

**Section 310.1.1 Definitions.** In this section:

*Administrative area* means the area of an establishment not generally accessible to the public, including, but not limited to individual offices, stockrooms, and employee lounges, or meeting rooms.

*Bar* means an establishment which derives more than 50 percent of its annual gross sales from the sale of alcoholic beverages.

*Director* means the director of the department designated by the city manager to enforce and administer this ordinance or the director's designated representative.

*Food products establishment* means any fixed or mobile restaurant, coffee shop, cafeteria, short order cafe, luncheonette, grill, tea room, sandwich shop, soda fountain, confectionery, ice cream store, refreshment stand, fruit stand, country club, catering service, industrial feeding establishment, or grocery store; private or public where food or drink is prepared for sale or for service on the premises or elsewhere; and any other eating or drinking is prepared for sale or for eating or drinking establishment or operation where food or drink is served or provided for the public with or without charge.

*Health care facility* means any institution that provides medical, surgical, or overnight facilities for patients.

*Retail and service establishment* means any establishment which sells goods or services to the general public.

*Public service area* means any area to which the general public routinely has access for municipal services or which is designated a public service area in a written policy prepared in compliance with this ordinance.

*Sign* means the official placard designating an area or facility where smoking is prohibited, and must conform to one of the following choices of wording, to-wit:

1. No smoking—City of Lewisville Ordinance No. 2757-12-2001. Violators fined up to \$200.00.
2. The universal symbol for no smoking; or
3. Any other language indicating that the area marked is designated as a nonsmoking area.

All signs must be of sufficient size to accommodate the message contained thereon in letters at least one inch in height.

**310.1.2 Smoking prohibited in certain public areas.**

(a) 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:

- (1) A public library, or museum;
- (2) Hearing rooms, conference rooms, meeting rooms or any public service area of any facility owned, operated, or managed by the city in which public business is conducted, when the public business requires or provides an opportunity for direct participation or observation by the general public;
- (3) Every publicly or privately owned theater, auditorium, or other enclosed facility which is open to the public for primary purpose of exhibiting any motion picture, stage drama, musical recital, athletic event, or any other performance or event, in all areas except either in that area commonly known as the lobby, or in areas not open to the public;

- (4) An elevator used by the public;
- (5) Any retail or service establishment serving the general public, including, but not limited to any department store, grocery store, or drug store;
- (6) Food product establishments;
- (7) Bars, including any bar within a food product establishment;
- (8) In or within 25 feet of any door, operable window/vent or other opening to a place where smoking is prohibited, except as provided for in section 310.1.4, below; or
- (9) Hotels and motels, except as provided for in section 310.1.4, below.

(b) The owner or person in control of an establishment or area designated in subsection (a) of this section shall post a conspicuous reasonably sized sign at the main entrance to the establishment or area which shall contain the words, "No Smoking," or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it).

(c) The owner or person in control of an establishment or area regulated by this section commits an offense if he fails to:

- (1) Post signs in accordance with subsection (b) of this section;
- (2) Advise a person who violates this section that smoking is not allowed; or
- (3) Request a person to remove himself from the location after that person has been advised that smoking is not allowed and that person willfully continues to smoke.

(d) It shall be a defense to prosecution under this section that the establishment or area in which the offense takes place does not have prominently displayed a reasonably sized sign that smoking is prohibited.

**310.1.3 Regulation of smoking —Workplace, schools, health care facilities.**

Notwithstanding the provisions of this ordinance, any employer, primary or secondary school administrator, or health care facility provider may designate any building, or portion thereof, as a nonsmoking area. Any employer, primary or secondary school administrator, or health care facility provider who chooses to designate any building, or portion thereof, as a nonsmoking area shall:

- (a) Adopt, implement, and maintain a written smoking policy which shall be communicated to all employees at least three weeks prior to its adoption;
- (b) Prominently display reasonable sized signs that smoking is prohibited; and
- (c) Provide facilities in sufficient numbers and at such locations to be readily accessible for the extinguishment of smoking materials.

