

ORDINANCE NO.XXXX

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SCOTTSDALE,  
REPEALING AND REPLACING SECTION 19-16 OF THE SCOTTSDALE  
REVISED CODE CONCERNING SMOKING IN PUBLIC PLACES

BE IT ORDAINED by the Council of the City of Scottsdale as follows:

Section 1. Section 19-16 of the Scottsdale Revised Code concerning smoking in public places is repealed in its entirety and replaced as follows:

**Sec. 19-16. Smoking in Public Places and City Property.**

(a) Definitions. The following words and phrases, whenever used in this section, shall be construed as defined in this section:

1. Electronic Smoking Device means any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person in any manner for the purpose of inhaling vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, dab rig or vape pen, or under any other product name or descriptor.
2. "Employee" means any person who performs any service on a full-time, part-time or contracted basis whether or not the person is denominated an employee, independent contractor or otherwise and whether or not the person is compensated or is a volunteer.
3. "Employer" means a person, business, partnership, association, the state of Arizona and its political subdivisions, corporations, including a municipal corporations, trust, or non-profit entity that employs the services of one or more individual persons.
4. "Enclosed area" means all space between a floor and ceiling that is enclosed on all sides by permanent or temporary walls or windows (exclusive of doorways), which extend from the floor to the ceiling. Enclosed area includes a reasonable distance from any entrances, windows and ventilation systems so that persons entering or leaving the building or facility shall not be subjected to **breathing tobacco smoke or vapor and so that tobacco smoke or vapor** does not enter the building or facility through entrances, windows, ventilation systems or any other means.
5. "Health care facility" means any enclosed area utilized by any health care institution licensed according to Arizona Revised Statutes Title 36 Chapter 4, Chapter 6 Article 7, or Chapter 17, or any health care professional licensed according to Arizona Revised Statutes Title 32 chapters 7, 8, 11, 13, 14, 15, 15.1, 16, 17, 18, 19, 19.1, 21, 25, 28, 29, 33, 34, 35, 39, 41, or 42.
6. "Person" means an individual, partnership, corporation, limited liability company, entity, association, governmental subdivision or unit of a governmental subdivision, or a public or private organization of any character.

7. "Physically separated" means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of door or passageway) and independently ventilated from smoke-free areas, so that air within permitted smoking areas does not drift or get vented into smoke-free areas.

8. "Places of employment" means an enclosed area under the control of a public or private employer that employees normally frequent during the course of employment, including office buildings, work areas, auditoriums, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, cafeterias, hallways, stairs, elevators, health care facilities, private offices and vehicles owned and operated by the employer during working hours when the vehicle is occupied by more than one person. A private residence is not a "place of employment" unless it is used as a childcare, adult day care, or health care facility.

9. "Veteran and fraternal clubs" means a club as defined in Arizona Revised Statute Section 4-101(7)(a)(b) or (c).

10. "Public place" means any enclosed area to which the public is invited or in which the public is permitted, including airports, banks, bars, common areas of apartment buildings, condominiums or other multifamily housing facilities, educational facilities, entertainment facilities or venues, health care facilities, hotel and motel common areas, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports facilities, theaters, and waiting rooms. **Public place also means the following city owned facilities whether enclosed or not: bleachers, bus stops, playgrounds, ramadas, stadiums, and swimming pools.** A private residence is not a "public place" unless it is used as a childcare, adult day care, or health care facility.

11. "Retail tobacco store" means a retail store that derives the majority of its sales from tobacco products and accessories.

12. "Smoking" means inhaling, exhaling, burning, or carrying or possessing any lighted tobacco product, including cigars, cigarettes, pipe tobacco and any other lighted tobacco product **and the use of an electronic smoking device.**

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

(b) Smoking, **including the use of any electronic smoking device,** is prohibited in all public places, within fifty (50) feet of a public school, and places of employment within the city, except the following:

1. Private residences, except when used as a licensed childcare, adult day care, or health care facility.

2. Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided, however, that not more than fifty percent of rooms rented to guests in a hotel or motel are so designated.

3. Retail tobacco stores that are physically separated so that smoke from retail tobacco stores does not infiltrate into areas where smoking is prohibited under the provisions of this section.

4. Veterans and fraternal clubs when they are not open to the general public.

5. Smoking when associated with a religious ceremony practiced pursuant to the American Indian religious freedom act of 1978.

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

7. A theatrical performance upon a stage or in the course of a film or television production if the smoking is part of the performance or production.

C. The prohibition on smoking in places of employment shall be communicated to all existing employees by the effective date of this section and to all prospective employees upon their application for employment.

D. Notwithstanding any other provision of this section, an owner, operator, manager, or other person or entity in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place.

E. Posting of signs and ashtray removal.

1. "No smoking" signs or the international "no smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly and conspicuously posted by the owner, operator, manager, or other person in control of that place identifying where smoking is prohibited by this section and where complaints regarding violations may be registered.

2. Every public place and place of employment where smoking is prohibited by this section shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.

3. All ashtrays shall be removed from any area where smoking is prohibited by this section by the owner, operator, manager, or other person having control of the area.

F. No employer may discharge or retaliate against an employee because that employee exercises any rights afforded by this section or reports or attempts to prosecute a violation of this section.

G. An owner, manager, operator or employee of place regulated by this law shall inform any person who is smoking in violation of this law that smoking is illegal and request that the illegal smoking stop immediately.

H. This section does not create any new private right of action nor does it extinguish any existing common law causes of action.

I. A person who smokes where smoking is prohibited is guilty of a petty offense with a fine of not less than one hundred (100) dollars and not more than three (300) hundred dollars.

J. Except as provided in subsection (i) above, a violation of this section shall be a civil violation with a fine of not less than one hundred (100.00) dollars, but not more than two thousand five hundred (2,500.00) dollars for each violation.

K. A Scottsdale police officer or the city attorney may bring civil or petty offense complaints to enforce this section.

PASSED AND ADOPTED by the Council of the City of Scottsdale this \_\_\_\_ day of \_\_\_\_\_, 2025

CITY OF SCOTTSDALE, an Arizona  
municipal corporation

ATTEST:

\_\_\_\_\_  
Ben Lane, City Clerk

\_\_\_\_\_  
Lisa Borowski, Mayor

APPROVED AS TO FORM:

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Luis E. Santaella  
Interim City Attorney