ORDINANCE NO. 6977

AN ORDINANCE AMENDING CHAPTER 22, "HEALTH," OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS; PROVIDING A PENALTY UNDER THE PROVISIONS OF SEC. 10.05 OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS; PROVIDING A SAVINGS CLAUSE AND A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARLAND, TEXAS:

Section 1

That Section 22.55, Chapter 22, "Health" of the Code of Ordinances of the City of Garland, Texas, is hereby amended in its entirety to read as follows:

"Sec. 22.55 Definitions

In this article:

Bar means an area which is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages. A "bar" includes those facilities located within a hotel, motel, or other similar transient occupancy establishment.

Business means any sole proprietorship, partnership, joint venture, corporation or other business entity formed for profit-making or not-for-profit purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered.

Electronic vaping device or *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 area 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.

Place of employment means any enclosed area under the control of a 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 rooms and classrooms, employee cafeterias and hallways. A private residence is not a "place of employment" unless it is used as a child care, adult day care or health care facility.

Possession means actual care, custody, control, or management.

Private club means a premises holding a valid private club registration pursuant to Chapter 32 of the Texas Alcoholic Beverage Code and operated as a private club by a private club registration permittee (as defined by the Texas Alcoholic Beverage Code).

Private place means any area to which the public is not invited or in which the general public is not permitted, including but not limited to private residences, premises operated by a private not-for-profit social club or organization to which the general public does not have access.

Public place means any enclosed area to which the public is invited or in which the public is permitted, including but not limited to, food establishments; banks; educational facilities; health facilities; laundromats; public transportation facilities; reception areas; production and marketing establishments; retail service establishments; retail stores; theaters and waiting rooms.

Retail electronic vaping store means a retail store utilized primarily for the sale of electronic vaping devices, accessories, and/or electronic vaping liquid or any other article or product that is for use in an electronic vaping device and in which the sale of other products, other than tobacco, is merely incidental.

Retail store means an establishment whose purpose is to offer for sale and sell to consumer goods, wares, merchandise and food, which items are purchased for use or consumption off premises, including but not limited to, supermarkets, convenience stores, drug stores,

and warehouse stores.

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

Smoking or *smoke* 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 electronic vaping device.

Sports arena means sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.

Tobacco product means a cigarette; a cigar; an electronic vaping device; 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; chewing tobacco, including plug, scrap, and any kind of tobacco suitable for chewing, snuff or other preparations of pulverized tobacco; nicotine product; dissolvable nicotine; electronic vaping liquid; or any other article or product that is for use in an electronic vaping device."

Section 2

That Section 22.56, Chapter 22, "Health" of the Code of Ordinances of the City of Garland, Texas, is hereby amended in its entirety to read as follows:

"Section 22.56 Smoking Prohibited in certain places

(A) Smoking is prohibited in all enclosed public places and enclosed places of employment within the city, including, but not limited to, the following places:

(1) Elevators;

(2) Restrooms, lobbies, reception areas, hallways, and any other common-use areas;

(3) Buses, bus terminals, taxicabs, train stations, airports

and other facilities and means of public transit, as well as ticket, boarding, and waiting areas of public transit depots;

(4) Retail stores;

(5) All areas available to and customarily used by the general public in all businesses, including but not limited to, attorneys' offices and other offices, banks, laundromats, and country clubs;

(6) Enclosed facilities within a place of employment;

(7) Food establishments, nightclubs, pubs, and bars;

(8) Galleries, libraries, museums, zoo facilities and their grounds;

(9) Any facility which is primarily used for exhibiting any motion picture, stage, drama, lecture, musical recital or other similar performance except when smoking is a part of a theatrical performance upon a stage or in the course of a film or television production and smoking is part of the performance or production;

(10) Sports arenas and convention halls, including bowling and billiard facilities;

