

**ORDINANCE PROHIBITING
SMOKING IN PLACES OF PUBLIC ACCESS**

The Selectboard of the Town of Williston hereby ordains:

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1. PURPOSE

It is the purpose of this Ordinance to promote the public health, safety and welfare of residents of and visitors to the Town Of Williston by prohibiting smoking in places of public access.

2. AUTHORITY

This Ordinance is adopted pursuant to the authority contained in 24 V.S.A. section 2291 (14).

3. DEFINITIONS

- 3.1. "Persons": as used in this Ordinance shall mean and include any person, firm, partnership, association, corporation, company or organization of any kind.
- 3.2. "Place or Public Access" shall have the same meaning contained in 18 V.S.A. Section 1741 (2), as now enacted and hereafter amended.
- 3.3. "Publicly owned buildings and offices" shall have the same meaning contained in 18 V.S.A. Section 1741 (3), as now enacted or hereafter amended.
- 3.4. "Tobacco products" shall have the same meaning contained in 7 V.S.A. section 1001 (4), as now enacted or hereafter amended.

4. SMOKING PROHIBITED IN PLACES OF PUBLIC ACCESS

All persons shall be prohibited from possessing any lighted tobacco products, in any form, in the common areas of all enclosed indoor places of public access and publicly owned buildings and offices.

5. EXCEPTIONS

The restrictions in Section 5 on possession of lighted tobacco products shall not apply to:

- 5.1. Buildings owned and operated by social, fraternal, or religious organizations when used by the membership or the organization, their guests or families, or any facility that is rented or leased for private functions from which the public is excluded and for which arrangements are under the control of the sponsor of the function;
- 5.2. Workplace smoking areas designated under 18 V.S.A. Chapter 28, subchapter 2;
- 5.3. Areas not commonly open to the public of owner-operated businesses with no employees.

6. POSTING OF "NO-SMOKING" SIGNS

- 6.1. Any person or employer who owns, manages, operates or otherwise controls the use of any premises subject to the restrictions contained in Section 5, above, shall have the responsibility of properly posting and maintaining "No Smoking" signs or the international "No-Smoking" symbol (a picture of a burning cigarette inside a red circle with a red bar across it) clearly and conspicuously throughout the premises.
- 6.2. The color of such signs, when not of the international type, shall have lettering that is distinct, contrasting to the background and easily read.

7. ENFORCEMENT & PENALTIES

- 7.1. Any person who violates a provision of this civil ordinance shall be subject to a civil penalty of up to \$500.00 per day for each day that such violation continues. The Administrative Officer, or any Law Enforcement Officer of the Town of Williston shall be authorized to act as Issuing Municipal Officials to issue and pursue before the Judicial Bureau a municipal complaint.
- 7.2. Waiver Fee: An Issuing Municipal Official is authorized to recover a waiver fee, in lieu of a civil penalty, in the following amounts, for any person and/or owner/lessee who declines to contest a municipal complaint and pay the waiver fee:

	<u>Individual</u>	<u>Owner/Lessee</u>
First Offense:	\$25.00	\$25.00
Second Offense:	\$50.00	\$50.00
Subsequent Offenses:	\$100.00	\$100.00

Offenses shall be counted on a calendar year basis.

- 7.3. Civil Penalties: An Issuing Municipal Official is authorized to recover civil penalties in the following amounts for each violation:

	<u>Individual</u>	<u>Owner/Lessee</u>
First Offense:	\$50.00	\$50.00
Second Offense:	\$75.00	\$75.00
Subsequent Offenses:	\$125.00	\$125.00

Offenses shall be counted on a calendar year basis.

- 7.4. Other Relief: In addition to the enforcement procedures available before the Judicial Bureau, the Town Manager is authorized to commence a civil action to obtain injunctive relief by the Town Selectboard or to pursue any other remedy authorized by law.

8. SEVERABILITY

Any part or provision of this Ordinance shall be considered severable, and if any provision of this Ordinance or the application thereto to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provisions of application, and to this end the provisions of this Ordinance are declared severable.

This ordinance adopted September 20, 2004 will take effect November 22, 2004.