

CHAPTER 22 HEALTH

ARTICLE IV. SMOKING*

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Sec. 22.55 Definitions

In this article:

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

Air barrier system means a system that creates an air curtain to prevent the drift or penetration of smoke from a smoking area to a nonsmoking area and that will not allow any drift or penetration from the ceiling to a point not more than 24 inches above the floor.

Air purification system means an electrically powered, hospital-grade, HEPA media filter or an equivalent that will clean all of the air in a designated smoking area every fifteen minutes to a level of not less than ninety-five percent (95%) of 0.3 micron particulate efficiency including, but not limited to, the removal of dust, smoke (including tobacco smoke), pollen, mold spores, bacteria, viruses, and allergens.

Designated food establishment smoking area means an area not exceeding fifty percent (50%) of the net floor area of a food establishment; that is equipped with an air purification system or a separate ventilation system; that is separated from nonsmoking areas by an air barrier system or a physical barrier; and that is designed and maintained so as to prevent air from the smoking area from being drawn into, drifting into or penetrating nonsmoking areas.

E-cigarette means an electronic delivery device composed of a mouthpiece, heating elements, battery or electronic circuits that produces or is capable of producing a vapor of liquid nicotine or other liquid or solid for inhalation by the user. The term includes such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes or under any other product name.

Enclosed means an area that is covered by a roof or other overhead covering of any material and has forty percent or more of its perimeter closed in by walls or other coverings of any material, whether permanent or temporary.

Food establishment means any operation defined as such in [section 22.26](#) of this Code.

Hospital means any institution that provides medical, surgical, and overnight healthcare facilities for patients.

Retail or service establishment means any establishment that sells goods or services on site to the general public including, without limitation, a food establishment, a convenience store, a hotel, a motel, a movie or other theater, a museum or a grocery store.

Smoke, smokes, or smoking means inhaling, exhaling, possessing or carrying any lighted or burning cigar or cigarette, or any pipe or other device that contains a lighted or unlit plant product (including tobacco), or inhaling or exhaling from an e-cigarette.

(Ordinance 5969, sec. 1, adopted 2/21/06; Ordinance 6708, secs. 1–2, adopted 7/1/14)

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Sec. 22.56 Smoking prohibited in certain public areas

- (A) A person commits an offense if the person smokes in any of the following indoor or enclosed areas:
- (1) An elevator used by the public;
 - (2) A restroom used by the public;
 - (3) A hospital or nursing home;
 - (4) Any vehicle or an enclosed area of any facility owned, operated or managed by the City;
 - (5) An area marked with a no smoking sign by the owner or person in control of an establishment serving the general public;
 - (6) Any facility of a public primary or secondary school;
 - (7) Any retail or service establishment including, without limitation, a food establishment.
- (B) The owner or person in control of an establishment or area designated in subsection (A) of this section shall post a conspicuous sign at the nonsmoking area or at the entrance to the establishment. The sign shall contain the words “No Smoking, City of Garland Ordinance,” the universal symbol for no smoking, or other language that clearly prohibits smoking. The owner or person in control of an establishment or area designated in subsection (A) of this section shall provide ashtrays or other suitable containers for extinguishing smoking materials at the perimeter of any nonsmoking area.
- (C) A hospital or nursing home may allow a patient, prior to elective admission, to choose to be in a smoking room provided that all other patients assigned to that room consent to its designation as a smoking room.
- (D) The owner or person in control of an establishment described in subsection (A)(7), other than a food establishment, may designate an area, including, but not limited to, meeting rooms or waiting rooms, as a smoking area; provided that the designated smoking area may not include:
- (1) The entire establishment;
 - (2) Cashier areas or over-the-counter sales areas;
 - (3) The lobby and viewing area of any movie or other theater;
 - (4) Public restrooms or elevators;
 - (5) Hallways or connecting corridors between nonsmoking areas and designated smoking areas.
- (E) The owner or person in control of a food establishment may, subject to subsection (D) and the other provisions of this article, establish a designated food establishment smoking area.
- (F) All cashier areas, over-the-counter sales areas, theater lobbies and viewing areas, and all public restrooms shall be clearly posted as no smoking areas.
- (G) It is a defense to prosecution under this section if the person was smoking in a location that was:
- (1) An area:

- (a) Designated as a smoking area under subsection (D);
 - (b) Designated, designed, and equipped as a designated food establishment smoking area; or
 - (c) Designated as a smoking area of a food establishment exempted by [section 22.58](#).
- (2) An administrative area or office provided that the administrative area or office is physically separated from those areas of the establishment where smoking is prohibited, except that this defense does not apply if the location is posted as a nonsmoking area under subsection (A)(5);
- (3) A retail establishment primarily engaged in the sale of tobacco, tobacco products or smoking implements;
- (4) A hospital or nursing home room designated as a smoking room under subsection (C);
- (5) A private, rented guest room in a hotel or motel that has been designated as a smoking room by the owner or person in control of the hotel or motel.

(Ordinance 5969, sec. 1, adopted 2/21/06)

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Sec. 22.57 Use of tobacco products or e-cigarettes in City facilities is prohibited

- (A) A person commits an offense if the person smokes, consumes a tobacco product (including snuff or chewing tobacco), or uses an e-cigarette within or on any building, parking garage, or vehicle owned, operated or managed by the City.
- (B) A person commits an offense if the person, while on public property, smokes, consumes a tobacco product (including snuff or chewing tobacco), or uses an e-cigarette within 50 feet of an entrance or exit of a building, parking garage, or a facility owned, operated, or managed by the City.
- (C) It is a defense to prosecution under this Section 22.57 that the person engaged in smoking, consuming, or using a tobacco product or e-cigarette in violation of above subsections (A) and (B), is in an area officially designated as a smoking area by the City Manager.

(Ordinance 5969, sec. 1, adopted 2/21/06; Ordinance 6708, sec. 3, adopted 7/1/14; Ordinance 6893 adopted 2/21/17)

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Sec. 22.58 Prior conforming food establishments

A food establishment that, on or before February 21, 2006, allowed smoking on the premises of the food establishment may continue to allow smoking without providing a designated food establishment smoking area, provided that if the food establishment undergoes renovations or alterations that exceed more than fifty percent (50%) of the original valuation of the food establishment as described in the building permit shall comply with the requirements pertaining to a designated food establishment smoking area upon completion of such renovation or alteration. (Ordinance 5969, sec. 1, adopted 2/21/06)

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Secs. 22.59–22.64 Reserved