

AN ORDINANCE OF THE CITY CODE OF THE CITY OF ABILENE, TEXAS, REGULATING SMOKING IN PUBLIC MEETINGS, PUBLIC PLACES, AND PLACES OF EMPLOYMENT, PROVIDING A PENALTY AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Sections 10-62, 10-63, and 10-64 of the City Code of the City of Abilene, Texas, be repealed and are hereby amended as set forth in Exhibit "A" attached hereto.

PART 2: That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Two Hundred Dollars (\$200.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper as provided by Section 19 of the Charter of the City of Abilene, Texas.

PASSED ON FIRST READING this 9 day of April.
19 87.

PASSED ON SECOND AND FINAL READING this 23 day of
April, 19 87.

ATTEST:

Patricia Hancock
CITY SECRETARY

David Stubbleman
MAYOR

APPROVED:

Harry Cargel
CITY ATTORNEY

Exhibit "A"

THAT ARTICLE III, FIRE PREVENTION CODE, DIVISION 2, SMOKING, BE AMENDED BY ADDING THE FOLLOWING SECTIONS TO READ AS FOLLOWS:

Sec. 10-62. Definitions.

In this Ordinance:

- (a) "Public meeting" means a meeting required to be open to the public under Article 6252-17, Vernon's Texas Civil Statutes.
- (b) "Public place" means an enclosed, indoor area to which the public has access and includes, but is not limited to:
 - (1) the common areas of a retail store, office, grocery store, or other commercial establishments;
 - (2) a restaurant or cafeteria;
 - (3) a public or private primary or secondary school;
 - (4) a public or private institution of higher education;
 - (5) a hospital or nursing home;
 - (6) an enclosed theater, auditorium, movie house, or arena;
 - (7) an elevator;
 - (8) city and school buses, including associated terminals;
 - (9) "city building" owned or leased by the city and used for city purposes; or
 - (10) a courtroom or a jury waiting or deliberation room.
- (c) "Smokes" or "smoking" includes:
 - (1) carrying or holding a lighted pipe, cigar, or cigarette of any kind or any other lighted smoking equipment or device;

- (2) lighting a pipe, cigar, or cigarette of any kind or any other smoking equipment or device; or
 - (3) emitting or exhaling the smoke of a pipe, cigar, or cigarette of any kind or any other smoking equipment or device.
- (d) "Place of employment" means any enclosed, indoor area under the control of an employer to which employees have access during the course of employment, including, but not limited to, work areas, employee lounges, employee rest rooms, conference rooms, and employee cafeterias; a private residence is not a place of employment unless it is used as a child care or health care facility.

Sec. 10-63. Offense; Penalty.

- (a) 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 Section 10-64 of this Ordinance.
- (b) It is an exception to the application of Subsection (a) of this section that the person is smoking:
 - (1) in a situation in which the person is present at an event in which an entire room or hall is used for a private social function and seating arrangements are under the control of the sponsor of the function;
 - (2) as a participant in an authorized theatrical performance; or
 - (3) a tobacco specialty shop.

Smoking shall be allowed and smoking signs are not required to be posted by the person in charge under Section 10-64 or 10-65 when smoking is permitted by Sec. 10-63(b)(1) thru (3).

Sec. 10-64. Designation of no smoking and smoking areas.

- (a) The person in charge of "public places" or "places of employment" shall designate the following areas as "No Smoking":
- (1) food order areas, cashier areas, and check-out lines for stores;
 - (2) city library;
 - (3) elevators;
 - (4) city and school buses, including associated terminals;
 - (5) rest rooms;
 - (6) restaurant or cafeteria with a seating capacity of 25 people or less;
 - (7) all "public places", including restaurants and cafeterias, with a seating capacity greater than 25 people;
 - (8) all "places of employment"; or
 - (9) lobby areas of movie theaters, hospitals, and rest home facilities.
- (b) The person in charge of "public places" or "places of employment" may designate a smoking area but it must be proportionate to verified number of users requesting a smoking area, but cannot designate the entire area as a smoking area. Restaurants and cafeterias, with a seating capacity greater than 25 people and having more than one area, shall confine the smoking to one area.

It is not required that any smoking areas be designated.

Sec. 10-65. Signs.

The person in charge of a "public place" or "place of employment" 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.

The person in charge of a "public place" or "place of employment" shall conspicuously post signs in an area designated as a smoking area stating that smoking is permitted in the area.

Sec. 10-66. Facilities to extinguish smoking materials.

All "public places" shall be equipped with facilities for extinguishment of smoking materials. Facilities for extinguishment 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."

Sec. 10-67. Owner not responsible.

This ordinance does not require the owner, operator, manager, or any employee of an establishment to report a violation or to take any action against any individual violating Sections 10-62 through 10-66 of the Abilene City Code, as amended.