

# Norfolk council reverses itself on smoking ban

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By [Harry Minium](#)  
The Virginian-Pilot  
© March 26, 2008

## NORFOLK

The City Council reversed course Tuesday and decided that, for the time being, Norfolk will not become the first Virginia locality to ban smoking in restaurants.

In a 5-2 vote, the council rescinded a smoking ban it had passed last fall.

A watered-down substitute ban, fashioned by City Attorney Bernard A. Pishko to better withstand a legal challenge, did not muster enough support to come to a vote.

A ban had been set to go into effect next week. It passed 7-1 in October, with Councilman Paul R. Riddick the only negative vote.

On Tuesday, Councilman Barclay C. Winn said he voted to repeal the ban because the council was advised by Pishko that it likely would not survive a court challenge.

Other council members said they had second thoughts largely because of fears that Norfolk restaurants would lose business to surrounding cities.

Virginia Beach and other Hampton Roads cities asked the General Assembly in its winter session for permission to ban smoking but were denied. Norfolk officials had hoped to ban smoking under its unique city charter.

Winn was joined by Riddick, W. Randy Wright, Don Williams and Vice Mayor Anthony L. Burfoot in voting to repeal the ban. Councilwoman Daun S. Hester was out of town.

Councilwoman Theresa Whibley, who pushed the city to prohibit smoking, and Mayor Paul Fraim voted to uphold the ban.

Whibley wondered what happened in five months to change four votes.

"We are all talking about how the state didn't have the nerve to pass what our citizens wanted," she said. "We dropped the ball like they did."

A council majority voiced support Tuesday for a smoking ordinance proposed by Williams that would ban smoking but leave an escape clause – restaurant owners could pay a \$1,000 annual fee and apply for a permit to become exempt from the law.

Under his proposal, restaurants that received a permit would be required to post warning signs at every entrance indicating that smoking is allowed.

"Half a loaf is better than nothing," Williams said.

"I think it does nothing," Whibley replied.

After Williams drew support from four other council members, Fraim asked Pishko to compose an ordinance based on Williams' proposal. It will be considered in April.

Restaurant owners rejoiced over the repeal of the ban, but some worried about the \$1,000 fee in Williams' proposal.

"It would put a serious dent in my budget," said Dave Willis, who runs the Haven Inn in the Military Circle area.

Ronnie Boone, an Ocean View developer who runs three Norfolk restaurants, said the \$1,000 fee won't necessarily hurt him. But he added: "For the small, family-run restaurants, it could become a hardship."

Anti-smoking advocates urged the council to stand fast. Lorene E. Alba, a Peninsula resident and an asthma specialist with the American Lung Association, noted that 50,000 Americans die every year from second-hand smoke.

"Norfolk is a destination for people from the Peninsula," she said. "This will make it more of a destination."

For every Norfolk resident who goes to a Virginia Beach restaurant to smoke, "you'll get four or five people from Virginia Beach," added Hilton Oliver, an anti-smoking advocate from the Beach.

Katie A. Pepe of the American Cancer Society lamented the vote, saying of the council members: "I think they just got scared."

*Harry Minium, (757) 446-2371, [harry.minium@pilotonline.com](mailto:harry.minium@pilotonline.com)*

