



Legislation Text

File #: 14-0189, Version: 3

An Ordinance to Add a New Chapter 64 to Title VI (Food and Health) of the Code of the City of Ann Arbor (Ordinance No. ORD-14-03)

The version of the ordinance amendment before you tonight for second reading contains the changes listed below.

First, due to the fact that the AAATA property consists of two parcels (328 S. Fifth Ave. and 331 S. Fourth Ave.) it was necessary to make changes to Section 6:1(4)(a) to clarify the areas where smoking is prohibited. The areas are as follows: (i) within 20 feet of entrances, windows, and ventilation systems of Blake Transit Center (BTC is on the parcel at 328 S. Fifth Ave.); (ii) on the property adjacent to S. Fourth Ave. and S. Fifth Ave. on which public buses are operated by the Ann Arbor Area Transportation Authority (buses are operated on both the parcel at 328 S. Fifth Ave and the parcel at 331 S. Fourth Ave.); and, (iii) on all sidewalks adjacent to boarding areas on S. Fourth Avenue between Liberty Street and William Street.

Second, Section 6:1(4)(b) was changed to reduce the area around bus stops where smoking is prohibited to within 10 feet (the previous version was 20 feet).

Third, Section 6:2(3) is deleted. The prohibition in subsection (1) suffices.

The proposed amendment is sponsored by Council Member Warpehoski.

Prepared by: Kristen D. Larcom, Senior Assistant City Attorney
ORDINANCE NO. ORD-14-03

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| First Reading: | April 7, 2014 | Approved: | April 21, 2014 |
| Public Hearing: | April 21, 2014 | Published: | April 24, 2014 |
| | | Effective: | May 4, 2014 |

FOOD AND HEALTH (SMOKEFREE OUTDOOR PUBLIC PLACES)

AN ORDINANCE TO ADD A NEW CHAPTER 64 TO TITLE VI (FOOD AND HEALTH) OF THE CODE OF THE CITY OF ANN ARBOR.

The City of Ann Arbor Ordains:

Section 1. That a new Chapter 64 be added to Title VI of the Code of the City of Ann Arbor to read as follows:

CHAPTER 64. SMOKEFREE OUTDOOR PUBLIC PLACES

6:1. Definitions.

The following words and phrases shall have the following definitions when used in this Chapter:

- (1) *Blake Transit Center* means the bus station in downtown Ann Arbor for public buses operated by the Ann Arbor Area Transportation Authority.
- (2) *Bus Stop* means any location in the City of Ann Arbor where a sign is posted marking the location as a place where passengers may get on or off of public buses operated by the Ann Arbor Area Transportation Authority. The term “bus stop” includes a sheltered area where persons may wait for their buses.
- (3) *City Building* means any building or structure owned by the City, including but not limited to parking structures and Ann Arbor City Hall and Ann Arbor Justice Center, which are located at 301 East Huron Street in Ann Arbor.
- (4) *Smokefree Outdoor Public Place* means all of the following:
 - (a) Outdoors: (i) within 20 feet of entrances, windows, and ventilation systems of Blake Transit Center; (ii) on the property adjacent to South Fourth Avenue and South Fifth Avenue on which public buses are operated by the Ann Arbor Area Transportation Authority; and, (iii) on all sidewalks adjacent to boarding areas on South Fourth Avenue between Liberty Street and William Street.
 - (b) Outdoors within 10 feet of bus stops.
 - (c) Outdoors within City of Ann Arbor parks or portions of parks when signs are posted prohibiting smoking, as determined by the City Administrator.
 - (d) Outdoors within 20 feet of entrances, windows and ventilation systems of any City Building.
 - (e) Outdoors on the property on which a City Building is located farther than 20 feet from the City Building’s entrances, windows and ventilation systems, when the City Administrator has had signs posted informing persons who enter onto the property that smoking is prohibited beyond the point at which the sign is located.
- (5) *Smoke or Smoking* means possessing a cigarette, e-cigarette, cigar, or pipe that contains tobacco or any other product that is lighted or burning; lighting a cigarette, e-cigarette, cigar, or pipe that contains tobacco or any other product; or exhaling smoke from burning tobacco or any other burning product that is contained in a pipe, cigar, cigarette and e-cigarette.

6:2. Smoking Prohibited in Smokefree Outdoor Public Places.

- (1) No person shall smoke in a smokefree outdoor public place as defined in this Chapter.
- (2) A person who violates subsection (1) is subject to being cited with a violation only if he or she refuses to cease smoking immediately upon being requested or ordered to do so by a City police officer.
- (3) The prohibition in this section against smoking in smokefree outdoor public places is in addition to

prohibitions against smoking in state law and in other ordinances or regulations and shall not be construed to permit smoking in areas where it is prohibited by state law or by other ordinances or regulations or on private property as determined by the private property owner.

- (4) When smoking trash receptacles are provided, if possible they should be placed near or outside the perimeter of the no smoking area in order to discourage smoking in these areas.

6:3. Posting Signs.

- (1) The prohibitions against smoking in this Chapter are enforceable whether or not signs are posted except as otherwise provided in this section.
- (2) This Chapter may be enforced in City parks or portions of parks only when signs are posted informing persons that smoking is prohibited.
- (3) This Chapter may be enforced on property on which a City Building is located in areas that are farther than 20 feet from entrances, windows and ventilation systems of the City Building only when signs are posted informing persons who enter onto the property that smoking is prohibited beyond the point at which the sign is located.

6:4. Authority of City Administrator.

- (1) The City Administrator, in consultation with Parks Advisory Commission, is authorized to designate any City park or portion of a City park as a smokefree outdoor public place where smoking is prohibited by having a sign or signs posted prohibiting smoking.
- (2) The City Administrator is authorized to designate the property or a portion of the property on which a City Building is located as a smokefree outdoor public place where smoking is prohibited by having a sign posted at the location beyond which smoking is prohibited.

6:5. Penalty.

A violation of this section shall constitute a civil infraction, which shall be punishable by a fine of not more than \$25.00 and costs. In the discretion of the Court, community service may be ordered in lieu of a \$25.00 fine and costs.

Section 2. That this Ordinance shall take effect on the tenth day following legal publication.

As Amended by Ann Arbor City Council on April 21, 2014

CERTIFICATION

I hereby certify that the foregoing ordinance was adopted by the Council of the City of Ann Arbor, Michigan, at its regular session of April 21, 2014.

Jacqueline Beaudry, City Clerk

John Hieftje, Mayor

I hereby certify that the foregoing ordinance received legal publication on the City of Ann Arbor City Clerk's webpage on April 24, 2014.

Jacqueline Beaudry, City Clerk