

ORDINANCE NO. 086-016

AN ORDINANCE ADDING ARTICLE XI TO CHAPTER 5 "SMOKING" OF THE CODE OF ORDINANCES, TOWN OF ADDISON, TEXAS, AS AMENDED, TO BE COMPRISED OF SECTIONS 5-273 THROUGH 5-278, DESIGNATING CERTAIN RETAIL AND SERVICE ESTABLISHMENTS, PUBLIC BUILDINGS, AND FOOD PRODUCTS ESTABLISHMENTS AS NONSMOKING AREAS; PROVIDING SIGN REQUIREMENTS; PROVIDING MINIMUM STANDARDS FOR NONSMOKING AREAS; REQUIRING WRITTEN POLICIES IMPLEMENTING THIS CHAPTER; PROHIBITING SMOKING IN DESIGNATED NONSMOKING AREAS; PROVIDING EXEMPTIONS; PROVIDING FOR PENALTIES; PROVIDING FOR REPEAL OF CONFLICTING SECTIONS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE AND DECLARING AN EMERGENCY.

WHEREAS, the smoking of tobacco or weeds or other plant products has been demonstrated to have a detrimental effect on not only the smoker but others in close proximity to the smoker; and

WHEREAS, it is the right of citizens to be able to choose for themselves whether to smoke either actively or passively; and

WHEREAS, it is the policy of this city to encourage food product establishments which have enclosed dining areas to provide adequate seating for those patrons who prefer a smoke-free environment; and

WHEREAS, the citizens of Addison have demonstrated a desire to voluntarily comply with city ordinances which protect public

health and welfare; and

WHEREAS, regulations regarding smoking can and should be enforced by the Environmental Services Department only on a complaint basis; and

WHEREAS, such enforcement would be effective without substantial additional cost to the city; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

SECTION 1. That the Code of Ordinances, Town of Addison, as amended, is amended by adding a new Article XI, Chapter 5, to be comprised of Sections 5-273 through 5-278, to read as follows:

ARTICLE XI SMOKING

Sec. 5-273. Definitions:

(1) "Administrative Area" means the area of an establishment not generally accessible to the public, including, but not limited to, individual offices, stockrooms, employee lounges, or meeting rooms.

(2) "Director" means the director of the department designated by the city manager to enforce and administer this chapter or the director's designated representative.

(3) "Food Products Establishment" means any restaurant defined as such in Section 74 of Article XXI of the Comprehensive Zoning Ordinance of the Town of Addison.

(4) "Hospital" means any institution that provides medical, surgical, and overnight facilities for patients.

(5) "Retail and Service Establishment" means any establishment which sells goods or services to the general public.

(6) "Public Service Area" means any area to which the general public routinely has access for municipal services of which is designated a public service area in a written policy prepared in compliance with this chapter.

Sec. 5-274. Smoking Prohibited in Certain Public Areas.

(1) 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:

(a) an elevator used by the public;

(b) a hospital or nursing home corridor providing direct access to patients' rooms;

(c) any conference room, meeting room, or public service area of any facility owned, operated, or managed by the city; but does not include Addison Airport and common areas of city-owned theaters, concert halls, or cultural facilities;

(d) any retail or service establishment serving the general public, including, but not limited to, any department store, grocery store, or drug store and shall include Addison Airport and common areas of city-owned theaters, concert halls, and cultural facilities

(e) an area marked with a no smoking sign in accordance with Subsection (2) by the owner or person in control of a hospital, nursing home, or retail or service establishment serving the general public; or

(f) any facility of a public primary or secondary school; or an enclosed theater, movie house, library, museum, or transit system vehicle.

(2) The owner or person in control of an establishment or area designated in Subsection (1) of this section shall post a conspicuous sign at the main entrance to the establishment. The sign shall contain the words "No Smoking, Town of Addison Ordinance," the universal symbol for no smoking, or other language that clearly prohibits smoking.

(3) Every hospital shall:

(a) allow all patients, prior to elective admission, to choose to be in a no smoking patient room; and

(b) require that employees or visitors obtain express approval from all patients in a patient room prior to smoking.

