

An Ordinance of the City of Plano, Texas amending Chapter 14, Offenses - Miscellaneous, and Chapter 15, Parks and Recreation, to prohibit smoking in public parks and update the authorized age to purchase tobacco to comply with state law; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, a publication clause, and an effective date.

WHEREAS, it is a generally accepted principle that the use of cigarettes, second-hand smoke and other tobacco products constitute a hazard to a person's health; and

WHEREAS, it is the purpose of Article IV of Chapter 14 to improve and protect the public's health by eliminating smoking in public places and places of employment and;

WHEREAS, eliminating smoking in outdoor areas frequented by children is a recommended strategy in preventing tobacco use among youth, and has the added benefit of reducing the environmental impacts associated with improper disposal of cigarette and e-cigarette waste; and

WHEREAS, the City Council finds that it is in the best interest of the public to implement the herein additional smoking regulations in public parks to protect the health and safety of the citizens of Plano, Texas.

IT IS THEREFORE ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS THAT:

Section I. Section 14-66, Definitions, of Article IV, Smoking, of Chapter 14, Offenses - Miscellaneous, of the City of Plano City Code of Ordinances, is amended to delete the definition of "Director of health" and revise the definition of "Minor" as follows:

"Minor means a person younger than twenty-one (21) years of age."

Section II. Section 14-67, Places where smoking is prohibited, of Article IV, Smoking, of Chapter 14, Offenses - Miscellaneous, of the City of Plano City Code of Ordinances, is amended as follows:

"Sec. 14-67. Places where smoking is prohibited.

- (a) 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) Buses, bus terminals, taxicabs, train stations, airports and other facilities and means of public transit, as well as ticket, boarding, and waiting areas of public transit depots;
 - (4) Service lines;
 - (5) Retail stores;
 - (6) All areas available to and customarily used by the general public in all businesses, including but not limited to, attorneys' offices and other offices, banks, laundromats and country clubs;
 - (7) Enclosed facilities within a place of employment;

- (8) Food establishments, nightclubs and bars;
 - (9) Galleries, libraries, museums, zoo facilities and their grounds;
 - (10) 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 part of the performance or production;
 - (11) Sports arenas and convention halls, including bowling and billiard facilities;
 - (12) 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 or any political subdivision of the state during such time as a public meeting is in progress, to the extent such place is subject to the jurisdiction of the city;
 - (13) 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;
 - (14) Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities;
 - (15) Polling places;
 - (16) Bingo games/parlors; and
 - (17) Hotels and motels, including at least ninety (90) percent of rooms rented to guests.
- (b) Smoking shall be prohibited in all parks, excluding the off-street parking lots within those parks and park trails.
 - (c) Smoking shall be prohibited within twenty-five (25) feet of any door, operable window, vent or other opening to an enclosed public place or an enclosed place of employment.”

Section III. Section 14-70, Enforcement, of Article IV, Smoking, of Chapter 14, Offenses - Miscellaneous, of the City of Plano City Code of Ordinances, is amended as follows:

“Sec. 14-70. Enforcement.

- (a) The city manager or their designee shall have the authority to enforce this article.
- (b) *Reserved.*
- (c) It is the duty of the owner, manager, operator or person-in-charge of any establishment regulated by this chapter:

- (1) To post signs in accordance with section 14-69 of this article and;
- (2) To not provide ashtrays, matches, lighters or other smoking related paraphernalia in a regulated premise and;
- (3) To advise a person who violates this article that smoking is not allowed and;
- (4) To request a person remove themselves from this location after that person has been advised that smoking is not allowed and that person willfully continues to smoke.”

Section IV. Section 14-71, Offenses and penalties, of Article IV, Smoking, of Chapter 14, Offenses - Miscellaneous, of the City of Plano City Code of Ordinances, is amended by revising Subsection (c) as follows:

- “(c) Any person who violates any provision of this chapter shall be guilty of a misdemeanor infraction, punishable by a fine not to exceed two thousand dollars (\$2,000.00).”

Section V. Section 14-72, Sale or distribution of tobacco products to a minor prohibited; proof of age required, of Article IV, Smoking, of Chapter 14, Offenses - Miscellaneous, of the City of Plano City Code of Ordinances, is amended by revising Subsection (d) as follows:

- “(d) Proof of identification is valid for purposes of subsection (c) if it contains a physical description and photograph consistent with the person's appearance, purports to establish that the person is twenty-one (21) years of age or older and was issued by a governmental agency. The proof of identification may include a driver's license issued by this state or another state, a passport or an identification card issued by a state or the federal government.”

Section VI. Section 14-73, Possession, purchase, consumption, or receipt of tobacco products by a minor prohibited, of Article IV, Smoking, of Chapter 14, Offenses - Miscellaneous, of the City of Plano City Code of Ordinances, is amended by revising Subsection (b) as follows:

- “(b) A minor commits an offense if, in order to acquire a tobacco product, the minor states to any person engaged in the business of selling tobacco products that such minor is twenty-one (21) years of age or older, or presents to any such person a document or writing that purports to establish that such minor is twenty-one (21) years of age or older.”

Section VII. Section 14-74, Vendor assisted sales required; self-service merchandising prohibited, of Article IV, Smoking, of Chapter 14, Offenses - Miscellaneous, of the City of Plano City Code of Ordinances, is amended by revising Subsection (b) as follows:

- “(b) It is a defense to prosecution under subsection (a) if:
- (1) A facility or business is not open to persons younger than twenty-one (21) years of age at any time;
 - (2) A facility or business is a premises for which a person holds a package store permit issued under the Alcoholic Beverage Code; or

- (3) An open display unit is located in an area that is inaccessible to customers.”

Section VIII. Sec. 15-3, Prohibited activities, of Article I, In General, of Chapter 15, Parks and Recreation, of the City of Plano City Code of Ordinances, is amended by revising Paragraph (4), Tobacco use, of Subsection (a) as follows:

- “(4) *Tobacco use.* In addition to the prohibitions on smoking in parks contained in Chapter 14, use or consume any tobacco products (as defined in section 14-66 of this Code) in the following areas:
- a. While seated in or within twenty (20) feet of a bleacher provided for spectators at outdoor athletic events or activities;
 - b. In baseball/softball field plaza areas;
 - c. In a park restroom, locker room, or washroom;
 - d. Inside the border of a playground or other play feature; or
 - e. In an outdoor area of a park facility where it is posted as prohibited or is otherwise prohibited.”

Section IX. All provisions of the Code of Ordinances of the City of Plano, codified or uncoded, in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Code of Ordinances of the City of Plano, codified or uncoded, not in conflict with the provisions of this Ordinance shall remain in full force and effect.

Section X. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any phrase, clause, sentence, or section of this Ordinance shall be declared unconstitutional or invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any other remaining phrase, clause, sentence, paragraph or section of this Ordinance.

Section XI. The repeal of any Ordinance or part of Ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such Ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions at the time of passage of this ordinance.

Section XII. Any violation of the provisions or terms of this ordinance by any person, firm or corporation shall be a misdemeanor offense and shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

Section XIII. This Ordinance shall become effective immediately upon its passage and publication as required by law.

DULY PASSED AND APPROVED this the 25th day of July, 2022.

John B. Muns, MAYOR

ATTEST:

Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

Paige Mims, CITY ATTORNEY