

Ordinance #910(19)

AN ORDINANCE OF THE CITY OF MOORE, OKLAHOMA AMENDING SECTIONS 701 AND 702 OF PART 8, CHAPTER 7, HEALTH AND NUISANCES CODE OF THE CITY OF MOORE TO ESTABLISH REGULATIONS PROHIBITING SMOKING IN CITY OWNED PUBLIC PARKS, ADDING DEFINITION OF VAPOR PRODUCTS AND CORRECTING LANGUAGE DURING RECODIFICATION PROCESS, PROVIDING FOR REPEALER, SEVERABILITY AND DECLARING AN EMERGENCY.

ORDINANCE

NOW THEREFORE, BE IT ORDAINED BY THE City Council of the City of Moore, Oklahoma:

SECTION 8-701 -DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Educational facility means a building owned, leased or under the control of a technology center school district or a public or private college or university.

Health facility means an entity which provides health services, including, but not limited to, hospitals, nursing homes, long-term care facilities, kidney disease treatment centers, health maintenance organizations and ambulatory treatment centers.

Indoor workplace means any indoor place of employment or employment-type service for or at the request of another individual or individuals, or any public or private entity, whether part-time or full-time and whether for compensation or not. Such services shall include, without limitation, any service performed by an owner, employee, independent contractor, agent, partner, proprietor, manager, officer, director, apprentice, trainee, associate, servant or volunteer. An indoor workplace includes work areas, employee lounges, restrooms, conference rooms, classrooms, employee cafeterias, hallways, any other spaces used or visited by employees, and all space between a floor and ceiling that is predominantly or totally enclosed by walls or windows, regardless of doors, doorways, open or closed windows, stairways, or the like. The provisions of this chapter shall apply to such indoor workplace at any given time, whether or not work is being performed.

Meeting means a meeting as defined in the Oklahoma Open Meeting Act (25 O.S. § 301 et seq.).

Public body means a public body as defined in the Oklahoma Open Meeting Act (25 O.S. § 301 et seq.).

Public park means all areas of a park or playground that is owned and operated by the City of Moore, Oklahoma to which members of the general public have been granted a right to access for rest and recreation. "Public park" shall exclude: the paved area usually divided into individual spaces set-aside and intended for the parking of motor vehicles, portion of parking lots located on the same property as a park or playground.

Public place means any enclosed indoor area where individuals other than employees are invited or permitted.

Restaurant means any eating establishment regardless of seating capacity.

Smoking means the carrying by a person of a lighted cigar, cigarette, pipe or other lighted smoking device.

Stand-alone bar, stand-alone tavern, and cigar bar mean an establishment that derives more than 60 percent of its gross receipts, subject to verification by competent authority, from the sale of alcoholic beverages and low-point beer and no person under 21 years of age is admitted, except for members of a musical band employed or hired as provided in 37 O.S. § 537(B)(2) and that is not located within, and does not share any common entryway or common indoor area with, any other enclosed indoor workplace, including a restaurant.

Vapor products means noncombustible products, that may or may not contain nicotine, that employ a mechanical heating element, battery, electronic circuit, or other mechanism, regardless of shape or size, that can be used to produce a vapor in a solution or other form. The term "vapor products" shall include any vapor cartridge or other container with or without nicotine or other form that is intended to be used with an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of a solution, that may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo or electronic device. The term "vapor products" do not include any products regulated by the United States Food and Drug Administration under chapter V of the Food, Drug, and Cosmetic Act.

SECTION 8-702- SMOKING IN CERTAIN PLACES PROHIBITED; EXEMPTIONS.

- (a) Except as specifically provided in this section, no person shall smoke in a public place, in any part of a zoo to which the public may be admitted, whether indoors or outdoors, in an indoor workplace, in any vehicle providing public transportation, at a meeting of a public body, in a nursing facility licensed pursuant to the Nursing Home Care Act (63 O.S. § 1-1901 et seq.), or in a child care facility licensed pursuant to the Oklahoma Child Care Facilities Licensing Act (10 O.S. § 401 et seq.). A nursing facility licensed pursuant to the Nursing Home Care Act (63 O.S. § 1-1901 et seq.) may designate smoking rooms for residents and their guests. Such rooms shall be fully enclosed, directly exhausted to the outside, and shall be under negative air pressure so that no smoke can escape when a door is opened and no air is recirculated to nonsmoking areas of the building. Commercial airport operators may prohibit the use of lighted tobacco in any area that is open to or used by the public whether located indoors or outdoors, provided that the outdoor area is within 175 feet from an entrance.
- (b) (1) Except as otherwise provided in subsection (b)(2) of this section, a technology center school district which offers an early childhood education program or in which children in grades kindergarten through 12 are educated shall prohibit smoking, the use of snuff, chewing tobacco or any other form of tobacco product in the educational facility buildings and on the grounds of the facility by all persons, including, but not limited to, full-time, part-time, and contract employees, during the hours of 7:00 a.m. to 4:00 p.m., during the school session, or when class or any program established for students is in session.

