whether or not equipped with doors, windows, skylights, passageways, or similar apertures, including all space therein screened by partitions, office landscaping, or similar structures which do not extend to a ceiling or are not impermeable.

"Enclosed place of employment" means an enclosed area or a vehicle under the control of an employer normally used by employees in the course of employment, including work areas, private offices, lounges and restrooms, conference and classrooms, cafeterias, elevators, stairways, and hallways.

"Enclosed public place" means an enclosed area or portion thereof open to the public, including:

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- (a) retail stores, shops, banks, laundromats, garages, salons, or other businesses selling goods or services,
- (b) the waiting rooms and offices of businesses providing legal, medical, dental, engineering, accounting, or other professional services,
- (c) hotels, motels, boarding houses, hostels, and bed and breakfast facilities, provided that the owner may designate by a permanently affixed sign a maximum of 25% of the rooms as exempt from this definition,
- (d) universities, colleges, schools, and commercial training facilities,
- (e) arcades, bingo halls, pull-tab parlors, and other places of entertainment,
- (f) health clubs, dance studios, aerobics clubs, and other exercise facilities,
- (g) hospitals, clinics, physical therapy facilities,
- (h) any facility which is primarily used for exhibiting any motion picture, stage, drama, lecture, musical recital or similar performance,
- (i) public areas of fish hatcheries, galleries, libraries and museums,
- (j) polling places,
- (k) elevators, restrooms, lobbies, reception areas, waiting rooms, hallways and other common-use areas, including those in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities,
- (l) restaurants, coffee shops, cafeterias, sandwich stands, private or public schools cafeteria, and any other eating establishment which offers food for sale to the public, guests, or employees, including any kitchen or catering facility in which food is prepared for serving off the premises,
- (m) sports and exercise facilities, including sports pavilions, gymnasias, health spas, boxing arenas, swimming pools, pool halls, billiard parlors, roller and ice rinks, bowling alleys, and similar places where members of the public assemble to engage in physical exercise, participate in athletic competition, or witness sports events,
- (n) any line in which two or more persons are waiting for or receiving goods or services of any kind, whether or not in exchange for money,
- (o) areas used for and during the course of meetings subject to the Alaska Open Meetings Act.

"Retail tobacco store" means a retail store the primary business of which is the sale of tobacco products and accessories.

"Smoking" means inhaling or exhaling tobacco smoke, or carrying any lighted tobacco product.

36.60.010 Smoking prohibited. (a) Smoking is prohibited in

- (1) enclosed public places,
- (2) enclosed places of employment,
- (3) vehicles and enclosed areas owned by the City and Borough of Juneau, including the Juneau School District,
- (4) commercial passenger vehicles regulated by the City and Borough under CBJ 20.40.

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36.60.020 Smoking in enclosed places of employment. (a) By the effective date of this chapter, any employer subject to this ordinance shall adopt and enforce a written policy prohibiting smoking in all enclosed places of employment and all vehicles owned or operated by that employer and used by those employees.

(b) The smoking policy shall be communicated to all employees prior to its adoption.

(c) All employers shall supply a written copy of the smoking policy upon request to any current or prospective employee or to an employee of the City and Borough engaged in enforcing this chapter.

36.60.025 Reasonable distance. No person may smoke within ten feet of any entrance, open window, or ventilation system intake of any building area within which smoking is prohibited by this chapter.

36.60.030 Where smoking not regulated. (a) This chapter does not apply to:

1. private residences, including those used as places of employment, but this exception does not apply at any time the residence is open for use as a child care, adult care or health care facility,
2. places of employment with a total of four or fewer employees and owners working at the place, provided that this exception shall not apply to a place of employment which is an enclosed public place,
3. private enclosed areas in nursing homes or assisted living facilities,
4. retail tobacco stores,
5. performers smoking as part of a stage performance,
6. enclosed areas used for conferences or meetings in restaurants, service clubs, hotels, or motels while the spaces are in use for private functions admission to which is determined at least three days in advance,
7. bars and bar restaurants, provided that for bars, no tobacco smoke may infiltrate into a dining room through a passageway, ventilation system, or otherwise, or into any area where smoking is prohibited,
8. federal or state property, or those portions of buildings leased by the federal or state government,
9. private property used for residential incarceration under contract to a federal or state correctional agency.

(b) the owner, operator, or manager of property may by permanently affixing a sign thereon, waive any exemption provided by subsection (a) of this section.

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36.60.035 Posting of signs. (a) Signs prohibiting smoking shall be prominently posted by the owner, operator, manager or other person having control on every building or other area where smoking is prohibited by this chapter.

(b) Every place where smoking is prohibited by this chapter shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.

(c) The owner, operator, manager or other person having control of any area where smoking is prohibited by this chapter shall remove therefrom all ashtrays and other smoking paraphernalia.

36.60.040 Non-retaliation. No person or employer shall discharge, refuse to hire, refuse to serve, or in any manner retaliate against any employee, applicant for employment, or customer because such employee, applicant, or customer exercises any right or seeks any remedy afforded by this chapter.

36.60.045 Violations. (a) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation under this chapter to fail to comply with any of its provisions. Violation of this subsection is an infraction.

(b) It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this chapter. Violation of this subsection is an infraction.

(c) In addition to the penalties and remedies available under this Code, any person aggrieved by a violation or threatened violation of this chapter may bring a civil action to enjoin that violation.

36.60.050 Other applicable laws. This chapter shall not be construed to permit smoking where it is otherwise restricted by other applicable laws.

Section 3. Amendment of Section. CBJ 03.30.053, the Health and Sanitation Code Fine Schedule, is amended by the addition of new fines reading:

CBJ	Offense	No. of Offenses	Fine
36.60.045(a)	Failure to maintain smoke-free premises	1st	\$200.00
		2nd within 2 years	\$250.00
		3rd & subseq. within 2 years	\$300.00
36.60.045(b)	Smoking where prohibited	Any	\$50.00

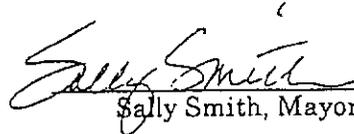
Section 4. Exemptions, Implementation Review. (a) The Manager may in writing exempt any enclosed place from compliance with this section for up to 180 days past the effective date of this section upon satisfactory proof by the owner that the owner has made substantial progress but due to circumstances beyond the owner's control has been unable to fully comply. For purposes of this section "circumstances beyond the owner's control" does not include a lack of funds.

(b) One year after the initial implementation of this ordinance, the mayor shall convene a task force to review it and to report and make recommendations to the Assembly concerning its effectiveness. The report shall specifically include the following information:

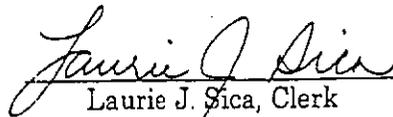
- (1) the effectiveness of public information programs and ongoing efforts to work with affected businesses and individuals,
- (2) overall economic impact to affected businesses,
- (3) the effect on reducing secondhand smoke exposure,
- (4) the practicality of enforcing the ordinance and any problems with enforcement,
- (5) number of violations and amount of penalties, and
- (6) proposed revisions to the ordinance.

Effective Date. This ordinance shall be effective 90 days after its adoption.

Adopted this 1st day of October, 2001.


Sally Smith, Mayor

Attest:


Laurie J. Sica, Clerk



CITY/BOROUGH OF JUNEAU
★ ALASKA'S CAPITAL CITY

OFFICE OF THE MAYOR

Telephone: (907) 586-5240; Facsimile: (907) 586-5385
Sally_Smith@ci.juneau.ak.us

August 25, 2003

Dear Task Force Member:

Thank you for accepting appointment to the Smoking Ordinance Review Task Force.

The charge of the task force is based on Ordinance 2001-40 and should include:

- the effectiveness of public information programs and ongoing efforts to work with affected businesses and individuals
- the overall economic impact to affected businesses
- the effect of the ordinance on reducing secondhand smoke exposure
- the practicality of enforcing the ordinance and any problems with enforcement
- the number of violations and the amount of imposed penalties
- any recommended revisions to the ordinance.

Matt Felix will chair the committee and will be contacting you soon to set up the first meeting. Attached is a list of fellow committee members and their contact information, the current ordinance, and documents relating relating to operating a successful task force. My hope is that the group will be able to complete its work and provide a report by January 2004.

Your service on this committee is very important to our ongoing efforts to make Juneau a great place to live and work. Again, my thanks.

Sincerely,

Sally Smith
Mayor

155 So. Seward Street, Juneau, Alaska 99801-1397

3970 North Douglas
Juneau, AK 99801
463-3755 (w)
586-3270 (h)

March 31, 2004

The Honorable Bruce Botelho
Mayor, City-Borough of Juneau
Municipal Building
155 South Seward
Juneau, AK 99801

Dear Mayor Botelho:

Attached is the Ordinance Review Task Force's review and report of Ordinance 2001-40, an ordinance amending the Health and Sanitation Code to Control Environmental Tobacco Smoke. This report is in PowerPoint format and is the result of four months of meetings by the task force, which was appointed by the Mayor in the fall of 2003.

