
**ORDINANCE AMENDING CITY CODE AND
ENACTING A PUBLIC SMOKING BAN,
CITY OF SALTILLO, MISSISSIPPI**

WHEREAS the authority was granted unto the City of Saltillo, Mississippi, pursuant to and in accordance with §21-19-1, et. seq., as well as other relevant provisions, of the Mississippi Code Annotated (1972, as amended), to pass ordinances and regulations in order to secure and protect the general health, safety and welfare, and to otherwise promote the overall best interest of, the City and its citizenry;

WHEREAS the Mayor and Board of Aldermen have studied the documented effects of smoking and second-hand smoke as published by the United States Surgeon General and other credible persons and entities within the medical and health research fields, and have determined that smoking and second-hand smoke pose both a serious direct and indirect risk to the general health, safety and welfare of the citizenry of Saltillo, and that public smoking should therefore be reasonably governed and regulated accordingly;

WHEREAS the Mayor and Board of Aldermen have maturely considered the aforesaid subject matter and this ordinance, and have determined that said ordinance is necessary to promote the general health, safety and welfare, and is in the overall best interest of, the City and its citizenry, and is otherwise permissible according to state and federal law;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Board of Aldermen of the City of Saltillo, Mississippi as follows:

Section 1. Short Title.

This legislation shall be cited as the *Smoke-Free Saltillo Ordinance*.

Section 2. Definitions.

The following words, terms and phrases, when used in this legislation, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“*Bars*” means any premises where non-alcoholic or alcoholic beverages are sold or consumed, including but not limited to, taverns, nightclubs, and cocktail lounges.

“*Business*” means any sole proprietorship, partnership, joint venture, corporation or other business entity, formed either for non-profit or profit-making purposes, including retail establishments where goods or services are sold, as well as professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional

services are delivered, and private clubs.

“Childcare facility” means any state licensed childcare facility including, but not limited to licensed family daycare or licensed group daycare centers, licensed day camps, certified school-age programs and Head Start programs.

“City buildings” means all city-owned and operated buildings and those portions of buildings leased and operated by the city.

“Common areas of buildings” means all areas not part of a tenant’s leased premises, including but not limited to lobbies, community rooms, hallways, laundry rooms, stairwells, elevators, enclosed parking facilities, pool areas, and restrooms contiguous thereto.

“Electronic cigarette” means an electronic device that delivers vapor for inhalation. Electronic cigarette shall include any refill, cartridge, and any other component of an electronic cigarette. Electronic cigarette shall not include any product approved by the Food and Drug Administration for sale as a drug or medical device.

“Employee” means any person who is employed by an employer in consideration for direct or indirect monetary wages or profit, including those full time, part-time, temporary or contracted from a third party; employee also means any person who serves as a volunteer for a business or nonprofit entity.

“Employer” means any person, business, partnership, association, limited liability company, corporation, or other entity, including a public or non-profit entity that employs the services of one (1) or more individual persons.

“Enclosed area” means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of doors or passage ways) which extend from floor to ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid, ‘other landscaping’ or similar structures.

“Entrance” means a doorway and adjacent area which gives direct access to a building from a contiguous street, plaza, sidewalk or parking lot.

“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, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semi-private rooms, wards within and entrances into health care facilities.

“Hotel and motel” means any commercial establishment that offers rooms that contain a

bed and toilet facilities to the general public for rent, that is not an apartment complex or home.

“Mall” means an enclosed, indoor area containing common areas and discreet businesses primarily devoted to the retail sale of goods and services.

“Place of employment” means an enclosed area controlled by the employer, which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference and classrooms, employee cafeterias, hallways and vehicles. This also includes private offices, elevators, medical facilities, stairs, vehicles and all other enclosed facilities. A private residence is not a “place of employment” within the meaning of this article unless used as a childcare facility.

“Private Club” means a facility owned or operated by an association or corporation, which does not operate for pecuniary gain or have regular employees and which only sells alcoholic beverages incidental to its operation. 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 by-laws and/or a constitution to govern its activities. The organization has been granted a Section 501 exemption from the payment of Federal Income Taxes as a Club under 26 U.S.C. Entry into and use of a private club is restricted to members only. When a private club is open to the public, it does not meet this definition. Private club also 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 purposes, but not for pecuniary gain.

“Private Residence” means premises owned, rented or leased for temporary or permanent habitation.

“Public Place” means an enclosed area to which the public is invited or in which the public is permitted, including but not limited to, banks, bars, educational facilities, health care facilities, hotel and motel lobbies, laundromats, parking garages, public parks, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A public place also includes the entire building if the building also includes portions of the building to which the general public is not generally invited. A private club is a “public place” when being used for a function to which the general public is invited. A private residence is not a “public place” unless it is used as a child care, adult day care, or health care facility.

