

# Ordinance

Ordinance No. .... 5-A

OF THE  
CITY OF ATLANTIC CITY, N.J.

Date 3-26-08

Date to Mayor .....

Approved as to Form and Legality on Basis of Facts Set Forth

Factual contents certified to by

Legislative Counsel Billie Moore, Esq.

Business Administrator /s/ Dr. Carol A. Fredericks

Prepared by the Legislative Counsel

REVISED 3/26/08Council Members: MOORE, ROBINSON, TIBBITT & WARD Present the following Ordinance:

## AN ORDINANCE AMENDING CHAPTER 221 TO BAN SMOKING 100% ON CASINO FLOOR

**WHEREAS**, the City Council of the City of Atlantic City is charged with the obligation and responsibility to preserve and advance the public health, welfare and safety of the citizens of Atlantic City; and

**WHEREAS**, the City Council of the City of Atlantic City received testimony calling for the implementation and protections of the New Jersey Smoke Free Air Act (the "Act") (N.J.S.A. 26:3D-55) to be applied to public places and places of employment; and

**WHEREAS**, the legislature through the January 15, 2006 approval of the "Act" sought to preserve and advance the public health and welfare of those within the State of New Jersey; and

**WHEREAS**, the "Act", within N.J.S.A. 26:3D-59 pronounced "AREA AND BUSINESSES EXEMPT FROM SMOKING RESTRICTION." Therein, (c)(1) specifically exempted casino floors by stating "any casino as defined in Section 6 of P.L. 1977, C.110 C.5:12-6 approved by the Casino Control Commission that contains at least 150 stand - alone slot machines, ten table games or some combination thereof approved by the Commission, which machines and games are available to the public for wagering"; and

**WHEREAS**, Subsection 63 of the "Act" provides that "the provisions of this Act shall supersede any other statute, Municipal Ordinance and rule or regulation adopted pursuant to law concerning smoking in an indoor public place or workplace, except where smoking is prohibited by Municipal Ordinance under authority of R.S.40:48-1 or 40:48-2, or by any other statute or regulation adopted pursuant to law for purposes of protecting life and property from fire or protecting public health, and except for those provisions of a Municipal Ordinance which provide restrictions on or prohibitions against smoking equivalent to, or greater than, those provided under this Act."

**WHEREAS**, Council found that as a result of Subsection 63 of the "Act", it was empowered to create legislation to preserve and advance the public health by implementing legislation greater than that provided by the "Act"; and

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**WHEREAS**, on February 15, 2007, City Council adopted Ordinance #86, which prohibited smoking in various enclosed public places and public areas of employment. It was also decided by City Council, pursuant to Ordinance #86, not to regulate smoking in various places, such as Gaming Floors within licensed casino hotel facilities; and

**WHEREAS**, the City Council sought to reach an amicable agreement by including a provision in Ordinance #86 which states that not more than twenty-five percent (25%) of such Gaming Floor, as particularly determined by the Casino license operator of the casino hotel facility within which the Gaming Floor is located, may be so designated (as a smoking area and therefore exempt from regulation); and further provided (1) that the exempt areas so designated shall be (a) enclosed by solid walls or windows, a ceiling and a solid door; and (b) equipped with a ventilation system separately exhausted from the nonsmoking areas of the casino hotel facility so that air from the exempt areas is not recirculated to and smoke is not back streamed into such nonsmoking areas; (2) that the casino licensee operator, not later than five months from the effective date of this Ordinance, submits plans for such designated exempt areas to the New Jersey Department of Community Affairs and such other government agencies as may be necessary and, not later than ninety (90) days from receipt of all such approvals as may be necessary, commences and thereafter expeditiously completes the construction of such separately ventilated enclosures; and (3) that, during the pendency of the design and construction of such exempt area enclosures, not more than the above stated percentage of such Gaming Floor, as particularly determined by the casino licensee operator, may, without such enclosures, be so designated as exempt; and

**WHEREAS**, at the May 9, 2007 City Council meeting, members of the community and individuals representing various special interest groups expressed concern for the health and safety of casino workers who they indicate are scheduled to work in the smoking areas of the casino; and

**WHEREAS**, at that time, it was brought to the attention of City Council that there is not list of persons volunteering to work in the designated smoking areas and as a result, employees are required to work in heavily concentrated smoking areas; and

**WHEREAS**, it has been alleged that the reduction of smoking areas from 100% of the casino floor down to a concentrated area of 25% places a greater burden on the employees who are forced to work in the smoking areas; and

**WHEREAS**, construction of barriers to separate the 25% smoking areas from the 75% non-smoking areas as mandated by Ordinance #86 has not been complied with; and

**WHEREAS**, members of City Council were acting in the best interest of the community upon adopting Ordinance #86 but now take the position that the Ordinance shall be amended to eliminate smoking on all employee staffed portions of the Casino floor and the Council seeks to delete section F. (1), (2) and (3) of Chapter 221-6, which exempts the casino gaming floor from the smoking regulation and therefore permits smoking on 25% of such gaming floor as determined by the casino licensee operator and replace said sections with a provision that permits casino licensee operators to construct non-staffed, enclosed smoking lounges on no more than 25% of the gaming floor in accordance with *ASHRAE Standard 62-2001, Ventilation for Acceptable Indoor Air Quality*.

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**NOW, THEREFORE, BE IT RESOLVED** by the City Council for the City of Atlantic City, that said Council amends Chapter 221-6 of the Code of the City of Atlantic City to delete section F. (1), (2) and (3), which exempts casino floors from the smoking regulation and therefore permits smoking on 25% of the casino floor as determined by the casino licensee operator and replaces said sections with a provision that eliminates smoking on all employee staffed portions of the Casino floor and permits casino licensee operators to construct non-staffed, enclosed smoking lounges on no more than 25% of the gaming floor in accordance with *ASHRAE Standard: 62-2001, Ventilation for Acceptable Indoor Air Quality*. Said amendment to become effective within ninety days of enactment.

March 26, 2008 12:38:23 PM rrrh

DO NOT USE SPACE BELOW THIS LINE

RECORD OF COUNCIL VOTE ON FINAL PASSAGE

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	MOT.	SEC.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	MOT.	SEC.
MANCUSO							SCHULTZ						
MASON							SMALL						
MOORE							TIBBITT						
ROBINSON							WARD						

MARSH, PRESIDENT

X-Indicates Vote    NV-Not Voting    AB-Absent    MOT-Motion    SEC-Second

Adopted on first reading at a meeting of the Council of the City of Atlantic City, N.J. on .....  
 Adopted on second and final reading after hearing on.....

Approved By..... Date..... Reconsidered Over  
 By Council..... Ride  
 Mayor Aye Nay

This is a Certified True copy of the Original Ordinance on file in the City Clerk's Office.

..... City Clerk