

(Published in the Tulsa Daily Commerce  
& Legal News,

December 2, 2003.)

ORDINANCE NO. 20736

AN ORDINANCE AMENDING TITLE 27, CHAPTER 22, SECTION 2208, TULSA REVISED ORDINANCES, PROHIBITING SMOKING IN CERTAIN PUBLIC PLACES AND INDOOR WORKPLACES; STATING EXCEPTIONS THERETO; ESTABLISHING PENALTIES FOR VIOLATIONS; DECLARING A COMMON NAME FOR THIS ORDINANCE AS THE BRANNIN ORDINANCE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY OF TULSA, OKLAHOMA:

*Section 1. That Title 27, Chapter 22, Section 2208, Tulsa Revised Ordinances, be and the same is amended hereby to read as follows:*

**"SECTION 2208. SMOKING IN CERTAIN PUBLIC PLACES PROHIBITED**

A. The possession of lighted tobacco in any form is a public nuisance and dangerous to public health and is hereby prohibited when such possession is in any indoor place used by or open to the public, public transportation, or any indoor workplace, except where specifically allowed by law.

As used in this section, "indoor workplace" means any indoor place of employment or employment-type service for or at the request of another individual or individuals, or any public or private entity, whether part-time or full-time and whether for compensation or not. Such services shall include, without limitation, any service performed by an owner, employee, independent contractor, agent, partner, proprietor, manager, officer, director, apprentice, trainee, associate, servant, or volunteer. An indoor workplace includes work areas, employee lounges, restrooms, conference rooms, classrooms, employee cafeterias, hallways, any other spaces used or visited by employees, and all space between a floor and ceiling that is predominantly or totally enclosed by walls or windows, regardless of doors, doorways, open or closed windows, stairways, or the like. The provisions of this section shall apply to such indoor workplace at any given time, whether or not work is being performed.

B. The restrictions provided in this section shall not apply to stand-alone bars, stand-alone taverns, and cigar bars as defined in 63 O.S.2001, § 1-1522.

C. The restrictions provided in this section shall not apply to the following:

1. The room or rooms where licensed charitable bingo games are being operated, but only during the hours of operation of such games;
  2. Up to twenty-five percent (25%) of the guest rooms at a hotel or other lodging establishment;
  3. Retail tobacco stores predominantly engaged in the sale of tobacco products and accessories and in which the sale of other products is merely incidental and in which no food or beverage is sold or served for consumption on the premises;
  4. Workplaces where only the owner or operator of the workplace, or the immediate family of the owner or operator, performs any work in the workplace, and the workplace has only incidental public access. "Incidental public access" means that a place of business has only an occasional person, who is not an employee, present at the business to transact business or make a delivery. It does not include businesses that depend on walk-in customers for any part of their business.
  5. Workplaces occupied exclusively by one or more smokers, if the workplace has only incidental public access;
  6. Private offices occupied exclusively by one or more smokers;
  7. Workplaces within private residences, except that smoking shall not be allowed inside any private residence that is used as a licensed child care facility during hours of operation;
  8. Medical research or treatment centers, if smoking is integral to the research or treatment;
  9. A facility operated by a post or organization of past or present members of the Armed Forces of the United States which is exempt from taxation pursuant to Section 501 (c)(8), 501 (c)(10), or 501 (c)(19) of the Internal Revenue Code, 26 U.S.C., Section 501 (c)(8), 501 (c)(10), or 501 (c)(19), when such facility is utilized exclusively by its members and their families and for the conduct of post or organization nonprofit operations, except during an event or activity which is open to the public; and
  10. Any outdoor seating area of a restaurant; provided, smoking shall not be allowed within fifteen (15) feet of any exterior public doorway or any air intake of a restaurant.
- D. An employer not otherwise restricted from doing so may elect to provide smoking rooms where no work is performed except for cleaning and maintenance during the time the room is not in use for smoking, provided each smoking room is fully enclosed and exhausted directly to the outside in such a manner that no smoke can drift or

circulate into a nonsmoking area. No exhaust from a smoking room shall be located within fifteen (15) feet of any entrance, exit, or air intake.

E. If smoking is to be permitted in any space exempted in subsections B or C of this section or in a smoking room pursuant to subsection D of this section, such smoking space must either occupy the entire enclosed indoor space or, if it shares the enclosed space with any nonsmoking areas, the smoking space shall be fully enclosed, exhausted directly to the outside with no air from the smoking space circulated to any nonsmoking area, and under negative air pressure so that no smoke can drift or circulate into nonsmoking area when a door to an adjacent nonsmoking area is opened. Air from the smoking room shall not be exhausted within fifteen (15) feet of any entrance, exit, or air intake. Any employer may choose a more restrictive smoking policy, including being totally smoke free.

F. Notwithstanding any other provision of this section, until March 1, 2006, restaurants may have designated smoking and nonsmoking areas or may be designated as being a totally nonsmoking area. Beginning March 1, 2006, restaurants shall be totally nonsmoking or may provide nonsmoking areas and designated smoking rooms. Food and beverage may be served in such designated smoking rooms, which shall be in a location which is fully enclosed, directly exhausted to the outside, under negative air pressure so smoke cannot escape when a door is opened, and no air is recirculated to nonsmoking areas of the building. No exhaust from such room shall be located within twenty-five (25) feet of any entrance, exit, or air intake. Such room shall be subject to verification for compliance with the provisions of this subsection by the Oklahoma State Department of Health.

G. The person who owns or operates a place where smoking or tobacco use is prohibited by law shall be responsible for posting a sign or decal, at least four (4) inches by two (2) inches in size, at each entrance of the building indicating that the place is smoke-free or tobacco-free.

H. Responsibility for posting signs or decals shall be as follows:

1. In privately owned facilities, the owner or lessee, if lessee is in possession of the facilities, shall be responsible;

2. In corporately owned facilities, the manager and/or supervisor of the facility involved shall be responsible; and

3. In publicly owned facilities, the manager and/or supervisor of the facility shall be responsible.

I. Any person who knowingly violates this section is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than TEN DOLLARS

(\$10.00) nor more than ONE HUNDRED DOLLARS (\$100.00), excluding costs, fees, and assessments."

Ord. No. 13506

Section 2. COMMON NAME. This ordinance shall be known as "The Brannin Ordinance."

Section 3. SEVERABILITY CLAUSE. If any section, sentence, clause or phrase of this ordinance or any part thereof is for any reason found to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance or any part thereof.

Section 4. REPEAL OF CONFLICTING ORDINANCES. That all ordinances or parts of ordinances in conflict herewith be and the same are expressly repealed.

Section 5. EMERGENCY CLAUSE. That an emergency is declared to exist for the preservation of the public health, peace and safety, by reason whereof this ordinance shall take effect immediately from and after its passage, approval and publication.

ADOPTED by the Council: November 20, 2003.  
Date

ADOPTED as an emergency measure: November 20, 2003.  
Date

s/ David Patrick  
Chairman of the Council

OFFICE OF THE MAYOR

Received by the Mayor: N/A, at \_\_\_\_\_.  
Date Time

Bill LaFortune, Mayor

By  
Secretary

APPROVED by the Mayor of the City of Tulsa, Oklahoma: November 24, 2003,  
Date  
at 9:00 a.m. .  
Time

s/ Bill LaFortune  
Mayor

(Seal)  
ATTEST:

s/ Dana Towers  
Deputy City Clerk

APPROVED:

s/ Andrew T. Rees  
Assistant City Attorney