“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.

“Retail electronic cigarette store” means a retail store devoted primarily to the sale of

electronic cigarettes, and in which the sale of other products is merely incidental. The sale of such other products shall be considered incidental if such sales generate less than Fifty Percent (50%) of the total annual gross sales.

“Retail tobacco store” means a retail store devoted primarily to the sale of tobacco products and in which the sale of other products is merely incidental. The sale of such other products shall be considered incidental if such sales generate less than Fifty Percent (50%) of the total annual gross sales.

“Service Line” means an indoor line in which one (1) or more persons are waiting for or receiving service of any kind, whether or not the services involve the exchange of money.

“Smoking” means inhaling, exhaling, vaping, burning, or carrying any lighted cigar, cigarette, pipe, electronic smoking device, hookah, or other lighted, electronically-ignited or combusted tobacco or nicotine product in any manner or any form.

“Sports arena or venue” means sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and indoor ice rinks, bowling centers and other similar places where members of the general public assemble to participate in or to witness sports, cultural, recreational, or other events.

Section 3. Application of article to city-owned facilities, vehicles.

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

Section 4. Smoking prohibited in indoor public places.

Except as otherwise provided, it shall be unlawful for any person to smoke in indoor public places and in places of employment as defined in Sections 2 and 3 herein, including but not limited to the following:

- (1) Aquariums, galleries, libraries and museums;
- (2) 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, professional offices, banks, laundromats, hotels and motels;
- (3) Bars;
- (4) Bingo facilities;
- (5) Childcare facilities;
- (6) City buildings;
- (7) Common areas in bed and breakfast establishments, hotels and motels and common areas of buildings;
- (8) Convention facilities;
- (9) Educational facilities;
- (10) Elevators and enclosed stairwells;
- (11) Facilities primarily used for exhibiting a motion picture, stage, drama, lecture, musical recital, or other similar performance.

- (12) Health care facilities;
- (13) Hotel and motel lobbies;
- (14) Indoor shopping malls;
- (15) Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities;
- (16) Places of employment;
- (17) Polling places;
- (18) Private clubs when being used for a function to which the general public is invited;
- (19) Public forms of transportation, including but not limited to, motor buses, taxicabs, or other public passenger vehicles;
- (20) Public bus and transfer point shelters;
- (21) Public places including parking garages and jails;
- (22) Retail stores;
- (23) Restaurants;
- (24) Restrooms, chambers, places of meeting or public assembly, including school buildings, under the control of an agency, board, commission, committee or council of the city or a political subdivision of the state, to the extent the place is subject to the jurisdiction of the city;
- (25) Self-service laundry facilities;
- (26) Service lines;
- (27) Service lobbies, waiting areas, and the common areas open to the public of financial institutions, businesses and professional offices, and multi-unit commercial facilities;
- (28) Sports arenas and venues; and
- (29) Waiting rooms, hallways, rooms in offices of any physician, dentist, psychologist, chiropractor, optometrist or optician, or other medical services provider.

Section 5. Exceptions.

The following areas shall not be subject to the smoking restrictions of this ordinance:

- (1) Up to Twenty Percent (20%) of all rooms that are rented to guests in bed and breakfast facilities, hotel and motel rooms may be designated as smoking rooms;
- (2) Private clubs that have no employees, except when being used for a function to which the general public is invited;
- (3) Private residences, except those being used for a child care, adult day care or healthcare facility;
- (4) Retail tobacco stores; and
- (5) Retail electronic cigarette stores.

Section 6. Smoking prohibited in certain outdoor areas.

It shall be unlawful for any person to smoke in certain outdoor areas:

- (1) Within a reasonable distance of twenty-five (25) feet immediately preceding the entrance to and ten (10) feet from the exit of an area where smoking is prohibited;
- (2) Attached areas of restaurants that are covered or partially covered with more than

- Fifty Percent (50%) of the perimeter of the outside area walled or otherwise closed to the outside; and
- (3) Seating areas of outdoor sports arenas, stadiums, amphitheaters and other venues.

Section 7. Signage.

- (a) Signs prohibiting smoking shall be posted conspicuously at the primary entrance of the premises by the proprietor, employer or other person in charge of the building;
- (b) Signage shall include the international no smoking symbol and be no smaller than 5" x 5"; and
- (c) It shall be unlawful for any person to remove, deface, or destroy any sign required by this ordinance, or to smoke in a place where any such sign is posted.

Section 8. Proprietor's responsibilities.

