

## **ORDINANCE NO. 907a**

**AN ORDINANCE AMENDING CHAPTER 10, ARTICLE V, "PUBLIC SMOKING", OF THE SOUTHLAKE CITY CODE TO PROHIBIT SMOKING IN ALL PUBLIC BUILDINGS AND WITHIN 20 FEET OF THE ENTRANCE TO A PUBLIC BUILDING, REQUIRING "NO SMOKING" SIGNS IN RESTAURANTS, BARS AND TAVERNS; PROHIBITING CERTAIN ACTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR SAVINGS AND CODIFICATION; PROVIDING FOR A PENALTY AND PUBLICATION; AND DECLARING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Southlake, Texas, finds that secondhand tobacco smoke is a major contributor to indoor air pollution and that breathing secondhand smoke (also known as environmental tobacco smoke) is a cause of disease in healthy nonsmokers, including heart disease, stroke, respiratory disease, and lung cancer, and further finds as follows:

**WHEREAS**, the National Cancer Institute in 1999 found that secondhand smoke is responsible for the early deaths of approximately 53,000 Americans annually. (National Cancer Institute (NCI), "Health effects of exposure to environmental tobacco smoke: the report of the California Environmental Protection Agency. Smoking and Tobacco Control Monograph 10," *Bethesda, MD: National Institutes of Health, National Cancer Institute (NCI)*, August 1999);

**WHEREAS**, the Public Health Service's National Toxicology Program (NTP) has listed secondhand smoke as a known carcinogen. (See Environmental Health Information Service (EHIS), "Environmental tobacco smoke: first listed in the Ninth Report on Carcinogens," *US. Department of Health and Human Services (DHHS), Public Health Service*, NTP, 2000; reaffirmed by the NTP in subsequent reports on carcinogens, 2003, 2005);

**WHEREAS**, based on a finding by the California Environmental Protection Agency in 2005, the California Air Resources Board has determined that secondhand smoke is a toxic air contaminant, finding that exposure to secondhand smoke has serious health effects, including low birth-weight babies; sudden infant death syndrome (SIDS); increased respiratory infections in children; asthma in children and adults; lung cancer, sinus cancer, and breast cancer in younger, premenopausal women; heart disease; and death. (Appendix II Findings of the Scientific Review Panel: Findings of the Scientific Review Panel on Proposed Identification of Environmental Tobacco Smoke as a Toxic Air Contaminant as adopted at the Panel's June 24, 2005 Meeting," *California Air Resources Board (ARB)*, September 12, 2005);

**WHEREAS**, there is no safe level of exposure to secondhand smoke, (Environmental Protection Agency (EPA), "Respiratory health effects of passive smoking: lung cancer and other disorders, the report of the U.S. Environmental Protection Agency, Smoking and Tobacco Control Monograph 4," *Bethesda, MD:*

*National Institutes of Health. National Cancer Institute; Environmental Protection Agency (EPA), August 1993; California. Environmental Protection Agency, "Health Effects of Exposure to Environmental Tobacco Smoke," 1997; California Air Resources Board, "Proposed identification of environmental tobacco smoke as a toxic air contaminant," Sacramento: California Environmental Protection Agency (Cal-EPA). Air Resources Board, Stationary Source Division, Air Quality Measures Branch, Office of Environmental Health Hazard Assessment (OEHHA), September 29, 2005);*

**WHEREAS**, a study of hospital admissions for acute myocardial infarction in Helena, Montana before, during, and after a local law eliminating smoking in workplaces and public places was in effect, has determined that laws to enforce smokefree workplaces and public places may be associated with a reduction in morbidity from heart disease. (Sargent, Richard P.; Shepard, Robert M.; Glantz, Stanton A., "Reduced incidence of admissions of myocardial infarction associated with public smoking ban: before and after study," *British Medical Journal* 328:977-980, April 24, 2004);

**WHEREAS**, secondhand smoke is particularly hazardous to elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease. (California Environmental Protection Agency (Cal EPA), "Health effects of exposure to environmental tobacco smoke," *Tobacco Control* 6(4):346-353, Winter, 1997);

**WHEREAS**, the Americans with Disabilities Act, which requires that disabled persons have access to public places and workplaces, deems impaired respiratory function to be a disability. (Daynard, R.A., "Environmental tobacco smoke and the Americans with Disabilities Act," *Nonsmokers' Voice* 15(1):8-9.);

