

ORDINANCE NO. 4285

ENTITLED: "AN ORDINANCE AMENDING CHAPTER 8.64, SMOKING IN PUBLIC PLACES, WITHIN TITLE 8, HEALTH AND SAFETY, OF THE MUNICIPAL CODE OF THE CITY OF CHEYENNE, WYOMING."

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CHEYENNE, WYOMING:

Section 1. That one section of Chapter 8.64, Smoking in Public Places, of Title 8, Health and Safety, is hereby amended as set out in this Ordinance. Sections currently existing in Chapter 8.64 not set out within this ordinance remain unchanged.

8.64.020 - Definitions.

As used in this chapter, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

"Business" means any legal entity including, but not limited to, sole proprietorship, partnership, joint venture, corporation or other business entity whether formed for profit-making or nonprofit purposes, including 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.

"City-owned youth athletic facilities" includes, but is not limited to, facilities where youth soccer, baseball, skateboarding and any other youth activities occur, whether the facility is enclosed or not.

"Electronic smoking device" means any device that can be used to deliver aerosolized or vaporized nicotine, tobacco, plant, or other product, including hookah and marijuana, whether natural or synthetic to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen or e-hookah excluding any device designed to deliver prescription medication.

"Employee" means any person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and a person who volunteers his or her services for a nonprofit entity.

"Employer" means a person, business, partnership, association, corporation, trust, nonprofit entity, or a municipal corporation that employs the services of one or more individual persons.

"Enclosed area" means all space between a floor and ceiling that is enclosed on all sides by solid walls or windows, exclusive of doorways, which extend from the floor to the ceiling.

"Fire department" means the city of Cheyenne fire and rescue department.

"Health care facility" means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions including, but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists with these professions. This definition shall include all waiting rooms, hallways, private rooms, semi-private rooms, and wards with health care facilities.

"Outdoor patio" means an outdoor area, open to the air at all times, that is either:

1. Enclosed by a roof or other overhead covering and not more than two walls or other side coverings; or
2. Has no roof or other overhead covering at all regardless of the number of walls or other side coverings.

"Performance hall" means any area or facility that is primarily used for the exhibition of any motion picture, stage, drama, lecture, musical recital or other similar performances including, but not limited to, concert halls and theaters.

"Place of employment" means an area under the control of an employer which is intended for occupancy by employees during the course of employment including, but not limited to, work areas, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, waiting areas, offices, stairways, and hallways. A private residence is not a "place of employment" unless it is used as a licensed child care, licensed adult day care, health care or pre-school facility, or any other aforementioned business.

"Private club" means those organizations or entities defined as a "club" in Wyo. Stat. Section 12-1-101(a)(iii), which are not open to the public.

"Public place" means an enclosed area to which the public is invited or in which the public is permitted including, but not limited to, banks, and other financial institutions, publicly funded buildings, public conveyances, recreational facilities, taverns, lounges, bars, educational facilities, health care facilities, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, including grocery stores, supermarkets and stores where food items are sold for on-premises or off-premises consumption, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A private residence is not a "public place" unless it is used as a licensed child care, licensed adult day care, health care or pre-school facility.

"Public transportation" means, but is not limited to, any enclosed mode of public transportation, including a train, passenger bus, school bus or other vehicle used to transport pupils, and taxi; or a vehicle that is owned by, or operated by a business and is open to the public, including tour vehicles, passenger buses or vans regularly used to transport customers. Notwithstanding the foregoing, a private vehicle not open to the public or not used for the transportation of the public during the times of use, including a private passenger vehicle, a private charter or rental of a limousine, bus or van, shall not be considered public transportation.

"Restaurant" means an eating establishment including, but not limited to, coffee shops, cafeterias, and public and private school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises and served elsewhere. The term "restaurant" shall include any tavern, lounge or bar area within the restaurant.

"Retail sales" means establishments engaged in the sale of goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. A retail sales establishment is usually a place of business and is engaged in activity to attract the general public to make purchases.

"Shopping mall" means an enclosed public walkway or hall area that serves to connect retail sale or professional service establishments.

"Smoke" or "smoking" means **inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco, nicotine, or other product intended for inhalation, including hookah and marijuana, whether natural or synthetic** ~~the inhaling, exhaling, burning or carrying of any lighted tobacco product, weed, plant or other combustible product in a smoking instrument~~ or the placement of smoking instruments containing a lighted tobacco, **nicotine, plant or other** ~~product, weed, plant or other combustible product~~ in an ashtray or other receptacle and allowing smoke to diffuse into the air. This definition does not include incense. **"Smoke" or "smoking" also includes the use of an electronic smoking device.**

"Smoking instrument" means any cigar, cigarette, **electronic smoking device**, pipe, hookah or water pipe, or any other smoking device.

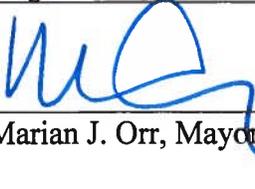
"Sports arena" means sports pavilions, stadiums, gymnasiums, health spas, swimming pools, roller and ice rinks, bowling alleys, and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events.

"Tavern, lounge or bar" means any establishment open to the public whose primary source of revenue is from the sale of alcoholic liquor and malt beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages including, but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.

"Youth" means any person who has not attained eighteen (18) years of age.

Section 2. This ordinance shall be in full force and effect upon its approval and publication.

FIRST READING: July 22, 2019
SECOND READING: August 12, 2019
THIRD AND FINAL READING: August 26, 2019



Marian J. Orr, Mayor

(SEAL)

Attest:



Kristina F. Jones, City Clerk