

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING SECTION 10-502 OF ARTICLE V, CHAPTER 10 OF THE CODE OF CITY OF NORMAN DELETING, AMENDING, AND ADDING DEFINITIONS; AMENDING SECTION 10-503 TO PROHIBIT SMOKING OF MARIJUANA AND MARIJUANA VAPING IN CERTAIN PUBLIC PLACES; DELETING SECTIONS 10-504 THROUGH 10-512 CONCERNING PREVENTION OF YOUTH ACCESS TO TOBACCO FOR PURPOSES OF INTERNAL CODE CONSISTENCY; AMENDING AND RENUMBERING SECTION 10-513, DELETING REFERENCES TO SECTIONS 10-504 THROUGH 10-512; AND PROVIDING FOR THE SEVERABILITY THEREOF.

- §1. WHEREAS, in an effort to standardize laws of governmental subdivisions that control and regulate smoking in public places, the State of Oklahoma has enacted legislation to preempt regulations that differ from State law; and
- §2. WHEREAS, the City of Norman, pursuant to 63 O.S. § 1-1527, is authorized to enact laws restricting smoking on properties owned or operated by the City.
- §3. WHEREAS, the City of Norman desires to support and enforce the State of Oklahoma's regulations promulgated to control smoking in public places by adopting Ordinance O-2021-41.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

- § 4. THAT Section 10-502 of Chapter 10 of the Code of Ordinances of the City of Norman shall be amended to read as follows:

Sec. 10-502. - Definitions.

The following words and phrases used in this article, shall for the purposes of this article, have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

*Health facility:* 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:* 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 section shall apply to such indoor workplaces at any given time, whether or not work is being performed.

*Meeting:* A meeting as defined in the Open Meeting Act.

*Person:* Any individual, firm, fiduciary, partnership, corporation, trust, or association, however formed.

*Public body:* A public body as defined in the Open Meeting Act.

*Public park:* All unenclosed areas of a park or playground that is owned and operated by the City of Norman to which members of the general public have been granted a right to access. "Public park" shall exclude parking lots located on the same property as a park or playground, and the Westwood Golf Course.

*Public place:* Any enclosed indoor area where individuals other than employees are invited or permitted.

*Restaurant:* Any eating establishment regardless of seating capacity.

*Smoking:* The carrying or holding of a lighted pipe, cigar, cigarette, or any other lighted smoking device.

*Stand-alone bar:* An establishment that derives more than sixty percent (60%) of its gross receipts, subject to verification by competent authority, from the sale of alcoholic beverages and low-point beer and no person under twenty-one (21) years of age is admitted, except for members of a musical band employed or hired as provided in paragraph 2 of subsection B of Section 537 of Title 37 of the Oklahoma Statutes 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.

§ 5. THAT Section 10-503 of Chapter 10 of the Code of Ordinances of the City of Norman shall be amended to read as follows:

Sec. 10-503. - Smoking in certain public places prohibited.

- (1) Except where specifically allowed by law, no person shall smoke tobacco or marijuana or vape marijuana in a public place, in an indoor workplace, in any vehicle providing public transportation, or at a meeting of a public body.
- (2) All buildings, or portions thereof owned or operated by this municipality shall be designated as nonsmoking.

- (3) No smoking of tobacco or marijuana or vaping marijuana shall be allowed within twenty-five (25) feet of the entrance or exit of any building specified in subsection (2) of this section.
- (4) No smoking of tobacco or marijuana or vaping marijuana shall be allowed on the grounds of any City-owned public parks excluding the parking lots of any public park or playground and the Westwood Golf Course.
- (5) The restrictions provided in this section shall not prohibit tobacco smoking in:
  - (a) Stand-alone bars, stand-alone taverns or cigar bars;
  - (b) The room or rooms where licensed charitable bingo games are being operated; but only during the hours of operation of such games;
  - (c) Up to twenty-five (25) percent of the guest rooms at a hotel or other lodging establishment;
  - (d) 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;
  - (e) 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 only has incidental public access. "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. It does not include businesses that depend on walk-in customers for any part of their business.
  - (f) Workplaces occupied exclusively by one (1) or more smokers, if the workplace has only incidental public access;
  - (g) Private offices occupied exclusively by one (1) or more smokers;
  - (h) 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;
  - (i) Medical research or treatment centers, if smoking is integral to the research or treatment. Furthermore, the restrictions on smoking or vaping of marijuana provided in this section shall not apply to medical research or treatment centers, if marijuana smoking or vaping is integral to the research or treatment;
  - (j) 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), 501(c)(10), or 501(c)(19) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(8)), 501(c)(10), or 501(c)(19), when such facility is utilized exclusively by its members and their families for the conduct of post or organization nonprofit operations, except during an event or activity which is open to the public; and
  - (k) Any outdoor seating area of a restaurant; provided, tobacco or marijuana smoking or vaping marijuana shall not be allowed within fifteen (15) feet of any exterior public doorway or any air intake of a restaurant.

- (6) 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 a manner that no smoke can drift or circulate into a nonsmoking area. No exhaust from a smoking room shall be located within fifteen (15) feet of any entrance, exit, or air intake.
- (7) If smoking is to be permitted in any space exempted in subsections (5) or (6) of this section or in a smoking room pursuant to subsection (3) of this section, 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 the smoking room shall not be exhausted within fifteen (15) feet of any entrance, exit, or air intake. Any employer may choose a more restrictive smoking policy, including being totally smoke free.
- (8) Restaurants shall be totally nonsmoking or may provide nonsmoking areas and designated smoking rooms. Food and beverage may be served in such designated smoking rooms, which shall be in a location which is fully enclosed, directly exhausted to the outside, under negative air pressure so smoke cannot escape when a door is opened, and no air is recirculated to nonsmoking areas of the building. No exhaust from such room shall be located within twenty-five (25) feet of any entrance, exit or air intake. Such room shall be subject to verification for compliance with the provisions of this subsection by the Oklahoma State Department of Health.
- (9) The person who owns or operates a place where smoking or tobacco use is prohibited by law shall be responsible for posting a sign or decal, at least four (4) inches by two (2) inches in size, at each entrance of the building indicating that the place is smoke-free or tobacco-free. "Breathe Easy" decals meet this requirement.
- (10) Responsibility for posting signs or decals shall be as follows:
  - a. In privately owned facilities, the owner or lessee, if lessee is in possession of the facilities, shall be responsible;
  - b. In corporately owned facilities, the manager and/or supervisor of the facility involved shall be responsible; and
  - c. In publicly owned facilities, the manager and/or supervisor shall be responsible.
- (11) The person who owns or operates a place where smoking or tobacco use is prohibited by law shall ask smokers to refrain from smoking upon observation of anyone violating the provisions of this act.

§ 6. THAT Section 10-504 of Chapter 10 of the Code of Ordinances of the City of Norman shall be amended to read as follows:

Sec. 10-504. - Enforcement/penalties.

Persons convicted of any violation of section 10-503 shall be punished by a fine of not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00), excluding costs, fees, and assessments.

§ 7. THAT Sections 10-505—10-600 of Chapter 10 of the Code of Ordinances of the City of Norman shall be amended to read as follows:

Secs. 10-505—10-600. - Reserved.

§8. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance, except that the effective date provision shall not be severable from the operative provisions of the ordinance.

ADOPTED this \_\_\_\_\_ day  
of \_\_\_\_\_, 2021.

NOT ADOPTED this \_\_\_\_\_ day  
of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Breea Clark, Mayor

\_\_\_\_\_  
Breea Clark, Mayor

ATTEST:

\_\_\_\_\_  
Brenda Hall, City Clerk