

ORDINANCE NO. _____

An ordinance of the City of Gainesville, Florida, relating to outdoor smoking at a City Facility; providing legislative findings, creating Article IV in Chapter 11.5 of the Code of Ordinances; creating new sections § 11.5-40 through 11.5-43; prohibiting of smoking at the Rosa Parks RTS Downtown Station, except for designated smoking areas; and providing for penalties; amending § 2-339 of the Code of Ordinances to permit enforcement by civil citation, providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

WHEREAS, the smoking of tobacco, or any other weed or plant, and secondhand smoke present a positive danger to health and are a material annoyance, inconvenience, discomfort, and health hazard to the citizenry; and

WHEREAS, the City Commission finds that smoking of tobacco occurs at the city-owned and operated Rosa Parks RTS Downtown Station located within the City; and

WHEREAS, the City Commission finds that patrons and employees of the Regional Transit System should not be unnecessarily exposed to secondhand tobacco smoke while on the premises; and

WHEREAS, restricting smoking of tobacco and secondhand smoke at the Rosa Parks RTS Downtown Station will serve the health, safety and welfare of the citizenry;

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

WHEREAS, at least 10 days notice has been given once by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of public hearings to be held in the City Commission Auditorium, City Hall, City of Gainesville; and

WHEREAS, the Public Hearings were held pursuant to the published notice described at which hearings the parties in interest and all others had an opportunity to be and were, in fact, heard.

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

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

Section 2. A new Article IV of Chapter 11.5, consisting of Sections 11.5-40 through 11.5-43 is created and added to the Code of Ordinances of the City of Gainesville, to read as follows:

Chapter 11.5

Health and Sanitation

ARTICLE IV. RESTRICTION ON OUTDOOR SMOKING AT A CITY FACILITY

11.5-40. Definitions

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

11.5-41. Prohibition of Smoking

A person may not smoke on, at, or in the municipal transit transfer station, known as the Rosa Parks RTS Downtown Station, except in a specific location designated by the City Manager as a smoking permitted area. The smoking permitted area shall be clearly and conspicuously posted as provided in Section 11.5-42, and shall not exceed 10 percent of the total area of the Rosa Parks RTS Downtown Station.

11.5-42. Posting of Signs

1. If the City Manager designates a smoking permitted area at the Rosa Parks RTS Downtown Station, such area shall be conspicuously posted as a smoking permitted area with signs stating that smoking is permitted in such an area. Such signs shall delineate the boundaries of such area.
2. Each sign posted pursuant to this section shall have letters at least four (4) inches high with the principal strokes of letters not less than one-half inch wide.

11.5-43. Penalties

The provisions of Article IV, may be enforced by civil citation as provided in Chapter 2, Division 6 of this Code.

Section 3. Section 2-339 of the Code of Ordinances of the City of Gainesville is amended by adding 11.5-41 to the table of applicable codes and ordinances:

Sec. 2-339. Applicable codes and ordinances.

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

Section	Description	Class	Penalty
11.5-41	Prohibition of Smoking	II	\$75.00

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

Section 5. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application hereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provisions or applications of the ordinance which can be given

effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

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

Section 7. This ordinance shall take effect immediately upon adoption.

PASSED AND ADOPTED this ____ day of _____, 2009.

PEGEEN HANRAHAN
MAYOR

ATTEST:

Approved as to form and legality

KURT M. LANNON
CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

This Ordinance passed on first reading this ____ day of _____, 2009.

This Ordinance passed on second reading this ____ day of _____, 2009.