

ORDINANCE NO. 2011- 07

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA AMENDING CHAPTER 17 OF THE PEORIA CITY CODE (1992) BY AMENDING SECTION 17-72 PERTAINING TO SMOKING IN ENCLOSED PUBLIC PLACES; DEFINITIONS AND PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

THEREFORE, it is ordained by the Mayor and Council of the City of Peoria as follows:

SECTION 1. Chapter 17 of the Peoria City Code (1992) is amended by amending Section 17-72 pertaining to Smoking in enclosed public places and which shall read as follows:

Sec. 17-72. Smoking in enclosed public places; definitions.

(a) "Smoking" means inhaling, exhaling, burning, or carrying or possessing any lighted tobacco product, including cigars, cigarettes, pipe tobacco and any other lighted tobacco product or the inhaling, exhaling, burning, carrying or possessing Marijuana pursuant to a Medical Marijuana Card issued pursuant to A.R.S.36-2801, et seq.

(b) Prohibitions.

(1) Smoking is prohibited in rest rooms, public buses, the public areas of grocery stores, convenience markets, drugstores, pharmacies, and in waiting or checkout line areas within other enclosed public places. For purposes of this ordinance, all rest rooms within an enclosed public place shall be deemed non-smoking.

(2) Smoking is prohibited in all other enclosed public places, *except in a designated smoking area or as otherwise expressly provided in this ordinance* or state law.

(3) The provisions of this ordinance shall not be construed to limit the ability of the owner, operator or manager of an enclosed public place or the employer to declare the whole or any portion of that enclosed public place or place of employment to be smoke free.

(4) Smoking in city-owned public places. All enclosed public places owned, controlled, occupied or managed by the city shall be subject to this ordinance. Nothing in this Chapter shall restrict the City Manager from adopting more stringent standards governing smoking in city-owned public places pursuant to the City Charter.

(5) Private Residences that are used as a licensed child care, adult day care, or health care facility.

(6) Smoking of Medical Marijuana is prohibited in those areas of public and private parks containing playground equipment for use by children. Playground equipment includes swing sets; pull up and climbing bars; water features; cushioned play areas, skate board parks and skate areas and any other area designed for play by children. The play area shall include a buffer of fifty (50) feet from the actual play facilities.

(7) Smoking is prohibited in all public places as defined in Arizona Revised Statutes §36-601.01.A.9.

(8) Smoking is prohibited within fifty (50) feet of any entrance of a public place and within fifty (50) feet of any entrance of a public place and within fifty (50) feet of any entrance of a license child care, adult day care or health care facility.

(c) Optional areas. Other provisions of this ordinance to the contrary notwithstanding, the following areas shall not be subject to the smoking restrictions of this ordinance:

(1) Private residences, except as provided in subsections(b)(5),(8).

(2) Hotel and motel rooms rented to guests and designated as smoking rooms.

(3) Retail stores dealing exclusively in the sale of tobacco products and smoking paraphernalia, however, Medical Marijuana provided to a patient pursuant to a medical marijuana card may not be smoked in such retail stores.

(4) On stage smoking as a part of a stage production, ballet or similar exhibition, however, Medical Marijuana provided to a patient pursuant to a medical marijuana card may not be smoked as part of a stage production, ballet or similar exhibition.

(5) Outdoor patios so long as tobacco or marijuana smoke does not enter areas where smoking is prohibited through entrances, windows, ventilation systems, or other means.

(6) A private residence which serves as a work place or place of employment.

(7) Private clubs and private recreation facilities, however, Medical Marijuana provided to a patient pursuant to a medical marijuana card may not be smoked in such Private clubs and private recreation facilities.

~~(7) Bars, which is defined as the holder of a license issued under A.R.S. § 4.206.01 by the Arizona Department of Liquor Control and which had a temporary or permanent certificate of occupancy issued by the City prior to March 1, 2004.~~

SECTION 2. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 3. This Ordinance shall become effective in the manner provided by law.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Arizona, this 15th day of February, 2011.

Dated: 2/22/2011 Bob Barrett
Bob Barrett, Mayor

ATTEST:
Wanda Nelson
Wanda Nelson, City Clerk



APPROVED AS TO FORM:
Stephen M. Kemp
Stephen M. Kemp, City Attorney

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