A task force review and report is required by the ordinance, along with recommendations and proposed revisions to the ordinance. Recommendations and revisions are listed at the end of the report.

The extended time to compile this report was needed to give two groups with opposing views sufficient input to the report. The report was compiled through a series of compromises on content and language. A vote was needed at the last meeting to solidify the recommendations and proposed revisions. I have listed the vote count next to these sections.

I hope this report gives the Assembly the information needed to continue its efforts to make Juneau a better place to live.

Sincerely,

Matt Felix, Chair
Ordinance Review Task Force

Attachment

Ordinance of the City and
Borough of Juneau, Alaska
Serial No. 2001-40 (am)

57

An Ordinance Amending the Health
and Sanitation Code to Control
Environmental Tobacco Smoke in
Enclosed Public Places and in the
Workplace, and Providing for a
Penalty.

This ordinance requires a review by task force. Section 4 (b)

- **One year** after the initial implementation of this ordinance, the mayor shall convene a task force to review it and to **report and make recommendations** to the Assembly concerning its effectiveness. The report shall specifically include the following information:
 - The effectiveness of **public information** programs and ongoing efforts to work with affected businesses and individuals.
 - Overall **economic impact** to affected businesses.
 - The effect on **reducing secondhand smoke** exposure.
 - The practicality of **enforcing** the ordinance and any problems with enforcement.
 - Number of **violations** and amount of penalties, and
 - Proposed **revisions** to the ordinance.

Task Force Membership

- Matt Felix, Chair – NCADD
- Troy Wilson – JPD
- Joyanne Bloom – Adult Ed
- Merrill Sanford – CBJ Assembly
- Leeann Thomas – Triangle Club
- Alex Viteri – State of Alaska, transportation

The Task Force consolidated their review to the three main areas of concern:

- Public education efforts
- Enforcement
- Economic Impact

Note: The committee chose not to review the health and safety consequences of secondhand smoke. A review was well documented on the first page of the ordinance.

The Task Force unanimously agreed that this ordinance, despite the many problems, had a beneficial impact on reducing second-hand smoke.

Review of Public Education Efforts

Ordinance #2001-40

- The Committee attempted to measure the effectiveness of public information programs and ongoing efforts to work with affected businesses.
- The Committee reviewed the efforts by the city and others to inform the public about the ordinance and its requirements.
- It also viewed efforts to work with businesses and individuals that may be affected by the ordinance.
 - No organized effort was evident but a number of private and public agencies attempted to maximize voluntary compliance.

Review of Public Education Efforts

Ordinance #2001-40

- Juneau Police Department posted a Juneau Empire story on its website called “The Most Frequently Asked Questions.” The brochure was authored by CBJ Law Department and was produced by Southeast Alaska Regional Health Corporation – Health Promotion Division as a courtesy to CBJ.
- The National Council on Alcoholism and Drug Dependence received a Robert Wood Johnson grant through the Alaska Native Health Board to promote voluntary compliance. The grant for \$11,000 included signage, distribution of employer educational materials and a media campaign. This effort covered December of 2001 and January-February of 2002.
- SEARHC sponsored paid service announcements in movie theaters and through GCI television system.
- All the educational efforts listed above took place shortly before or after the implementation date of January 1, 2002. Little has been done since that date.

Review of Public Education Efforts Ordinance #2001-40

An Ivan Moore Research Co. follow-up evaluation done December 2002-January 2003 by the Alaska Native Health Board showed:

- 90% of Juneau residents were aware that the Assembly passed a smoke-free ordinance.
- Most also knew that smoking was banned in malls.
- 76% said they knew bars were exempted from the ordinance.
- 63. • The business owners polled were somewhat confused by the requirements and definitions.
 - 49 calls were made to restaurants by Ivan Moore Research to measure compliance and knowledge.
 - 9 had misinformation and many others were not sure of employer requirements to educate employees.
 - Many restaurants had gone smoke free prior to the enactment of the ordinance.
- Public awareness has diminished over time.