- (2) A technology center school district may designate smoking areas outside of buildings, away from general traffic areas and completely out of sight of children under 18 years of age, for use by adults attending training courses, sessions, meetings or seminars.
 - (3) A technology center school district or college or university may designate smoking areas outside the educational facility buildings for the use of adults during certain activities or functions, including, but not limited to, athletic contests.
 - (4) Smoking shall be prohibited in an educational facility as defined in the 24/7 Tobacco-free Schools Act (70 O.S. § 1210.211 et seq.) and as provided for in this section.
- (c) Nothing in this section shall be construed to prohibit educational facilities from having more restrictive policies regarding smoking and the use of other tobacco or vapor products in the buildings or on the grounds of the facility.
- (d) A private residence is not a public place within the meaning of this section except that areas in a private residence that are used as a licensed child care facility during hours of operation are public places within the meaning of this section.
- (e) No person shall smoke or use a vapor product in any building, or portions thereof, owned or operated by this municipality; smoking or the use of a vapor product shall not be allowed within twenty-five (25) feet of the entrance or exit of any such building. No person shall smoke or use a vapor product on the grounds of any city-owned public park, excluding the paved areas usually divided into individual spaces set aside and intended for the parking of motor vehicles.
- (f) Veterans centers operated by the state pursuant to the provisions of 72 O.S. § 221 et seq., shall be designated nonsmoking.
- (g) An employer not otherwise restricted from doing so may elect to provide smoking rooms where no work is performed except for cleaning and maintenance during the time the room is not in use for smoking, provided each smoking room is fully enclosed and exhausted directly to the outside, in such manner that no smoke can drift or circulate into a nonsmoking area. No exhaust from a smoking room shall be located within 15 feet of any entrance, exit or air intake. If smoking is to be permitted in any space exempted in subsection (h) of this section or in a smoking room, such smoking space must either occupy the entire enclosed indoor space or, if it shares the enclosed space with any nonsmoking areas, the smoking space shall be fully enclosed, exhausted directly to the outside with no air from the smoking space circulated to any nonsmoking area, and under negative air pressure so that no smoke can drift or circulate into a nonsmoking area when a door to an adjacent nonsmoking area is opened. Air from a smoking room shall not be exhausted within 15 feet of any entrance, exit or air intake.
- (h) This section shall not prohibit smoking in:
 - (1) Stand-alone bars, stand-alone taverns or cigar bars;

- (2) The rooms where licensed charitable bingo games are being operated, but only during the hours of operation of such games;
- (3) Up to 25 percent of the guest rooms at a hotel or other lodging establishment;
- (4) Retail tobacco stores predominantly engaged in the sale of tobacco products and accessories and in which the sale of other products is merely incidental and in which no food or beverage is sold or served for consumption on the premises;
- (5) Workplaces where only the owner or operator of the workplace, or the immediate family of the owner or operator, performs any work in the workplace, and the workplace has only incidental public access;
- (6) Workplaces occupied exclusively by one or more smokers, if the workplace has only incidental public access. The term "incidental public access" means that a place of business has only an occasional person, who is not an employee, present at the business to transact business or make a delivery. The term "incidental public access" does not include businesses that depend on walk-in customers for any part of their business;
- (7) Private offices occupied exclusively by one or more smokers;
- (8) Workplaces within private residences, except that smoking shall not be allowed inside any private residence that is used as a licensed child care facility during hours of operation;
- (9) A facility operated by a post or organization of past or present members of the Armed Forces of the United States which is exempt from taxation pursuant to section 501(c)(8), (c)(10) or (c)(19) of the Internal Revenue Code, 26 USC 501(c)(8), (c)(10) or (c)(19), when such facility is utilized exclusively by its members and their families and for the conduct of post or organization nonprofit operations except during an event or activity which is open to the public;
- (10) Any outdoor seating area of a restaurant, provided smoking shall not be allowed within 15 feet of any exterior public doorway or any air intake of a restaurant; and
- (11) Medical research or treatment centers, if smoking is integral to the research or treatment.

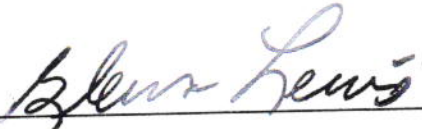
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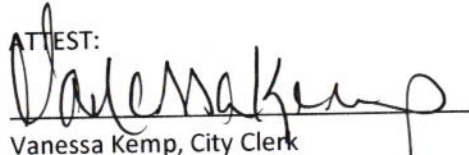
Any ordinance or parts thereof in conflict with this section are hereby repealed.

SEVERABILITY,

If any of the provisions of this ordinance are determined to be unconstitutional or unlawful by any court of competent jurisdiction, the remainder shall be severable and unaffected.

PASSED AND APPROVED BY THE CITY OF MOORE CITY COUNCIL OF THE CITY OF MOORE, OKLAHOMA,
THIS 5 DAY OF May, 2019.


Glenn Lewis, Mayor

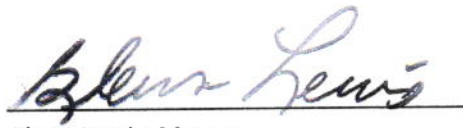
ATTEST:

Vanessa Kemp, City Clerk

Approved as to form and legality.


Randy Brink, City Attorney

EMERGENCY CLAUSE. An immediate necessity existing for the preservation of the public peace, health and safety, an emergency is hereby declared to exist by reason of which this ordinance shall be in full force and effect from and after passage, approval and publication or posting.

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THIS 5 DAY OF May, 2019.


Glenn Lewis, Mayor

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Randy Brink, City Attorney