

**ORDINANCE NO. 2025-27**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WYLIE, TEXAS, AMENDING WYLIE'S CODE OF ORDINANCES, ORDINANCE NO. 2021-17, AS AMENDED, CHAPTER 74 (OFFENSES AND MISCELLANEOUS PROVISIONS), ARTICLE I (IN GENERAL), SECTION 74-3 (SMOKING PROHIBITED IN CERTAIN PUBLIC AREAS) AND SECTION 74-8(B) (VIOLATIONS AND PENALTIES), AND ARTICLE XI (SMOKING REGULATIONS); ESTABLISHING NEW REGULATIONS GOVERNING THE PROHIBITION OF SMOKING IN CERTAIN AREAS; COMPLIANCE; DEFINING TERMS; PROVIDING A PENALTY CLAUSE, SAVINGS/REPEALING CLAUSE, SEVERABILITY CLAUSE AND AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.**

**WHEREAS**, the City Council of the City of Wylie, Texas ("City Council") previously adopted Ordinance No. 2014-18, codified as Chapter 74 (Offenses and Miscellaneous Provisions), Article I (In General), Section 74-3 (Smoking Prohibited In Certain Public Areas) and Section 74-8(b) (Violations and Penalties), and Ordinance No. 2016-28, codified as Chapter 74 (Offenses and Miscellaneous Provisions), Article XI (Smoking Regulations) of the City of Wylie, Texas' ("Wylie") Code of Ordinances, Ordinance No. 2021-17, as amended; and

**WHEREAS**, the City Council has investigated and determined that it would be advantageous and beneficial to the citizens of Wylie to amend Ordinance No. 2014-18 and repeal Ordinance No. 2016-28 in its entirety and replace Chapter 74 (Offenses and Miscellaneous Provisions), Article I (In General), Section 74-3 (Smoking Prohibited In Certain Public Areas) and Section 74-8(b) (Violations and Penalties), and Article XI (Smoking Regulations) of the Wylie Code of Ordinances, Ordinance No. 2021-17, as amended, with this Ordinance; and

**WHEREAS**, the City Council has further investigated and determined that it is the right of all citizens to be able to choose for themselves whether to smoke either actively or passively; and

**WHEREAS**, the City Council has further investigated and determined that it will be advantageous and beneficial to the City and its citizens to provide persons who access facilities and property open to the public and City facilities and City parks a smoke-free environment; and

**WHEREAS**, the City Council has further investigated and determined that all legal notices required for amending the Code of Ordinances have been given in the manner and form set forth by law, and public hearings have been held on the proposed textual amendments and all other requirements of notice and completion of such procedures have been fulfilled; and

**WHEREAS**, the City Council has further investigated and 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.

**WHEREAS**, the City Council further finds that it is a reasonable exercise of its police power to regulate smoking in public areas; and

**WHEREAS**, the City Council has found that it would be advantageous and beneficial to the citizens of Wylie to adopt said amendments;

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

**SECTION 1: FINDINGS INCORPORATED.** The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

**SECTION 2:** Amendment to Chapter 74 (Offenses and Miscellaneous Provisions), Article I (In General), Section 74-3 (Smoking Prohibited In Certain Public Areas) and Section 74-8(b) (Violations and Penalties), and Article XI (Smoking Regulations) of the Wylie Code of Ordinances, Ordinance No. 2021-17, as amended. Chapter 74 (Offenses and Miscellaneous Provisions), Article I (In General), Section 74-3 (Smoking Prohibited In Certain Public Areas) and Section 74-8(b) (Violations and Penalties), and Article XI (Smoking Regulations) of the Wylie Code of Ordinances, Ordinance No. 2021-17, as amended is hereby amended to read as follows:

**“CODE OF ORDINANCES  
CHAPTER 74 – OFFENSES AND MISCELLANEOUS PROVISIONS  
ARTICLE I. - IN GENERAL**

...

**Sec. 74-3. - Reserved.**

...

**Sec. 74-8. - Violations and penalties.**

...

