

ORDINANCE NO. 1922

AN ORDINANCE OF THE CITY OF YOAKUM, TEXAS PROVIDING REGULATION OF SMOKING IN BUILDINGS WITHIN THE CITY OF YOAKUM; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY AND EFFECTIVE DATE

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

SECTION 1: SMOKING PROHIBITED IN ALL PUBLIC BUILDINGS

- a. It shall be unlawful for any person to perform the following acts in any public building in the City of Yoakum or within twelve (12) feet of any entrance to any public building:
 - (1) Smoke,
 - (2) Carry a lighted cigarette, cigar, or tobacco-containing pipe, or
 - (3) Light a cigarette, cigar or tobacco-containing pipe.
- b. It shall be unlawful for any owner or operator of any public building to allow the operation of that building unless one or more of the following signs have been posted at a location clearly visible to a person entering the food establishment:
 - (1) a "No Smoking" sign, or
 - (2) the international "No Smoking" symbol (depiction of a burning cigarette enclosed in a red circle with a red bar across it).
- c. It shall be unlawful for any owner or operator of any public building to place or allow to be placed any of the following items in any public building or within twelve (12) feet from an entrance to any public building:
 - (1) ashtrays,
 - (2) smoking paraphernalia, or
 - (3) signs that indicate that smoking is permitted.
- d. In this ordinance, a "public building" is defined to mean any building other than a building used as a private residence; or the outdoor seating facilities of any City of Yoakum owned property. If portions of a building are used as a private residence and another portion of the building is used for business purposes or commercial activities, then "public building" as used herein shall apply to the portions of the building used for business purposes or commercial purposes, but not the portion used solely as a residence.
- e. It shall be an affirmative defense to prosecution under this section if (1) that the establishment in which a prohibited activity occurred was a "bar" at the time of the alleged offense. For purposes of this section, a "bar" is an establishment that derives more than 65% of its revenue from the sale of drinks containing alcohol.

SECTION 2: SEVERABILITY CLAUSE If any portion of this act is held invalid or unconstitutional by a court of competent jurisdiction, the remaining provisions hereof shall nevertheless be valid, the same as if the portion or portions held invalid or unconstitutional had not been adopted.

SECTION 3: REPEALING CLAUSE All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: PENALTY CLAUSE Any person or persons found in violation of any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction shall be punished as provided in Section 1-6 of the Yoakum Code of Ordinances.

SECTION 5: EFFECTIVE DATE The provisions of this ordinance shall become effective, and be in full force after the date of final passage and publication thereof.

PRESENTED BY PETITION TO THE CITY COUNCIL AT THE FEBRUARY 13, 2007 REGULAR COUNCIL MEETING. MOTION MADE, SECONDED AND APPROVED TO SUBMIT THE INITIATED ORDINANCE WITHOUT AMENDMENT TO THE VOTERS (AS PROVIDED BY CITY CHARTER) AT THE MAY 12, 2007 GENERAL ELECTION.

PASSED, APPROVED AND ADOPTED BY A MAJORITY VOTE AT THE MAY 12, 2007 GENERAL ELECTION.

PUBLISHED: 5/30/2007



**AFFIDAVIT OF PUBLICATION
STATE OF TEXAS
COUNTY OF LAVACA**

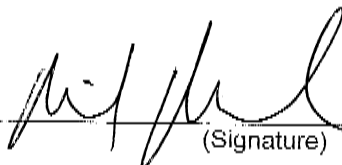
Before me, the undersigned authority, on this day personally appeared

Mike McCracken
(Name)

the Editor
(TITLE)

of Yoakum Herald Times, a newspaper having general circulation in Lavaca County, Texas, who being by me duly sworn, deposes and says that the foregoing attached advertising was published in said newspaper on the following date(s), to wit: Wednesday, May 30, 2007

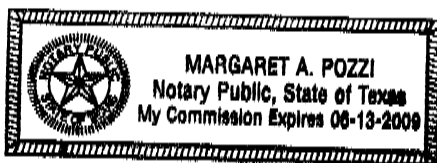
City of Yoakum - Public Notice for Smoking Ordinance


(Signature)

MIKE MCCRACKEN
(Print Name)

Subscribed and sworn to before me this the 25th day of July, 2007

to certify which witness my hand and seal of office.



Margaret A. Pozzi
Notary Public in and for Lavaca County, Texas.

YOAKUM HERALD-TIMES, WEDNESDAY, MAY 30, 2007

PUBLIC NOTICE

An ordinance of the City of Yoakum, Texas providing regulation of smoking in buildings within the city of Yoakum; Repealing all ordinances or parts of ordinances in conflict herewith; providing a savings and severability clause; providing for a penalty and effective date. Be it ordained by the City Council of the City of Yoakum, Texas. Passed, approved and adopted by a majority vote at the May 12, 2007 General Election. (22-1c)