

**AN ORDINANCE OF THE CITY OF SEAGOVILLE, TEXAS**

**ORDINANCE NO. 11-16**

**AN ORDINANCE OF THE CITY OF SEAGOVILLE, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 13, "OFFENSES AND NUISANCES", ARTICLE 13.10, SMOKING, BY PROVIDING REGULATIONS AND RESTRICTIONS PROHIBITING SMOKING IN PUBLIC PLACES; PROVIDING FOR THE POSTING OF SIGNS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR OFFENSES AND PENALTIES OF A FINE NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500) FOR EACH OFFENSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, it is the intent of the City Council to promote public health, safety and welfare;  
and,

**WHEREAS**, in an effort to aid in this process, on or about August 17, 2015 adopted Ordinance No. 17-15 establishing smoke-free regulations in all City owned facilities, property and vehicles; and

**WHEREAS**, the City Council has determined the process for establishing smoke-free regulations should continue with the establishment of regulations to create a smoke-free environment in all public places within; and

**WHEREAS**, based on the foregoing, the City Council of the City of Seagoville, Texas desires to amend the Code of Ordinances by amending Article 13.10, Smoking, to provide additional definitions, restrictions and regulations for the posting of signs, adding sections to provide for places where smoking is not prohibited and to provide for enforcement, as provided herein.

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

**SECTION 1.** That the Code of Ordinances of the City of Seagoville, Texas be, and the same is, hereby amended by amending Chapter 13, OFFENSES AND NUISANCES, by amending Article 13.10, Smoking, which shall read as follows:

**"CHAPTER 13. OFFENSE AND NUISANCES**

....

**ARTICLE 13.10 SMOKING**

**Sec. 13.10.001. Definitions**

*Bar.* An area which is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the service of food is only incidental to the consumption of such beverages.

*Business.* Any sole proprietorship, 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.

*E-cigarette or e-hookah.* Any electronic oral device or nicotine delivery device, such as one composed of a heating element, battery, and/or electronic circuit, which provides a vapor of nicotine or any other substance, and the use or inhalation of which simulates smoking. The term shall include any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, hookah pen or under any other product name or description.

*Electronic vaping device.* 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 he/she 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.

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

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

*Food establishment.* Food product or food service establishments.

*Municipal government buildings and vehicles.* All of the enclosed area and within twenty-five (25) feet of any door, operable window/vent or other opening to an such enclosed area, except for areas specifically provided for and marked as designated smoking areas, that is used by the city and its employees and general public, including, but not limited to all or any part of the building used for any of the operations of the city, such as the city hall, police station, municipal court, fire station, library, animal shelter, senior citizens center, the public works facility and all city-owned motor vehicles.

*Park.* All property in the city that is designated, set aside or operated by the city for public recreational purposes, whether dedicated or developed as a park or not, or that is located in any street right-of-way and is maintained as public open space, including all playgrounds, tennis courts, basketball courts, splash pad, pavilions, parking lots, trails and other areas within a park. Designation of property as a city park pursuant to this subsection is solely for the purposes of identifying areas governed by this article and shall not be construed to be a dedication of any property as a park.

*Place of employment.* 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 child care, adult day care or health care facility.

*Playground.* Any park or recreational area that is designed in part to be used by children and that has play or sports equipment installed or that has been designated or landscaped for play or sports activities, or any similar facility located on city property. For the purpose of this article, playgrounds include the football field(s), baseball field(s), soccer field(s), tennis court(s) and basketball court(s) located in all City Parks. For the purpose of this article, all references to the various fields also include the bleachers/seating area.

*Possession.* Actual care, custody, control or management.

*Private place.* 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 or personal automobiles.

*Public place.* 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; reception areas; production and marketing establishments; retail stores; theaters; and waiting rooms.

*Retail electronic vaping store.* 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.* 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.* A retail store used primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

*Service line.* 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.* 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.* Sports pavilions, athletic fields, gymnasiums, health spas, boxing arenas, swimming pools, roller 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.* 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. Inhaling or exhaling vapors of electronic vaping liquid from an electronic vaping device.