**WHEREAS**, the U.S. Surgeon General has determined that the simple separation of smokers and nonsmokers within the same air space may reduce, but does not eliminate, the exposure of nonsmokers to secondhand smoke. (Department of Health and Human Services. *The Health Consequences of Involuntary Smoking: A Report of the Surgeon General*. Public Health Service, Centers for Disease Control, 1986);

**WHEREAS**, the U.S. Centers for Disease Control and Prevention have determined that the risk of acute myocardial infarction and coronary heart disease associated with exposure to tobacco smoke is non-linear at low doses, increasing rapidly with relatively small doses such as those received from secondhand smoke or actively smoking one or two cigarettes a day, and has warned that all patients at increased risk of coronary heart disease or with known coronary artery disease should avoid all indoor environments that permit smoking. (Pechacek, Terry F.; Babb, Stephen, "Commentary: How acute and reversible are the cardiovascular risks of secondhand smoke?" *British Medical Journal* 328: 980-983, April 24, 2004);

**WHEREAS**, given the fact that there is no safe level of exposure to secondhand smoke, the American Society of Heating, Refrigerating and Air Conditioning Engineers

(AHRAE) bases its ventilation standards on totally smokefree environments. ASHRAE has determined that there is currently no air filtration or other ventilation technology that can completely eliminate all the carcinogenic components in secondhand smoke and the health risks caused by secondhand smoke exposure, and recommends that indoor environments be smokefree in their entirety. (Samet, J.; Bohanon, Jr., H.R.; Coultas, D.B.; Houston, T.P.; Persily, A.K.; Schoen, L.J.; Spengler, J.; Callway, C.A., "ASHRAE position document on environmental tobacco smoke and the development of acute coronary syndromes: the CARDIO2000 case-control study," *Tobacco Control* 11(3):220-225, September 2005);

**WHEREAS**, the Society of Actuaries has determined that secondhand smoke costs the U.S. economy roughly \$10 billion a year: \$5 billion in estimated medical costs associated with secondhand smoke exposure, and \$4.6 billion in lost productivity. (Behan, D.F.; Eriksen, M.P.; Lin, Y., "Economic Effects of Environmental Tobacco Smoke," *Society of Actuaries*, March 31, 2005);

**WHEREAS**, numerous economic analyses examining restaurant and hotel receipts and controlling for economic variables have shown either no difference or a positive economic impact after enactment of laws requiring workplaces to be smokefree. Creation of smokefree workplaces is sound economic policy and provides the maximum level of employee health and safety. (Glantz, S.A. & Smith, L. The effect of ordinances requiring smokefree restaurants on restaurant sales in the United States. *American Journal of Public Health*, 87:1687-1693, 1997; Colman, R.; Urbonas, C.M., "The economic impact of smoke-free workplaces: an assessment for Nova Scotia, prepared for Tobacco Control Unit, Nova Scotia Department of Health," *GPI Atlantic*, September 2001);

**WHEREAS**, hundreds of communities in the U.S., plus numerous states, including Texas, California, Delaware, Florida, Massachusetts, Montana, New Jersey, New York, and Washington, have enacted laws requiring workplaces, restaurants, bars, and other public places to be smokefree, as have numerous countries, including Ireland, New Zealand, Norway, Scotland, Sweden, Uganda, and Uruguay;

**WHEREAS**, smoking is a potential cause of fires, cigarette and cigar burns and ash stains on merchandise and fixtures, and other economic damage to businesses. ("The high price of cigarette smoking," *Business & Health* 15(8), Supplement A: 6-9, August 1997);

**WHEREAS**, the City Council finds there is no legal or constitutional "right to smoke." Business owners have no legal or constitutional right to expose their employees and customers to the toxic chemicals in secondhand smoke. On the contrary, employers have a common law duty to provide their workers with a workplace that is not unreasonably dangerous;

**WHEREAS**, the City Council finds the congregation of smokers within 20 feet of the entrances or exits of buildings in which smoking is prohibited can impair entry into

and exit from these buildings, create noxious clouds of concentrated nuisance smoke that harm the rights of nonsmoking patrons and passersby, and create a hazard of such concentrated smoke drifting into the indoor environment; and

**WHEREAS**, the City Council finds the smoking of tobacco is a form of air pollution, a positive danger to health, and a material public nuisance.

