

**CITY OF LAKE DALLAS, TEXAS  
ORDINANCE NO. 2022-11**

**AN ORDINANCE OF THE CITY OF LAKE DALLAS, TEXAS, AMENDING THE LAKE DALLAS MUNICIPAL CODE BY AMENDING “CHAPTER 26 – BUSINESSES” TO ADD ARTICLE VI “SMOKE-FREE BUSINESSES,” ESTABLISHING A REGULATION FOR SMOKE-FREE BUSINESSES AND RELATED OPERATIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00); AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, a report of the Surgeon General, “How Tobacco Smoke Causes Disease,” contends that “there is no safe level of exposure to tobacco smoke” and that tobacco smoke is linked to disease and death (<https://www.cdc.gov/tobacco/sgr/2010/pdfs/key-findings.pdf>); and

**WHEREAS**, Chapter 121 Texas Health and Safety Code, provides authority to municipalities to enforce laws and rules that protect public health and ensure safety in accordance with those laws and rules; and

**WHEREAS**, the City Council of the City of Lake Dallas, Texas, has determined it would be beneficial to the citizens, businesses and workers of those businesses within City limits to promote public health, safety and welfare by adopting a Smoke-Free Business Act; and

**WHEREAS**, the City Council hereby adopts the Act and incorporates it herein in its entirety for all purposes; and

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAKE DALLAS, TEXAS, THAT:**

**SECTION 1.** Chapter 26. “Businesses” of the Lake Dallas Municipal Code is amended by adding Article VI., “Smoke-Free Businesses” to read as follows:

**ARTICLE VI. SMOKE-FREE BUSINESSES**

**Sec. 26-200. - Purpose.**

Per the Texas Department of State Health Services, “Studies continue to demonstrate exposure to secondhand smoke (SHS) is causally linked to cancer and other serious health consequences among children and adults. Placing restrictions on smoking in public places is a key strategy to limit the public's exposure to SHS (<http://shsordinances.uh.edu/>)” The purpose of this article is to require local businesses, whether public or private membership, to set a standard for public health by establishing a smoke-free operation for all patrons, vendors and/or employees.

**Sec. 26-201. – Definitions.**

As used in this article, the following words and phrases shall have the following meanings:

*"Bar"* means an area which is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages. A "bar" includes those facilities located within a hotel, motel or other similar transient occupancy establishment.

*"Business"* means any sole proprietorship, partnership, joint venture, corporation or other business entity formed for profit-making or not-for-profit purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered.

*"Electronic vaping device"* means any electronic device composed of a mouthpiece, heating element, battery and electronic circuits that provides, or is manufactured or intended to provide, a vapor of liquid nicotine and/or other substances mixed with propylene glycol and/or other substances delivered or deliverable to the user that the user can inhale in simulation of smoking. This term shall include every version and type of such devices whether they are manufactured or marketed as electronic cigarettes, e-cigarettes, electronic cigars, e-cigars, electronic pipes, e-pipes, electronic hookahs, e-hookahs or under any other product name or design.

*"Electronic vaping liquid"* also known as "e-juice" and "e-liquid" shall mean any liquid product composed of propylene glycol or other carrier solvent and may contain nicotine and/or any other substance and manufactured for the use with electronic vaping devices.

*"Employee"* means any person who is employed by any employer in consideration for direct or indirect monetary wages or profit.

*"Employer"* means any person, partnership, corporation, including a municipal corporation, or nonprofit entity, which employs the services of one (1) or more individual persons.

*"Enclosed area"* means all space between a floor and ceiling which is enclosed on all sides by walls, windows, or other barrier (exclusive of door or passageways) which extend from the floor to the ceiling.

*"Food establishment"* means food product or food service establishments as defined in Sec. 54-31 of this Code.

*"Minor"* means a person younger than eighteen (18) years of age.

*"Open display unit"* means any device, furniture or furnishing within or upon which electronic vaping devices are displayed to customers, and includes, but is not limited to, any case, rack, shelf, counter, table, desk, kiosk, booth, stand, vending machine and other surface.

*"Place of employment"* means any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference rooms and classrooms, employee cafeterias and hallways. A private residence is not a "place of employment" unless it is used as a childcare, adult day care or health care facility.

*"Possession"* means actual care, custody, control or management.

*"Private place"* means any enclosed area to which the public is not invited or in which the public is not permitted, including, but not limited to, personal or private residences, private social clubs, and personal automobiles.

*"Public place"* means any enclosed area to which the public is invited or in which the public is permitted, including, but not limited to, banks; educational facilities; health facilities; laundromats; public transportation facilities; reception areas; production and marketing establishments; retail service establishments; retail stores; theaters and waiting rooms.

*"Retail electronic vaping store"* means a retail store utilized primarily for the sale of electronic vaping devices, accessories, and/or electronic vaping liquid or any other article or product that is for use in an electronic vaping device and in which the sale of other products is merely incidental.

*"Retail store"* means an establishment whose purpose is to offer for sale and sell to consumers, not for resale, goods, wares, merchandise and food, which items are purchased for use and/or consumption off premises, including but not limited to, supermarkets, convenience stores, drug stores, and warehouse stores.

*"Retail tobacco store"* means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

*"Retailer"* means a person who engages in the practice of selling electronic vaping devices to consumers in a retail store, retail electronic vaping store, or retail tobacco store.

*"Service line"* means any indoor line at which one (1) or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.

*"Smoking" or "smoke"* means inhaling, exhaling, burning, possessing, or carrying any lighted cigar, cigarette, pipe, weed, plant or combustible substance in any manner or in any form and/or vaping or the use of any electronic vaping device.

*"Sports arena"* means sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.

*"Tobacco product"* means a cigarette; a cigar; an electronic vaping device; smoking tobacco, including granulated, plug-cut, crimp-cut, ready rubbed and any form of tobacco suitable for smoking in a pipe or as a cigarette; chewing tobacco, including plug, scrap, and any kind of tobacco suitable for chewing, snuff or other preparations of pulverized tobacco; nicotine product; dissolvable nicotine; electronic vaping liquid; or any other article or product that is for use in an electronic vaping device.

*"Vaping"* means inhaling or exhaling vapors of electronic vaping liquid from an electronic vaping device.

**Sec. 26-202. - Places Where Smoking and Vaping Are Prohibited.**

Smoking is prohibited in all enclosed public places and enclosed places of employment within the city, including, but not limited to, the following places:

- (1) Elevators;
- (2) Restrooms, lobbies, reception areas, hallways and any other common-use areas;
- (3) Buses, bus terminals, taxicabs, train stations, airports and other facilities and means of public transit, as well as ticket, boarding, and waiting areas of public transit depots;
- (4) Service lines;
- (5) Retail stores;
- (6) All areas available to and customarily used by the general public in all businesses, including but not limited to, attorneys' offices and other offices, banks, laundromats and country and/or private clubs;
- (7) Enclosed facilities within a place of employment;
- (8) Food establishments, nightclubs and bars;

- (9) Galleries, libraries, museums, zoo facilities and their grounds;
- (10) Any facility which is primarily used for exhibiting any motion picture, stage, drama, lecture, musical recital or other similar performance except when smoking is a part of a theatrical performance upon a stage or in the course of a film or television production and smoking is part of the performance or production;
- (11) Sports arenas and convention halls, including bowling and billiard facilities;
- (12) Every room, chamber, place of meeting or public assembly, including school buildings under the control of any board, council, commission, committee, including joint committees, or agencies of the city or any political subdivision of the state during such time as a public meeting is in progress, to the extent such place is subject to the jurisdiction of the city;
- (13) Waiting rooms, hallways, wards, private and semiprivate rooms of physical and mental health facilities, including, but not limited to, clinics, physical therapy facilities, doctors' offices, wellness centers, and dentists' offices;
- (14) Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities;
- (15) Polling places;
- (16) Bingo games/parlors;
- (17) Hotels and motels, including at least ninety (90) percent of rooms rented to guests;
- (18) Within twenty-five (25) feet of any door, operable window/vent or other opening to an indoor enclosed area.

**Sec. 26-203. - Places Where Smoking and Vaping Are Not Prohibited.**

Notwithstanding any other provision of this article to the contrary, smoking is not prohibited in the following places:

- (1) Private residences, except when used as a child day care, adult day care or household care facility;

- (2) Personal automobiles;
- (3) Not more than ten (10) percent of hotel and motel rooms rented to guests and designated as smoking rooms provided that:
  - (i) All smoking rooms on the same floor must be contiguous; and
  - (ii) Smoke from these rooms must not infiltrate into areas where smoking is prohibited under provisions of this article;
- (4) Outdoor places of employment except within fifteen (15) feet of any door, operable window/vent or other opening to an enclosed area; and
- (5) An outdoor area of an establishment such as a patio or greenspace designated by the owner of the establishment as a smoking area subject to the following:
  - (i) Such outdoor area is physically separated from the interior of the establishment by walls, windows, and doors;
  - (ii) The outdoor area where smoking is permitted is owned or leased by the same person or entity the owns the property where the remainder of the establishment is located;
  - (iii) A sign is posted at each entry to such outdoor area that clearly communicates that smoking is permitted within such outdoor area; and
  - (iv) If ingress and egress to and from such outdoor area is permitted from the exterior of the building without requiring entry through a door or gate, the number, size, height, and placement of the signs required by paragraph (iii), above, shall be such that a person approaching such outdoor area from any direction other than the interior of the building can reasonably be informed that smoking is permitted in such outdoor area.

**Sec. 26-204. - Posting of Signs.**

- (a) The owner, manager or other person having control of a building or premise where smoking is prohibited by this article shall post or install a sign clearly stating "no smoking" conspicuously at each public, employee, delivery and restroom entrance of the building or premise.

- (b) "No Smoking" signs required by this section shall have bold lettering of not less than one (1) inch in height. The international "No Smoking" symbol may also be used (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with red bar across it).
- (c) Any owner, manager, or other person having control of any establishment regulated by this article shall be responsible for posting or installing the signs required by this section.

**Sec. 26-205. - Enforcement.**

- (a) Enforcement of this article shall be implemented by a Code Enforcement Official and/or a designee by the city manager through issuance of a citation.
- (b) Any person may register a complaint under this chapter to initiate enforcement with the City.
- (c) The owner, manager, operator, or person-in-charge of any establishment regulated by this article shall:
  - (1) Post signs in accordance with section 26-204 of this article; and
  - (2) Not provide ashtrays, matches, lighters or other smoking related paraphernalia in a regulated premise; and
  - (3) Advise a person who violates this article that smoking is not allowed in the place; and
  - (4) Request a person leave the location after that person has been advised that smoking is not allowed, and that person willfully continues to smoke.

**SECTION 2.** All provisions of the ordinances of the City of Lake Dallas in conflict with the provisions of this Ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the City of Lake Dallas not in conflict with the provisions of this Ordinance shall remain in full force and effect.

**SECTION 3.** Should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

**SECTION 4.** An offense committed before the effective date of this Ordinance is governed by prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

**SECTION 5.** Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in the Lake Dallas Municipal Code as heretofore amended and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense, and each and every day such violation shall continue shall be deemed and constitute a separate offense.

**SECTION 6.** This ordinance shall take effect on January 2, 2023, after its passage and the publication of the caption of said ordinance as the law and the City Charter in such cases provides.

**DULY PASSED BY THE CITY COUNCIL OF THE CITY OF LAKE DALLAS, TEXAS,  
ON THE 13<sup>TH</sup> DAY OF OCTOBER 2022.**

APPROVED:

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Andi Nolan, Mayor

ATTEST:

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Codi Delcambre, TRMC, City Secretary

APPROVED AS TO FORM:

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Kevin B. Laughlin, City Attorney  
(kbl:9/29/2022:131312)