

SECTION 9: TOBACCO PRODUCTS AND SMOKING

A. Definitions

- (1) Public Meeting means a meeting required to be open to the public under Tex. Govt. Code, Chapter 551.
- (2) Public Place means an enclosed, indoor area to which the public has access and includes, but is not limited to the following:
 - (a) the common areas of a retail store, office, grocery store, or other commercial establishments;
 - (b) a restaurant or cafeteria;
 - (c) a public or private or secondary school;
 - (d) a public or private institution of higher education;
 - (e) a hospital or nursing home;
 - (f) an elevator;
 - (g) City and school buses;
 - (h) City building, owned or leased by the City and used for City purposes;
 - (i) an enclosed theater, auditorium, movie house, or arena; or
 - (j) a courtroom or a jury waiting or deliberation room.
- (3) Smoke or smoking includes:
 - (a) carrying or holding a lighted pipe, cigar or cigarette of any kind or any other lighted smoking equipment or device;
 - (b) lighting a pipe, cigar, or cigarette of any kind or any other smoking equipment or device; or
 - (c) emitting or exhaling the smoke of a pipe, cigar, or cigarette of any kind or any other smoking equipment or device.
- (4) Bar. A bar is an establishment that is dedicated predominately to the serving of alcohol rather than food.

B. Offense; Penalty.

- (1) A person commits an offense if the person smokes at a public meeting or in a public place or in any other enclosed, indoor area in which "no smoking" signs are conspicuously posted by the person in charge, and the person is not in an area designated as a smoking area under Subsection C below.
- (2) It is an exception to the application of provision (1) of this subsection that the person is smoking:

(Ordinance No. 2490 of January 30, 2001)

 - (a) (Reserved for future use)

(Ordinance No. 2503 of July 31, 2001)

 - (b) as a participant in an authorized theatrical performance;
 - (c) in a tobacco specialty shop; or
 - (d) in a bar.

Smoking shall be allowed and smoking signs are not required to be posted by the person in charge under Subsection C or Subsection D when smoking is permitted by Subsection B(2)a through B(2)d.

C. Designation of No Smoking and Smoking Areas

- (1) The person in charge shall designate the following areas as "non-smoking":
 - (a) food order areas, cashier areas, check-out lines for stores;
 - (b) City library;

- (c) elevators;
 - (d) City and school buses, including associated terminals;
 - (e) restrooms;
 - (f) movie theaters, hospitals, and rest home facilities;
 - (g) within a twenty foot (20') radius of the entry way of all public places;
 - (h) restaurants or cafeterias with a seating capacity of fifty (50) people or less; and
 - (i) all other public places, including restaurants and cafeterias with seating capacity of more than fifty (50) people.
- (2) The person in charge may designate a smoking area between the hours of 10:00 p.m. to 6:00 a.m. in restaurants and cafeterias with a seating capacity greater than fifty (50) persons; provided, however, the smoking areas cannot be greater than fifty percent (50%) of the seating capacity and there shall be a four foot (4') separation between the smoking and non-smoking areas.
- (3) Smoking areas shall not be designated to cover areas in provisions (1)(a) through (1)(h) of this subsection. It is not required that any smoking areas be designated.

D. Signs

- (1) The person in charge of a public place shall place signs visible at each entrance of the building to notify persons entering that smoking is prohibited or that smoking is prohibited except in areas designated as smoking areas.
- (2) The person in charge shall conspicuously post signs in areas designated as a smoking area that smoking is permitted in the area.

E. Facilities to Extinguish Smoking Material

All public places shall be equipped for extinguishments of smoking materials. Facilities for extinguishments of smoking materials that are located in areas of public places other than designated smoking areas shall be accompanied by clearly visible signs, stating "no smoking".

F. Owner/Operator Responsible

A person commits an offense if he is the owner, operator, manager or an employee of an establishment and he intentionally permits or fails to make a reasonable effort to prevent smoking in a "no smoking" area.

(Ordinance No. 2490 of January 30, 2001)