

CHAPTER 121: SMOKING

Section

- [121.01](#) Definitions
- [121.02](#) Smoking may be prohibited
- [121.03](#) Smoking prohibited in city-owned buildings and parks and certain outdoor areas
- [121.04](#) Enforcement
- [121.99](#) Penalty

§ 121.01 DEFINITIONS.

The following definitions shall apply to this chapter.

OPERATOR. The owner or person in charge of a public building, place, or workplace, including an employer.

PERSON. Any individual.

PLAYGROUND EQUIPMENT. Any piece of equipment used for a child's play area, including but not limited to, swings, slides, monkey bars, and sand areas where children regularly play.

PRIVATE CLUB. An association of persons as members, whether incorporated or unincorporated under the laws of the state, for the promotion of some common object, and organized by a board of representatives, including, but not limited to, a fraternal organization, private social club or dinner club. **PRIVATE CLUB** described as a facility in this chapter shall mean any enclosed area to which the public is not invited or in which the public is not permitted which is owned, leased or rented by the private club for its members and their guests. A privately-owned business, open to the public, is not a private club.

PUBLIC BUILDING. Any building other than a building used as a private residence. If portions of a building are used as a private residence and another portion of the building is used for business purposes or commercial activities, then **PUBLIC BUILDING** as used herein shall apply to the portions of the building used for business purposes or commercial purposes, but not the portion used solely as a residence. The term **PUBLIC BUILDING** includes, but is not limited to, restaurants, offices and other workplaces, warehouses, health care facilities, and elevators, and enclosed common areas of multifamily developments. For purposes of this definition, it does not include a private area not accessible to the public.

SMOKING or **SMOKE.** Inhaling, exhaling, or burning a lighted cigar, cigarette, pipe or other lighted tobacco, weed, or other plant product in any manner or form, and/or any electronic vaping device, which shall mean any electronically powered or battery powered device designed to simulate the smoking of tobacco, cigarettes, pipes or cigars. An electronic vaping device includes personal vaporizers, electronic cigarettes (e-cigarettes), electronic pipes (e-pipes), electronic cigars (e-cigars) and any other type of electronic nicotine delivery system or any part thereof.

TOBACCO PRODUCTS. Pipe, cigar, cigarette and any other burning tobacco or smokeless tobacco goods, including but not limited to chew tobacco, dip tobacco, or snuff.

§ 121.02 SMOKING MAY BE PROHIBITED.

- (A) An operator of any public building may adopt a policy for the public building which:
- (1) Allows smoking throughout the public building by designating the public building as a smoking facility;
 - (2) Prohibits smoking throughout the public building by designating the public building as a non-smoking facility; or
 - (3) Designates separate rooms or areas throughout the public building in which smoking is permitted in those designated rooms or areas only.
- (B) If an operator prohibits smoking throughout a public building by the placement of signs, it shall be unlawful for any person to perform the following acts in the public building or within 25 feet of any public entrance or exit to the public building:
- (1) Smoke;
 - (2) Carry a lighted cigarette, cigar, or tobacco-containing pipe;
 - (3) Light a cigarette, cigar or tobacco-containing pipe; or
 - (4) Use an electronic smoking device.
- (C) If an operator designates any portion of a public building as non- smoking by the placement of signs, it shall be unlawful for any person to perform the following acts in the designated non- smoking portions of that public building or within 25 feet of any public entrance or exit to the public building:
- (1) Smoke;
 - (2) Carry a lighted cigarette, cigar, or tobacco-containing pipe;
 - (3) Light a cigarette, cigar or tobacco-containing pipe; or
 - (4) Use an electronic smoking device.
- (D) If an operator prohibits smoking throughout a public building by the placement of signs, it shall be unlawful for any person to place or allow to be placed any of the following items in that public building or within 25 feet from an entrance or exit to the public building:
- (1) Ashtrays placed for use in the building;
 - (2) Smoking paraphernalia placed for use in the building; or
 - (3) Litter or refuse resulting from smoking
- (E) If an operator designates any portion of a public building as non- smoking by the placement of signs, it shall be unlawful for any person to place or allow to be placed any of the following items in the designated non- smoking areas of the public building or within 25 feet from an entrance or exit to the public building:
- (1) Ashtrays placed for use in the building;
 - (2) Smoking paraphernalia placed for use in the building; or
 - (3) Litter or refuse resulting from smoking.
- (F) It shall be unlawful for an operator to allow anyone under the age of 18, unless accompanied by a parent, guardian or adult over the age of 21, to enter a public building for which smoking has been permitted throughout the entire public building.
- (G) If an operator allows smoking only in designated areas, the designated smoking areas must have a segregated ventilation system and physical barriers must be erected to fully segregate the smoking areas from the non- smoking areas in order to minimize the toxic effect on adjacent non- smoking areas. All public restrooms shall be located in non- smoking areas and may not be located in an area where an individual must travel through a smoking area in order to arrive at the public restroom.

(H) It shall be unlawful for any operator of any public building to allow the operation of the establishment unless one or more signs with the following language have been posted at a location clearly visible to a person entering the establishment:

- (1) A "No Smoking Permitted in this Establishment" sign that includes the international "No Smoking" symbol (depiction of a burning cigarette enclosed in a red circle with a red bar across it); or
- (2) A "Smoking Permitted in Designated Areas Only" sign that indicates in detail the areas in which smoking is permitted; or
- (3) A "Smoking is Permitted in this Establishment" sign.

(I) An operator shall provide facilities for the extinguishment of smoking materials only in areas where smoking is permitted. The facilities shall be located so as to be readily accessible for extinguishment of smoking materials.

§ 121.03 SMOKING PROHIBITED IN CITY-OWNED BUILDINGS AND PARKS AND CERTAIN OUTDOOR AREAS.

- (A) It shall be unlawful for any person to smoke or use any tobacco product in the following places:
- (1) Any city-owned, operated, or leased building;
 - (2) Any city-owned park or trail maintained by the city in the area where playground equipment is located;
 - (3) Within 25 feet of the entrance to any building owned, operated, or leased by the city or within 25 feet of any city-owned park or trail in the area where playground equipment is located;
 - (4) In any vehicle owned or leased by the city; and
 - (5) In any public outdoor area where people gather, including bleachers, sports venues, and Market Square, where notice is posted in a manner consistent with division (B).

(B) Notice shall be given by posting written "NO SMOKING. NO TOBACCO PRODUCTS." signs at or near the main entrance of each building or outdoor area. Each letter in the sign shall be at least 1.5 inches in height. Notice shall be given on all rules and regulations signs located in all parks.

§ 121.04 ENFORCEMENT.

(A) The City Manager or his or her designee is authorized to issue citations and take all action necessary to enforce this chapter.

(B) Violation of this chapter shall be punishable by a fine of up to \$500.00. Each separate violation shall be punishable hereunder and each day each such violation shall be allowed to exist or continue shall constitute a separate violation.

§ 121.99 PENALTY.

Any person who violates any provision of this chapter for which no other penalty is set forth shall be subject to the penalty set forth in § 10.99 of the City of Cleburne Code of Ordinances.

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