

CITY OF SEATTLE

ORDINANCE \_\_\_\_\_

COUNCIL BILL 117998

AN ORDINANCE relating to smoking in public places and places of employment; amending Chapter 10.64 of the Seattle Municipal Code to conform with state law.

WHEREAS, some provisions of the Seattle Municipal Code relating to smoking in public places and places of employment are inconsistent with changes the state has made to the Revised Code of Washington; and

WHEREAS, the City Council intends the Municipal Code to be consistent with the Revised Code of Washington as they relate to smoking in public places and places of employment; and

WHEREAS, RCW 70.160.070 provides for a fine of up to \$100, plus statutory assessments, for smoking in public places or places of employment; and

WHEREAS, the fine for public consumption of alcohol in Seattle is \$27; and

WHEREAS, whenever practical the Seattle Police Department intends to provide a first warning for persons violating the provisions of this ordinance by smoking in a public place;

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 10.64.010 of the Seattle Municipal Code is amended as follows:

**10.64.010 Definitions.**

A. "Public place" as used in this chapter shall mean that portion of any building or vehicle used by, and open to, the public regardless of whether such building or vehicle is owned in whole or in part by private persons or entities, or by The City of Seattle or other public entity, and regardless of whether a fee is charged for admission to the place, and includes a presumptively reasonable minimum distance, as set forth in RCW 70.160.075, of twenty-five feet (25') from entrances, exits, windows that open and ventilated intakes that serve an enclosed area where smoking is prohibited. A public place does not

1 include a private residence unless the private residence is used to provide licensed child care, foster care,  
2 adult care or other similar social service care on the premises.

3 Public places include, but are not limited to: Schools, elevators, public conveyances or  
4 transportation facilities, museums, concert halls, theaters, auditoriums, exhibition halls, indoor sports  
5 arenas, hospitals, nursing homes, health care facilities or clinics, enclosed shopping centers, retail stores,  
6 retail service establishments, financial institutions, educational facilities, ticket areas, public hearing  
7 facilities, state legislative chambers and immediately adjacent hallways, public restrooms, libraries,  
8 restaurants, waiting areas, lobbies, bars, taverns, bowling alleys, skating rinks, casinos, reception areas,  
9 and no less than seventy-five percent (75%) of the sleeping quarters within a hotel or motel that are  
10 rented to guests. A public place does not include a private residence. This chapter is not intended to  
11 restrict smoking in private facilities which are occasionally open to the public except upon the occasions  
12 when the facility is open to the public.

13 B. "Smoke" or "smoking" as used in this chapter means the carrying or smoking of any kind of  
14 lighted pipe, cigar, cigarette or any other ~~((form of ignited tobacco or))~~ lighted smoking or material  
15 equipment.

16 C. "Place of employment" means any area under the control of a public or private employer  
17 which employees are required to pass through during the course of employment, including, but not  
18 limited to: Entrances and exits to the places of employment, and including a presumptively reasonable  
19 minimum distance, as set forth in RCW 70.160.075, of twenty-five feet (25') from entrances, exits,  
20 windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited;  
21 work areas; restrooms; conference and classrooms; break rooms and cafeterias; and other common areas.  
22 A private residence or home-based business, unless used to provide licensed child care, foster care, adult  
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care, or other similar social service care on the premises, is not a place of employment. (RCW

1 70.160.020)

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3 Section 2. Section 10.64.020 of the Seattle Municipal Code is amended as follows:

4 **10.64.020 Prohibition.**

5 Smoking is prohibited in ~~((the following))~~ public places and places of employment (~~;~~

6 ~~A. Elevators;~~

7 ~~B. Mass transportation vehicles, such as buses; except on chartered buses for private hire or in~~  
8 ~~taxicabs clearly designated by the operator to permit smoking;~~

