

**ORDINANCE NUMBER 2006-02**

**AN ORDINANCE TO CREATE RULES AND  
REGULATIONS FOR SMOKING IN PUBLIC PLACES  
AND PLACES OF EMPLOYMENT**

**WHEREAS**, scientific studies have found that tobacco smoke is a major contributor to indoor air pollution; and

**WHEREAS**, scientific studies, including studies conducted by the Surgeon General of the United States, have shown that breathing secondhand smoke is a significant health hazard; and

**WHEREAS**, the Mayor and Board of Aldermen find and declare that the purposes of this ordinance are to protect the public health and welfare of its citizens by prohibiting smoking in public places and places of employment;

**NOW THEREFORE, BE IT ORDAINED**, by the Mayor and Board of Aldermen of the City of Starkville:

**Section 1: Definitions.**

"Bars" means any premises where non-alcoholic or alcoholic beverages are sold or consumed.

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

"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.

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

"Employer" means any person, partnership, limited liability company, corporation, or other entity, including a public or non-profit entity who 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 door 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.

"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 discrete 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 and hallways. A private residence is not a 'place of employment' within the meaning of this ordinance 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. 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 an 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 residence" means premises owned, rented or leased for temporary or permanent habitation.

"Public place" means any enclosed area to which the public is invited or in which the public is permitted. A private residence is not a public place.

"Restaurants" means any eating establishment, 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 shall include a bar area within the restaurant.

"Smoking" means to smoke or carry a lighted pipe, cigarette or cigar, tobacco-related products in any form.

"Sports Arena or Venue" means sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and indoor ice rinks, and bowling centers.

**Section 2: Smoking Prohibited in Indoor Public Places.**

Except as otherwise provided, it shall be unlawful for any person to smoke in indoor public places, including but not limited to the following:

- a. Childcare facilities.
- b. City buildings.
- c. Common areas in bed and breakfast establishments, hotels and motels.
- d. ~~Common areas in fraternities and sororities.~~
- e. Elevators and enclosed stairwells.
- f. Health care facilities.
- g. Indoor shopping malls.
- h. Places of employment.
- i. Polling places.
- j. Public forms of transportation, including but not limited to motor buses, taxicabs, or other public passenger vehicles.
- k. Public bus and transfer point shelters.
- l. Retail stores.
- m. Enclosed, indoor areas of restaurants and bars.
- n. Self-service laundry facilities.
- o. Service lobbies, waiting areas, and the common areas open to the public of financial institutions, businesses and professional offices, and multi-unit commercial facilities.
- p. Indoor sports arenas and venues.
- q. Waiting rooms, hallways, rooms in offices of any physician, dentist, psychologist, chiropractor, optometrist or optician, or other medical services provider.

**Section 3: Exceptions**

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

- a. Bed and breakfast, hotel and motel rooms that are rented to guests and are designated as smoking rooms.
- b. Private clubs.

**Section 4: Smoking Prohibited in Certain Outdoor Areas**

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

- a. Immediately preceding or blocking the entrance and/or exit of an area where smoking is prohibited.
- b. Attached areas of restaurants that are covered or partially covered with more than 50% of the perimeter of the outside area walled or otherwise closed to the outside.

- c. Seating areas of outdoor sports arenas and venues.

#### **Section 5: 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 2"x2".
- 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 6: 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.
- c. The proprietor, employer or other person in charge of premises, shall not provide ashtrays in areas where smoking is prohibited.

#### **Section 7: Enforcement**

- a. The Chief of Police or designee, shall have the power, whenever they may deem it necessary, 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 summons and complaint.
- b. Any person who desires to register a complaint under this ordinance may contact the City Police Department.

#### **Section 8: 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) for the first offense and no more than two hundred and fifty dollars (\$250) for the second and subsequent offenses.
- b. The Board of Aldermen shall suspend or revoke any business license or permit issued by the City for 3 or more violations of this ordinance involving the licensed premises within a twelve (12) month period.

#### **Section 9: Jurisdiction Clause**

This ordinance shall be subject to all other governmental jurisdictions rules and regulations and laws pertaining to smoking.

**Section 10: Severability.**

The provisions of this Ordinance shall be separable and the invalidity of any of its sections shall not affect the remaining sections.

**Section 11: Repeal of Ordinance**

This Ordinance Number 2006-02 shall stand repealed from and after twenty-four (24) months following its effectuation.

This Ordinance Number 2006-02 shall be in full force and effect sixty (60) days after its passage and publication.

The Clerk is directed to cause this Ordinance to be published one time in the Starkville Daily News and to obtain proof of publication thereof.

**UPON MOTION** of Alderman Matt Cox, duly seconded by Alderman Richard Corey, the aforesaid Ordinance was put to a roll call vote with the Aldermen voting as follows:

Richard Corey	Voted:	Yea
Matt Cox	Voted:	Yea
Sumner Davis	Voted:	Yea
P.C. 'Mac' McLaurin	Voted:	Yea
Jim Mills	Voted:	Yea
Roy A'. Perkins	Voted:	Yea
Janette Self	Voted:	Yea

**ORDAINED AND ADOPTED**, this the 21<sup>st</sup> day of March, A.D., 2006 at the Regular Recess Meeting of the Mayor and Board of Aldermen of the City of Starkville, Mississippi.

/s/ Robert D. Camp  
ROBERT D. CAMP, Mayor  
City of Starkville, Mississippi

/s/ Markeeta Outlaw  
MARKEETA OUTLAW, Clerk  
City of Starkville, Mississippi  
(SEAL)