

**ORDINANCE NO. 502-A**

**AN ORDINANCE OF THE CITY OF MANOR, TEXAS, AMENDING ARTICLE 4.08, CHAPTER 4 OF THE MANOR CODE OF ORDINANCES TO PROHIBIT THE USE OF ELECTRONIC CIGARETTES AND E-CIGARETTES IN FOOD PRODUCTS ESTABLISHMENTS, BARS, HOTEL AND MOTEL ROOMS WITH CERTAIN EXCEPTIONS, AND WITHIN 15 FEET OF ANY OPENING TO A PLACE WHERE SMOKING IS PROHIBITED; PROVIDING FOR AN EXCEPTION FOR CERTAIN RETAIL SERVICE ESTABLISHMENTS; AND PROVIDING FOR CERTAIN RELATED MATTERS.**

**WHEREAS**, the City Council of the City of Manor, Texas (the “City Council”) has previously adopted Ordinance No. 502, an ordinance regulating smoking in food products establishments and other structures within the City of Manor, Texas (the “City”);

**WHEREAS**, the City Council has determined that Ordinance No. 502 as codified should be amended to regulate electronic and e-cigarettes;

**WHEREAS**, the City Council has determined that prohibiting smoking and the burning of tobacco-related products is reasonable and necessary to protect the health, welfare, and safety of its citizens and visitors to the City; and

**WHEREAS**, the City Council has determined that it is necessary to regulate electronic and e-cigarettes in the same manner as the smoking and the burning of tobacco-related products;

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

**Section 1. Findings.** The foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact.

**Section 2. Amendment of Article 4.08, Section 4.08.001.** Chapter 4, Business Regulations, Article 4.08, Smoking Ordinance, Section 4.08.001 of the Manor Code of Ordinances is hereby amended by adding the following definitions:

Electronic cigarette or e-cigarette. Any product containing or delivering nicotine or any other substance intended for human consumption that can be activated or used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, vapor cigarette, vape pen, or under any other product name or description.

Smoke or Smoking. The lighting, holding, inhaling and exhaling of the smoke of a tobacco or nicotine product, including but not limited to, the carrying or holding of a lighted pipe, cigar, cigarette of any kind, activated electronic cigarette or e-cigarette, or any other lighted smoking equipment or device.

**Section 3. Amendment of Article 4.08, Section 4.08.002.** Chapter 4, Business Regulations, Article 4.08, Smoking Ordinance, Section 4.08.002 of the Manor Code of Ordinances is hereby amended by amending subsection (a) in its entirety to read as follows:

**Sec. 4.08.002 Smoking Prohibited in Certain Public Areas**

- (a) A person commits an offense if he smokes or possesses a burning tobacco or other plant product, or an activated electronic cigarette or e-cigarette, in any of the following:
- (1) A public library, or museum;
  - (2) Hearing rooms, conference rooms, meeting rooms or any public service area of any facility owned, operated, or managed by the city in which public business is conducted, when the public business requires or provides an opportunity for direct participation or observation by the general public;
  - (3) Every publicly or privately-owned theater, auditorium, or other enclosed facility which is open to the public for primary purpose of exhibiting any motion picture, stage drama, musical recital, athletic event, or any other performance or event, in all areas except either in that area commonly known as the lobby, or in areas not open to the public;
  - (4) An elevator used by the public;
  - (5) Any retail or service establishment serving the general public, including, but not limited to any department store, grocery store or drug store;
  - (6) Any food product establishment;
  - (7) Any bar, including a bar within a food products establishment;
  - (8) In or within 15 feet of any door, operable window/vent or other opening to a place where smoking is prohibited, except as provided for in section 4.08.004 below; or
  - (9) Hotels and motels, except as provided for in section 4.08.004 below.

**Section 4. Amendment of Article 4.08, Section 4.08.004.** Chapter 4, Business Regulations, Article 4.08, Smoking Ordinance, Section 4.08.004 of the Manor Code of Ordinances is hereby amended by amending subsection (a) in its entirety to read as follows:

**Sec. 4.08.004            Exceptions**

The following areas are exempted from the provisions of this ordinance:

- (a) A retail or service establishment which derives more than 50 percent of its annual gross sales from the sale of tobacco, tobacco products, smoking implements, electronic cigarettes or e-cigarettes, or electronic cigarette products.

**Section 5.    Conflicting Ordinances.** Article 4.08, Sections 4.08.001, 4.08.002, and 4.08.004, Chapter 4, Manor Code of Ordinances, are amended as provided herein. All ordinances or parts thereof conflicting or inconsistent with the provisions of this Ordinance as adopted herein are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this Ordinance and any other code or ordinance of the City, the terms and provisions of this Ordinance shall govern.

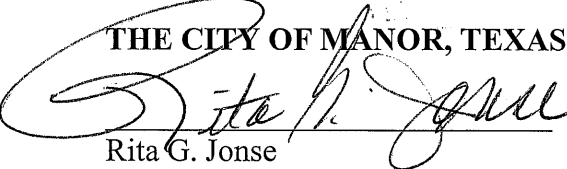
**Section 6.    Savings Clause.** All rights and remedies of the City of Manor are expressly saved as to any and all violations of the provisions of any ordinances affecting the smoking or burning of tobacco products within the City which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

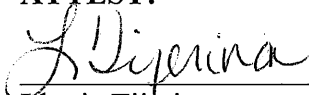
**Section 7.    Severability.** If any provision of this Ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

**Section 8.    Open Meetings.** It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551, Texas Government Code.

**Section 9.    Effective Date.** This Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Texas Local Government Code.

**PASSED AND APPROVED** this 17<sup>th</sup> day of January 2018.

**THE CITY OF MANOR, TEXAS**  
  
 Rita G. Jonse  
 Mayor

**ATTEST:**  
  
 Lluvia Tijerina  
 City Secretary