(4) The owner or person in control of an establishment or area described in Subsection (1)(d) or (1)(f) may designate an area, including, but not limited to, lobbies, meeting rooms, or waiting rooms, as a smoking area; provided that the designated smoking area may not include:

- (a) the entire establishment;
- (b) cashier areas or over the counter sales areas; or
- (c) the viewing area of any theater or movie house;

(5) It is a defense to prosecution under this section if the person was smoking in a location that was:

- (a) a designated smoking area of a facility or establishment described in Subsection (1)(d) or (1)(f) of this section which is posted as a smoking area with appropriate signs;
- (b) an administrative area or office of an establishment described in Subsection (1)(d) or (1)(f) of this section;
- (c) a retail or service establishment serving the general public with less than 500 square feet of public showroom or service space or having only one employee on duty, unless posted as designated in Subsection (1)(e) of this section;
- (d) a retail or service establishment which is primarily engaged in the sale of tobacco, tobacco products or smoking implements; or
- (e) a retail or service establishment which is a food products establishment regulated by Section 5-276.

Sec. 5-275. Written Policy Required.

The owner or person in control of any facility or area designated as a no smoking area in Section 5-274 (1)(c) or (1)(d) shall:

- (1) have and implement a written policy on smoking which conforms to this Article; and
- (2) make the policy available for inspection by employees and the director.

Sec. 5-276. Food Products Establishments.

(1) A food products establishment which has indoor or enclosed dining areas shall provide separate indoor or enclosed dining areas for smoking and nonsmoking patrons.

(2) A nonsmoking area must:

(a) be separated, where feasible, from smoking areas by a minimum of four feet of contiguous floor space;

(b) be ventilated, where feasible, and situated so that air from the smoking area is not drawn into or across the nonsmoking area;

(c) be clearly designated by appropriate signs visible to patrons within the dining area indicating that the area is designated nonsmoking; and

(d) have ash trays or other suitable containers for extinguishing smoking materials at the perimeter of the nonsmoking area.

(3) Each food products establishment which has a dining area shall:

(a) have and implement a written policy on smoking which conforms to this Article;

(b) make the policy available for inspection by employees and the director or his authorized representatives; and

(c) have signs at the establishment's entrance indicating that nonsmoking seating is available.

(1) Nondining areas of any food products establishment affected by this section to which patrons have general access, including, but not limited to, food order areas, food service areas, restrooms, and cashier areas, shall be designated as nonsmoking areas.

(2) It is a defense to prosecution under this section that the food products establishment is:

(a) an establishment which has indoor seating arrangements for less than 50 patrons;

(b) a physically separated bar area of a food products establishment otherwise regulated.

Sec. 5-277. Smoking in Food Products Establishments.

A person commits an offense if he smokes or possesses a burning tobacco, weed or other plant product in an area of a food products establishment designated as nonsmoking.

Sec. 5-278. Penalties.

(1) Any person violating Section 5-274 (2), 5-274 (3), 5-275 or 5-276, upon conviction, is punishable by a fine of not less than \$50 or more than \$500.

(2) Any person violating Section 5-274 (1) or 5-277, upon conviction, is punishable by a fine of not less than \$25 or more than \$200.

SECTION 2. That this ordinance does not require the owner, operator, manager or any employee of an establishment to report a violation or to take any action against any individual violating Section 5-274(1) or 5-277 of the Code of Ordinances, Town of Addison, as amended.

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

SECTION 4. That should any paragraph, sentence, subdivision, clause, phrase or section of this ordinance be adjudged or be held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof other than the part so decided to be invalid, illegal, or unconstitutional.

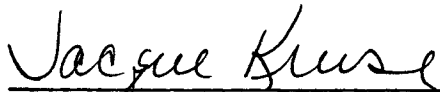
SECTION 5. That this ordinance shall take effect on

April 26, 1986 ; and it is accordingly so ordained.

DULY PASSED BY THE CITY COUNCIL OF THE TOWN OF ADDISON,
TEXAS, this the 25th day of February, 1986.

MAYOR 

ATTEST:


CITY SECRETARY

Pub.
3-2-86