

ORDINANCE NO. 15-3114

AN ORDINANCE AMENDING CHAPTER 82 – “OFFENSES AND MISCELLANEOUS PROVISIONS,” ARTICLE III “SMOKING,” SECTION 82-71 “DEFINITIONS” AND SECTION 82-72 “PROHIBITED IN CERTAIN PUBLIC AREAS” 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 Texas Health Resources Hurst-Eules-Bedford Hospital Board of Trustees requested an amendment to the smoking ordinance prohibiting smoking throughout its campus; 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:

*Hospital grounds* means the outdoor grounds, including sidewalks and parking lots, contained within a hospital’s legally defined property boundaries, which is owned, leased, or occupied by an institution licensed to administer medical treatment or the primary function of which is to provide inpatient, outpatient and emergency medical treatment (excludes all non-healthcare leased property).

SECTION 3. That Chapter 82 – Offenses and Miscellaneous Provisions, Article III, “Smoking,” Sec. 82-72, “Prohibited in certain public areas,” subsection (a), is hereby amended in its entirety to read as follows:

Sec. 82-72. Prohibited in certain public areas.

(a) A person commits an offense if he or she smokes or uses a tobacco product, weed or other plant product, electronic cigarette, e-cigarette or liquid nicotine in any of the following indoor or enclosed areas:

- (1) An elevator used by the public;
- (2) A hospital or nursing home corridor providing direct access to patients’ rooms;
- (3) Any facility owned, operated or managed by the city unless the area is designated as a smoking area. The city manager or a designated agent may designate an area as a smoking area;
- (4) Any retail or service establishment for serving the general public;

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- (5) An area marked with a no smoking sign in accordance with subsection (e) of this section by the owner or person in control of a hospital, nursing home, or retail or service establishment serving the general public;
- (6) An enclosed theater, movie house, library, museum or transit system vehicle; or
- (7) Hospital grounds.

**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 from and after its passage.

**PRESENTED AND PASSED** on this 13th day of January 2015, 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.

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Jim Griffin, Mayor

**ATTEST:**

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Michael Wells, City Secretary

**APPROVED AS TO FORM:**

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Stan Lowry, City Attorney