

ORDINANCE 2019-19

AN ORDINANCE AMENDING TITLE 6, HEALTH AND SANITATION, CHAPTER 4, SMOKING IN THE WORKPLACE.

WHEREAS, the Isle of Palms Council is empowered with the authority to make substantive amendments to the Isle of Palms Code, including amending Chapters, and now wishes to do so;

WHEREAS, The Isle of Palms Council believes it is imperative to take action to reduce the overwhelming amount of pollution caused by cigarette butts on our pristine beaches;

WHEREAS, the Isle of Palms Council now desires to amend Chapter 4, to include a smoking prohibition on public beaches and public beach access points.

BE IT ORDAINED AND ENACTED BY THE MAYOR AND COUNCIL MEMBERS OF THE CITY OF ISLE OF PALMS, SOUTH CAROLINA, IN CITY COUNCIL ASSEMBLED THAT TITLE 6, HEALTH AND SANITATION, CHAPTER 4, SMOKING IN THE WORKPLACE SHALL BE AMENDED TO READ AS FOLLOWS:

CHAPTER 4: SMOKING IN THE WORKPLACE, PUBLIC BEACHES AND PUBLIC BEACH ACCESS POINTS.

Sec. 6-4-1. - Definitions.

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

*Business agent* means an individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.

*Employee* means any person who performs services for an employer in return for wages, profit or other valuable consideration. It also means a person who volunteers his services for a non-profit entity.

*Employer* means any person, partnership, association, limited liability company, corporation, trust, school, governmental agency, college, university or other educational institution, nonprofit entity or other organization, whether public or private, that employs one (1) or more employees.

*Enclosed area* means all space between a floor and ceiling that is enclosed on two or more sides by temporary or permanent walls of any type of material including but not limited to plastic, wood, sheet rock, or particle board, or windows which extend from the floor to the ceiling, including but not limited to, offices, rooms, foyers, waiting areas, porches, halls and mobile public conveyance. Facilities having only partial exterior walls but otherwise enclosed by ceilings and floors shall also be included in this definition; provided, however, that porches which have fifty (50%) percent or more of open space or screening on all but one side shall be excluded from this definition.

*Environmental tobacco smoke* (ETS) or secondhand smoke is the complex mixture formed from escaping smoke of a burning tobacco product (termed as "sidestream smoke") and smoke exhaled by the smoker. Exposure to ETS is also frequently referred to as "passive smoking," "secondhand smoking" or "involuntary smoking."

*Livability court* means that certain division of the City of Isle of Palms Municipal Court.

*Police department* means the City of Isle of Palms Police Department.

*Smoking* means the inhaling, exhaling, burning, lighting or carrying of a lighted cigarette, cigar, pipe, or similar device or any other lighted tobacco product.

*Smoking materials* includes cigars, cigarettes, and all other manner of smoking devices intended to be used for the purpose of inhaling and exhaling smoke.

*Workplace* means any enclosed area, structure, building or facility or any portion thereof at which one or more employee perform services for their employer, including but not limited to: retail food stores, retail stores, government buildings, restaurants, bars, cabarets, cafes, public or private clubs, pool halls, or bowling alleys.

(Ord. No. 2008-8, § 2, 9-23-2008)

Sec. 6-4-2. - Prohibition of smoking in the workplace.

- (a) It shall be the responsibility of the employer to provide a smoke-free environment for all employees working in an enclosed workplace. Each employer shall adopt, distribute and implement a written policy prohibiting smoking in the workplace, in accordance with this article.
- (b) The written smoking policy shall be adopted and distributed to all employees within four weeks of the commencement of business operations. A copy of the policy shall be conspicuously posted in all facilities or areas of the workplace.
- (c) Smoking is prohibited in all workspaces in a workplace. This includes all common work areas, auditoriums, gymnasiums, classrooms, conference and meeting rooms, private offices, hallways, medical facilities, cafeterias, employee lounges, staircases, restrooms and all other enclosed areas in a workplace. Furthermore, the employer, business agent, and all employees shall prohibit any persons from smoking tobacco products in any workplace or workspace.

(Ord. No. 2008-8, § 3, 9-23-2008)

Sec. 6-4-3. – Smoking on public beaches and beach access points.

Smoking shall be prohibited on public beaches and beach access points.

Sec. 6-4-4 - Smoking restrictions inapplicable.

