

**ORDINANCE NO. 090657**  
**0-10-05**

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**An ordinance of the City of Gainesville, Florida, relating to outdoor smoking at City transit facilities; providing legislative findings, amending Article IV in Chapter 11.5 of the Code of Ordinances; amending 11.5-40 by creating definitions; creating new section § 11.5-41.1, by prohibiting the smoking of tobacco, or any other weed or plant at all RTS bus stops and bus shelters, and within a certain distance from said stops and shelters; amending the titles of Sections 11-5.41 and 11-5.42; creating new section § 11.5-42.1 providing for the posting of signs; amending §2-339 of the Code of Ordinances to permit enforcement by civil citation; providing directions to the codifier; providing for severability; providing a repealing clause; and providing an immediate effective date.**

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**WHEREAS**, the Surgeon General of the United States, in a 2006 report of the Surgeon General, has determined that secondhand smoke presents a positive health danger;

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**WHEREAS**, the smoking of tobacco, or any other weed or plant, and secondhand smoke are a material annoyance, inconvenience, discomfort, and health hazard to the persons who are present in confined spaces designated for public transit use and occupancy;

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**WHEREAS**, Regional Transit Systems (RTS) buses, vehicles, bus stops and bus shelters are limited public areas that are designated for the specific purpose of use and occupancy only by patrons of the RTS bus system;



1           **WHEREAS**, the City Commission finds that patrons and employees of the RTS  
2 should not be unnecessarily exposed to secondhand tobacco smoke while utilizing or  
3 accessing the services of RTS;

4           **WHEREAS**, restricting smoking and secondhand smoke at and within certain  
5 distances from RTS bus stops and bus shelters will serve the health, safety, and welfare of  
6 the patrons and employees of RTS;

7           **WHEREAS**, the City Commission in furtherance of protecting the public's health,  
8 safety, and welfare desires to restrict smoking as more fully set forth herein;

9           **WHEREAS**, at least 10 days notice has been given once by publication in a  
10 newspaper of general circulation notifying the public of this proposed ordinance and of a  
11 Public Hearing in the City Commission Auditorium in City Hall, City of Gainesville; and

12           **WHEREAS**, a Public Hearing was held pursuant to the published notice described  
13 at which hearing the parties in interest and all others had an opportunity to be and were, in  
14 fact, heard;

15           **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION**  
16 **OF THE CITY OF GAINESVILLE, FLORIDA:**

17           **Section 1.** Findings. The City Commission adopts the foregoing findings.

18           **Section 2.** Sections 11.5-40 through 11.5-43 of the Code of Ordinances of the City of  
19 Gainesville, Florida, are amended to read as follows:

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1 Chapter 11.5

2 Health and Sanitation

3 ARTICLE IV. RESTRICTION OF OUTDOOR SMOKING AT A CITY FACILITY AND  
4 AT RTS BUS STOPS AND BUS SHELTERS

5 **Sec. 11.5-40. Definitions.**

6 Bus and vehicle shall mean a bus or motor vehicle operated by RTS for the purpose of  
7 transporting passengers.

8 Bus shelter shall mean any designated place, characterized by a roofed or partially roofed  
9 structure, where a RTS bus stops to pick up or let off passengers.

10 Bus stop shall mean any designated place where a RTS bus stops to pick up or let off  
11 passengers. Bus stops may be designated by the placement of a sign or bench.

12 Smoke or smoking shall mean the intake and exhalation by a person of smoke from tobacco,  
13 a tobacco substitute or other weed or plant, and also possessing, carrying, holding or otherwise  
14 having control of a lighted pipe, cigar, cigarette or other lighted smoking equipment.

15 **Sec. 11.5-41. Prohibition of Smoking at Rosa Parks RTS Downtown Station.**

16 A person may not smoke on, at or in the municipal transit transfer station, known as the  
17 Rosa Parks RTS Downtown Station, except in a specific location designated by the city manager as  
18 a smoking permitted area. The smoking permitted area shall be clearly and conspicuously posted as  
19 provided in section 11.5-42, and shall not exceed ten percent of the total area of the Rosa Parks  
20 RTS Downtown Station.

