

## **ORDINANCE NO. 2582**

**AN ORDINANCE TO (1) AMEND SEC. 11-91 ENTITLED "DEFINITIONS", (2) TO AMEND SEC. 11-94 ENTITLED "NO SMOKING AREA", (3) TO AMEND SEC. 11-95 ENTITLED "EXCEPTIONS", (4) TO AMEND SEC. 11-98 ENTITLED "RESTAURANT REGULATIONS", AND (5) TO AMEND SEC. 11-99 ENTITLED "HOTEL AND MOTEL REGULATIONS", ALL OF ARTICLE V ENTITLED "SMOKING" OF CHAPTER 11 ENTITLED "HEALTH AND SANITATION" OF THE CODE OF ORDINANCES OF THE CITY OF HOMEWOOD, ALABAMA.**

**BE IT ORDAINED** by the City Council of the City of Homewood at a regular meeting, duly assembled, a quorum being present, as follows:

**Section 1.** That Section 11-91 entitled "Definitions" of Article V entitled "Smoking" of Chapter 4 entitled "Health and Sanitation" of the Code of Ordinances of the City of Homewood, Alabama is hereby amended to read follows:

### **Sec. 11-91. Definitions.**

*Smoke or smoking:* The act of burning, inhaling, exhaling or carrying any lighted tobacco product, weed, filler or plant of any kind in a cigarette, cigar, pipe, hookah or water pipe or in any other device and shall include carrying or holding of a lighted pipe, cigar, cigarette, or e-cigarette of any kind, or any other lighted smoking equipment; or the lighting, emitting or exhaling the smoke of a pipe, cigar, cigarette, or e-cigarette of any kind.

**Section 2.** That Section 11-94 entitled "No Smoking Area" of Article V entitled "Smoking" of Chapter 11 entitled "Health and Sanitation" of the Code of Ordinances of the City of Homewood, Alabama is hereby amended to read follows:

### **Sec. 11-94. No smoking area.**

(a) No one shall be permitted to smoke in any of the following areas:

- (1) In any municipal building or facility whether used, owned or leased by the city;
- (2) All enclosed areas under the control of the city, whether owned or leased including vehicles;
- (3) In any public transportation vehicle;
- (4) In any elevator, regardless of its capacity;
- (5) In any health care or nursing home facility, regardless of capacity, except that this prohibition shall not apply in the private enclosed sleeping or living quarters of a person living in such facility;

- (6) Facilities primarily used for exhibiting a motion picture, stage, drama, lecture, musical recital, or other similar performance;
  - (7) Any educational facilities used for classes, sponsored by any person, firm or corporation, public or private;
  - (8) In any retail stores;
  - (9) All areas available to and customarily used by the general public in all business and nonprofit entities patronized by the public;
  - (10) In any restaurant or eating establishment;
  - (11) Bars;
  - (12) Sports arenas and facilities, including enclosed places and in the seating areas of all outdoor arenas, stadiums and amphitheaters;
  - (13) In any hotel and motel rooms;
  - (14) Open air outdoor dining areas at restaurants.
- (b) No area shall be designated as a smoking area in which smoking is prohibited by the fire marshal or by other law, ordinance, or regulation.
- (1) Smoking shall be prohibited in vehicles and motorized equipment owned by the City of Homewood;
  - (2) Smoking shall be prohibited in any common area in apartment buildings, condominiums, retirement facilities, and other multiple-unit residential facilities;
  - (3) Smoking shall be prohibited in any common areas of a mall;
  - (4) In any place of employment.
- (c) Smoking shall be prohibited on the property of the following:
- (1) Homewood Board of Education;
  - (2) Homewood Park Board.
- (d) Smoking shall be prohibited where conditions are such as to make smoking a fire hazard, and in space where flammable or combustible materials are stored or handled.

**Section 3.** That Section 11-95 entitled "Exceptions" of Article V entitled "Smoking" of Chapter 11 entitled "Health and Sanitation" of the Code of Ordinances of the City of Homewood, Alabama is hereby amended to read follows:

**Sec. 11-95. Exceptions.**

- (a) The prohibitions contained above shall not apply to:
  - (1) Private residences, except when used as a licensed child cared, adult day care or health care facility;

- (2) Retail tobacco stores where 80% of the sales for such stores is related to tobacco products;
  - (3) Vape shops or stores where 80% of the sales for such stores is related to vape products;
  - (4) Outdoor smoking areas must be a minimum of twenty (20) feet outside an enclosed area where smoking is prohibited, so as to insure that tobacco smoke does not enter the area through entrances or other means;
  - (5) An entire room, hall, building or structure when such room, hall, building or structure is used for private functions, such as weddings, banquets and testimonial dinners, attendance at which is by invitation only, and where seating arrangements are under the control of the sponsor of the function and not of the owner or person in charge of the place. This does not apply to city owned property;
  - (6) Private clubs or facilities which do not admit the general public and where admission to such private clubs or facilities is limited to members and their guests only.
- (b) Nothing in this section shall be deemed to amend or repeal applicable fire or health regulations.

**Section 4.** That Section 11-98 entitled "Restaurant Regulations" of Article V entitled "Smoking" of Chapter 11 entitled "Health and Sanitation" of the Code of Ordinances of the City of Homewood, Alabama is hereby amended to read follows:

**Sec. 11-98. Restaurant regulations.**

- (a) All restaurants or eating establishments within the City shall be designated in their entirety as a nonsmoking area.
- (b) No restaurant or eating establishment, regulated by this law, may be designated as a smoking area.

**Section 5.** That Section 11-99 entitled "Hotel and Motel Regulations" of Article V entitled "Smoking" of Chapter 11 entitled "Health and Sanitation" of the Code of Ordinances of the City of Homewood, Alabama is hereby amended to read follows:

**Sec. 11-99. Hotel and motel regulations.**

Smoking is prohibited in hotels and motels in the city, and its police jurisdiction. In other words, one-hundred (100) percent of the total number of rooms in any hotel or motel in the city or its police jurisdiction, following the effective date of this article, shall be "no smoking" rooms.

**Section 6.** That all other provisions of Article V entitled "Smoking" of Chapter 11 entitled "Health and Sanitation" of the Code of Ordinances shall remain in full force and effect and shall not be affected by this amendment.

**Section 7.** That if any part, provision, or section of this ordinance is declared to be unconstitutional or invalid by any court of competent jurisdiction, all other parts, provisions or sections of this ordinance not thereby affected shall remain in full force and effect.

**Section 8.** This Ordinance shall become immediately effective upon its adoption by the City Council and approval by the Mayor or as otherwise becoming law.

**ADOPTED** this the 9<sup>th</sup> day of November, 2015.

  
\_\_\_\_\_  
President of City Council

**APPROVED:**

  
\_\_\_\_\_  
Mayor

**ATTEST:**

  
\_\_\_\_\_  
City Clerk

This notice posted: November 12, 2015

At the following locations: Mayor's Office (City Hall), Homewood Public Library, Homewood Senior Center (Oak Grove Road) and Lee Community Center (Rosedale)

And at [www.homewoodal.net](http://www.homewoodal.net).