**WHEREAS**, the American Academy of Pediatrics recommends local governments should enact and enforce laws that mandate the provision of smoke-free environments, including e-cigarette vapor, in all public places and require employers to provide smoke-free/e-cigarette vapor free work environments for their employees.

Accordingly, the City Council finds and declares that the purposes of this ordinance are (1) to protect the public health and welfare by prohibiting smoking in public places and places of employment, (2) to guarantee the right of nonsmokers to breathe smoke-free air, and (3) to recognize that the need to breathe smoke-free air shall have priority over the desire to smoke.

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

## **SECTION 1.**

The declarations, determinations and findings made in the preamble of this ordinance are hereby adopted and made a part of the operative provisions hereof.

## **SECTION 2.**

The Article V, Chapter 10 of the Southlake City Code is hereby amended to read as follows:

### **ARTICLE V. PUBLIC SMOKING**

#### **Sec. 10-151. Definitions.**

The following definitions shall apply to this article:

“Smoke” or “Smoking” means inhaling, exhaling, or burning a lighted cigar, cigarette, pipe or other lighted tobacco product in any manner or form; or inhaling, exhaling from an electronic smoking device.

“Electronic smoking device” means an electronic or battery-operated device that delivers vapors for inhalation. This term shall include every variation and type of such devices whether they are manufactured, distributed, marketed or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah or any other product name or descriptor.

“Person” means any individual.

“Public building” means any building other than a building used as a private residence. 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. The term “public building” includes, but is not limited to, restaurants, bars and taverns.

“Restaurant” means an establishment that primarily serves food prepared in the kitchen of the same establishment for patrons and may serve alcohol with a valid Texas Alcoholic Beverage Commission License as long as the establishment derives less than 75% of its gross revenues from alcohol sales and includes all indoor and outdoor seating areas, kitchen, bar area, restrooms and lobby.

“Bar” or “Tavern” means an establishment that derives 75% or more of the establishment’s gross revenue from the on-premise sale of alcoholic beverages.

**Sec. 10-152. Smoking prohibited in public buildings, or within 20 feet of an entrance or exit to a public building; signs required; and prohibited acts.**

(a) It shall be unlawful for any person to perform the following acts in any public building in the City of Southlake or within 20 feet of any entrance or exit to any public building:

- (1) smoke,
- (2) carry a lighted cigarette, cigar, or tobacco-containing pipe, or an operating electronic smoking device, or
- (3) light a cigarette, cigar or tobacco-containing pipe or operate an electronic smoking device.

(b) It shall be unlawful for any owner of any restaurant, bar and tavern to allow the operation of the establishment unless one or more of the following signs have been posted at a location clearly visible to a person entering the 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 20 feet from an entrance or exit to any public building:

- (1) ashtrays;
- (2) smoking paraphernalia, or
- (3) signs that indicate that smoking is permitted.

(d) It shall be unlawful for the owner or operator of any public building to allow smoking in such public building in violation of the provisions of this article.

#### **Sec. 10-153. City Parks.**

Smoking prohibited except in designated areas.

**Sec. 12-32. - Rules and regulations.** (This section will be deleted from the City Code)

The following regulations and restrictions are prescribed for the use of city parks:

(10)

~~Smoking prohibited except in designated areas. It shall be unlawful to smoke in bleachers, dugouts, or other congested outdoor areas at city parks.~~

#### **Sec. 10-154. Penalty.**

Any person who violates this article shall be guilty of a health and sanitation misdemeanor violation and subject to a fine of not more than \$500.00. Each day that a violation is permitted to exist shall constitute a separate offense. Any association, partnership or cooperation that violates this article shall be guilty of a health and sanitation misdemeanor violation and subject to a fine of not more than \$2000.00. Each day that a violation is permitted to exist shall constitute a separate offense.

### **SECTION 3.**

Sections 10-151 through 10-158 of the Southlake City Code are hereby repealed effective on March 1, 2016.

### **SECTION 4.**

If any provision of this ordinance, or the application thereof to any person or circumstances, shall be held invalid or unconstitutional by a Court of competent jurisdiction, such invalidity shall not affect the other provisions, or application thereof, of

this 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 5.

It is the intention of the City Council that this ordinance shall become a part of the Code of the City of Southlake, Texas, and it may be renumbered and codified therein accordingly, in the manner approved by the City Attorney. The Code of the City of Southlake, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.


