



1 (3) In which the serving of food, if any, is merely incidental to the primary business of serving  
2 alcoholic beverages.

3 *Common areas* means areas such as restrooms, lobbies, service line areas, public telephone areas,  
4 and other areas commonly used by the public.

5 *Designated smoking/vaping bar* means a bar which serves food and/or mixed drinks and which the  
6 owner or operator has designated all or any portion thereof for smoking and/or vaping. All designated  
7 smoking/vaping bars shall be equipped with an air purification system and/or an exhaust system, which  
8 shall be designed by a professional engineer and shall otherwise comply with the requirements of section  
9 14-244.

10 *Electronic cigarette or e-cigarette* means an electronic device containing a nicotine-based liquid that  
11 *is vaporized and inhaled.*

12 *Enclosed area* means any area covered by a roof and having at least one wall. Vehicular drive-  
13 through lanes and open outdoor concourses of sports arenas shall not be considered enclosed areas.

14 *Exhaust* means air removed from a space and discharged to the exterior of the building.

15 *Health care facility* means any office or institution providing individual care or treatment of human  
16 medical, physiological or psychological illness, which definition shall include but not be limited to  
17 hospitals, doctor's offices, nursing and convalescent homes and senior citizen residential facilities.

18 *Nonprofit private club* means any building, premises or portion thereof which is wholly owned or  
19 leased and operated by an organization meeting the requirements of chapter 501(c) of the United States  
20 Internal Revenue Code, as amended.

21 *Place of employment* means any enclosed area under the control of a public or private employer and  
22 which employees normally frequent during the course of employment, including but not limited to work  
23 areas, employee and employer offices, employee lounges, employee restrooms, conference rooms and  
24 employee cafeterias. A residence, including a home occupation, is not considered to be a place of  
25 employment.

26 *Public conveyance* means any mass transit vehicle or school bus.

27 *Public place* means any enclosed area to which the public is invited or in which the public is  
28 permitted, not including the offices or work areas not entered by the public in the normal course of  
29 business or use of the premises. A residence is not a public place.

30 *Retail tobacco store* means an establishment whose primary purpose is to offer for sale, and sell to  
31 consumers, tobacco and tobacco products and accessories.

32 *Retail vaping store* means an establishment whose primary purpose is to offer for sale, and sell to  
33 *consumers e-cigarettes, vaping products and/or vaping accessories.*

34 *Service line* means a line of persons formed for the securing of a service or product on a first-come  
35 first-served basis.

36 *Smoking* means the lighting, holding, carrying of, inhaling and exhaling of the smoke of a tobacco  
37 product, which definition includes but is not limited to the carrying or holding of a lighted pipe, cigar or  
38 cigarette of any kind or any other lighted smoking equipment or device.

39 *Sports arena* means an indoor or outdoor facility primarily used for sports, cultural or other similar  
40 events.

41 *Tobacco product* means the product derived from the dried leaves of any one of the various species  
42 of *Nicotiana*, including, but not limited to, the species *Nicotiana tabacum*, the broad leafed native  
43 American plant, which is utilized for smoking.

44 *Vape or Vaping* means the act of inhaling and exhaling the vapor emitted by an e-cigarette.

1 **Sec. 14-242. Prohibition.**

- 2 | (a) Except as provided in section 14-243(a), smoking and/or vaping is unlawful inside of and outside  
3 | within five feet of any entrance or open window of the following places:
- 4 | (1) Common areas, except as provided in section 14-243(a).
  - 5 | (2) Elevators.
  - 6 | (3) Places of employment.
  - 7 | (4) Public conveyances.
  - 8 | (5) Public places.
  - 9 | (6) Public restrooms.
  - 10 | (7) Taxicabs.
  - 11 | (8) Service lines.
  - 12 | (9) Sports arenas.
- 13 | (b) No smoking and no vaping shall be designated by signs posted in conspicuous locations located at  
14 | any entrance to and within all public places and places of employment. Such signs shall be visible to  
15 | the public and clearly recite the phrase "No Smoking, No Vaping" and/or use the international no-  
16 | smoking and no vaping symbols.

17 **Sec. 14-243. Exemptions.**

- 18 | (a) Smoking and vaping is lawful in the following places:
- 19 | (1) Retail tobacco stores and retail vaping stores, including any common areas.
  - 20 | (2) Smoking and/or vaping as a part of a theatrical production.
  - 21 | (3) In bars, including common areas, which do not serve food and which serve alcoholic beverages  
22 | pursuant to a wine and beer retailer's permit issued by the state alcoholic beverage  
23 | commission.
  - 24 | (4) Subject to compliance with section 14-244, in a designated smoking/vaping bar.
  - 25 | (5) Separate patient care and/or sleeping quarters of health care facilities and convalescence  
26 | facilities which have been designated as a smoking/vaping room by the owner or operator,  
27 | provided however that lobbies, hallways and other common or public areas shall ~~be remain~~  
28 | nonsmoking areas no smoking and no vaping areas.
  - 29 | (6) Hotel and lodging rooms, provided however that hotel lobbies, hallways and other public areas  
30 | shall ~~be nonsmoking areas~~ remain no smoking and no vaping areas.
  - 31 | (7) Open outdoor concourse of a sports arena, which has been designated as a smoking/vaping  
32 | area by the owner or operator.
  - 33 | (8) Non-profit private clubs.
- 34 | (b) The owner or operator of all public places listed in subsection (a) of this section that have both no  
35 | smoking/no vaping and areas where smoking/vaping is permitted ~~areas~~ shall post signs in  
36 | conspicuous locations located at any entrance to and within such public places. Such signs shall be  
37 | visible to the public and clearly recite the phrase "Smoking or Vaping ~~in~~ Designated Areas Only."
- 38 | (c) The owner or operator of all public places listed in subsection (a) of this section where the entire  
39 | premises is or has been designated as a smoking/vaping area shall post signs in conspicuous  
40 | locations located at any entrance to and within such public places. Such signs shall be visible to the  
41 | public and clearly recite the phrase "Smoking and/or Vaping is Permitted Throughout the Premises."

