

**Sec. 14-56. Offense; continued nuisance.**

It is hereby declared to be an offense for any owner, agent or tenant of any property to maintain a nuisance. Each day a nuisance is continued shall constitute a separate offense.

(Code 1981, § 11-2006)

**State law reference**—Erection or continuance of nuisance after notice to abate, O.C.G.A. § 41-1-6.

**Secs. 14-57—14-60. Reserved.**

**ARTICLE III. SMOKING REGULATIONS\***

**Sec. 14-61. Findings.**

The city commission does hereby find that:

- (1) Numerous scientific studies have found that tobacco smoke is a major contributor to indoor air pollution;
- (2) Reliable scientific studies, including studies by the Surgeon General of the United States and studies commissioned and assessed by the U.S. Environmental Protection Agency, have shown that breathing side stream or secondhand smoke is a significant health hazard to nonsmokers; particularly to children, older persons, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease;
- (3) Health hazards induced by exposure to environmental tobacco smoke include lung and other forms of cancer, respiratory infection, decreased respiratory function, decreased exercise tolerance, bronchoconstriction and broncho-spasm, and that the most common cause of premature death from environmental tobacco smoke is heart disease;
- (4) Reliable scientific studies assessed by the U.S. Environmental Protection Agency have found that side stream and second-

hand tobacco smoke is a leading cause of premature death and disability among nonsmokers;

- (5) Air pollution caused by smoking is an offensive annoyance and irritant. Smoking results in serious and significant physical discomfort of nonsmokers in public places and work places; and
- (6) The city commission finds that it is within its basic police powers to implement and enforce the provisions of this article.

(Ord. No. 04-6-1, § I, 6-7-04)

**Sec. 14-62. Purpose.**

The purpose of this article is to regulate smoking in enclosed public places and places of employment. This article is intended to require public places and places of employment to be designated either as total smoking environments, total non-smoking environments or dual smoking environments; provided that all designated smoking areas in dual smoking environments shall meet the requirements of this article, and provided further that total smoking environments shall not hold themselves out as having smoke free areas, if such areas do not meet the requirements of this article. This article is not intended to cause undue financial strain on any business, including restaurants.

(Ord. No. 04-6-1, § I, 6-7-04)

**Sec. 14-63. Definitions.**

The following words and phrases, whenever used in this article, shall be construed as defined in this section:

*Bar area* means an area as defined by the owner or manager which is primarily devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages. The term "bar area" shall not include a restaurant dining area.

*Designated smoking area in a restaurant* means an area of contiguous seating in an area

\***Editor's note**—Ord. No. 04-6-1, § I, adopted June 7, 2004, amended art. III in its entirety to read as herein set out. Formerly, said article pertained to similar subject matter. See the Code Comparative Table for a detailed analysis of inclusion.

exterior to the building or indoors located in an area separated from nonsmoking areas by the use of solid floor to ceiling walls and which:

- (1) Has entryways no greater than seven feet in height and eight feet in width;
- (2) Maintains continuously operating, separate and independent ventilation systems with return and supply ducts separate from those used in remaining areas of the building;
- (3) Is marked by appropriate signs, as set forth in this Code; and
- (4) Does not include service lines, cashier areas and public restrooms and does not require persons to enter the smoking environment to access such areas.

*Designated smoking area in a place of employment* means an area exterior to the building or indoors located in an area separated from nonsmoking areas by the use of solid floor to ceiling walls and which:

- (1) Is not frequented by the public or nonsmoking employees;
- (2) Is not a work area, restroom or meeting room; and
- (3) Is not the only employee lounge or cafeteria.

*Dining area* means an interior area containing a counter or tables upon which food is served.

*Place of employment* means any enclosed area under the control of a public or private employer which employees frequent during the course of employment including, but not limited to, work areas, restrooms, employee lounges, cafeterias and snack bars, conference rooms, lobbies and reception areas.

- (1) A private residence is not a "place of employment" unless it is used as a child care facility or a health care facility.
- (2) The dining area of a restaurant shall not be treated as a "place of employment" under this article.