Review of Public Education Efforts

Ordinance #2001-40

Recommendations For Future Public Education Efforts

- The Assembly should budget \$12,500 annually for public education, staff time, media, signage and distribution of materials to individual businesses. This effort would capitalize on the benefits of public education, voluntary compliance and support the ordinance.
 - Potential funding sources include, but are not limited to:
 - Grants: federal and state
 - Tobacco tax: city
 - Tobacco Settlement Funds: state

Enforcement

Ordinance requirements and response from JPD

- The City Manager was authorized to allow an additional 180 days after implementation of the ordinance (01/01/02) – or 9 months from the time of passage – by which time all establishments should be in compliance
 - However, the committee found no person appointed to follow-up with any notification to affected business.
- 65 • No CBJ department was designated to measure compliance with this requirement or other requirements in the ordinance.
- No one is designated to or has investigated compliance with signage requirements.
- JPD responded to 37 complaints of which no citations and 12 verbal warnings were issued.
- Compliance with the “10 Feet From Doorway” requirement is problematic.

Enforcement Recommendations:

- Notices should be sent to individual affected businesses
 - Should clearly spell out the requirements of the ordinance as it applies to the different kinds of businesses or public places.
 - Some businesses are unsure of the requirements to educate employees.
 - Others are unsure that construction may be needed and what kind of construction to met the requirements of the existing ordinance.
- The City Manager should designate staff that will be responsible for:
 - Providing guidelines for compliance to businesses.
 - Enforcement
 - Individual violations
 - Cooperation and compliance by building owners
 - Enforcement to become more of a priority; ordinance could be sought through several avenues including the JPD and the engineering department.

Enforcement Recommendations (continued):

- Extend ordinance to include bus shelters.
 - Public comment received during committee meetings requested that the ordinance be extended to include bus shelters.
 - Public education is a major component of enforcement because it optimizes voluntary compliance.

Economic Impact

- Funds were not available for a comprehensive study.
- Based on available CBJ sales tax data through the first 2 quarters of 2003: (To be included in the data, the businesses had to have been open with consistent ownership.)
 - There is no measurable economic impact from passage of the Clean Indoor Air Ordinance.
 - Overall, bars and restaurants showed more growth than the economy of Juneau as a whole.
 - Those businesses that were exempted from the ordinance showed less sales improvement since the passage of CIA than those that were mandated to be smoke free.
- A review of the comparable Anchorage CIA conducted by UAA concluded that in the data reviewed, there was no indication of negative economic impact.
 - Section C. “Based on revised estimates of employment from the Alaska Department of Labor: the smoking ban had no detectable impact on total employment in the hospitality industry *as a whole* in Anchorage during the first seven months of 2001.”

Economic Impact

- A previous CBJ committee reported little or no economic impact on the gaming industry. The Charitable Gaming Task Force investigated the economic impact of the Clean Air Ordinance on pull-tab parlors and bingo halls. The committee found no reason to exempt these businesses from the ordinance and recommended that these businesses remain included as originally designated.

Previous Findings of the Charitable Gaming Task Force were:

- 69 • The committee agrees that smoking and secondhand smoke create significant health risks as stated on Page 1 of the ordinance.
- The entire committee finds that the ordinance, as written, is applied unfairly due to the exemptions. We feel this creates an unfair playing field.
- The majority of the committee felt the ordinance should not be amended at this time. (Keep pull-tab/bingo parlors smoke free.)
- The majority does agree, however, that the ordinance should be amended in the near future to eliminate all exemptions and be enforced throughout the borough.
- The minority recommends that the gaming establishments should be exempt due to the unfair business climate that the ordinance created within the gaming community.

Economic Impact – Capital Investments

- The economic impact of compliance with section 36.60.030 was noted. The cost associated with this section is dependent on the amount of construction needed to insure separation of exempt areas.
 - “Smoking is allowed in bars and some bar-restaurants providing no tobacco smoke infiltrates into dining rooms (or public places) through a passageway, ventilation system, or otherwise, into any area where smoking is prohibited.”
- There are establishments in Juneau that need to undertake remodeling or take measures that comply with the intent of the section above. This is a required capital expense that may have an economic impact on non-exempt businesses. Exempt businesses do not have to undergo this capital expense which may create an unfair economic advantage.

Recommendation (sec 4)(b)

- Maintain the existing Health and Safety Code and promote voluntary compliance with more public education and enforcement.

Proposed Revisions (sec 4)(b)(6)

- Amend the Health and Safety Code to include all public facilities and businesses.
 - Vote: Yes-4; No-2
- Extend the ordinance to include bus shelters.
 - Vote: Yes-5; No-1

Presented by: The Manager
Introduced: 05/24/2004
Drafted by: J.W. Hartle

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2004-21

An Ordinance Extending the Smoking Ban to Bars and Bar
Restaurants.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the City and Borough code.

