

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING CHAPTER 66 OF THE CODE OF ORDINANCES OF THE CITY OF BAY CITY, TEXAS BY AMENDING ARTICLE III (TOBACCO PRODUCTS), DIVISION 1 “GENERALLY”, DIVISION 2 “DISTRIBUTION TO MINORS; PROVIDING SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS:**

**Section 1. That Chapter 66, Article III, of the Code of Ordinance shall be amended as follows:**

**DIVISION 1. – GENERALLY**

**Sec.66-89. – Definitions**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Tobacco product" means:

- (a) a cigar;
- (b) smoking tobacco, including granulated, plug-cut, crimp-cut, ready-rubbed, and any form of tobacco suitable for smoking in a pipe or as a cigarette;
- (c) chewing tobacco, including Cavendish, Twist, plug, scrap, and any kind of tobacco suitable for chewing;
- (d) snuff or other preparations of pulverized tobacco; or
- (e) an article or product that is made of tobacco or a tobacco substitute and that is not a cigarette or an e-cigarette as defined by Section 161.081, Health and Safety Code.

"Cigarette" has the meaning assigned by Section 154.001, Tax Code.

(a) "E-cigarette" means:

- (i) an electronic cigarette or any other device that simulates smoking by using a mechanical heating element, battery, or electronic circuit to deliver nicotine or other substances to the individual inhaling from the device; or

- (ii) a consumable liquid solution or other material aerosolized or vaporized during the use of an electronic cigarette or other device described by this subdivision.
- (b) The term "e-cigarette" does not include a prescription medical device unrelated to the cessation of smoking.
- (c) The term "e-cigarette" includes:
  - (i) a device described by this subdivision regardless of whether the device is manufactured, distributed, or sold as an e-cigarette, e-cigar, or e-pipe or under another product name or description; and
  - (ii) a component, part, or accessory for the device, regardless of whether the component, part, or accessory is sold separately from the device.

**Sec. 66-~~89~~ 90. – Vaping, Ssmoking and use of tobacco products in city-owned buildings prohibited; ~~exceptions.~~**

- (a) *Prohibition.* Smoking and the use of any tobacco product, including but not limited to cigarettes, cigars, pipes, chewing tobacco and/or snuff, in any city-owned building or enclosed structure is declared to be a health hazard, and is hereby prohibited except as limited by subsection (c) of this section.
- (b) *Penalty.* Violation of subsection (a) of this section by any person shall constitute a Class C misdemeanor and shall be punished by a fine not to exceed \$500.00.
- ~~(c) *Exceptions.* This section shall not apply to the following city owned buildings and/or enclosed structures:~~

~~(1) The residential house located at 2001 Fifth Street, Bay City, Texas 77414.~~

~~(2) The old fire station located at 2001 Sixth Street, Bay City, Texas 77414.~~

**Sec. 66-~~90~~ 91. - Penalty and culpability.**

- (a) Each violation of this article is punishable by a fine not to exceed ~~\$200.00~~ \$500.00.
- (b) There shall be no requirement of a culpable mental state for a violation of this article.

**DIVISION 2. - DISTRIBUTION TO MINORS**

**~~Sec. 66-109. --Definitions.~~**

**Sec. 66-110. - Minimum age to sell tobacco products.**

It shall be unlawful for any person or entity to engage, employ or permit any person under ~~18~~ 21 years of age to sell tobacco products.

**Sec. 66-111. - Purchase by minors prohibited.**

It shall be unlawful for any person under the age of ~~18~~ 21 years to purchase tobacco products, or to misrepresent their identity or age, or to use any false or altered identification for the purpose of purchasing tobacco products.

**Sec. 66-112. - Possession by minors prohibited.**

It shall be unlawful for any person under the age of ~~18~~ 21 years to possess any tobacco products, provided that the possession by a person under the age of 18 years under the direct supervision of the parent or guardian of such person shall not be prohibited

**Section 2. Repealing Clause.**

That all Ordinances, Resolutions, or parts thereof, in conflict herewith are repealed to the extent of such conflict.

**Section 3. Severability Clause.**

If for any reason any section, subsection, sentence, clause or phrase of this Ordinance, shall be held invalid, it shall not effect any valid provisions of this or any other ordinance of the City of Bay City, Texas.

**Section 4. Effective Date.**

This Ordinance shall become effective on the 25<sup>th</sup> day of April, 2023.

**PASSED AND APPROVED** this \_\_\_\_ day of \_\_\_\_\_ 2023.

\_\_\_\_\_  
Robert K. Nelson, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Jeanna Thompson, City Secretary

\_\_\_\_\_  
Anne Marie Odefey, City Attorney

Council Member:	Voted Aye	Voted No	Absent
Robert K. Nelson, Mayor	_____	_____	_____
Floyce Brown	_____	_____	_____
James Folse Mayor Pro Tem	_____	_____	_____
Brad Westmoreland	_____	_____	_____
Becca Sitz	_____	_____	_____
Blayne Finlay	_____	_____	_____

\_\_\_\_\_  
**Robert K. Nelson, Mayor**

**ATTEST:**

**APPROVED AS TO FORM:**

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 Jeanna Thompson, City Secretary

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 Anne Marie Odefey, City Attorney