21 **Sec. 11.5-41.1. Prohibition of Smoking at or around all RTS bus stops and bus shelters.**

22 (1) A person shall not smoke at or within 20 feet of any RTS bus stop or bus shelter.



- 1     (2)     This section shall not apply to pedestrians, drivers or passengers of a motor vehicle, non-  
2             motorized vehicle, or bicycle on a public street, sidewalk or thoroughfare while actively  
3             passing on the way to another destination.
- 4     (3)     This section shall not apply to persons who are within 20 feet of a bus stop or bus shelter  
5             while lawfully occupying private real property.
- 6     (4)     This section is supplemental and in addition to the prohibitions of smoking near school  
7             property as provided in Florida Statutes § 386.212.

8     **Sec. 11.5-42. Posting of signs at the Rosa Parks RTS Downtown Station.**

- 9     (1)     If the city manager designates a smoking permitted area at the Rosa Parks RTS Downtown  
10            Station, such area shall be conspicuously posted as a smoking permitted area with signs  
11            stating that smoking is permitted in such an area. Such signs shall delineate the boundaries  
12            of such area.
- 13    (2)     Each sign posted pursuant to this section shall have letters at least four inches high with the  
14            principal strokes of letters no less than one-half inch wide.

15    **Sec. 11.5-42.1. Posting of signs at all RTS bus stops and bus shelters.**

- 16    (1)     The City Manager or designee is authorized to install appropriate signage at all bus stops  
17            and bus shelters that smoking is prohibited.
- 18    (2)     Such signage shall consist of “No Smoking” or “Smoke Free” signs with letters not less  
19            than one inch in height, or the international “No Smoking” symbol consisting of a pictorial  
20            representation of a burning cigarette enclosed in a red circle with a red bar across it.

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1 **Sec. 11.5-43. Penalties.**

2 The provisions of article IV, may be enforced by civil citation as provided in chapter 2,  
3 article V, division 6 of this Code.

4 **Section 3.** Section 2-339 of the Code of Ordinances of the City of Gainesville is amended  
5 by amending §11.5-41 and creating and adding 11.5-41.1 to the table of applicable codes and  
6 ordinances as stated below. Except as amended herein, the remainder of Section 2-339 remains in  
7 full force and effect.

8 **Sec. 2-339. Applicable codes and ordinances.**

9 The following are enforceable by the procedures described in this division:

Section	Description	Class	Penalty
11.5-41	<u>Prohibition of Smoking at Rosa Parks RTS Downtown Station</u>	II	\$75.00
<u>11.5-41.1</u>	<u>Prohibition of Smoking at or within 20 feet of all RTS bus stops and bus</u> <u>shelters</u>	II	\$75.00

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11 **Section 4.** It is the intention that Sections 1 through 3 of this ordinance shall be made part  
12 of the Code of Ordinances of the City of Gainesville, Florida, and that the Sections and Paragraphs  
13 of this ordinance be renumbered or relettered in order to accomplish such intentions.

14 **Section 5.** If any word, phrase, clause, paragraph, section or provision of this  
15 ordinance or the application hereof to any person or circumstance is held invalid or  
16 unconstitutional, such finding shall not affect the other provisions or applications of the  
17 ordinance which can be given effect without the valid or unconstitutional provisions or  
18 application, and to this end the provisions of this ordinance are declared severable.

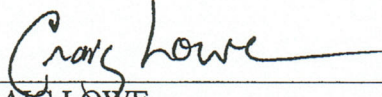


1           **Section 6.** All ordinances or parts of ordinances, in conflict herewith are to the extent of  
2 such conflict hereby repealed.

3           **Section 7.** This ordinance shall become effective immediately upon final adoption.


4           **PASSED AND ADOPTED** this 5th day of August, 2010.

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CRAIG LOWE  
MAYOR

ATTEST

APPROVED AS TO FORM AND LEGALITY

  
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KURT M. LANNON  
CLERK OF THE COMMISSION

  
\_\_\_\_\_  
MARION J. RADSON  
CITY ATTORNEY

AUG - 5 2010

20       This Ordinance passed on first reading this 19th day of July, 2010.

21       This Ordinance passed on second reading this 5th day of August, 2010.