- (a) The proprietor, employer or other person in charge of premises regulated hereunder, upon either observing or being advised of a violation, shall advise the smoker of this ordinance and request that they extinguish their cigarette or tobacco product and refrain from smoking;
- (b) The proprietor, employer or other person in charge of premises, shall post signage as required by this ordinance; and
- (c) The proprietor, employer or other person in charge of premises, shall not provide ashtrays in areas where smoking is prohibited. All ashtrays shall be removed from any area where smoking is prohibited by this ordinance by the owner, operator, manager, or other person having control of the area.

Section 9. Enforcement.

- (a) The Saltillo Police Department and the Saltillo Department of Building and Zoning shall have the power, subject to law, to enter upon the premises named in this ordinance to ascertain whether the premises are in compliance with this ordinance. Enforcement will be through issuance of a citation;
- (b) Any person who desires to register a complaint under this ordinance may contact the city police department;
- (c) Notice of the provisions of this ordinance shall be given to all applicants for a business license in the City of Saltillo;
- (d) The health department, fire department, or their designees shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this ordinance; and
- (e) It shall be unlawful for any individual to operate a retail tobacco store or a retail electronic cigarette store without having registered with the city clerk's office in accordance with the rules of the office of the city clerk;

Section 10. Violations and penalties.

- (a) Any person who violates any provision of this ordinance may be subject to a fine

of no more than fifty dollars (\$50.00) for the first offense and no more than two hundred fifty dollars (\$250.00) for the second and subsequent offenses;

- (b) Any person who owns, manages, operates, or otherwise controls a public place or place of employment who fails to comply with the provisions of this ordinance shall be guilty of a misdemeanor, punishable by:
 - (1) A fine not exceeding one hundred dollars (\$100.00) for a first violation;
 - (2) A fine not exceeding two hundred dollars (\$200.00) for a second violation within one (1) year;
 - (3) A fine not exceeding five hundred dollars (\$500.00) for each additional violation within one (1) year;
- (c) The Saltillo Board of Aldermen may suspend or revoke any business license or permit issued by the city for three (3) or more violations of this ordinance involving the licensed premises within a twelve (12) month period;
- (d) Violation of this ordinance is hereby declared to be a public nuisance, which may be abated by the police department or the department of building and zoning by restraining order, preliminary and permanent injunction, or other means provided for by law, and the city may take action to recover the costs of the nuisance abatement, including attorney fees and costs of court; and
- (e) Each day on which a violation of this ordinance occurs shall be considered a separate and distinct violation.

Section 11. Non-retaliation; non-waiver of rights.

- (a) No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or customer because that employee, applicant or customer exercises any rights afforded by this ordinance or reports or attempts to prosecute a violation of this ordinance; and
- (b) An employee who works in a setting where an employer allows smoking does not waive or otherwise surrender any legal rights the employee may have against the employer or any other party.

Section 12. Severability.

Should any section, clause, paragraph, provision, or part of this ordinance for any reason be held invalid or unconstitutional by any court of competent jurisdiction, this act shall not affect the validity of any other section, clause, paragraph, provision, or part of this ordinance. All provisions of this ordinance shall be considered separate provisions, and completely severable from all other portions.

Section 13. Conflict.

In any case where a provision of this ordinance is found to be in conflict with a provision of any other ordinance or code of the City of Saltillo, Mississippi, existing on the effective date of the ordinance, the provisions of this ordinance shall take precedence.

Section 14. Effective Date.

This Ordinance shall be official upon publication and after the passage of one (1) month from the date hereof.

Section 15. Publication and Recording.


The City Clerk is instructed to publish the substance of this ordinance one (1) time in the Northeast Mississippi Daily Journal, pursuant to and in accordance with Mississippi Code Section 21-17-19 (1972, as amended), and to obtain proof of publication thereof and record this ordinance in the city ordinance book. Said ordinance shall also be properly posted, and otherwise available for review at the office of the City Clerk, in accordance with state law.

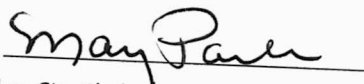
Section 16. Adoption and Certification.

UPON MOTION of Alderman Brad Woodcock, duly seconded by Alderman Terry Glidewell, the aforesaid ordinance was put to a vote with Aldermen voting as follows:

Donald Cullum:	Yea
Jewell Webb:	Yea
Brad Woodcock:	Yea
Scott Knight:	Absent
Terry Glidewell:	Yea

ORDAINED AND ADOPTED this the 18th day of August, 2015, at the Regular Meeting of the Mayor and Board of Aldermen of the City of Saltillo, Mississippi.


Rex Smith, Mayor
City of Saltillo, Mississippi


Mary Parker, City Clerk
City of Saltillo, Mississippi



NOTE: This ordinance was approved and adopted by the Mayor and Board of Aldermen at their Regular Meeting on August 18, 2015 and appears in Minute Book 68 at pages 14.