Section 2. Amendment of Section. CBJ 36.60.030, Where smoking not regulated, is amended to read:

36.60.030 Where smoking not regulated.

(a) This chapter does not apply to:

1. private residences, including those used as places of employment, but this exception does not apply at any time the residence is open for use as a child care, adult care or health care facility,
2. places of employment with a total of four or fewer employees and owners working at the place, provided that this exception shall not apply to a place of employment which is an enclosed public place,
3. private enclosed areas in nursing homes or assisted living facilities,
4. retail tobacco stores,
5. performers smoking as part of a stage performance,
6. enclosed areas used for conferences or meetings in restaurants, service clubs, hotels, or motels while the spaces are in use for private functions admission to which is determined at least three days in advance,
7. bars; provided that for bars, no tobacco smoke may infiltrate into a dining room through a passageway, ventilation system, or otherwise, or into any area where smoking is prohibited,
8. federal or state property, or those portions of buildings leased by the federal or state government,
9. private property used for residential incarceration under contract to a federal or state correctional agency.

(b) the owner, operator, or manager of property may by permanently affixing a sign thereon, waive any exemption provided by subsection (a) of this section.

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Section 3. Amendment of Section. CBJ 36.60.030, Where smoking not regulated, is amended to read:

36.60.030 Where smoking not regulated.

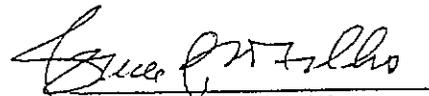
(a) This chapter does not apply to:

1. private residences, including those used as places of employment, but this exception does not apply at any time the residence is open for use as a child care, adult care or health care facility,
2. places of employment with a total of four or fewer employees and owners working at the place, provided that this exception shall not apply to a place of employment which is an enclosed public place,
3. private enclosed areas in nursing homes or assisted living facilities,
4. retail tobacco stores,
5. performers smoking as part of a stage performance,
6. enclosed areas used for conferences or meetings in restaurants, service clubs, hotels, or motels while the spaces are in use for private functions admission to which is determined at least three days in advance,
7. *Reserved.*
8. federal or state property, or those portions of buildings leased by the federal or state government,
9. private property used for residential incarceration under contract to a federal or state correctional agency.

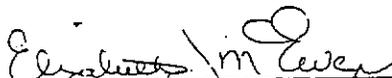
(b) the owner, operator, or manager of property may by permanently affixing a sign thereon, waive any exemption provided by subsection (a) of this section.

Section 4. Effective Dates. Section 2 of this ordinance shall be effective January 2, 2005; Section 3 of this ordinance shall be effective January 2, 2008.

Adopted this 14th day of June, 2004.


Bruce Botelho, Mayor

Attest:


Elizabeth J. McEwen, Deputy Clerk

Presented by: The Manager
Introduced: 04/02/2007
Drafted by: J.W. Hartle

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2007-20

An Ordinance Extending the Smoking Ban to Include the Campus of Bartlett Regional Hospital, the Bartlett House, the Juneau Medical Center, and Wildflower Court, and to Prohibit the Use of Smokeless Tobacco Products on the Hospital Tobacco-free Campus.

WHEREAS, the Board of Directors of Bartlett Regional Hospital supports efforts to reduce the risks related to the use of tobacco products on the campus of Bartlett Regional Hospital including possible adverse effects on patient care and treatment, the risk of fire, and the risk of "passive smoking" for others; and

WHEREAS, dangers associated with smoking, secondary smoke, and the use of smokeless tobacco, are becoming increasingly evident; and

WHEREAS, the Hospital Board, at its regular meeting on December 19, 2006, adopted a "Tobacco-free Campus" policy for Bartlett Regional Hospital, effective on June 1, 2007, which provides, among other things, that Hospital employees, Medical Staff, visitors, volunteers, consultants, vendors, travelers, and construction workers are prohibited from smoking or using smokeless tobacco products anywhere on the campus of Bartlett Regional Hospital as that area is defined by the policy; and

WHEREAS, the management for the Bartlett House, the Juneau Medical Center, and Wildflower Court have requested that their facilities and the parking areas for those facilities be included within the "Hospital Tobacco-free Campus" for purposes of this ordinance; and

WHEREAS, CBJ 36.60.010, which sets out where smoking is prohibited, needs to be expanded to include the "Hospital Tobacco-free Campus" as defined in this ordinance, and to prohibit the use of smokeless tobacco products on that Campus; and

WHEREAS, the Assembly finds that designating Bartlett Regional Hospital and the facilities listed above, together, as the "Hospital Tobacco-free Campus" will further protect the public health of patients, staff, visitors, and others at the Hospital and the additional facilities included.

