

ORDINANCE NO. 2907

AN ORDINANCE to amend Title 11 of The Code of the City of Alexandria, Virginia, 1981, as amended, by adding a new chapter numbered 10 entitled SMOKING PROHIBITIONS CODE; which Title 11 relates to HEALTH, ENVIRONMENTAL AND SANITARY REGULATIONS and which new chapter numbered 10 relates to PROHIBITION OF SMOKING IN CERTAIN DESIGNATED PUBLIC AREAS OF THE CITY AND PROVIDES FOR CERTAIN EXCEPTIONS TO SUCH PROHIBITIONS; PROVIDES FOR THE DESIGNATION OF CERTAIN SMOKING AREAS; REQUIRES THE POSTING OF SIGNS IN NO SMOKING AREAS; PROVIDES FOR ENFORCEMENT BY THE CITY MANAGER AND PRESCRIBES A PENALTY FOR VIOLATIONS.

WHEREAS, in the interest of protecting the public health and welfare, the City Council of the City of Alexandria desires to encourage a clean environment; and

WHEREAS, tobacco smoke is an irritant which pollutes the environment; and

WHEREAS, such pollution is particularly offensive to nonsmokers; and

WHEREAS, the city council is of the opinion that an ordinance in the matter is needed and has agreed upon the policy recited in the chapter hereinafter set forth; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Title 11 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended by adding a new chapter numbered 10 to read as follows:

CHAPTER 10
Smoking Prohibitions.

Sec. 11-10-1. Short title.

This chapter shall be known and may be cited as the "Smoking Prohibitions Code of the City of Alexandria, Virginia."

Sec. 11-10-2. Definitions.

Food store. Any supermarket, grocery store or other retail food store which is designed and arranged to display and sell food products to the general public for consumption off the premises, or which derives a substantial proportion of its income therefrom.

Health care facility. Any office or institution providing individual care or treatment of diseases, whether physical, mental or emotional, or other medical, physiological or psychological conditions including but not limited to hospitals,

clinics, nursing homes, homes for the aging or chronically ill, laboratories, offices of any physician, dentist, psychologist, psychiatrist, physiologist, podiatrist, optometrist or optician.

Person. Any person, firm, partnership, association, corporation, company or organization of any kind.

Public meeting. Any meeting or assembly held in a public building or building leased for a public purpose which is open to the public for the conduct of the affairs of, and the transaction of business by, any legislative or administrative body or agency of the City of Alexandria, including boards, commissions, authorities, councils, committees, subcommittees and other subordinate groups thereof, receiving or expending and supported in whole or in part by public funds.

Retail store. Any establishment whose primary purpose is to sell or offer for sale to consumers, not for resale, any goods, wares, merchandise, articles or other things and all activities, operations and services connected therewith or incidental thereto. The term "retail store" shall not include food stores, hotels, motels, restaurants and those restaurant facilities which are an integral part of a retail store, bar, lounge, catering establishment and other facility.

Smoking or to smoke. The act of smoking or carrying a lighted or smoldering cigar, cigarette or pipe of any kind, or lighting a cigar, cigarette or pipe of any kind.

Theater. Any indoor facility, open to the public, which is primarily used for or designed for the purpose of exhibiting any motion picture, stage drama, musical recital, dance, lecture or other similar performance.

Sec. 11-10-3. Smoking prohibited in certain areas.

It shall be unlawful for any person to smoke in any of the following areas:

- (a) In an elevator, regardless of capacity, except in those elevators in single-family dwellings;
- (b) In any retail store in which more than eight (8) persons are regularly employed at any one time;
- (c) In any food store in which more than eight (8) persons are regularly employed at any one time;
- (d) In any health care facility, regardless of capacity;
- (e) In any public meeting attended by more than eight (8) persons;

(f) In any theater, except smoking by performers as part of the production; or

(g) In any art gallery, library, museum, or similar cultural facility, supported in whole or in part by public funds.

Sec. 11-10-4. Exceptions.

The prohibitions of this chapter shall not apply to the following:

(a) In lawfully designated smoking areas;

(b) In those areas of enclosed shopping centers or malls that are external to the retail stores and are used by customers as a route of travel from one store to another and that consist primarily of walkways and seating arrangements;

(c) In an area of a theater commonly referred to as a lobby if physically separated from the spectator area;

(d) In the offices or work areas of public buildings not entered by the public in the normal course of business or use of the premises;

(e) During the hours in which the particular business or institution is not open to the public;

(f) In any tobacco shop or store primarily concerned with selling tobacco and smoking implements;

(g) In the in-patient sleeping quarters of any health care facility, except hospitals. Each such facility shall make a reasonable effort to assign patients to sleeping rooms according to the patient's individual nonsmoking or smoking preference; and

(h) The sleeping quarters of nonambulatory hospital patients, when the physician writes an order in the patient's record allowing that patient to smoke.

Sec. 11-10-5. Designated smoking area.

The owner or person in charge of any building, structure, space, place or area in which smoking is prohibited may designate separate rooms or areas in which smoking is permitted, provided that:

(a) Designation of such rooms or areas shall be reasonably separate from those rooms or areas entered by the public in the normal course of use of the particular business or institution; and

(b) In designated smoking areas, existing physical barriers and ventilation systems shall be used when possible to minimize the toxic effect of smoke in adjacent nonsmoking areas.

Sec. 11-10-6. Posting of signs.

Any person who owns, manages or otherwise controls any building, facility, room, area or place in which smoking is prohibited, is required to post or cause to be posted conspicuously, signs at least five (5) inches in height, which read:

NO SMOKING
City Code
Prohibits the Carrying
of Lighted Tobacco
Products of Any Kind
\$25.00 Fine

The letters in the words "No Smoking" shall be at least one and one-half (1-1/2) inches in height.

Sec. 11-10-7. Enforcement.

The provisions of this chapter shall be enforced by the city manager or his duly authorized representative.

Sec. 11-10-8. Penalty.

Any person violating any of the provisions of this chapter shall be fined up to \$25.00. Each day a violation of this chapter shall continue constitutes a separate violation.

Section 2. That the title of and an informal memorandum explaining this ordinance shall be published in a newspaper of general circulation published in the city not later than five days following its introduction together with a notice containing the time and place for a public hearing. The city clerk shall have the full text of this ordinance printed in sufficient numbers to supply copies to meet request. The city clerk shall note the date of introduction and first reading, the date of publication, the date of the public hearing, and the date of the second reading and final passage in the minutes of the meeting. This ordinance shall become effective the date of its final passage.

CHARLES E. BEATLEY, JR.
Mayor

Final Passage: March 17, 1984