(b) Any person who violates section 74-4 shall be guilty of an offense punishable by:

- (1) A fine not exceeding \$100.00 for the first violation;
- (2) A fine not exceeding \$200.00 for a second violation within a one-year period of the first violation; or
- (3) A fine not exceeding \$500.00 for an additional violation within a one-year period of the first violation.

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**ARTICLE XI. - SMOKING REGULATIONS**

**Sec. 74-181. - Purpose.**

The purposes of this article are to protect the public's health by eliminating smoking in public places and the right of nonsmokers to breathe smoke-free air by prohibiting smoking in public places in the city, with certain exceptions, to reduce detrimental effects on not only smokers, but also others in close proximity to smokers and to further the health, safety and welfare of the city and its citizens.

**Sec. 74-182. - 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:

*Cigar.* Unless otherwise amended by the Texas Tax Code, chapter 155, a roll of fermented tobacco that is wrapped in tobacco and the main stream of smoke from which produces an alkaline reaction to litmus paper.

*Cigarette.* Unless otherwise amended by the Texas Tax Code, Chapter 154, a roll for smoking that is:

- (1) Made of tobacco or tobacco mixed with another ingredient and wrapped or covered with a material other than tobacco; and
- (2) Not a cigar.

*City.* The City of Wylie, Texas.

*Electronic cigarette and/or e-cigarette.* Any electronic device composed of a mouthpiece, heating element, battery, and electronic circuits that provides, or is manufactured or intended to provide, a vapor of liquid nicotine and/or other substances mixed with propylene glycol and/or other substances delivered or deliverable to the user that they can inhale in simulation of smoking. This term shall include every version and type of such devices whether they are manufactured or marketed as electronic cigarettes, e-cigarettes, electronic cigars, e-cigars, electronic pipes, e-pipes or under any other product name or description.

*Employee.* Any person who is employed by any employer in consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services for a nonprofit entity.

*Employer.* Any person, partnership, entity, corporation, including a municipal corporation, or nonprofit entity, which employs the services of one or more individual persons or entities.

*Fraternal organization member space.* An enclosed space used by a recreational, fraternal, social, patriotic, political, benevolent, or athletic organization exclusively for organizational purposes at all times, and not for pecuniary gain, and in which the sale of alcoholic beverages is merely incidental to the operation. The affairs and management of the organization are conducted by a board of directors, executive committee, or similar body chosen by the members at an annual meeting. The organization has established bylaws and/or a constitution to govern its activities. The organization has been granted an exemption from the payment of federal income tax under 26 U.S.C. section 501, as amended.

*Food products establishment.* Any restaurant, coffee shop, cafeteria, luncheonette, tavern, cocktail lounge, sandwich stand, soda fountain, private and public school cafeteria or eating establishment or any other eating establishment, organization, club, boardinghouse or guesthouse, which gives or offers for sale food to the public, guests, patrons or employees as well as kitchens in which food is prepared on the premises for serving elsewhere, including, but not limited to, catering facilities and ghost kitchens. Other food product establishments include, but are not limited to, grocery stores and food markets, not including those outdoors.

*Liquid nicotine.* Any liquid product composed either in whole or in part of pure nicotine and propylene glycol and/or any other substance and manufactured for use with electronic cigarettes or e-cigarettes.

*Open display unit.* In the context of the retail sale of electronic cigarettes or e-cigarettes and/or liquid nicotine, any device, furniture or furnishing within or upon which electronic cigarettes or e-cigarettes and/or liquid nicotine are displayed to customers, and includes, but is not limited to, any case, rack, shelf, counter, table, desk, kiosk, booth, stand, vending machine and other surface.

*Person.* An individual, a group of two or more individuals, proprietorship, corporation, partnership, wholesaler, association or other legal entity, or any licensed or unlicensed business.

*Place of business.*

- (1) A commercial business location where cigarettes, tobacco products, electronic cigarettes or e-cigarettes and/or liquid nicotine is/are sold;
- (2) A commercial business location where cigarettes, tobacco products, electronic cigarettes or e-cigarettes and/or liquid nicotine are kept for sale of consumption or otherwise stored; or

(3) A vehicle from which cigarettes, tobacco products, electronic cigarettes or e-cigarettes and/or liquid nicotine is/are sold.