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NOW, THEREFORE, BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the City and Borough Code.

Section 2. Amendment of Section. CBJ 36.60.010 is amended to read:

36.60.010 Smoking prohibited.

(a) Smoking is prohibited in:

- (1) enclosed public places;
- (2) places of employment;
- (3) vehicles and enclosed areas owned by the City and Borough of Juneau, including the Juneau School District;
- (4) commercial passenger vehicles regulated by the City and Borough under CBJ 20.40.

(b) Notwithstanding any other provision of this chapter, smoking and the use of smokeless tobacco products is prohibited anywhere within the area defined as the "Hospital Tobacco-free Campus."

- (1) For purposes of this subsection, the "Hospital Tobacco-free Campus" means all buildings and facilities owned or leased by Bartlett Regional Hospital, whether inside or outside the buildings or facilities; the Bartlett House, the Juneau Medical Center, and Wildflower Court, whether inside or outside the buildings or facilities; the vehicle parking areas owned or leased by the hospital; the vehicle parking areas for the Bartlett House, the Juneau Medical Center, and Wildflower Court; and the public streets and public sidewalks adjacent to any of these buildings and facilities; provided, however, the five pavilion areas at Wildflower Court are excluded from the Tobacco-free Campus; all as shown on Exhibit A to Ordinance 2007-20.
- (2) For purposes of this subsection, use of smokeless tobacco products means use of snuff, chewing tobacco, smokeless pouches, or other forms of loose leaf tobacco.

Section 3. Amendment of Section. CBJ 36.60.025 is amended to read:

36.60.025. Reasonable distance. No person may smoke within ten feet of any entrance, open window, or ventilation system intake of any building area within which smoking is prohibited by this chapter; provided, however, no person may smoke or use smokeless tobacco products anywhere within the "Hospital Tobacco-free Campus" as that area is defined in section 36.60.010(b) of this chapter.

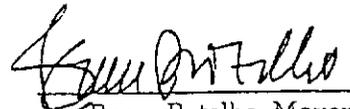
Section 4. Amendment of Subsection. CBJ 36.60.045(b) is amended to read:

36.60.045 Violations.

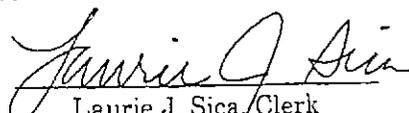
...
(b) It shall be unlawful for any person to smoke or use a smokeless tobacco product in any area where smoking or use of smokeless tobacco products is prohibited by the provisions of this chapter. Violation of this subsection is an infraction.
...

Section 5. Effective Date. This ordinance shall be effective on June 1, 2007.

Adopted this 23rd day of April, 2007.


Bruce Botelho, Mayor

Attest:


Laurie J. Sica, Clerk

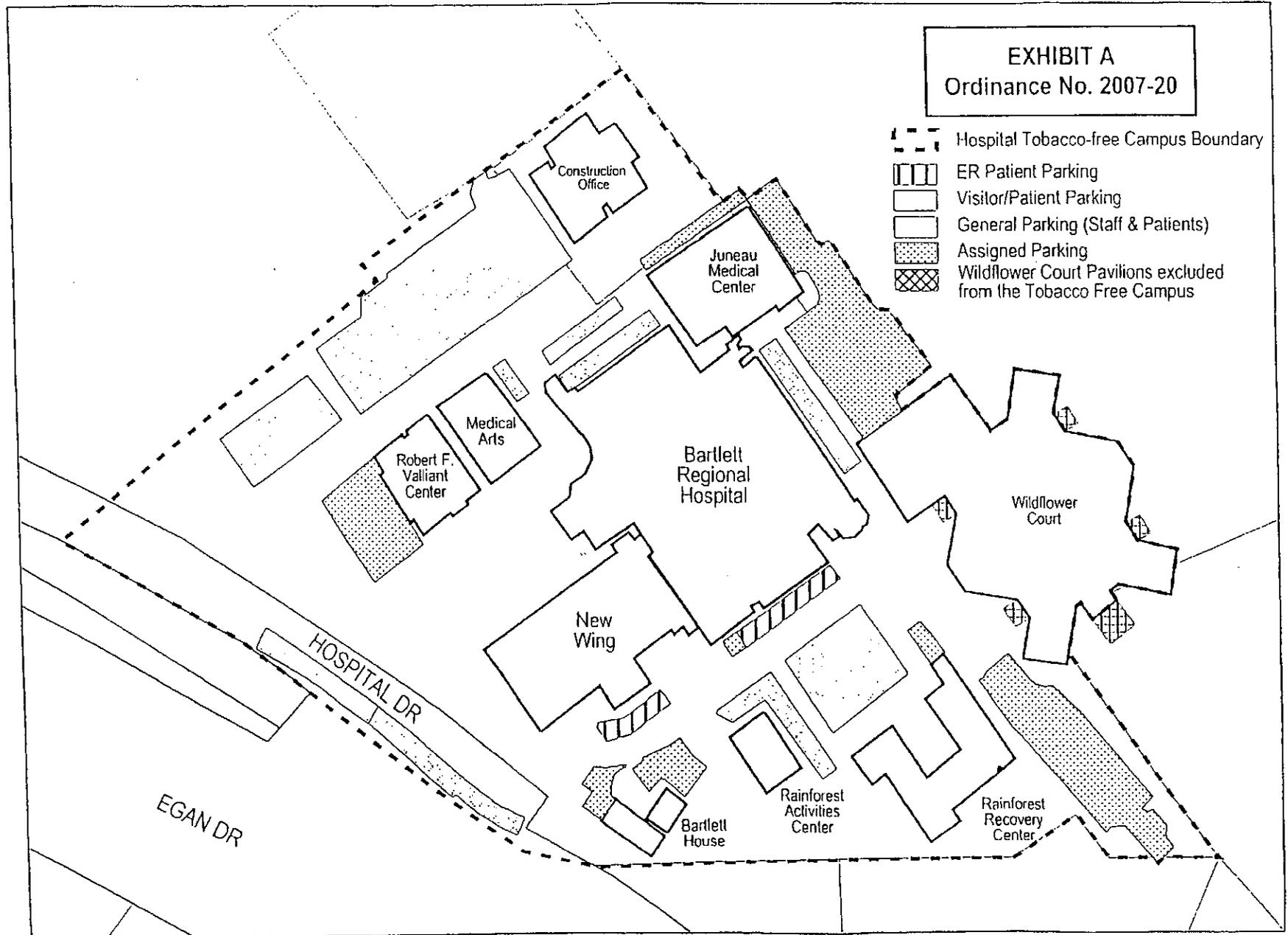
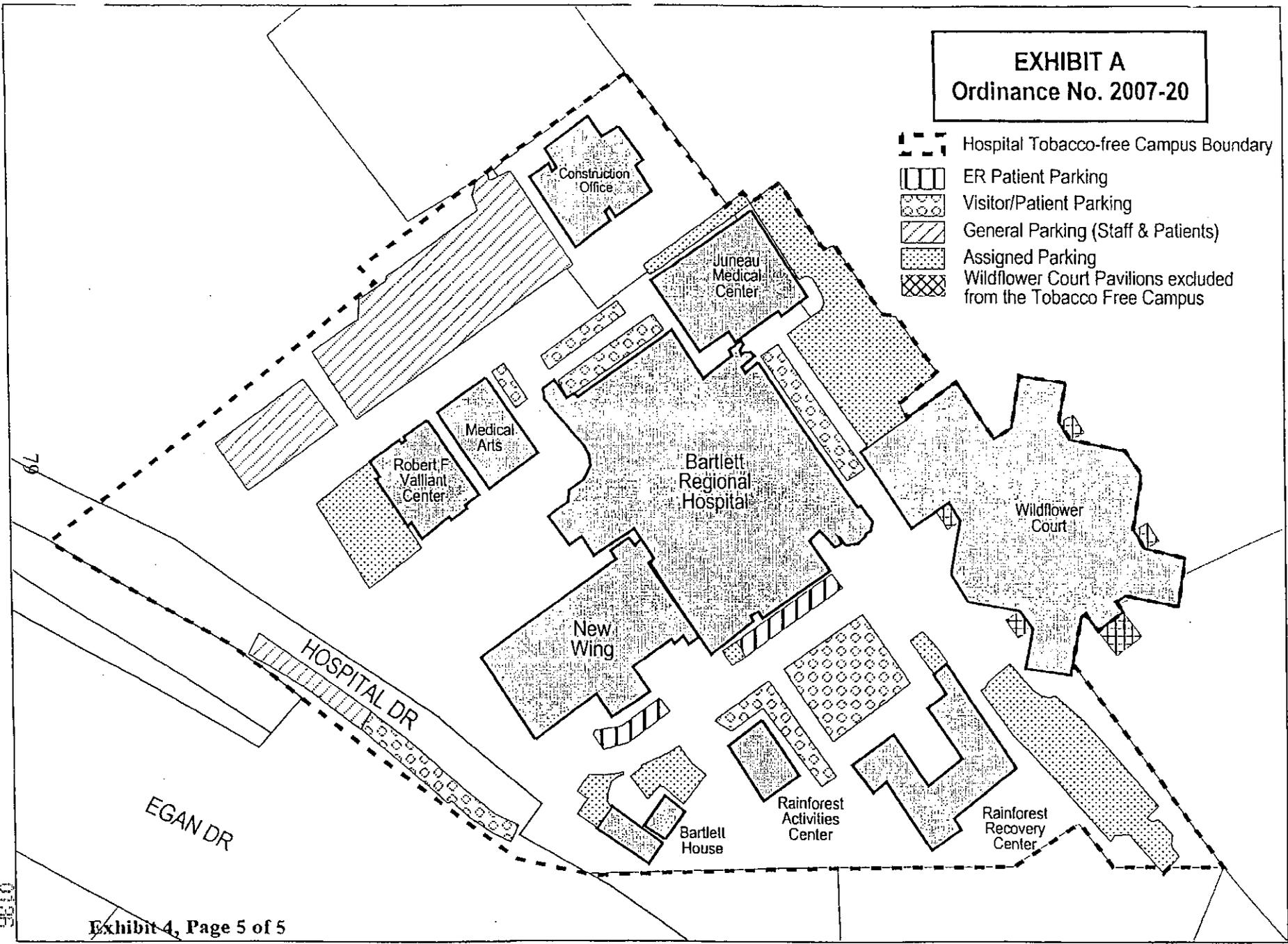


