

ORDINANCE NO. 487

AN ORDINANCE AMENDING TITLE 5 GENERAL OFFENSES AND
CREATING ARTICLE F. "TOBACCO FREE IN PUBLIC PLACES AND
INDOOR WORKPLACES"

E IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEWOKA, OKLAHOMA, AS FOLLOWS:

**Chapter 5 entitled "TOBACCO FREE IN PUBLIC PLACES AND INDOOR WORKPLACES" is amended by
creating Sub-section F et. seq. as follows:**

- 5-5F-1: **DEFINITIONS;**
- 5-5F-2: **POSSESSION OF LIGHTED TOBACCO IN CERTAIN PLACES PROHIBITED;**
- 5-5F-3: **EXEMPTIONS;**
- 5-5F-4: **POSTING;**
- 5-5F-5: **VIOLATION AND PENALTY;**
- 5-5F-6 **ENFORCEMENT;**

Article F. Smoking in Public Places and Indoor Workplaces

5-5F-1: DEFINITIONS

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

Indoor workplace means any indoor place of employment or employment-type service for or at the request of another individual or individuals, or any public or private entity, whether part-time or full-time and whether for compensation or not. Such services shall include, without limitation, any service performed by an owner, employee, independent contractor, agent, partner, proprietor, manager, officer, director, apprentice, trainee, associate, servant or volunteer. An indoor workplace includes work areas, employee lounges, restrooms, conference rooms, classrooms, employee cafeterias, hallways, any other spaces used or visited by employees, and all space between a floor and ceiling that is predominantly or totally enclosed by walls or windows, regardless of doors, doorways, open or closed windows, stairways, or the like. The provisions of this section shall apply to such indoor workplace at any given time, whether or not work is being performed;

Public place means any enclosed indoor area where individuals other than employees are invited or permitted; the term is synonymous with the phrase any indoor place used by or open to the public;

Restaurant means any eating establishment regardless of seating capacity;

Smoking means the carrying by a person of a lighted cigar, cigarette, pipe or other lighted smoking device; and

Stand-alone bar, stand-alone tavern, and cigar bar mean an establishment that derives more than 60 percent of its gross receipts, subject to verification by competent authority, from the sale of alcoholic beverages and low-point beer and no person under 21 years of age is admitted, except for members of a musical band employed or hired as provided in paragraph 2 of subsection B of Section 537 of Title 37 of the Oklahoma Statutes and that is not located within, and does not share any common entryway or common indoor area with, any other enclosed indoor workplace, including a restaurant.

All tobacco is defined as lighted, smokeless, electronic, snuff and chewing.

5-5F-2: POSSESSION OF LIGHTED TOBACCO IN CERTAIN PLACES PROHIBITED

- A. The possession of lighted tobacco in any form is a public nuisance and dangerous to public health and is hereby prohibited when such possession is in any indoor place used by or open to the public, public transportation, or any indoor workplace, except where specifically allowed by law.
- B. All buildings, or portions thereof, owned or operated by this City shall be designated as tobacco free. As used in this paragraph, "buildings" shall not include up to 25 percent of any hotel or motel rooms rented to guests if the rooms are properly ventilated so that smoke is not circulated to tobacco free areas.
- C. All buildings, or portions thereof, owned or operated by this city, shall be entirely tobacco free.
- D. No smoking shall be allowed within 25 feet of the entrance or exit of any building specified in Subsection (B) or (C) of this section.

5-5F-3: EXEMPTIONS

The restrictions provided in 5-5F-2 shall not apply to the following:

- A. stand-alone bars, stand-alone taverns and cigar bars;
- B. The room or rooms where licensed charitable bingo games are being operated, but only during the hours of operation of such games;
- C. up to 25 percent of the guest rooms at a hotel or other lodging establishment;
- D. retail tobacco stores predominantly engaged in the sale of tobacco products and accessories and in which the sale of other products is merely incidental and in which no food or beverage is sold or served for consumption on the premises;
- E. workplaces where only the owner or operator of the workplace, or the immediate family of the owner or operator, performs any work in the workplace, and the workplace has only

incidental public access. "Incidental public access" means that a place of business has only an occasional person, who is not an employee, present at the business to transact business or make a delivery. It does not include businesses that depend on walk-in customers for any part of their business;

- F. workplaces occupied exclusively by one or more smokers, if the workplace has only incidental public access;
- G. private offices occupied exclusively by one or more smokers;
- H. private residences and workplaces within private residences, except that smoking shall not be allowed inside any private residence that is used as a licensed child care facility during hours of operation;
- I. medical research or treatment centers, if smoking is integral to the research or treatment;
- J. a facility operated by a post or organization of past or present members of the Armed Forces of the United States which is exempt from taxation pursuant to Sections 501 (c)(8), 501 (c)(10) or 501 (c)(19) of the Internal Revenue Code, 26 U.S.C., Sections 501 (c)(8), 501 (c)(10) or 501 (c)(19), when such facility is utilized exclusively by its members and their families and for the conduct of post or organization nonprofit operations except during an event or activity which is open to the public; and
- K. any outdoor seating area of a restaurant; provided, smoking shall not be allowed within 25 feet of any exterior public doorway or any air intake of a restaurant.

5-5F-4: POSTING

- A. The person who owns or operates a place where tobacco use is prohibited by law shall be responsible for posting a sign or decal, at least four inches by two inches in size, at each entrance to the building indicating that the place is tobacco-free.
- B. Responsibility for posting signs or decals shall be as follows:
 - 1. in privately owned facilities, the owner or lessee, if a lessee is in possession of the facilities, shall be responsible;
 - 2. in corporately owned facilities, the manager and/or supervisor of the facility involved shall be responsible; and
 - 3. in publicly owned facilities, the manager and/or supervisor of the facility shall be responsible.

5-5F-5: VIOLATION AND PENALTY

Any person who knowingly violates this article is guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than \$10.00 nor more than one hundred dollars (\$100.00).

5-5F-6: ENFORCEMENT

The State or local governmental agency or the person who owns or operates a public place shall, at a minimum, do the following in order to prevent smoking in public places:

- A. post signs at entrances to places where smoking is prohibited which state that smoking is prohibited or that the indoor environment is free of tobacco; and
- B. ask smokers to refrain from smoking upon observation of anyone violating the provisions of this act.

PASSED AND APPROVED this ____ day of September 10, 2013.

Evelyn King
Mayor

ATTEST:


CITY CLERK

CITY OF WEWOKA
SEMINOLE COUNTY
STATE OF OKLAHOMA

Ordinance No. 487

An Ordinance Amending Title 5 General Offenses
AFFIDAVIT OF PUBLICATION

Mike Gifford, of lawful age, being first duly sworn upon oath, deposes and says he is the Advertising Manager of the newspaper, **The Wewoka Times**, and is duly authorized to make this affidavit. The notice by publication that is hereto attached and incorporated by reference, was published in said newspaper, The Wewoka Times in a regular full edition for one issue(s) and on the following day(s) to-wit:

September 18, 2013

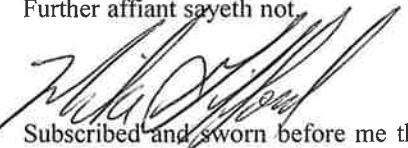
Uninterruptedly, regularly, and continuously, for more than one hundred four consecutive weeks immediately prior to the date of the first publication of the attached notice, The Wewoka Times, as a newspaper has:

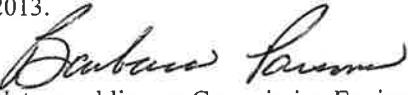
1. Been printed and published weekly in the City of Wewoka, County of Seminole, State of Oklahoma, in the English language.

2. Had a bona fide paid general subscription and circulation in Seminole County, Oklahoma

3. Been admitted to the United States mails as second class mail matter at the City of Wewoka, in Seminole County, Oklahoma

4. Been delivered to the United States mails as 2nd class mail matter at the City of Wewoka, in Seminole County, Oklahoma
The Wewoka Times comes within all of the prescriptions and requirements of 25 Oklahoma statutes 102 and 106 as well as all other requirements of HB327 of Acts of 18th Legislature of State of Oklahoma, as amended by SB47 of Acts of 19th Legislature of the state of Oklahoma and as amended by HB495 of Acts of 22nd Legislature of state of Oklahoma.
Further affiant sayeth not.


Subscribed and sworn before me this 18th day of September, 2013.


Notary public, my Commission Expires: 06/11/16
Commission No. 12005479 (Seal in Blue ink)
Amt. Paid : 186.10



Published in The Wewoka Times September 18, 2013.

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5-5F-1: DEFINITIONS;

5-5F-2: POSSESSION OF LIGHTED TOBACCO IN CERTAIN PLACES PROHIBITED;

5-5F-3: EXEMPTIONS;

5-5F-4: POSTING;

5-5F-5: VIOLATION AND PENALTY;

5-5F-6 ENFORCEMENT;

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