**310.1.4 Exceptions.** The following areas are exempted from the provisions of this ordinance:

- (a) A retail or service establishment which derives more than 50 percent of its annual gross sales from the sale of tobacco, tobacco products, or smoking implements.

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Deleted: conveyance or public place

Deleted: and that an offense is punishable by a fine not to exceed \$200.00

Deleted: . (d) It shall also be a defense to prosecution under this section that the facilities for the extinguishment of smoking materials were not located within the conveyance or public place, or within 20 feet of the entrance to the public place within which the offense takes place.¶

¶

. (e) It is a defense to prosecution under this section that the food product establishment is:¶

. . (1) . An establishment which has indoor seating arrangements for less than 50 patrons; or¶

. . (2) . A physically separated bar area of a food products establishments otherwise regulated.¶

¶

**310.1.3 Food product establishments.¶**

¶

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

¶

. (b) . A nonsmoking area must:¶

. . (1) . Be separated, where feasible, from smoking areas by a minimum of four feet of contiguous floor space;¶

. . (2) . Be ventilated, where feasible and situated so that air from the smoking area is not drawn into or across the nonsmoking area;¶

. . (3) . Be clearly designated by appropriate signs visible to patrons within the dining area indicating that the area is designated nonsmoking; and¶

. . (4) . Have ashtrays or other suitable containers for extinguishing smoking materials at the perimeter of the nonsmoking area.¶

¶

. (c) . Each food product establishment which has a dining area shall have signs at the establishment's entrance indicating that nonsmoking seating is available.¶

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. (d) . Non-dining areas of any food product establishment affected by this section to which patrons have gen( ... [1]

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(b) An administrative area within the workplace.

(c) Bowling centers.

(d) An unenclosed outdoor seating area associated with an indoor or enclosed area of a food product establishment, except that this exception does not apply if:

- (1) the outdoor seating area is less than 25 feet from a primary entrance of an enclosed area of the establishment;
- (2) the outdoor seating area is adjacent to a playground or play area for children; or
- (3) the location is posted as a nonsmoking area by the owner, operator or person in control of the establishment or area with a sign complying with section 310.1.2(b) above.

(e) Not more than ten percent of hotel and motel rooms rented to guests and designated as smoking rooms. All smoking rooms on the same floor must be contiguous and smoke from these rooms must not infiltrate into areas where smoking is prohibited under provisions of this ordinance. The status of rooms as smoking or nonsmoking may not be changed, except to add additional nonsmoking rooms.

**Deleted:** and bars, including any bar within a restaurant, so long as more than 50 percent of their annual gross sales is derived from the sale of alcoholic beverages

**Deleted:** Any public place and any food products establishment consisting of less than 500 square feet.

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**Deleted:** Hotel and motel meeting and assembly rooms rented to guests, areas, and rooms while in use for private social functions

**Deleted:** . (f) . A food products establishment whose indoor seating accommodates less than 50 patrons.

(d) It shall also be a defense to prosecution under this section that the facilities for the extinguishment of smoking materials were not located within the conveyance or public place, or within 20 feet of the entrance to the public place within which the offense takes place.

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

(1) An establishment which has indoor seating arrangements for less than 50 patrons; or

(2) A physically separated bar area of a food products establishments otherwise regulated.

### ***310.1.3 Food product establishments.***

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

(b) A nonsmoking area must:

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

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

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

(4) Have ashtrays or other suitable containers for extinguishing smoking materials at the perimeter of the nonsmoking area.

(c) Each food product establishment which has a dining area shall have signs at the establishment's entrance indicating that nonsmoking seating is available.

(d) Non-dining areas of any food product establishment affected by this section to which patrons have general access, excluding restrooms, but including food order areas, food service areas, and cashier areas, shall be designated as nonsmoking areas.

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

(1) An establishment which has indoor seating arrangements for less than 50 patrons; or

(2) A physically separated bar area of a food product establishment otherwise regulated.

(f) A person commits an offense if he smokes or possesses a burning tobacco, weed, or other plant product in an area of a food product establishment designated as nonsmoking in accordance with the provisions of this section.