

ORDINANCE NO. 4570

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 10 OF THE CODE OF THE CITY OF MESQUITE, AS AMENDED, BY DELETING SECTION 10-99(z) IN ITS ENTIRETY AND ADDING NEW DEFINITIONS UNDER SECTION 10-96 AND A NEW SECTION 10-99(z), THEREBY AMENDING SMOKING IN TOBACCO SHOPS AND CIGAR LOUNGES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED TWO THOUSAND (\$2,000.00) DOLLARS FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 10 of the Code of the City of Mesquite, Texas, as amended, is hereby amended by deleting Section 10-99(z) in its entirety and adding new definitions under Section 10-99 and a new Section 10-99(z) to read as follows, in all other respects said Code and Chapter to remain in full force and effect:

- (1) *Section 10-96.* Amend Section 10-96 by adding the following definitions under Section 10-96 to read as follows:

Retail tobacco stores mean tobacco stores whose primary activity is the sale or promotion of tobacco, tobacco products and accessories.

Cigar lounge means a retail tobacco store where a minimum of 80 percent of sales are cigars and cigar-related products.

- (2) *Section 10-99.* Amend Section 10-99(z) by deleting the section in its entirety and adding a new Section 10-99(z) to read as follows:

Sec. 10-99. Smoking prohibited in public places.

- (z) Retail stores with the exception of:

(1) Retail tobacco stores, provided that all smoking is conducted within a sealed, ventilated room approved by the Building Official and dedicated exclusively to smoking; and

(2) Cigar lounges, provided that:

a. The cigar lounge is in a freestanding structure containing no other uses; or

b. If the cigar lounge is not in a freestanding structure, all smoking is conducted within the cigar lounge premise or is restricted to a

smoking room within the premise, and that premise or the smoking room is sealed and ventilated as approved by the Building Official. If smoking is allowed in the entire premise rather than a smoking room, the entire premise shall be sealed and ventilated.

- (3) For purposes of this paragraph, a premise or smoking room is properly sealed and ventilated only if an engineered design is submitted to the Building Official, bearing the seal of a registered professional engineer or architect, and showing that all openings in the premise or smoking room, as applicable, are gasketed and weather-tight.

SECTION 2. That all ordinances or portions thereof in conflict with the provisions of this ordinance, to the extent of such conflict, are hereby repealed. To the extent that such ordinances or portions thereof are not in conflict herewith, the same shall remain in full force and effect.

SECTION 3. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the validity of the remaining provisions of this ordinance shall not be affected and shall remain in full force and effect.

SECTION 4. That any person (as defined in Chapter 1, Section 1-2 of the Code of the City of Mesquite, Texas, as amended) violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and upon conviction thereof, shall be subject to a fine not to exceed Two Thousand (\$2,000.00) Dollars for each offense, provided, however, if the maximum penalty provided for by this ordinance for an offense is greater than the maximum penalty provided for the same offense under the laws of the State of Texas, the maximum penalty for violation of this ordinance for such offense shall be the maximum penalty provided by the laws of the State of Texas. Each day or portion of a day any violation of this ordinance continues shall constitute a separate offense.

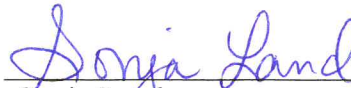
SECTION 5. That this ordinance shall take effect and be in force from and after five days after publication.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 4th day of June, 2018.



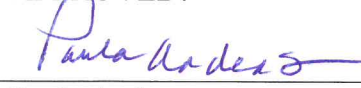
Stan Pickett
Mayor

ATTEST:



Sonja Land
City Secretary

APPROVED:



Paula Anderson
Interim City Attorney