*Place of employment.* Any enclosed area under the control of public or private employer which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference and classrooms, employee cafeterias and hallways. A private residence is not a "place of employment" unless it is used as a licensed child care, adult day care or health care facility.

*Possess(es), possessing or possession.* Actual care, custody, control or management.

*Private club.* Any building, premises or portion thereof which is permitted by the state and allowed by special use permit by the city as a private club for the storing, possession and dispensing for on-premises consumption of alcoholic beverages. Private club does not include a premise operated by a fraternal organization.

*Retail electronic cigarette store.* A retail store utilized solely for the sale and sampling of electronic cigarettes or e-cigarettes and/or liquid nicotine and related accessories.

*Retail or service establishment.* Any establishment which sells goods or services to the general public.

*Retail tobacco store.* A retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of the other products is merely incidental.

*Service line.* An indoor line or area where persons await service of any kind, regardless of whether or not such service involves the exchange of money. Such service shall include, but is not limited to, sales, giving of information, directions or advice and transfers of money or goods.

*Smoke or smoking.* Includes the carrying, possessing or holding of a pipe, hookah, cigarette, tobacco product, tobacco substitute, electronic cigarette or e-cigarette or liquid nicotine of any kind which is burning or emitting a vapor.

*Smokeless tobacco.*

- (1) Chewing tobacco, including Cavendish, Twist, plug scrap and any kind of tobacco suitable for chewing;
- (2) Snuff or other preparations of pulverized tobacco;
- (3) An article or product that is made of tobacco or a tobacco substitute and that is not a cigarette or cigar; or
- (4) Weed or other plant product.

*Smoking lounge.* A room common to, or within, a retail or service establishment that provides patrons an area for smoking. Other services not directly related to the activity of smoking may be provided by the establishment in a smoking lounge.

*Smoking room.* A room within a retail tobacco store that provides patrons an area designated specifically for smoking products purchased on the premises or elsewhere. Other services not directly related to the activity of smoking shall not be offered in a smoking room.

*Tobacco product.*

- (1) Cigar or cigarette;
- (2) 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;
- (3) Chewing tobacco, including Cavendish, Twist, plug scrap and any kind of tobacco suitable for chewing;
- (4) Snuff or other preparations of pulverized tobacco; or
- (5) An article or product that is made of tobacco or a tobacco substitute and that is not a cigar, cigarette, or an e-cigarette.

*Tobacco substitute.* An herbal-based non-tobacco product used for smoking.

*Ventilation system.* A supply, return, ventilation and circulation system designed by a licensed professional engineer to meet the requirements of section 54-24 of this article, and meeting all the other requirements of the city's mechanical code, as amended.

#### **Sec. 74-183. - Smoking Prohibited in Certain Areas**

(a) A person commits an offense in violation of this article if he smokes or possesses a burning tobacco, tobacco substitute, weed, other plant product, electronic cigarette or e-cigarette or liquid nicotine in any of the following indoor and/or enclosed areas:

1. A public or private preschool, primary or secondary school;
2. City buildings, facilities, or parks;
3. Any retail or service establishment serving the general public, including service lines;
4. Within all enclosed areas available to and customarily used by the general public in all businesses and nonprofit entities patronized by the public; or
5. All restrooms or elevators open for public use;
6. Within 15 linear feet of any entrance of any facility where smoking is prohibited.

(b) Prohibition of smoking in places of employment.

1. Where smoking is prohibited, it shall be the responsibility of employers to provide a smoke-free workplace for all employees.
2. Each employer having any enclosed place of employment located within the city shall adopt, implement, make known and maintain a written smoking policy, which shall contain the following requirements:  
"Smoking shall be prohibited in all enclosed facilities within a place of employment except where expressly permitted under city ordinance. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways,

medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles, and all other enclosed facilities."

