

THE CITY OF MOLENA, GEORGIA
ORDINANCE NO. 49

AN ORDINANCE TO AMEND THE CITY OF MOLENA CODE OF ORDINANCES TO CREATE A NEW CHAPTER ENTITLED "SMOKING IN PUBLIC PLACES" AND SECTION THEREUNDER; TO PROVIDE FOR ENFORCEMENT; TO PROVIDE FOR PENALTIES; TO ESTABLISH AN EFFECTIVE DATE; AND FOR OTHER PURPOSES:

WHEREAS, it is the desire of the Mayor and Council of the City of Molena to adopt in all respects an ordinance relating to the regulation of smoking in public places pursuant to and in compliance with the Georgia Smoke-free Air Act of 2005; and.

WHEREAS, adequate enforcement relating to smoking in public places requires that they be regulated, abated or prohibited; and

WHEREAS, the Mayor and Council do hereby find:

(1) Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution.

(2) Breathing secondhand smoke is a cause of disease in healthy non-smokers, including heart disease, stroke, respiratory disease and lung cancer.

(3) Secondhand smoke is particularly hazardous to elderly people, individuals with cardiovascular disease and individuals with impaired respiratory function including asthmatics and those with obstructive disease.

(4) Children exposed to secondhand smoke have an increased risk of asthma, respiratory infections, sudden infant death syndrome, developmental abnormalities and cancer; and

WHEREAS, the Mayor and Council declare that the purpose of this ordinance is:

(1) To protect the public health, safety and welfare by prohibiting smoking in public places;

(2) To guarantee the right of non-smokers to breathe smoke-free air; and

(3) To recognize that the need to breathe smoke-free air shall have priority over the desire to smoke.

THE COUNCIL OF THE CITY OF MOLENA HEREBY ORDAINS:

SECTION 1. New Chapter Created. The Code of Ordinances of the City of Molena, Georgia, is hereby amended to create a new Chapter and Sections thereunder to be entitled "Smoking in Public Places" which shall read as follows:

Section 1. Definitions.

Except where otherwise provided, the definitions at O.C.G.A. § 31-12A-2, as amended, are incorporated herein by reference.

Public place: An enclosed area to which the public is invited or in which the public is permitted, including, but not limited to, banks, bars, educational facilities, health care facilities, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, 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, adult day-care, or health care facility. Enclosed porches, courtyards or decks with a contiguous connection to a public place shall be considered a public place. Public place shall also include any public park or other recreational facility within the city owned or operated by the City of Molena or Pike County.

Smoking: Inhaling, exhaling, burning, or carrying any lighted tobacco product, cigar, cigarette, pipe, weed, plant or other combustible substance in any manner or in any form including electronic cigarettes, vaping paraphernalia, or e-cigs.

Section 2. Prohibited smoking.

Unless otherwise provided, smoking is prohibited in all public places in the city.

Section 3. Reasonable distance.

Smoking may occur outdoors, but not less than five feet from any entrance to any place where smoking is prohibited.

Section 4. Smoking prohibited in local government buildings

Smoking shall be prohibited in all enclosed facilities of, including buildings owned, leased, or operated by, the State of Georgia, its agencies and authorities, and any political subdivision of the state, municipal corporation, the City of Molena, or local board or authority created by general, local, or special Act of the General Assembly or by ordinance or resolution of the governing body of a county or municipal corporation individually or jointly with other political subdivisions or municipalities of the state.

Section 5. Smoking prohibited in enclosed public places

Except as otherwise specifically authorized in O.C.G.A. § 31-12A-6, smoking shall be prohibited in all public places in the City of Molena.

Section 6. Exemptions

(a) Notwithstanding any other provisions herein to the contrary, those areas identified in O.C.G.A. § 31-12A-6 shall be exempt from the provisions of this chapter.

(b) In order to qualify for exempt status under subsection (a) of this Code section, any area described in subsection (a) of this Code section, except for areas described in O.C.G.A. § 31-12A-6(a)(1), shall post conspicuously at every entrance a sign indicating that smoking is permitted.

(c) Notwithstanding any other provision hereof, any person who controls any establishment described in this ordinance may declare that the entire establishment is a non-smoking establishment.

Section 7. Posting of signs and notification.

"No smoking" signs or the international "no smoking" symbol (consisting of a pictorial representations of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly and conspicuously posted in every building where smoking is prohibited.

Section 8. Enforcement.

(a) Any police officer or other law enforcement officer approved by the city or the health department may issue a citation for any violation of this ordinance.

(b) Any citizen who desires to register a complaint under this ordinance may do so with the health department or the police department.

Section 9. Violations and penalties.

Any person who violates any provision of this ordinance shall be subject to the following penalties:

- (1) A fine not exceeding \$100.00 for a first violation;
- (2) A fine not exceeding \$200.00 for a second violation within one year; and
- (3) A fine not exceeding \$500.00 for each additional violation within one year.

Section 10. Other applicable laws and disclaimer.

This ordinance shall not be construed to permit smoking where it is otherwise restricted by other applicable laws. By regulating smoking, the city is assuming an undertaking only to promote the general health and welfare of its citizens. By this

enactment, neither the city, its officers nor its employees are liable to any person who claims any breach of this chapter caused injury.

SECTION 2. Except as amended hereinabove, said ordinances shall remain in full force and effect.

SECTION 3.

A. It is hereby declared to be the intention of the City Council that all sections, paragraphs, sentences, clauses, and phrases of this Ordinance are and were, upon their enactment, believed by the City Council to be fully valid, enforceable and constitutional.

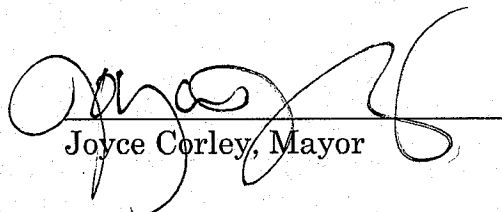
B. It is hereby declared to be the intention of the City Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the City Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

C. In the event that any section, paragraph, sentence, clause or phrase of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the City Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining sections, paragraphs, sentences, clauses, or phrases of the Ordinance and that, to the greatest extent allowed by law, all remaining sections, paragraphs, sentences, clauses, or phrases of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

SECTION 4. Repeal of Conflicting Provision. Except as otherwise provided herein, all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 5. Effective Date. This ordinance shall become effective immediately upon its adoption by the City Council.

SO ORDAINED this 8 day of June, 2020.


Joyce Corley, Mayor

ATTEST:



Tausha Grose, City Clerk

(SEAL)

FIRST READING: 3-9-2020

SECOND READING/ADOPTION: 6-8-2020