(11) Every room, chamber, place of meeting or public assembly, including school buildings under the control of any board, council, commission, committee, including joint committees, or agencies of the city or any political subdivision of the state during such time as a public meeting is in progress, to the extent such place is subject to the jurisdiction of the city;

(12) Waiting rooms, hallways, wards, private and semiprivate rooms of physical and mental health facilities, including, but not limited to, hospitals, clinics, physical therapy facilities, doctors' offices, and dentists' offices;

(13) Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities;

(14) Polling places;

(15) Hotels and motels, including at least ninety (90) percent of rooms rented to guests;

(16) On or in covered parking garages;

(17) Within twenty-five feet of any door, operable window/vent or other opening to an indoor enclosed area.

(B) The owner, manager, or other person having control of an establishment or area designated in above subsection (A) must post a conspicuous sign either clearly stating "No Smoking, City of Garland Ordinance" or the international "No Smoking" symbol at each public entrance. "No Smoking" signs shall have bold lettering of not less than one inch in height.

(C) Smoking is prohibited in the following public places:

(1) On public property located within 50 feet of playground areas, or other areas primarily designed for recreational activities, within a city park;

(2) On public property located within the interior edge of the perimeter sidewalk around the downtown city square;

(3) On public property, or portion thereof, designated by the City Manager as a "no-smoking" area, where such area is demarcated by sign(s) that are consistent with the requirements of Sec. 22.56(B).

(D) Notwithstanding any other provision of this article to the contrary, the following places are not subject to the smoking restrictions of this article:

(1) Subject to the provisions of Sec. 22.56(E), private clubs and private places, except when used as a child day care, adult day care, or household care facility;

(2) Personal automobiles, except when located within or on a covered parking garage and the vehicle is not fully enclosed;

(3) Retail tobacco stores, smoke shops, and retail electronic vaping stores;

(4) Not more than ten percent of hotel and motel rooms rented to guests and designated as smoking rooms. All smoking rooms on the same floor must be contiguous and smoke from these rooms must not infiltrate into areas where smoking is prohibited under provisions of this article;

(5) Outdoor places of employment that are not generally accessible to the public, except within twenty five feet of any door, operable window, operable vent, or other opening to an enclosed area;

(6) Subject to the provisions of Sec. 22.56(E), bingo halls, except that a no smoking area accessible to patrons shall be provided and designated with the international "No Smoking" symbol or "No Smoking" signs having bold lettering of not less than one inch in height."

(7) Uncovered outdoor areas, which are no closer than 25 feet to any window, door, entrance, or exit of patios, pavilions, or other buildings or structures designed for human occupancy, located within golf courses that are open to the public.

(E) The exemption provided in Sec. 22.56(D)(1) for private clubs, and the exemption provided in Sec. 22.56(D)(6) for bingo halls, does not apply to any business for which a certificate of occupancy is issued by the City under Chapter 30 of this Code or for which a private club registration permit is issued by the Texas Alcoholic Beverage Commission on or after April 3, 2018 unless the certificate of occupancy or the private club registration permit, as the case may be, is a renewal of an existing, valid certificate of occupancy or permit."

Section 3

That Section 22.58, Chapter 22, "Health" of the Code of Ordinances of the City of Garland, Texas, is hereby repealed.

Section 4

That a violation of any provision of this Ordinance shall be a misdemeanor punishable in accordance with Sec. 10.05 of the Code of Ordinances of the City of Garland, Texas.

Section 5

That Chapter 22, "Health" of the Code of Ordinances of the City of Garland, Texas, as amended, shall be and remain in full force and effect save and except as amended by this Ordinance.

Section 6

That the terms and provisions of this Ordinance are severable and are governed by Sec. 10.06 of the Code of Ordinances of the City of Garland, Texas.

Section 7

That this Ordinance shall be and become effective immediately upon and after its passage and approval.

PASSED AND APPROVED this the 3rd day of April, 2018.

CITY OF GARLAND, TEXAS

Mayor

ATTEST:

City Secretary