3. The smoking policy shall be communicated to all employees within four (4) weeks of its adoption.

4. All employers shall supply a written copy of the smoking policy upon request to any existing or prospective employee.

(c) Prohibited on portions of outdoor patios. A person commits an offense in violation of this article if he smokes or possesses a burning tobacco, tobacco substitute, weed, other plant product, electronic cigarette or e-cigarette or liquid nicotine in an outdoor patio area of a retail or service establishment that is defined fully or partially by a barrier or that provides seating for patrons where any portion of the outdoor patio is located fewer than 10 linear feet from public property, an outdoor patio of another establishment or an operable window into a building.

(d) Notwithstanding any other provision of this section, any owner, operator, manager or other person who controls any establishment or facility described in this section may declare the entire establishment or facility as a nonsmoking establishment.

(e) Posting of signs. The owner, operator or person in charge of an establishment or facility in which smoking is prohibited shall post signs in one or more conspicuous locations stating that smoking is prohibited and that an offense is punishable by a fine not to exceed \$2,000.00.

(f) It shall be a defense to prosecution under this section that the public place in which the offense takes place does not have prominently displayed a conspicuous notice that smoking is prohibited and that an offense is punishable by a fine not to exceed \$2,000.00.

#### **Sec. 74-184. - Compliance.**

(a) Code enforcement, police, or other city officials designated by the city manager, shall be responsible for compliance with this article. The building official shall make known this article to each applicant applying for a nonresidential certificate of occupancy.

(b) The owner, operator, person in charge or manager of any facility regulated by this article shall comply with the provisions of this article.

(c) Enforcement of this article may be by any of the following actions:

1. Serving written notice on the owner, operator, person in charge or manager of any facility, business or agency within the purview of this article, requiring the correction, within a specified reasonable time frame, of any violation of this article;

2. Requesting the city attorney to maintain an action for injunction to enforce the provisions of this article, to cause the correction of any such violation and for assessment and recovery of a civil penalty of such violation, including attorneys' fees; or

3. Issuing a municipal court citation to any violator of this article.

The remedies contained herein are cumulative of and in addition to any other remedies that are available to the city at law or in equity.

(d) Any person may file a complaint with the city to initiate enforcement by the city.

(e) In undertaking the enforcement of this article, the city is assuming an undertaking only to promote the general health, safety and welfare of its citizens. The city is not assuming any duty or obligation, nor is it imposing any duty and/or obligation on its officers and/or employees, nor is it liable in money damages or otherwise to any person who claims that the city and/or one of its officers and/or employees breached any such obligation, and the breach proximately caused injury.

(f) This article shall not be interpreted nor construed to permit smoking where it is otherwise restricted by other applicable laws.

(g) Notwithstanding any other provision of this article to the contrary, smoking is not prohibited in the following areas:

1. Private residences, except when used as a licensed child care, adult day care or health care facility;
2. Hotel and motel rooms rented to guests, if permitted by the hotel or motel;
3. Approved retail tobacco or e-cigarette stores and smoking lounges provided that the following requirements are met:
  - a. Smoking rooms shall prevent the escape of visible smoke, vapor or other objectionable nonvisible products of smoking without any action required of adjacent tenant spaces.
  - b. Smoking rooms shall have dedicated ventilation systems separate from all other rooms or spaces where smoking is prohibited. Ventilation systems shall consist of exhaust, air purification, filtration, air exchange or a combination of methods to eliminate all visible and nonvisible products of smoking from the indoor environment.
  - c. Patrons shall not be required to enter or pass through smoking rooms to access required public sanitary facilities.
  - d. No person under 21 years of age shall be allowed entrance into or be required to work in a smoking room.
4. Any area of fraternal organization member space not serving the general public.
5. A stage or set of a production of a television program, a theatrical presentation, or a motion picture or filming event where smoking by an actor or performer is essential to the production;
6. An unenclosed outdoor seating area associated with an indoor or enclosed area, including but not limited to a bar, hotel, motel, or eating establishment, except that this defense does not apply if:
  - a. The outdoor seating area is adjacent to a playground or play area for children; or
  - b. The location was posted as a nonsmoking area by the owner, operator, or person in control of the establishment or area with a sign complying with Section 41-3; or