EXHIBIT A
Ordinance No. 2007-20

-  Hospital Tobacco-free Campus Boundary
-  ER Patient Parking
-  Visitor/Patient Parking
-  General Parking (Staff & Patients)
-  Assigned Parking
-  Wildflower Court Pavilions excluded from the Tobacco Free Campus



0136

Presented by: Mayor Botelho
Introduced: 06/25/2007
Drafted by: J.W. Hartle

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2007-44

An Ordinance Prohibiting Smoking in Bus Shelters.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the City and Borough Code.

Section 2. Amendment of Section. CBJ 36.60.010 Smoking prohibited, is amended to read:

36.60.010 Smoking prohibited.

(a) Smoking is prohibited in:

- (1) Enclosed public places;
- (2) Enclosed places of employment;
- (3) Vehicles and enclosed areas owned by the City and Borough of Juneau, including the Juneau School District;
- (4) Commercial passenger vehicles regulated by the City and Borough under CBJ 20.40; and
- (5) Bus passenger shelters.

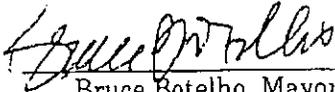
(b) Notwithstanding any other provision of this chapter, smoking and the use of smokeless tobacco products is prohibited anywhere within the area defined as the "Hospital Tobacco-free Campus."

- (1) For purposes of this subsection, the "Hospital Tobacco-free Campus" means all buildings and facilities owned or leased by Bartlett Regional Hospital, whether inside or outside the buildings or facilities; the Bartlett House, the Juneau Medical Center, and Wildflower Court, whether inside or outside the buildings or facilities; the vehicle parking areas owned or leased by the hospital; the vehicle parking areas for the Bartlett House, the Juneau Medical Center, and Wildflower Court; and the public streets and public sidewalks adjacent to any of these buildings and facilities; provided, however, the five pavilion areas at Wildflower Court are excluded from the Tobacco-free Campus; all as shown on Exhibit A to Ordinance 2007-20.

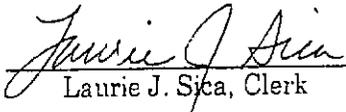
(2) For purposes of this subsection, use of smokeless tobacco products means use of snuff, chewing tobacco, smokeless pouches, or other forms of loose leaf tobacco.

Section 3. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this 9th day of July, 2007.


Bruce Botelho, Mayor

Attest:


Laurie J. Sica, Clerk