In providing for the inapplicability of this article to the following subsections, it is specifically recognized that such locations are addressed in the Clean Indoor Air Act, enacted by the General Assembly of South Carolina and codified in S.C. Code 1976, § 44-95-10 et seq. Therefore, this article shall not apply to:

- (a) Public schools and preschools where routine or regular kindergarten, elementary, or secondary educational classes are held, including libraries;
- (b) All other indoor facilities providing children's services to the extent that smoking is prohibited in the facility by federal law and all other child day care facilities, as defined in S.C. Code 1976, § 20-7-2700, which are licensed pursuant to subarticle 11, article 13, chapter 7, of title 20 of the South Carolina Code (S.C. Code 1976, § 20-7-2700);
- (c) Health care facilities as defined in S.C. Code 1976, § 44-7-130;
- (d) Government buildings as defined in S.C. Code 1976, § 44-95-20(4), except to the extent regulation by the City is authorized therein;
- (e) Elevators;
- (f) Public transportation vehicles, except for taxicabs;
- (g) Arenas and auditoriums of public theaters or public performing art centers.

(Ord. No. 2008-8, § 4, 9-23-2008) Sec. 6-4-5. - Exceptions.

Notwithstanding the provisions of the above section, smoking may be permitted in the following places or circumstances:

- (a) Private residences;
- (b) Hotel, motel, inn, bed and breakfast, and lodging homes that are rented to guests, designated as smoking rooms (rooms) provided that the total percentage of such rooms does not exceed twenty-five (25%) percent in such establishment. A room so designated shall have signs posted indicating that smoking is allowed therein;
- (c) Performers upon a stage, provided that the smoking is part of the theatrical production being performed;
- (d) Religious ceremonies where smoking is part of the ritual; and
- (e) Medical research facilities.

(Ord. No. 2008-8, § 5, 9-23-2008) Sec. 6-4-6. - Posting of signs.

The owner of business agent of an establishment or area in which smoking is prohibited pursuant to this article shall post a conspicuous sign at the main entrance to the establishment or area. The sign shall contain the words "No Smoking" and the universal symbol for no smoking.

(Ord. No. 2008-8, § 6, 9-23-2008) Sec. 6-4-7. - Reasonable distance.

Smoking outside a workplace, workspace or any other enclosed area where smoking is prohibited shall be permitted, provided that no such smoke enters the enclosed area through entrances, windows, doors, opening, ventilation systems or any other means.

(Ord. No. 2008-8, § 7, 9-23-2008)

Sec. 6-4-8. - Jurisdiction, enforcement and penalties.

- (a) The City's municipal court shall have jurisdiction over prosecuting violations of the provisions of this article.
- (b) The Police Department shall enforce the provisions of this section. In addition, designated code enforcement employees of the city shall have power to enforce the provisions of this article.
- (c) The Police Department shall seek to obtain voluntary compliance with this article by means of publicity and education programs, and the issuance of warnings, where appropriate.
- (d) Any person who smokes in an area where smoking is prohibited by the provisions of this article shall be guilty of a civil infraction, punishable by a fine of not less than Ten (\$10.00) Dollars nor more than Twenty-five (\$25.00) Dollars.
- (e) Any person who owns, manages, operates, is a business agent of, or otherwise controls a place of employment and who fails to comply with the provisions of this article shall be guilty of a civil infraction, punishable by a fine of not less than Ten (\$10.00) Dollars nor more than Twenty-five (\$25.00) Dollars.
- (f) In addition to the fines set forth in this section, repeated violations of this article by a person who owns manages, operates, is a business agent of, or otherwise controls a place of employment may result in the suspension or revocation of any business license issued to the premises on which the violations occurred.
- (g) Each day of a continuing violation of this article shall be considered a separate and distinct offense.
- (h) Violation of this article is hereby declared to be a public nuisance, which may be abated by the City 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.

(Ord. No. 2008-8, § 8, 9-23-2008; Ord. No. 2010-10, §§ 1, 2, 6-22-2010)

Sec. 6-4-9. - Non-retaliation.

No person or employer shall discharge, refuse to hire, refuse to serve or in any manner retaliate or take any adverse personnel action against any employee, applicant, customer or other person because such employee, applicant, customer or other person takes any action in furtherance of the enforcement of this article or exercises any right conferred by this article.

(Ord. No. 2008-8, § 9, 9-23-2008)


SECTION 2. Should any part of this Ordinance be held invalid by a Court of competent jurisdiction, the remaining parts shall be severable therefrom and shall continue to be in full force and effect.

SECTION 3. That all ordinances or parts of ordinances conflicting with the provisions of this Ordinance are hereby repealed insofar as the same affect this Ordinance.

SECTION 4. That this Ordinance take effect on January 1, 2020.

PASSED AND APPROVED BY THE CITY COUNCIL FOR THE CITY OF ISLE OF PALMS, ON THE 10 DAY OF December, 2019.

  
Jimmy Carroll, Mayor

(Seal)  
Attest:   
\_\_\_\_\_  
, City Clerk

First Reading: December 3, 2019  
Public Hearing: \_\_\_\_\_  
Second Reading: December 10, 2019  
Ratification: December 10, 2019

