

THIS IS A DRAFT ORDINANCE AND SUBJECT TO REVISION UNTIL A FINAL ORDINANCE IS APPROVED BY THE CITY COUNCIL FOR THE CITY OF SAN ANTONIO

ORDINANCE

AMENDING CHAPTER 36, OF THE CITY CODE OF SAN ANTONIO, TEXAS ENTITLED "SMOKING," TO PROHIBIT SMOKING AND THE USE OF TOBACCO PRODUCTS IN CITY-OWNED PUBLIC SQUARES, PLAZAS, AND PARKS; AND PROVIDING FOR PUBLICATION.

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WHEREAS, in 2003, the City Council enacted an ordinance prohibiting smoking in public and private workplaces, and in some areas of restaurants; and

WHEREAS, in 2010, the City Council approved Ordinance 2010-08-19-0697 to prohibit smoking in enclosed public spaces, and some outdoor spaces, within the City of San Antonio in order (1) to protect the public health and welfare by prohibiting smoking in enclosed places and specified outdoor areas within the city; and (2) to guarantee the right of nonsmokers to breathe smoke-free air, and recognizing that the need to breathe smoke-free air shall have priority over the desire to smoke; and

WHEREAS, tobacco use is the foremost preventable cause of premature death in America and causes half a million deaths annually and has been responsible for 20.8 million premature deaths in the U.S. over the past 50 years since the first Surgeon General's report on smoking in 1964; and

WHEREAS, the SA Parks System Plan recommends smoke/tobacco-free parks in support of the goal of the Park System is restorative to the community's health; and

WHEREAS, the City Council of San Antonio finds that as a home-rule municipality the City of San Antonio has the ability to address matters of public health and safety and now finds that prohibiting smoking and the use of tobacco products in city-owned public squares, plazas, and parks is in the public interest and a matter of public health and safety; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The current Chapter 36, of the City Code of San Antonio, Texas, entitled "Smoking," is amended by adding language that is underlined (added) and deleting language that is stricken (~~deleted~~) to the existing text as set forth in this Ordinance. Chapter 36 is amended as follows and such amendments will become effective on _____ 1, 2019:

CHAPTER 36 – SMOKING

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Sec. 36-6. - Prohibition of smoking/tobacco products in certain outdoor areas.

Smoking shall be prohibited in the following outdoor places:

- (1) San Antonio Zoo facilities and grounds;
- (2) In all outdoor sports arenas, stadiums, and amphitheaters;
- (3) In, and within twenty (20) feet of, all outdoor public transportation stations, platforms, and shelters under the authority of the city;
- (4) In all ~~pavilions and playgrounds located within~~ city-owned, public squares, plazas, and parks, as well as the use of any tobacco products as defined in Section 36-5(a). Additionally, the Directors of the Parks and Center City Development Departments, or their successor departments, shall have the authority to designate temporary smoking areas for certain special events by request as deemed appropriate;
- (5) Within the public right-of-way and any seating located within the public right-of-way or on other city-owned property along the entire parade route of the Fiesta Battle of Flowers Parade and the Fiesta Flambeau Parade for a period beginning two (2) hours before the start of each parade until one hour after the conclusion of each parade. This prohibition will not apply to private property;
- (6) Within the public right-of-way and all seating within the public right-of-way, or on other city-owned property along the entire parade route of the Texas Cavaliers River Parade for a period beginning two (2) hours before the start of the parade until one hour after the conclusion of said parade. This prohibition will not apply to those areas where smoking is permitted under subsection 36-7(3) or to any other private property;
- ~~(7) Main Plaza and Portal San Fernando grounds; and~~
- ~~(8) Travis Park.~~

SECTION 2. All other provisions of Chapter 36 of the City Code of San Antonio, Texas shall remain in full force and effect unless expressly amended by this ordinance.

SECTION 3. Violations occurring on or after _____ 1, 2019 shall be punished as provided in the revised Chapter 36 of the City Code of San Antonio, Texas. Violations prior to _____ 1, 2019 shall be punished under the former applicable Sections which shall remain in effect for that purpose.

SECTION 4. Should any Article, Section, Part, Paragraph, Sentence, Phrase, Clause, or Word of this ordinance, for any reason be held illegal, inoperative, or invalid, or if any exception to or

limitation upon any general provision herein contained be held to be unconstitutional or invalid or ineffective, the remainder shall, nevertheless, stand effective and valid as if it had been enacted and ordained without the portion held to be unconstitutional or invalid or ineffective.

SECTION 5. The City Clerk is directed to publish public notice of this ordinance in accordance with Section 17 of the City Charter of San Antonio, Texas.

SECTION 6. The publishers of the City Code of San Antonio, Texas are authorized to amend said code to reflect the changes adopted herein and to correct typographical errors and to index, format and number paragraphs to conform to the existing code.

SECTION 7. This Ordinance is effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

SECTION 8. Penalties provided for in this Chapter 36 of the City Code of San Antonio, Texas shall be effective five days after publication by the City Clerk.

PASSED AND APPROVED this ____ day of _____, 2019.

M A Y O R
Ron Nirenberg

ATTEST:

APPROVED AS TO FORM:

Leticia M. Vacek, City Clerk

Andrew Segovia, City Attorney