*Private enclosed offices* means any enclosed area within a place of employment. Private enclosed offices must have walls that extend from floor to ceiling and a closable door.

*Public entrance* means as any entrance to a public place or place of employment which is designed and is used as an access for the public to enter and exit such facility, but shall not include entrances to patios, decks or similar, contiguous enclosed areas exterior to the building, which are not intended as entrances for the public.

*Public place* means any enclosed area to which the public is invited or in which the public is permitted including, but not limited to, restaurants, stores, waiting rooms, lobbies, public transit, restrooms, enclosed shopping malls, educational, recreational and health care facilities, child care facilities, auditoriums, theaters, arenas and meeting rooms. A private residence is not a "public place" unless it is used as a child care facility or a health care facility.

*Restaurant* means any establishment or area which is primarily devoted to the serving of food to the public or guests and which contains a dining area. The term "restaurant" shall not include a cocktail lounge or tavern if said cocktail lounge or tavern is a "bar area" as previously defined. The term "restaurant" shall not include any dining area located within a health care, educational or child care facility. Food courts within enclosed shopping malls shall be treated as restaurants under this article.

*Retail tobacco store* means a retail store in which the sale of tobacco products designed for smoking comprises more than 50 percent of its receipts.

*Smoking* means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe or other smoking equipment in any manner or form.

(Ord. No. 04-6-1, § I, 6-7-04; Ord. No. 04-6-11, § I, 6-21-04)

### Sec. 14-64. Regulation of smoking—Prohibited generally.

Except as otherwise provided in this article, smoking is prohibited in all public places and places of employment within the city.

- (1) Any public place or place of employment that desires to have both smoking and nonsmoking areas, as provided in section 14-65 (2), shall have a designated smoking area where smoking is permitted and which: (1) is situated so that walls extend from the floor to the ceiling in order to separate smoking from nonsmoking areas; (2) has a continuously operating, separate and independent ventilation system that is used to minimize the toxic effects of smoke; (3) is marked by appropriate signs; (4) does not include service lines, cashier areas or public restrooms; and (5) does not require the public to enter the designated smoking area to access service lines, cashier areas or public restrooms.
- (2) Public places and place of employment which are declared to be smoking environments may not make representations to the public or otherwise hold themselves out as having nonsmoking or smoke free environments. Only areas which meet the requirements of section 14-64 (1) and adhere to the provisions of section 14-66 relative to signage may be held out to the public as a nonsmoking or smoke free environment.
- (3) Smoking shall be prohibited within 25 feet from a public entrance to a public place or place of employment which chooses to be totally nonsmoking or chooses to offer both smoking and nonsmoking areas. Provided, however, that nothing herein shall be construed to prevent property owners from prohibiting smoking on private property.

(Ord. No. 04-6-1, § I, 6-7-04; Ord. No. 04-6-11, § I, 6-21-04)

### Sec. 14-65. Exceptions.

Except for the provisions of section 14-66 relative to signage, the smoking prohibition set forth in section 14-64 shall not apply to the following locations:

- (1) Public places and place of employment declared to be smoking environments by displaying appropriate signage as outlined in section 14-66 of this article.
- (2) Public places and places of employment where both smoking and nonsmoking environments are provided and appropriate signage is displayed in accordance with section 14-66; provided that if the public place is a restaurant, smoking shall be prohibited in the dining area except in the designated smoking area in the restaurant; and, provided, further, that if a place of employment is designated as both a smoking and nonsmoking environment, smoking shall be prohibited in such place of employment except in the designated smoking area in the place of employment.
- (3) Bar areas in restaurants, hotels and motels not contiguous to nonsmoking areas.
- (4) Hotel and motel rooms rented to guests, except for those rooms designated by such hotels and motels as no smoking rooms.
- (5) Retail tobacco stores.
- (6) Retail stores of 5,000 square feet or less in which tobacco products are sold over the counter; provided, however, this exception does not include the restaurant areas of such retail stores or the area where prescription medicines are sold.
- (7) Private enclosed offices in places of employment of 3,000 square feet or less which management declares to be designated smoking areas, except that smoking shall not be permitted in the presence of nonsmokers.
- (8) Banquet or meeting rooms when such rooms are being currently used for private functions.
- (9) Bowling alleys.

