

## **ORDINANCE 2019-26**

### **AN ORDINANCE OF THE CITY OF SMYRNA, GEORGIA, ADDING SEC 66-17.1 PROHIBITING SMOKING WITHIN THE DOWNTOWN DESIGN DISTRICT AREA AND PROVIDING FOR ADDITIONAL RELATED MATTERS**

#### **BE IT ORDANINED BY THE MAYOR AND COUNCIL OF THE CITY OF SMYRNA, GEORGIA**

**WHEREAS**, State law provides that the governing authority of each municipal corporation shall have legislative power to adopt clearly reasonable ordinances, resolutions, or regulations relating to its property, affairs, and local government for which no provision has been made by general law; and

**WHEREAS**, the Mayor and Council of the City of Smyrna are charged with the protection of the public health, safety, and welfare; and

**WHEREAS**, the Mayor and Council now wish to update the City of Smyrna Code of Ordinances regarding Chapter 66, Offenses and Miscellaneous Provisions, Section 66-17.1 – Regulation of Smoking.

**NOW, THEREFORE**, the Mayor and Council of the City of Smyrna, pursuant to their authority, do hereby adopt the following amendment.

#### 66-17.1 (a) Findings and Purpose.

- (1) Numerous studies, including those published by the Surgeon General of the United States and recent reports of the Environmental Protection Agency, have shown that secondhand smoke is a cause of disease, including lung cancer, in healthy nonsmokers; a major contributor to indoor air pollution; and particularly harmful to children, elderly people, and allergic individuals.
- (2) Accordingly, the mayor and council of the City of Smyrna find and declare that the purpose of this article is to protect the public health and welfare by regulating smoking in certain public places.

#### Section 66-17.1 (B) Definitions.

The following words and phrases, whenever used in this article, shall be construed as defined in this section:

*Electronic smoking device* means any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen or e-hookah. Electronic smoking device includes any component, part, or accessory of the device, and includes any substance intended to be aerosolized

or vaporized during the use of the device, whether or not the substance contains nicotine. Electronic smoking device does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

*Downtown Design District* is the area described as the Downtown Design District in Appendix E of the Smyrna Code of Ordinances.

*Public place* means any enclosed area to which the public is invited or in which the public is permitted including, but not limited to, restaurants, stores, offices. A private residence is not a public place.

*Retail tobacco store* means a retail store in which the sale of tobacco products designed for smoking comprises more than fifty (50) percent of its receipts.

*Smoking* means inhaling, exhaling, burning, using an electronic or carrying any lighted cigar, cigarette, pipe, or other smoking equipment in any manner or form.

*Tobacco business* means a sole proprietorship, corporation, partnership, or other enterprise, in which the primary activity is the sale, manufacture, or promotion, of tobacco, tobacco products, accessories, and in which the sale, manufacture, or promotion of other products is merely incidental.

#### Section 66-17.1 (C) Regulation of Smoking.

- (1) *Smoking in Public Places.* Except as otherwise provided in this article, smoking or using an electronic smoking device is prohibited in all public places within the area designated as the Downtown Design District.

#### Section 66-17.1(D) - Exceptions.

The regulation of smoking pursuant to this article shall not apply in the following areas:

- (1) Private homes, private residences, and private automobiles.
- (2) Retail tobacco stores and tobacco businesses.
- (3) A designated smoking area in a place of employment
- (4) A designated smoking area in a public place.
- (5) Banquet or meeting rooms when these rooms are being used for private functions.
- (6) Cigar Specialty Shops as defined by Section 6-80 herein.

#### Section 66-17.1(E) Penalty for Violation of Article.

Violations of this ordinance shall be punished in accordance with Section 1-8 of the Smyrna Code of Ordinances.

It is the intention of the Mayor and Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances, City of Smyrna, Georgia and the sections of this Ordinance may be renumbered to accomplish such intention.

The above Ordinance was read and approved by the Mayor and Council of the City of Smyrna, Georgia, on the 16th day of December 2019.

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A. Max Bacon, Mayor

Attest:

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Terri Graham, City Clerk

SEAL

As to form:

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Scott Cochran, City Attorney