### SECTION 6.

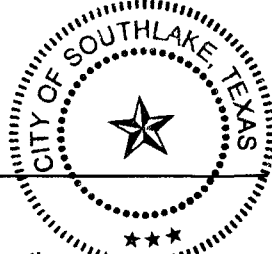
This ordinance shall take effect on March 1, 2016, following final passage by the City Council and publication in accordance with the Charter of the City of Southlake.

**PASSED AND APPROVED ON FIRST READING THIS 2<sup>nd</sup> DAY OF FEBRUARY, 2016.**

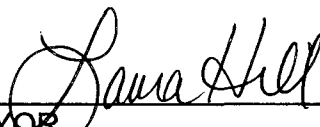
  
MAYOR

ATTEST:


  
CITY SECRETARY

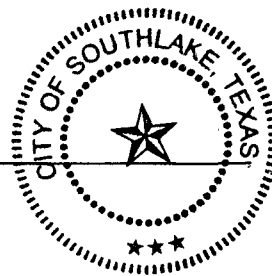


**PASSED AND APPROVED ON SECOND READING THIS 16<sup>th</sup> DAY OF FEBRUARY, 2016.**

  
MAYOR

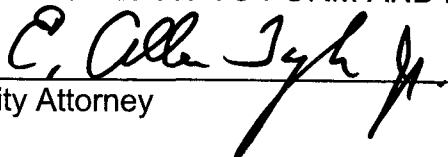
ATTEST:

  
CITY SECRETARY



EFFECTIVE: March 1, 2016

APPROVED AS TO FORM AND LEGALITY:

  
City Attorney

# INVOICE

## Star-Telegram

808 Throckmorton St.  
FORT WORTH, TX 76102  
(817) 390-7761  
Federal Tax ID 26-2674582

Customer ID: CIT57  
Invoice Number: 336658711  
Invoice Date: 1/15/2016  
Terms: Net due in 21 days  
Due Date: 1/31/2016  
PO Number: 21600005  
Order Number: 33665871  
Sales Rep: 073  
Description: PUBLIC HEARING  
Publication Date: 1/15/2016

### Bill To:

CITY OF SOUTHLAKE  
1400 MAIN ST  
STE 440  
SOUTHLAKE, TX 76092-7604

Attn: Attn: ACCOUNTS PAYABLE

Description	Location	Col	Depth	Linage	MU	Rate	Amount
PUBLIC HEARING NOTICE CITY OF	I3580	1	60	60	LINE	\$1.20	\$72.00

Net Amount: \$72.00

**PUBLIC HEARING NOTICE**  
**CITY OF SOUTHLAKE, TEXAS**  
Notice is hereby given to all interested persons that the City of Southlake, Texas, will consider the following items in the Council Chambers at Town Hall, 1400 Main Street, Southlake, Texas for: Planning and Zoning Commission on Thursday, February 4, 2016 at 6:30 PM will hold a public hearing and consider:  
Ordinance 1138 (CP16-001) - an amendment to the City of Southlake's 2030 Consolidated Future Land Use Plan to add a new land use category designation "Rural Residential Estate".  
Ordinance 1139 - an amendment to the City of Southlake's Zoning Ordinance 480, as amended to create a new zoning district category "RE- 7"- Single Family Residential Estate District and to rename the current "RE" Single Family Residential to Estate District to "RE- 5"- Single Family Residential Estate District.  
City Council on Tuesday, February 16, 2016 at 5:30 PM will hold a public hearing and consider:  
Ordinance 907A- an amendment to Chapter 10 "Heath and Sanitation, Article V "Public Smoking," of the Southlake City Code - Ordinance 907.  
City Council on Tuesday, March 1, 2016 at 5:30 PM will hold a public hearing and consider:  
Ordinance 1138 (CP16-001) - an amendment to the City of Southlake's 2030 Consolidated Future Land Use Plan to add a new land use category designation "Rural Residential Estate".  
Ordinance 1139 - an amendment to the City of Southlake's Zoning Ordinance 480, as amended to create a new zoning district category "RE- 7"- Single Family Residential Estate District and to rename the current "RE" Single Family Residential to Estate District to "RE- 5"- Single Family Residential Estate District.  
All interested persons are urged to attend.  
City of Southlake  
Lori Payne, TRMC  
City Secretary