(10) Pool halls.  
(Ord. No. 04-6-1, § I, 6-7-04)

**Sec. 14-66. Posting of signs.**

(a) All public places and places of employment in the city, shall post proper signage at each public entrance to their facilities in compliance with the following:

- (1) Smoke-free environment, smoking environment and designated smoking area signs, whichever are appropriate, shall be conspicuously posted at each public entrance of every public place and place of employment where smoking is regulated by this article by the person in charge of such facility. Signs at the public entrance of a facility shall be placed on the doors leading into the facility or within 12 inches of such doors.
- (2) Any public place or place of employment which chooses to be a total nonsmoking environment will display proper signs at each entrance to its facility. Such signs shall contain letters of not less than one-half inch in height or the international symbol of "No Smoking," of no less than three inches in diameter, consisting of a pictorial representation of a burning cigarette enclosed in a red circle, with a red bar across it.
- (3) Any public place or place of employment which chooses to be a total smoking environment will display proper signs at each public entrance to its facilities. Such signs shall be in conformity with the requirements of section 14-66(b). Such signs shall contain the following text:
- (4) Any public place or place of employment electing to offer both smoking and non-smoking areas in their facilities will be responsible for compliance with this article by displaying the proper signs at each public entrance to its facility and at the entryways of each designated smoking environment. Such signs shall be in conformity with the requirements of section 14-66 (b).

(b) All signs required in section 14-66(a)(2) and (a)(3) above shall have dimensions of no less than eight and one-half inches by 11 inches. Such signs shall contain white lettering on a red background. All signs shall be posted at a minimum of 48 inches in height. The city clerk shall prepare acceptable examples of all such signs, including font sizing and spacing requirements. Such examples of approved signs shall be maintained with the city clerk's office and with the chief building official. Public entrances to facilities with total smoking environments and the entryways into the smoking sections within establishments that offer both smoking and nonsmoking areas shall utilize signs containing the following text:

**WARNING  
SMOKING ENVIRONMENT**

This facility allows smoking. Smoking and second hand smoke is harmful to your health. According to the Surgeon General, smoking causes Lung Cancer, Heart Disease, Emphysema, and May Complicate Pregnancy. Health officials recommend that children not be exposed to smoking environments.

Facilities having dual smoking and nonsmoking areas shall post signs at the public entrances to the establishment which utilize the following text:

**SMOKING/NON-SMOKING  
ENVIRONMENT**

This facility meets the requirements of the Rome City Code allowing dual smoking and non-smoking environments. Smoking is permitted only in designated areas. Violators are subject to fines as outlined in Rome City Code Section 1-9.

**WARNING:**

According to the Surgeon General, smoking causes Lung Cancer, Heart Disease, Emphysema, and May Complicate Pregnancy. Health officials recommend that children not be exposed to smoking environments.

(Ord. No. 04-6-1, § I, 6-7-04)

**Sec. 14-67. Enforcement.**

(a) The chief building official or his designated representative, the fire marshal or his designated representative, and any police officer of the city may take appropriate action to enforce this article.

(b) Any owner, operator or manager of any establishment, regulated by this article shall inform persons violating this article of the applicable provisions of this article. In the event persons violating this article refuse to cease smoking after being informed by such owner, operator or manager, the person smoking, not the owner, operator or manager, shall be subject to an action for violation of the article.

(Ord. No. 04-6-1, § I, 6-7-04)

**Sec. 14-68. Other applicable laws.**

This article shall not be interpreted or construed to permit smoking where it is otherwise restricted or prohibited by other applicable laws, regulations or policies.

(Ord. No. 04-6-1, § I, 6-7-04)

**Sec. 14-69. Violations and penalties.**

Any person violating any provision of this article shall be deemed guilty of an offense, and upon conviction thereof, shall be punished as provided in section 1-9 of this Code.

(Ord. No. 04-6-1, § I, 6-7-04)