

**AN ORDINANCE OF THE CITY OF ORLAND
AMENDING TITLE 8 OF THE ORLAND MUNICIPAL CODE TO REGULATE
SMOKING AND SECONDHAND SMOKE**

The City Council of the City of Orland does ordain as follows:

FINDINGS.

The City Council of the City of Orland hereby finds and declares as follows:

1. Smoking of tobacco is a positive danger to health and a cause of material annoyance, inconvenience, discomfort, and a health hazard to those who are present in confined places. Secondhand smoke is harmful to persons with certain respiratory conditions, and has also been determined to cause cancer to nonsmokers exposed to secondhand smoke on a frequent basis.
2. Exposure to secondhand smoke imposes great social and economic costs.
3. Exposure to secondhand smoke has negative health impacts, and exposure to secondhand smoke may occur at significant levels outdoors.
4. Creating smokefree areas helps protect the health of nonsmokers.

NOW THEREFORE, Title 8 of the Orland Municipal Code is amended as follows, adding Chapter 8.14: REGULATION OF SMOKING AND SECONDHAND SMOKE.

Chapter 8.14 - REGULATION OF SMOKING AND SECONDHAND SMOKE

Sections:

- 8.14.010 – Purpose.
- 8.14.020 – Definitions.
- 8.14.030 – Smoking Prohibited.
- 8.14.035 – Designated Smoking Areas.
- 8.14.040 – Smoking Waste Prohibited.
- 8.14.050 – Signage.
- 8.14.060 – Penalties and Enforcement.

8.14.010 - Purpose

In order to serve public health, safety and welfare, to reduce unwanted and unwelcome exposure to secondhand smoke, to assure a cleaner and more hygienic environment for the city, its residents, and visitors, to strike a reasonable balance between the needs of persons who smoke and the needs of nonsmokers, including children and persons with existing respiratory conditions, the declared purposes of this chapter are to prohibit the smoking of tobacco in certain areas which are used by or open to the public and to prohibit smoking waste in those areas.

8.14.020 - Definitions

The following words and phrases, whenever used in this chapter, shall have the meanings defined in this section unless the context clearly requires otherwise:

“Business” means any sole proprietorship, joint venture, corporation, or other business entity formed for profitmaking purposes, or for nonprofit purposes, including, but not limited to, 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.

“Common area at a shopping mall” means any indoor or outdoor common area of a shopping mall accessible to and usable by the occupants or customers of the establishment and including, but not limited to halls, lobbies, outdoor eating areas, play areas and parking lots.

“Entryway” means the primary place(s) of public access to a business, playground, recreational area, or shopping mall.

“Playground” means any public or privately owned park or recreational area designed in part to be used by children that has play or sports equipment installed or has been designated or landscaped for play or sports activities, or any similar facility located on public or private school grounds, or on city property.

“Person” means an individual.

“Recreational Area” means any area that is publicly or privately owned and open to the general public for recreational purposes, regardless of any fee or age requirement. The term “Recreational Area” includes but is not limited to parks, picnic areas, plazas, sports fields, golf courses, walking paths, gardens, hiking trails, bike paths, horseback riding trails, swimming pools, roller- and ice-skating rinks, stadiums and skateboard parks.

“Service Area” means any publicly or privately owned area designed to be used or is regularly used by one or more persons to receive a service, wait to receive a service or to make a transaction, whether or not such service or transaction includes the exchange of money. The term “Service Area” includes but is not limited to information kiosks, automatic teller machines (ATMs), ticket lines, bus stops or shelters, mobile vendor lines or cab stands.

“Shopping mall” means any parcel of land zoned and used for retail sales by more than one retailer that is jointly operated or which includes shared parking facilities.

“Smoke” means the gases, particles, or vapors released into the air as a result of combustion, electrical ignition or vaporization of tobacco, when the apparent or usual purpose of the combustion, electrical ignition or vaporization is human inhalation of the byproducts.

“Smoking” means engaging in an act that generates tobacco smoke, such as: possessing a lighted pipe containing tobacco, a lighted tobacco cigar, or a lighted tobacco cigarette of any kind; or lighting or igniting a pipe containing tobacco, a tobacco cigar, or tobacco cigarette of any kind.

8.14.030 - Smoking Prohibited

Smoking is prohibited within twenty feet of any entryway.

Smoking is prohibited in any common area at a shopping mall, playground, recreational area or service area.

8.14.035 – Designated Smoking Areas

The City may designate areas of outdoor property under its control within which smoking is permitted. Such designated smoking areas shall be determined by the City Council and shall be clearly marked. The City Council shall have the authority to withdraw any such designation.

8.14.040 – Smoking Waste Prohibited

No person shall dispose of lighted or unlighted cigars or cigarettes, or cigar or cigarette butts, or any other tobacco-related waste, within twenty feet of any entryway.

No person shall dispose of lighted or unlighted cigars or cigarettes, or cigar or cigarette butts, or any other tobacco-related waste in any common area at a shopping mall, playground, recreational area or service area.

8.14.050 – Signage

A person or business that has legal or de facto control of an area in which smoking is prohibited may, but is not required to post a clear and unambiguous “No Smoking” or “Smokefree” sign at a conspicuous point within the non-smoking area. Signage exemplars will be made available by the City.

To the extent practical, the City may post clear and unambiguous “No Smoking” or “Smokefree” signs at conspicuous points within non-smoking areas under its control.

8.14.060 – Penalties and Enforcement

The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity. Any peace officer or code enforcement official may enforce this chapter.

Each incident of smoking in violation of this chapter is an infraction subject to a twenty five dollar (\$25) fine.

Each incident of prohibited disposal of smoking waste in violation of this chapter is an infraction subject to a twenty five dollar (\$25) fine.

Violations of this chapter are subject to a civil action brought by the City, punishable by a civil fine not less than twenty five (\$25) and not exceeding one hundred dollars (\$100) per violation.

Nothing in this chapter shall be construed as providing a private right of action.

I HEREBY CERTIFY that the above and foregoing Ordinance was duly and regularly introduced and read at a regular meeting held on the ___th day of _____, 2011, and was passed and adopted by the City Council of the City of Orland at a regular meeting thereof duly held on the ___th day of _____, 2011, by the following vote, to wit: