

CITY OF LAVON, TEXAS
ORDINANCE NO. 2026-04-01

Regulating Smoking in Public Places

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAVON, TEXAS, AMENDING ARTICLE 7.03, "SMOKING, TOBACCO PRODUCTS, E-CIGARETTES, AND RELATED PRODUCTS," OF CHAPTER 7, "HEALTH AND SANITATION," OF THE CODE OF ORDINANCES BY ADDING A NEW DIVISION 3, "SMOKING REGULATIONS," PROVIDING A PROHIBITION OF SMOKING IN CERTAIN PUBLIC PLACES; PROVIDING A PENALTY CLAUSE FOR EACH OFFENSE; PROVIDING SAVINGS, REPEALING AND SEVERABILITY CLAUSES; PROVING FOR PUBLICATION; PROVIDING FOR AN EFFECTIVE DATE; AND FINDING AND DETERMINING THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED TO BE OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City of Lavon (the "City") is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, the Lavon City Council (the "City Council") has determined and it is a generally accepted principle that the use of cigarettes and other tobacco products constitutes a hazard to a person's health, and that exposure to secondhand smoke creates similar hazards to nearby persons, which in some circumstances present aggravated risks of harm for children and those with medical conditions affecting their respiratory functions; and

WHEREAS, the purpose of this Ordinance is to improve and protect the public's health by eliminating smoking in public buildings, within some commercial establishments serving the general public, and on certain other property; and

WHEREAS, the City Council has investigated and determined that it would be advantageous and beneficial to the City and its citizens to amend the City's Code of Ordinances by amending Chapter 7, "Health and Sanitation," to add new regulations and prohibitions establishing criminal penalties for certain smoking activities in the City; and

WHEREAS, considering the foregoing, the City Council now deems it advisable and necessary to enact regulations concerning smoking the City in order to protect the public health, safety and general welfare of the citizens of the City of Lavon.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAVON, TEXAS:

SECTION 1. INCORPORATION OF PREMISES. The above and foregoing premises are: (i) true and correct and are incorporated herein and made a part of this Ordinance for all purposes; and (ii) legislative findings of the City Council.

SECTION 2. FINDINGS. After due deliberation and consideration, the City Council has concluded that the adoption of this Ordinance is in the best interests of the City and of the public health, safety, and welfare.

SECTION 3. AMENDMENT. Article 7.03, "Smoking, Tobacco Products, E-Cigarettes, and Related Products", of Chapter 7, "Health and Sanitation," of the City's Code of Ordinances is hereby amended to read as Article 7.03, "Smoking, Tobacco Products, E-Cigarettes, Vaping, and Related Products", and to add a new Division 3, "Smoking Regulations," to read in its entirety as follows:

"Division 3 Smoking Regulations

§ 7.03.061 Purpose.

The purpose of this division is to provide for the general health, public safety and welfare, comfort, convenience and protection of the city and the residents of the city by prohibiting smoking in certain public places. The provisions of this chapter shall be construed to accomplish these purposes.

§ 7.03.062 Definitions.

As used in this division, the following words, terms, and phrases shall have the following meanings, except where the context clearly indicates a different meaning. Words which are not defined in this section shall carry their ordinary meaning unless defined elsewhere in this code, except where the context clearly indicates a different meaning:

Administrative area.

The area of an establishment not used by the general public, including, but not limited to, individual offices, stockrooms, employee lounges, or meeting rooms, if such areas are enclosed such that secondhand smoke from the area is not detectable outside of the area.

Bar.

An establishment which is devoted to serving of alcoholic beverages for the consumption by guests on the premises and in which the serving of food is only incidental to the consumption of alcoholic beverages, and includes all indoor areas of such establishments without respect to whether food is also served.

City.

The City of Lavon, Texas.

Director.

The director of the department designated by the city manager to enforce and administer this division, or the director's designated representative.

Employee.

Any person who works for hire at a designated indoor area including an independent contractor with an assigned indoor location.

Health care facility.

An office or institution providing care or treatment of disease, whether physical, mental, or emotional, or other medical, physiological conditions, including, but not limited to, hospitals, rehabilitation hospitals, or other clinics, including, nursing homes, long-term care facilities, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapist, physicians, dentists, and all specialists within these professions.

Public service area.

Any area to which the general public routinely has access for municipal services or which is designated a public service area in a written policy prepared in compliance with this division, including, but not limited to, restrooms.

Restaurant.

An eating establishment, including, but not limited to, coffee shops, cafeterias, sandwich stands, private and public-school cafeterias, which offer for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on premise for sale and/or service elsewhere. The term restaurant shall include a bar area within the restaurant.

Secondhand smoke.

Ambient smoke or other inhalable matter resulting from the act of smoking.

Smoking.

The use or operation of a smoking apparatus, including, but not limited to, carrying a lit cigarette or other item which generates secondhand smoke for any period of time. A person that holds or operates any smoking apparatus which generating secondhand smoke is deemed to be smoking, without regard to whether that person inhales any of the generated material.

Smoking apparatus.

Any item designed to atomize, combust, evaporate, generate, ignite, produce, vaporize, or otherwise emit any smoke, gas, or other matter for inhalation by a person, including but not limited to use of a cigar, cigarette, hookahs, or pipe.

§ 7.03.063 Smoking prohibited in certain areas.

- (a) Smoking is prohibited in all of the following indoor or enclosed areas within the City listed below, or within fifteen (15) feet of any door, operable window, or other opening to such an area:
- (1) Aquariums, art galleries, libraries, and museums.
 - (2) Hotels, motels, and convention centers, subject to a designation by the property owner of not more than ten percent of hotel or motel rooms rented to guests as smoking rooms, with all such smoking rooms to be on the same floor and contiguous, and sufficient measures employed to prevent any secondhand smoke to infiltrate into areas where smoking is prohibited. The status of rooms which are designated as smoking may not be changed to non-smoking and booked for

occupancy unless the operator conducts sufficient cleaning to ensure residual particulates and odors from prior users have been removed. Operators are required to provide written notice that a non-smoking room was previously designated a smoking room for at least two years after smoking was permitted, said notice to be provided prior to allowing occupancy.

- (3) Education facilities, except for those premises operated by an independent school district and within the areas authorized for such use in the responsible authority's written policy.
 - (4) Waiting rooms, hallways, wards, private and semi-private rooms of physical and mental health facilities, including, but not limited to, hospitals, clinics, physical therapy facilities, doctors' offices, and dentists' offices.
 - (5) Any conference room, hearing room, meeting room, or public service area of any facility owned, operated, or managed by the city.
 - (6) All elevators.
 - (7) All polling places.
 - (8) All child day care, adult day care, or household care facilities.
 - (9) Bars and restaurants.
 - (10) In addition, should the owner of private premises so elect, private property within the city limits may be designated as nonsmoking in accordance with this division, including, but not limited to, common areas of multifamily residential complexes and premises owned and maintained by homeowners' associations.
- (b) The person in control of an area designated as nonsmoking by this division shall post a conspicuous sign at all frequently used entrance areas. The sign shall contain the words "No Smoking, city ordinance", the universal symbol for no smoking, or other language that clearly prohibits smoking.
- (c) The person in control of an area described in subsection 7.03.063(a) may designate an area, including, but not limited to, lobbies, meeting rooms, or waiting rooms, as an area where smoking is permissible; provided that the designated smoking area may not include the entire facility and such area is sufficiently enclosed and ventilated so as to prevent secondhand smoke from being detectable in nonsmoking areas of the facility.
- (d) It is a defense to prosecution under this section if the person was smoking in a location that was:
- (1) A private residence, including porch and yard areas that are part of the same platted lot;
 - (2) Within a personal automobile;

- (3) An unenclosed outdoor seating area associated with a restaurant or bar establishment, providing that the smoking did not occur within 15 feet of any door, operable window, or other opening into a place where smoking is prohibited;
- (4) A designated smoking area of a facility described in subsection (c) of this section which is posted as a smoking area with appropriate signs;
- (5) A private residence not in use as a child day care, adult day care, or household care facility (including porch and yard areas) or a personal automobile;
- (6) A public right-of-way, including a public sidewalk within public rights-of-way, which is at least fifteen (15) feet away from any door, operable window/vent, or other opening to an indoor enclosed area, unless the public right-of-way has been temporarily closed for public events including parades, festivals, and other pedestrian oriented activities;
- (7) A retail or service establishment which derives more than 50 percent of its annual gross sales from the sale of tobacco, tobacco products, or smoking implements, provided such establishment provides separate ventilation and HAC system that prevents commingling of air with other businesses so as to prevent secondhand smoke from being detectable in an area where smoking is otherwise prohibited; or
- (8) An administrative area of an establishment unless the premises are owned by the City.

§ 7.03.064 **Written policy required.**

The person in control of any facility or area designated as a nonsmoking area in subsection 7.03.063(a) shall have and implement a written policy on smoking which conforms to this division, and shall also make the policy available for inspection by employees and the director.

§ 7.03.065 **Smoking in prohibited areas is a criminal offense.**

- (a) A person commits an offense by smoking in an area designated as nonsmoking pursuant to section 7.03.063(a).
- (b) Enforcement of this division shall be implemented by issuance of a citation or, at the City's option, by civil action to the extent that the violation constitutes a nuisance. These enforcement measures and remedies shall be cumulative.
- (c) Any person that violates this division shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined a sum not exceeding \$500.
- (d) Each continuing day's violation shall constitute a separate offense.

- (e) A culpable mental state is not required for the commission of an offense under this article, and none shall be pleaded or proven in the prosecution of a violation of this article. The penalty provisions imposed under this article shall not preclude the City from filing suit to enjoin violations. The City retains all legal rights and remedies available to it pursuant to local, state, and federal law.”

SECTION 4. SAVINGS/REPEALING CLAUSE. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict, but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 5. SEVERABILITY. Should any section, subsection, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City hereby declares that it would have passed this Ordinance, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional or invalid.

SECTION 6. PENALTY. Any person, firm, corporation, or entity violating this Ordinance, as it exists or may be amended, shall be subject to the penalty provision described in added Section 10.08.005. Nothing in this Ordinance shall limit the remedies available to the City in seeking to enforce the provisions of this article or other law, and all remedies shall be cumulative and not exclusive.

SECTION 7. PUBLICATION AND EFFECTIVE DATE. This Ordinance shall become effective immediately upon its adoption and its publication as required by law.

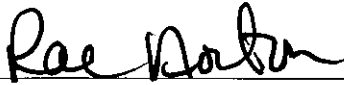
SECTION 8. OPEN MEETING. That it is hereby found and determined that the meeting at which this Ordinance was passed was open to the public as required by law and that public notice of the time, place, and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code.

DULY PASSED and APPROVED by the City Council of the City of Lavon, Texas, on the ____ day of April 2026.



Vicki Sanson
Mayor

ATTEST:



Rae Norton
City Secretary