**Sec. 13.10.002. Smoking Regulations.**

(a) Smoking shall be prohibited in all enclosed areas and within thirty (30) feet of any door, operable window/vent or other opening to such enclosed area of the municipal government buildings, except for areas specifically provided for and marked as designated smoking areas, and on all property designated as a park within the city, including, but not limited to, the following places:

- City of Seagoville City Hall
- Seagoville Public Library
- Seagoville Municipal Court
- Seagoville Police Department
- Seagoville Fire Department
- Seagoville Public Works Facility
- Seagoville Animal Shelter
- Seagoville Senior Citizens Activity and Transportation Center
- Bearden Park – in its entirety
- Casa Grande Park – in its entirety
- C.O. Bruce Central Park – in its entirety
- Heard Park – in its entirety
- Oatman Park – in its entirety
- Petty White Park – in its entirety
- Putnam Park – in its entirety
- Veterans Memorial Park – in its entirety

(b) Smoking shall be prohibited in all City owned motor vehicles.

(c) Smoking shall be 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. Service lines;
4. Retail stores;
5. All areas available to and customarily used by the general public in all businesses, including but not limited to, professional offices, banks, and Laundromats;
6. Enclosed facilities within a place of employment;
7. Food establishments, nightclubs and bars;
8. 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 a part of the performance or production;
9. Sports arenas and convention halls, including bowling and billiard facilities;
10. 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 of any political subdivision of the state during such time as a public meeting is in progress, to the extent such place is subject to jurisdiction of the City;

11. Waiting rooms, hallways, wards, private and semiprivate rooms of physical and mental health facilities, including, but not limited to, hospitals, clinics, physical therapy facilities, doctors' offices and dentists' offices;
12. Lobbies, hallways and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities;
13. Polling places;
14. Bingo games/parlors;
15. Hotels and motels, including at least ninety (90) percent of rooms rented to guests;
16. Within thirty (30) feet of any door, operable window/vent or other opening to an indoor enclosed area.

**Sec. 13.10.003. Places where smoking is not prohibited.**

(a) Notwithstanding any other provision of this article to the contrary, the following areas shall not be subject to the smoking restrictions of this article:

1. Private residences, except when used as child day care, adult day care or household care facility;
2. Personal automobiles;
3. Retail tobacco stores and electronic vaping stores in stand-alone physical facilities;
4. Outdoor places of employment except within thirty (30) feet of any door, operable window/vent or other opening to an enclosed area;
5. Not more than ten (10) percent of hotel and motel rooms rented to guests may be designated as smoking rooms. All smoking rooms on the same floor must be contiguous and smoke from these rooms must not infiltrate into areas where smoking is prohibited under the provisions of this article.

**Sec. 13.10.004. Posting of Signs.**

(a) The owner, manager or other person having control of such building or premises where smoking is prohibited by this article shall have a conspicuously posted sign clearly stating "no smoking" visible at each public entrance, whether for the public, employees or deliveries, and at restroom entrances.

(b) Such "No Smoking" signs 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 appropriate signage.

**Sec. 13.10.005. Enforcement.**

- (a) Enforcement of this article shall be implemented by the City of Seagoville Community Development Director/Code Enforcement or other official as designated by the City Manager by issuance of a municipal court citation.
- (b) Any person may register a complaint under this article to initiate enforcement with the City of Seagoville Community Development Director/Code Enforcement.
- (c) It is the duty of the owner, manager, operator or person-in-charge of any establishment regulated by this article:
  - 1. To post signs in accordance with Section 13.10.004 of this article; and
  - 2. To not provide ashtrays, matches, lighters or other smoking related paraphernalia in a regulated premises; and
  - 3. To advise a person who violates this article that smoking is not allowed; and
  - 4. To request a person remove themselves from the location after that person has been advised that smoking is not allowed and that person willfully continues to smoke.

**Sec. 13.10.006. Offenses and penalties.**

- (a) It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this article.
- (b) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation under this chapter to fail to comply with the following sections and subsections of this article:
  - 1. Section 13.10.004; and
  - 2. Section 13.10.005, subsection (c).
- (c) Any person who violates any provision of this article shall be guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500.00).
- (d) Each day on which a violation of this article occurs shall be a separate and distinct violation.”

**SECTION 2.** If any section, article paragraph, sentence, clause, phrase or word in this ordinance, or application thereto any persons or circumstances is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance; and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

**SECTION 3.** That all provisions of the Ordinances of the City of Seagoville, Texas, in conflict with the provisions of this ordinance be, and the same are hereby amended, repealed, and all other provisions of the Ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

**SECTION 4.** This Ordinance shall become effective from and after its date of passage in accordance with law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS THIS 7<sup>th</sup> day of March, 2016.

APPROVED:



\_\_\_\_\_  
MAYOR

ATTEST:

  
\_\_\_\_\_  
CITY SECRETARY



APPROVED AS TO FORM:

  
\_\_\_\_\_  
CITY ATTORNEY  
(:cdb 02/10/2016)