County and State, this day personally appeared Christy Holland, Bids & Legal Coordinator  
Star-Telegram, Inc. at Fort Worth, in Tarrant County, Texas : and who after being duly sworn,  
ing of advertisement was published in the above named paper on the listed dates:

(817) 390-7037 SUBSCRIBED AND SWORN TO BEFORE ME,  
2016

Signed

*Christy Holland*

NOTARY PUBLIC

*Deborah Baylor*

Thank

ent

Remit To: Star-Telegram  
P.O. BOX 901051  
FORT WORTH, TX 76101-2051

Customer ID: CIT57  
Customer Name: CITY OF SOUTHLAKE  
Invoice Number: 336658711  
Invoice Amount: \$72.00  
PO Number: 21600005  
Amount Enclosed: \$



# INVOICE

## Star-Telegram

808 Throckmorton St.  
FORT WORTH, TX 76102  
(817) 390-7761  
Federal Tax ID 26-2674582

Customer ID: CIT57  
Invoice Number: 336956941  
Invoice Date: 2/19/2016  
Terms: Net due in 21 days  
Due Date: 2/29/2016  
PO Number: 21600005  
Order Number: 33695694  
Sales Rep: 073  
Description: CITY OF SOUTHLAKE  
Publication Date: 2/19/2016

### Bill To:

CITY OF SOUTHLAKE  
1400 MAIN ST  
STE 440  
SOUTHLAKE, TX 76092-7604

Attn: Attn: ACCOUNTS PAYABLE

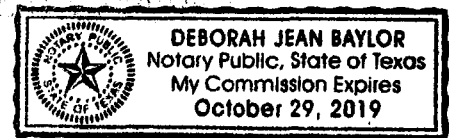
Description	Location	Col	Depth	Linage	MU	Rate	Amount
CITY OF SOUTHLAKE, TEXAS C	CITY OF SOUTHLAKE, TEXAS ORDINANCE NO. 907A AN ORDINANCE AMENDING CHAPTER 10, ARTICLE V, "PUBLIC SMOKING", OF THE SOUTHLAKE CITY CODE TO PROHIBIT SMOKING IN ALL PUBLIC BUILDINGS AND WITHIN 20 FEET OF THE ENTRANCE TO A PUBLIC BUILDING, REQUIRING "NO SMOKING" SIGNS IN RESTAURANTS, BARS AND TAVERNS; PROHIBITING CERTAIN ACTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR SAVINGS AND CODIFICATION; PROVIDING FOR A PENALTY AND PUBLICATION; AND DECLARING AN EFFECTIVE DATE. Any person who violates this article shall be guilty of a health and sanitation misdemeanor violation and subject to a fine of not more than \$500.00. Each day that a violation is permitted to exist shall constitute a separate offense. Any association, partnership or cooperation that violates this article shall be guilty of a health and sanitation misdemeanor violation and subject to a fine of not more than \$2000.00. Each day that a violation is permitted to exist shall constitute a separate offense. Passed and approved this the 16th day of February, 2016 during the regular City Council meeting. Mayor Pro Tem: Randy Williamson Attest: Lori Payne, City Secretary	1	38	38	LINE	\$1.20	\$45.60

Net Amount: \$45.60

RECEIVED

MAR - 1 2016

OFFICIAL COPY



THE STATE OF TEXAS

County of Tarrant

Before me, a Notary Public in and for said County of Tarrant, Texas, personally appeared Christy Holland, Bids & Legal Coordinator for the Star-Telegram, published by the Star-Telegram, (817) 390-7037, in Tarrant County, Texas: and who after being duly sworn, did depose and say that the attached clipping of advertisement was published in the above named paper on the listed dates:

BIDS & LEGALS DEPT. Star-Telegram. (817) 390-7037  
THIS DAY OF FEBRUARY 24<sup>th</sup> 2016  
SUBSCRIBED AND SWORN TO BEFORE ME,

Signed

*Christy Holland*

Thank You For Your Payment

NOTARY PUBLIC

*Deborah Baylor*

Remit To: Star-Telegram  
P.O. BOX 901051  
FORT WORTH, TX 76101-2051

Customer ID: CIT57  
Customer Name: CITY OF SOUTHLAKE  
Invoice Number: 336956941  
Invoice Amount: \$45.60  
PO Number: 21600005  
Amount Enclosed: \$