

## **ORDINANCE 3047**

### **AN ORDINANCE REPEALING TITLE 8, CHAPTER 7, OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS**

WHEREAS, the Montana Legislature has adopted what is commonly referred to as the “Montana Clean Indoor Air Act,” Mont. Code Ann. §§ 50-40-101 through -115 [“the Act],” which is designed to protect the public health and welfare by prohibiting smoking in enclosed public places and places of employment; and

WHEREAS, the Montana Department of Public Health and Human Services has adopted regulations to carry out the purposes and intent of the Act; and

WHEREAS, the focus of the Act and regulations adopted pursuant to the Act is avoidance of smoke in enclosed public places; and

WHEREAS, in 2006, the Great Falls City Commission largely repealed most of Title 8, Chapter 7, of the Official Code of the City of Great Falls, dealing with smoking in public places, as being in conflict with or inconsistent with several provisions of the Act; and

WHEREAS, in 2006, the Great Falls City Commission adopted Ordinance 2956, which prohibits smoking within a minimum distance of twenty feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited, so as to ensure that tobacco smoke does not enter the area through entrances, exits, open windows, or other means; and

WHEREAS, much of the reasoning behind the so-called “twenty-foot rule” was to provide relief to parties entering and exiting the south entrance of the Civic Center, near the offices of the Great Falls Municipal Court; and

WHEREAS, the provisions of the ordinance are duplicative of state law and regulation, to the extent that public health authorities are empowered under the Act to sanction parties that allow infiltration of smoke into enclosed public places, regardless of the distance between the origin of the smoke and the entrances, exits, open windows, and ventilation intakes serving an otherwise enclosed public area; and

WHEREAS, the Great Falls City Commission finds that enforcement of the current provisions of Title 8, Chapter 7, is also problematic, in that the ordinance cannot be enforced in certain instances where the twenty-foot distance requirement extends beyond the property of the owner of an enclosed place; and that a uniform distance requirement is otherwise unrealistic in certain instances.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:**

That the provisions of Title 8, Chapter 7, of the Official Code of the City of Great Falls, are hereby repealed.

APPROVED by the City Commission on first reading December 1, 2009.

PASSED, APPROVED AND ADOPTED by the City Commission of the City of Great Falls, Montana, on second reading December 15, 2009.

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Dona R. Stebbins, Mayor

ATTEST:

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Lisa Kunz, City Clerk

(Seal of the City)

APPROVED FOR LEGAL CONTENT:

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Chad Parker, Acting City Attorney

State of Montana     )  
County of Cascade   : ss  
City of Great Falls   )

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do hereby certify that I did post, as required by law and as prescribed and directed by the City Commission, Ordinance 3047 in three places within the limits of said City to-wit:

On the Bulletin Board, first floor, Civic Center Building;  
On the Bulletin Board, first floor, Cascade County Court House;  
On the Bulletin Board, Great Falls Public Library

(Seal of the City)

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Lisa Kunz, City Clerk