7. A golf course, if the location was between the tee box of the first hole and the end of the green of the 18th hole, on the driving range, or an outdoor patio;

8. Operation of smoking rooms, smoking lounges and retail electronic cigarette stores.

(h) The building official may deny or order the cessation of the continued use of a smoking room, smoking lounge or retail electronic cigarette store if he determines that:

1. Visible smoke, vapor or other objectionable nonvisible products of smoking is migrating from the smoking room, smoking lounge or retail electronic cigarette store into a space, establishment, occupancy or use where smoking is prohibited; or

2. The smoking room, smoking lounge or retail electronic cigarette store has failed to meet any of the standards set forth in this article or tests prescribed by the building official.

3. Upon such a determination, the smoking room, smoking lounge or retail electronic cigarette store shall be prohibited from further use until compliance has been demonstrated to the building official through testing or other means.

#### **Section 74-185. - Violations and penalties**

(a) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation under this chapter to fail to comply with all of its provisions, except for violations noted in paragraph (b) of this section.

(b) It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this article.

(c) Any person who violates any provision of this article shall be guilty of an offense punishable by:

1. A fine not exceeding \$100.00 for the first violation;

2. A fine not exceeding \$200.00 for a second violation within a one-year period of the first violation; or

3. A fine not exceeding \$500.00 for an additional violation within a one-year period of the first violation.

#### **Section 74-186. - Appeal**

The owner or operator of a smoking room, smoking lounge or retail electronic cigarette store that has been denied or ordered to cease the continued use of the smoking room, smoking lounge or retail electronic cigarette store under Section 74-184 may appeal such denial or order as follows:

(1) The owner or operator shall file a written notice of appeal with the building official within five business days of the date the decision was rendered or the action occurred. The notice must state the grounds for the appeal. The building official shall provide a written decision on the appeal within five business days. Failure to render a decision within five business days shall constitute a denial.



(2) If the owner or operator's appeal to the building official is denied, the owner or operator may file a written notice of appeal to the director of the development services department within five business days of receipt of the building official's decision. The director of the development services department shall provide a written decision within five business days of receipt of an appeal in accordance with this section. Failure to render a decision within five business days shall constitute a denial.

(3) If the owner or operator's appeal to the director of the development services department is denied, the owner or operator may file a written notice of appeal to the city manager within five business days of receipt of the director of the development services department's decision. The city manager shall provide a written decision within five business days of receipt of an appeal in accordance with this section. Failure to render a decision within five business days shall constitute a denial. The city manager's decision shall be final.

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**SECTION 3: PENALTY.** Any person, firm, corporation or entity violating or refusing to comply with any provision of this Ordinance, as it exists or may be amended, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in an amount not exceeding two thousand dollars (\$2,000.00) for each offense if the offense relates to public health and sanitation, otherwise the fine shall be in an amount not exceeding five hundred dollars (\$500.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Wylie from filing suit to enjoin the violation. Wylie retains all legal rights and remedies available to it under local, state and federal law.

**SECTION 4: SAVINGS/REPEALING CLAUSE.** All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

**SECTION 5: SEVERABILITY.** Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Wylie hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

**SECTION 6: AMENDMENTS.** For clarity in reading amendments to the Wylie Code of Ordinances, any language intended to be added to the code may be underscored in the amending ordinance, and any language intended to be deleted from the code may be placed in brackets and stricken through. These markings, when used, and the deleted portions shall be removed when amendments are printed in the code. The amended provisions as set forth in this Ordinance have also been renumbered for ease of reading.

**SECTION 7: EFFECTIVE DATE.** This Ordinance shall be effective upon its passage and publication as required by law.

**DULY PASSED AND APPROVED** by the City Council of the City of Wylie, Texas, this 24th day of June, 2025.

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Matthew Porter, Mayor

**ATTESTED AND CORRECTLY  
RECORDED:**

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Stephanie Storm, City Secretary

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