

SECTION 310

SMOKING ORDINANCE

310.1 General. The smoking or carrying of a lighted pipe, cigar, cigarette or any other type of smoking paraphernalia or material is prohibited in the areas indicated in this section.

310.1.1 Definitions.

In this section.

- (a) ADMINISTRATIVE AREA means the area of an establishment not generally accessible to the public, including, but not limited to individual offices, stockrooms, and employee lounges, or meeting rooms.
- (b) DIRECTOR means the director of the department designated by the City Manager to enforce and administer this Ordinance or the director's designated representative.
- (c) FOOD PRODUCTS ESTABLISHMENT means any fixed or mobile restaurant, coffee shop, cafeteria, short order café, luncheonette, grill, tea room, sandwich shop, soda fountain, confectionery, ice cream store, refreshment stand, fruit stand, country club, catering service, industrial feeding establishment, or grocery store; private or public where food or drink is prepared for sale or for service on the premises or elsewhere; and any other eating or drinking is prepared for sale or for eating or drinking establishment or operation where food or drink is served or provided for the public with or without charge.
- (d) "HEALTH CARE FACILITY" means any institution that provides medical, surgical, or overnight facilities of patients.
- (e) RETAIL AND SERVICE ESTABLISHMENT means any establishment which sells goods or services to the general public.
- (f) PUBLIC SERVICE AREA means 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 Ordinance.
- (g) SIGN means the official placard designating an area or facility where smoking is prohibited, and must conform to one of the following choices of wording, to-wit:
 - (1) No Smoking – City of Lewisville Ordinance No._____. Violators fined up to \$200.
 - (2) The universal symbol for no smoking; or

- (3) Any other language indicating that the area marked is designated as a nonsmoking area.

All signs must be of sufficient size to accommodate the message contained therein in letters at least one inch in height.

310.1.2 Smoking prohibited in certain public areas.

- (a) A person commits an offense if he smokes or possesses a burning tobacco, weed or other plant product in any of the following indoor or enclosed areas.
 - (1) A public library, or museum;
 - (2) Hearing rooms, conference rooms, meeting rooms or any public service area of any facility owned, operated, or managed by the City of Lewisville in which public business is conducted, when the public business requires or provides an opportunity for direct participation or observation by the general public.
 - (3) Every publicly or privately owned theater, auditorium, or other enclosed facility which is open to the public for primary purpose of exhibiting any motion picture, stage drama, musical recital, athletic event, or any other performance or event, in all areas except either in that area commonly known as the lobby, or in areas not open to the public;
 - (4) An elevator used by the public, or
 - (5) Any retail or service establishment serving the general public, including, but not limited to any department store, grocery store, or drug store.
- (b) The owner or person in control of an establishment or an area designated in Subsection (A) of this Section shall post a conspicuous sign at the main entrance to the establishment which shall contain the words, "No Smoking. City of Lewisville Ordinance No. _____."
- (c) It shall be a defense to prosecution under this Section that the conveyance or public place in which the offense takes place does not have prominently displayed a reasonably sized sign that smoking is prohibited and that an offense is punishable by a fine not to exceed Two Hundred and no /100 (\$200.00) Dollars.
- (d) It shall also be a defense to prosecution under this Section that the facilities for the extinguishment of smoking materials were not located within the conveyance or public place, or within twenty (20) feet of the entrance to the public place within which the offense takes place.
- (e) It is a defense to prosecution under this Section that the food product establishment is:

- (1) An establishment which has indoor seating arrangements for less than 50 patrons;
or
- (2) A physically separated bar area of a food product establishment otherwise regulated.

