

ORDINANCE NO. 14-3103

AN ORDINANCE AMENDING CHAPTER 82 – “OFFENSES AND MISCELLANEOUS PROVISIONS,” ARTICLE III “SMOKING,” SECTION 82-71 “DEFINITIONS” AND SECTION 82-73 “FOOD PRODUCTS ESTABLISHMENT” OF THE CITY OF BEDFORD CODE OF ORDINANCES; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Bedford is a home rule City acting under its home rule Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and,

WHEREAS, it is recognized throughout the country that smoking is injurious to the health of both smokers and those who are in the presence of those who are smoking, including workplaces and locations where the public gathers, such as in restaurants, grocery stores, hospitals, schools, and retail establishments; and,

WHEREAS, current City regulations prohibit smoking in many public areas, while state law prohibits smoking on public school property and in courtrooms; and,

WHEREAS, the City Council of Bedford, Texas conducted a Citizen Satisfaction Survey that indicated 87.1 percent of residents support or strongly support banning smoking in restaurants; and,

WHEREAS, the City Council of Bedford, Texas has determined that in order to promote the public health, safety and welfare of the City and its citizens, it is in the best interest of the City and its citizens to amend the Code of Ordinances as set forth below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEDFORD, TEXAS:

SECTION 1. That the findings above are found to be true and correct, and are incorporated herein.

SECTION 2. That Chapter 82 – Offenses and Miscellaneous Provisions, Article III, “Smoking,” Sec. 82-71, “Definitions” of the City’s Code of Ordinances is amended by the update and inclusion of the following terms:

Food products establishment means an establishment that primarily serves food prepared in the kitchen of the same establishment for patrons and may serve alcohol with a valid Texas Alcoholic Beverage Commission License as long as the establishment derives no more than 75 percent of its gross revenues from alcohol sales and includes all indoor and outdoor seating areas, kitchen, bar area, restrooms and lobby.

Patio means any unconditioned eating area physically adjoining an existing food products establishment with at least two sides of its perimeter open to an exterior yard, court and/or parking area. The exterior perimeter may have full or partial height walls provided at least 40 percent of the wall area is equipped with permanent openings that do not restrict ventilation or the free flow of air.

SECTION 3. That Chapter 82 – Offenses and Miscellaneous Provisions, Article III, “Smoking,” Sec. 82-73, “Food products establishments” is hereby amended in its entirety to read as follows:

Sec. 82-73. Food products establishments.

(a) It shall hereafter be unlawful for any person to smoke or use a tobacco, weed or other plant product, electronic cigarette, e-cigarette or liquid nicotine in a food products establishment, with the following exceptions:

- (1) The person was smoking in a patio, as long as the patio is physically separated from the indoor dining area by a closed door and is more than ten feet from the primary entrance of the establishment.
 - (2) The food products establishment derives more than 50 percent of its annual gross sales in alcoholic beverages.
 - (3) A fraternal organization or private club not serving the general public.
- (b) Smoking is prohibited within ten linear feet from the primary public entrance or any open windows of a food products establishment.

SECTION 4. That a person who violates a provision of this chapter is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable by a fine not to exceed \$500.00.

SECTION 5. That this ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Bedford, Texas, and this ordinance shall not operate to repeal or affect any other ordinance except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby required.

SECTION 6. That if any section, subsection, sentence, clause or phrase of this ordinance is for any reasons held unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 7. That this ordinance shall become effective on January 1, 2015.

PRESENTED AND PASSED on this 9th day of September 2014, by a vote of 7 ayes, 0 nays and 0 abstentions, at a regular meeting of the City Council of the City of Bedford, Texas.

Jim Griffin, Mayor

ATTEST:

Michael Wells, City Secretary

APPROVED AS TO FORM:

Stan Lowry, City Attorney