9 ~~C. Indoor facilities serving as museums, concert halls, theaters, auditoriums and exhibition halls,~~  
10 ~~whether owned or occupied by The City of Seattle or by any other person; provided that smoking by~~  
11 ~~performers as part of a theatrical production is permitted; and provided further that smoking may be~~  
12 ~~permitted in designated areas including portions of lobbies, so long as such areas are physically~~  
13 ~~separated from the spectator areas, lobbies and all other public areas;~~

14 ~~D. Indoor sports arenas; provided that smoking may be permitted in designated areas of lobbies,~~  
15 ~~if the lobbies are physically separated from the spectator area;~~

16 ~~E. Hallways and waiting rooms of every health care facility including, but not limited to,~~  
17 ~~hospitals, nursing homes, clinics and health departments, provided that smoking may be allowed in one~~  
18 ~~or more designated, physically separate waiting rooms;~~

19 ~~F. All areas open to the public in buildings owned by The City of Seattle, provided that smoking~~  
20 ~~may be permitted in designated smoking areas of the Seattle Center's "Center House" not to exceed~~  
21 ~~thirty percent (30%) of the common area of the Center House;~~

22 ~~G. All areas open to the public within premises leased or rented by The City of Seattle;~~  
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1 ~~H. Public places which are part of shopping centers, retail stores and financial institutions,~~  
2 ~~including, but not limited to department stores, banks, laundromats and barbershops; provided, that~~  
3 ~~smoking may be allowed in the common areas of shopping malls;~~

4 ~~I. Classrooms and lecture halls of schools, colleges and universities;~~

5 ~~J. Rooms in which meetings and/or hearings open to the public are held;~~

6 ~~K. All public areas and waiting rooms of public transportation facilities including but not limited~~  
7 ~~to bus, train, airport and ferry facilities; provided that smoking may be permitted in designated smoking~~  
8 ~~areas that may not exceed thirty percent (30%) of the waiting area;~~

9 ~~L. All public restrooms including, but not limited to those found in all public places listed above;~~

10 ~~M. Libraries)). (RCW 70.160.030)~~

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12 Section 3. Section 10.64.040 of the Seattle Municipal Code is amended as follows:

13 **10.64.040 Designation of ((“Smoking” and)) “No Smoking” areas.**

14 ((A.)) The rightful occupant of each public place and place of employment regulated under this  
15 chapter shall prohibit smoking and ((in which smoking is prohibited)) shall post signs prohibiting  
16 smoking. Signs shall be posted conspicuously at every building entrance and, in the case of retail stores  
17 and retail service establishments, in prominent locations throughout the place ((buildings, rooms, and  
18 public places in which smoking is prohibited)); provided, that signs shall not be posted in violation of  
19 other laws or ordinances. (RCW 70.160.050)

20 ((B. It is unlawful for any person to remove, deface, or destroy any sign posted in compliance  
21 with this chapter.))

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23 Section 4. Section 10.64.050 of the Seattle Municipal Code is amended as follows:  
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**10.64.050 Enforcement.**

1        Public Health – Seattle & King County ((The Seattle Fire Department)) is authorized to enforce  
2 Section 10.64.040 (~~(; the Seattle King County Health Department is authorized to enforce Section~~  
3 ~~10.64.030)).~~ The Chief of Police is authorized to enforce all other sections of this chapter. (RCW  
4 70.160.070)

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6        Section 5. Section 10.64.060 of the Seattle Municipal Code is amended as follows:

7        **10.64.060 Penalty.**

8        A. Any person intentionally violating this chapter by smoking in a public place or place of  
9 employment, or any person removing, defacing, or destroying a sign required by this chapter, is subject  
10 to a civil fine to be set by Municipal Court local rule in an amount consistent with the penalty for public  
11 consumption of alcohol. Any person passing by or through a public place while on a public sidewalk or  
12 public right-of-way has not intentionally violated this chapter. Section 10.64.020 shall be enforced by  
13 issuing a notice of infraction as provided in RCW 70.160.070.