1 **Sec. 14-244. Requirements for designated smoking bars.**

- 2 | (a) In order to have a designated smoking/vaping bar, the owner or operator of a bar not included within  
3 | section 14-243(a)(5) must have a valid permit issued therefor by the city pursuant to subsection (b)  
4 | of this section and shall:
- 5 | (1) Provide the designated smoking/vaping bar with exhaust and/or air purification systems that will  
6 | provide a minimum of four air changes per hour for the entire designated smoking/vaping bar;
- 7 | (2) Properly maintain in accordance with manufacturer's recommendations the exhaust and air  
8 | purification systems used in designated smoking/vaping bars and keep a log and receipts for all  
9 | such maintenance, including filter replacement;
- 10 | (3) Allow city personnel to inspect such systems and maintenance logs at all reasonable times;
- 11 | (4) Provide signs conspicuously posted in the bar which state "Smoking/Vaping In this Area Only"  
12 | or, if the entire premises has been designated a smoking bar, provide signs conspicuously  
13 | posted at any entrances which state "Smoking/Vaping is Permitted Throughout the Premises";  
14 | and
- 15 | (5) Provide receptacles for the extinguishment of smoking materials located within all designated  
16 | smoking/vaping bars.
- 17 | (b) In order to maintain a designated smoking/vaping bar, the owner or operator of the premises must  
18 | apply for and receive a permit issued by the city in compliance with the following:
- 19 | (1) An application for the permit shall be submitted on forms provided by the city.
- 20 | (2) The fee for processing the application shall be as currently established or as hereafter adopted  
21 | by resolution of the city council from time to time.
- 22 | (3) Prior to the permit being issued, the system as described in subsection (a)(1) of this section for  
23 | the proposed designated smoking/vaping bar must successfully pass a test showing the system  
24 | works properly.
- 25 | (4) If the system fails two successive tests, the applicant shall pay a re-testing fee as currently  
26 | established or as hereafter adopted by resolution of the city council from time to time for each  
27 | additional test.
- 28 | (c) The owner or operator of a designated smoking/vaping bar shall be required to pass additional tests  
29 | from time to time as determined by the city.
- 30 | (d) Failure to pass a test shall result in the denial of the application for a permit, or the revocation of an  
31 | existing permit to operate a designated smoking/vaping bar, and the bar shall be deemed to be  
32 | nonsmoking and non-vaping until successfully tested or retested.
- 33 | (e) Failure to maintain the exhaust and/or air purification systems so that said systems will not provide a  
34 | minimum of four air changes per hour for the entire designated smoking/vaping bar shall result in the  
35 | revocation of an existing permit to operate a designated smoking/vaping bar, and such bar shall be  
36 | deemed to be nonsmoking and non-vaping until such time that it can be demonstrated that said  
37 | systems are operating satisfactorily.

38 **Sec. 14-245. Unlawful.**

39 A person commits an offense if he:

- 40 | (1) Knowingly, intentionally or by criminal negligence smokes or vapes in an area designated as  
41 | prohibited under section 14-242;
- 42 | (2) Knowingly, intentionally or by criminal negligence fails to post any sign as required by this  
43 | article;
- 44 | (3) Knowingly, intentionally or by criminal negligence fails to designate nonsmoking and non-vaping  
45 | areas and smoking and vaping areas as required by this article;

- 1 | (4) Knowingly, intentionally or by criminal negligence designates or maintains a smoking/vaping  
2 | area in violation of the requirements of this article; or  
3 | (5) Knowingly, intentionally or by criminal negligence violates any other provision of this article.

4 | **Sec. 14-246. Injunction.**

5 | In accordance with V.T.C.A., Local Government Code § 54.016, the city may obtain against the  
6 | owner or owner's representative with control over the premises an injunction that:

- 7 | (1) Prohibits specific conduct that violates this article; and/or  
8 | (2) Requires specific conduct that is necessary for compliance with this article.

9 | **Secs. 14-247—14-270. Reserved.**  
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11 |

12 | **II.**

13 | This Ordinance shall be effective on and after January 1, 2017.

14 | **III.**

15 | **A.** All ordinances, parts of ordinances, or resolutions in conflict herewith are  
16 | expressly repealed.

17 | **B.** The invalidity of any section or provision of this ordinance shall not  
18 | invalidate other sections or provisions thereof.

19 | **C.** The City Council hereby finds and declares that written notice of the date,  
20 | hour, place and subject of the meeting at which this Ordinance was adopted was posted  
21 | and that such meeting was open to the public as required by law at all times during  
22 | which this Ordinance and the subject matter hereof were discussed, considered and  
23 | formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas  
24 | Government Code, as amended.

25 | **READ** and **APPROVED** on first reading this the \_\_\_\_\_ day of  
26 | \_\_\_\_\_, 2016.