310.1.3 Food Product Establishments

- (a) A food product establishment, which has indoor or enclosed dining areas, shall provide separate indoor or enclosed dining areas for smoking and nonsmoking patrons.
- (b) A nonsmoking area must:
 - (1) Be separated, where feasible, from smoking areas by a minimum of four feet of contiguous floor space;
 - (2) Be ventilated, where feasible and situated so that air from the smoking area is not drawn into or across the nonsmoking area;
 - (3) Be clearly designated by appropriate signs visible to patrons within the dining area indicating that the area is designated nonsmoking; and
 - (4) Have ashtrays or other suitable containers for extinguishing smoking materials at the perimeter of the nonsmoking area.
- (c) Each food product establishment, which has a dining area, shall have signs at the establishment's entrance indicating that nonsmoking seating is available.
- (d) Nondining areas of any food product establishment affected by this Section to which patrons have general access, excluding restrooms, but including food order areas, food service areas, and cashier areas, shall be designated as nonsmoking areas.
- (e) It is a defense to prosecution under this Section that the food product establishment is:
 - (1) An establishment which has indoor seating arrangements for less than 50 patrons;
or
 - (2) A physically separated bar area of a food product establishment otherwise regulated.
- (f) A person commits an offense if he smokes or possesses a burning tobacco, weed, or other plant product in an area of a food product establishment designated as nonsmoking in accordance with the provisions of this Section.

310.1.4 Regulation of Smoking – Workplace, Schools, Health Care Facilities.

Notwithstanding the provisions of this Ordinance, any employer, primary or secondary school administrator, or health care facility provider may designate any building, or portion thereof, as a nonsmoking area. Any employer, primary or secondary administrator, or health care facility provider who chooses to designate any building, or portion thereof, as a nonsmoking area shall:

- (a) Adopt, implement, and maintain a written smoking policy which shall be communicated to all employees at least three weeks prior to its adoption;
- (b) Prominently display reasonable sized signs that smoking is prohibited; and
- (c) Provide facilities in sufficient numbers and at such locations to be readily accessible for the extinguishment of smoking materials.

310.1.5 Exceptions.

The following areas are excepted from the provisions of this Ordinance:

- (a) A retail or service establishment which derives more than fifty (50%) percent of its annual gross sales from the sale of tobacco, tobacco products, or smoking implements.
- (b) An administrative area within the workplace.
- (c) Bowling centers and bars, including any bar within a restaurant, so long as more than fifty (50%) percent of their annual gross sales is derived from the sale of alcoholic beverages.
- (d) Any public place and any food products establishment consisting of less than 500 square feet.
- (e) Hotel and motel meeting and assembly rooms rented to guests, areas, and rooms while in use for private social functions.
- (f) A food products establishment whose indoor seating accommodates less than 50 patrons

310.2 Prohibited areas. Smoking shall be prohibited where conditions are such as to make smoking a hazard, including areas of piers, wharves, warehouses, stores, industrial plants, institutions, schools, assembly occupancies and in spaces where combustible materials are stored or handled, except in approved designated smoking areas.

310.3 “No Smoking” signs. The code official is authorized to order the posting of “No Smoking” signs in a conspicuous location in each structure or location in which smoking is

prohibited. The content, lettering, size, color and location of required “No Smoking” signs shall be approved.

310.4 Removal of signs prohibited. A posted “No Smoking” sign shall not be obscured, removed, defaced, mutilated or destroyed.

310.5 Compliance with “No Smoking” signs. Smoking shall not be permitted nor shall a person smoke, throw or deposit any lighted or smoldering substance in any place where “No Smoking” signs are posted.

310.6 Ashtrays. Where smoking is permitted, suitable noncombustible ash trays or match receivers shall be provided on each table and at other appropriate locations.

310.7 Burning objects. Lighted matches, cigarettes, cigars or other burning object shall not be discarded in such a manner that could cause ignition of other combustible material.

310.8 Hazardous environmental conditions. When the code official determines that hazardous environmental conditions necessitate controlled use of smoking materials, the ignition or use of such materials in mountainous, brush-covered or forest-covered areas or other designated areas is prohibited except in approved designated smoking areas.