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15        B. When a violation of Section 10.64.040 occurs, a warning shall first be given to the owner or  
16 other person in charge. Any subsequent violation is subject to a civil fine to be set by Municipal Court  
17 local rule in an amount consistent with the penalty for public consumption of alcohol. Each day upon  
18 which a violation occurs or is permitted to continue constitutes a separate violation. (RCW 70.160.070)

19        ~~((An offense against Section 10.64.020, Section 10.64.030 or Section 10.64.040 is a violation,~~  
20 ~~subject to the provisions of Chapter 12A.02 (General Provisions) and Chapter 12A.04 (Defenses) of the~~  
21 ~~Seattle Criminal Code. Any person convicted of violating Section 10.64.020, Section 10.64.030 or~~  
22 ~~Section 10.64.040 may be punished by a civil fine or forfeiture not to exceed One Hundred Dollars~~  
23 ~~(\$100.00).))~~

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Section 6. Section 10.64.030 of the Seattle Municipal Code is repealed.

Section 7. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the \_\_\_\_ day of \_\_\_\_\_, 2013, and signed by me in open session in authentication of its passage this \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
President \_\_\_\_\_ of the City Council

Approved by me this \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Michael McGinn, Mayor

Filed by me this \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Monica Martinez Simmons, City Clerk

(Seal)

**FISCAL NOTE FOR NON-CAPITAL PROJECTS**

<b>Department:</b>	<b>Contact Person/Phone:</b>	<b>CBO Analyst/Phone:</b>
Law; Legislative	Richard Greene (Law) / 684-8538; Peter Harris (Legislative) / 684-8368	n.a.

**Legislation Title:**

AN ORDINANCE relating to smoking in public places and places of employment; amending Chapter 10.64 of the Seattle Municipal Code to conform with state law.

**Summary of the Legislation:**

This ordinance brings the Municipal Code into conformity with changes in the provisions of the Revised Code of Washington regarding smoking in public and in places of employment, subject to a civil fine to be set by Municipal Court local rule in an amount consistent with the penalty for public consumption of alcohol.

**Background:**

(Include a brief description of the purpose and context of legislation and include record of previous legislation and funding history, if applicable.)

Please check one of the following:

- This legislation does not have any financial implications.**  
(Please skip to "Other Implications" section at the end of the document and answer questions a-h. Earlier sections that are left blank should be deleted. Please delete the instructions provided in parentheses at the end of each question.)

**Other Implications:**

- a) **Does the legislation have indirect financial implications, or long-term implications?**  
(If yes, explain them here.)

The legislation slightly expands the scope of the prohibitions against smoking in public.

- b) **What is the financial cost of not implementing the legislation?**  
(Estimate the costs to the City of not implementing the legislation, including estimated costs to maintain or expand an existing facility or the cost avoidance due to replacement of an existing facility, potential conflicts with regulatory requirements, or other potential costs.)

None.

- c) **Does this legislation affect any departments besides the originating department?**



The Police Department and the Seattle-King County Department of Public Health are charged with enforcing these provisions of the Municipal Code.

**d) What are the possible alternatives to the legislation that could achieve the same or similar objectives?** (Include any potential alternatives to the proposed legislation, such as reducing fee-supported activities, identifying outside funding sources for fee-supported activities, etc.)  
None.

**e) Is a public hearing required for this legislation?**  
(If yes, what public hearing(s) have been held to date, and/or what public hearing(s) are planned for the future?)  
No.

**f) Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**  
(For example, legislation related to sale of surplus property, condemnation, or certain capital projects with private partners may require publication of notice. If you aren't sure, please check with your lawyer. If publication of notice is required, describe any steps taken to comply with that requirement.)  
No.

**g) Does this legislation affect a piece of property?**  
(If yes, and if a map or other visual representation of the property is not already included as an exhibit or attachment to the legislation itself, then you must include a map and/or other visual representation of the property and its location as an attachment to the fiscal note. Place a note on the map attached to the fiscal note that indicates the map is intended for illustrative or informational purposes only and is not intended to modify anything in the legislation.)  
No.

**h) Other Issues:**

**List attachments to the fiscal note below:**

