

RECOMMENDED BY: THE PUBLIC SAFETY COMMITTEE

SUBMITTED BY: THE CITY ATTORNEY

ORDINANCE NO. 19-159

AN ORDINANCE TO AMEND TITLE 11, “CRIMES AND OFFENSES”, CHAPTER 9, MISCELLANEOUS OFFENSES TO ADD SECTION 10.1 TO DESIGNATE A HEALTH DISTRICT FOR SMOKE-FREE PUBLIC PLACES.

WHEREAS, the Council of the City of Birmingham adopted Ordinance No. 12-52, April 12, 2012 which became effective April 27th, 2012, to (1) protect the public health and welfare by prohibiting smoking in public places and places of employment, (2) guarantee the right of nonsmokers, and (3) recognize the need to breathe smoke-free air.; and,

WHEREAS, University of Alabama at Birmingham, UAB Medical Center, The Children’s Hospital of Alabama, Cooper Green Mercy Health Services, the Jefferson County Board of Health, Southern Research and the Birmingham Veterans Affairs Medical Center request a designation of Health District that shall include the area of their locations; and,

WHEREAS, the above-named institutions wish to promote the health of their staff, patients, students, visitors and the public;

WHEREAS, the United States Surgeon General has declared that there is no risk-free level of exposure to second-hand smoke;

WHEREAS, studies have shown that outdoor secondhand tobacco smoke can reach levels considered unhealthy by outdoor ambient air standards; and,

WHEREAS, exposure to secondhand smoke, even for brief periods of time, may adversely affect the heart and respiratory systems and increase the severity of asthma attacks, especially in children; and,

WHEREAS, the proposed Health District is a densely-used area, encompassing multiple hospitals, outpatient facilities and physician’s offices and the University of Alabama at Birmingham; and,

WHEREAS, the public streets and sidewalks within the proposed Health District abut the various hospitals, medical and academic facilities and are heavily used by the employees, patients and visitors of these facilities; and,

WHEREAS, the City Council finds that designating a Health District promotes the health, safety and welfare of the public, promotes the work of the various institutions in promoting healthy lifestyles and complements the city's economic development goals, comprehensive plan, the planning neighborhood district in which it is located and the surrounding area by creating a healthier atmosphere for community and social interaction for Birmingham citizens and other Health District patients and visitors.

SECTION 1.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Birmingham that the Health District is designated and that the General Code of the City of Birmingham, Title 11, "Crimes and Offenses", Chapter 9, "Miscellaneous Offenses", is be and hereby is amended to add Section 10.1 and to read as follows:

"Section 11-9-10.1.

"(a) Words, terms and phrases used in this section, shall have the meanings ascribed to them as provided in Sec. 11-9-10 of the General Code of the City of Birmingham, as amended.

"(b) The Health District is hereby established and shall be known as the "Health District", as generally described below and which is also shown on a map on file in the office of the City Clerk and incorporated herein by reference.

"(c). The boundaries of the Health District are hereby designated and described as follows:

"Beginning at the POINT OF BEGINNING at the intersection of 4th Avenue S and 22nd Street S., proceeding along the midline of the public rights-of-way of the following streets, avenues and alleys, unless the described line proceeds along a property line, south along 22nd Street S., +/- 2,300 lf to 10th Avenue S.; proceeding west along 10th Avenue S., +/- 2,100 lf, to 18th Street S.; proceeding south along 18th Street S., +/- 770 lf, to 12th Avenue S.; proceeding west along 12th Avenue S., +/- 1,600 lf, to 15th Street S.; proceeding north along 5th Street S., +/- 1,450 lf, to a point, said point being the intersection with property line at western right of way; proceeding west along said property line, +/- 320 lf, to 14th Street S.; proceeding south along 14th Street S., +/- 320 lf, to 13th Avenue S.; proceeding west / southwest along 13th Avenues S., +/- 410 lf, as it transitions to 13th Place S. to a point, said point being the intersection with a property line at western right of way; proceeding west along said property line +/- 210 lf to 13th Street S.; proceeding south along 13th Street S., +/- 200 lf, to 14th Avenue S.; proceeding west along 14th Avenue S., +/- 230 lf, to 12th Alley S.; proceeding north along 12th Alley S., +/- 310 lf, to a point, said point being the intersection with property line at western right of way of alley; proceeding west along said property line, +/- 180 lf, to 12th Street S.; proceeding north along 12th Street S., +/- 80 lf, to 14th Avenue S.; proceeding west along 14th Avenue S., +/- 150 lf, to Cullom Alley S.; proceeding north along Cullom Alley S., +/- 560 lf, to Cullom Street S.; proceeding north along Cullom Street S., +/- 310 lf, to 10th Avenue S.; proceeding

west along 11th Avenue S., +/-1,030 lf to the intersection of the northern right of way and the eastern property line of the Epic School; proceeding north along said eastern property line, +/- 340 lf, to a point, said point being the intersection of the eastern and northern property line for the Epic School; proceeding along said northern property line west, +/- 620 lf, to a point; proceeding north along eastern boundary of Bessie Estell Park, +/- 400 lf, to a point, said point being the intersection of property line and 8th Court S.; proceeding west along 8th Court S., to 8th Street S.; proceeding north along 8th Street S., +/- 540 lf, to 7th Avenue S.; proceeding west along 7th Avenue S., +/- 940 lf, to the railroad line; proceeding northeast along said railroad line, +/- 2100 lf, to the point, said point being intersection of railroad line and property line; proceeding east along property line, +/- 590 lf, to 10th Street S.; proceeding along 10th Street S., +/- 710 lf, to 4th Avenue S.; proceeding east along 4th Avenue S., +/- 7,200 lf to a point; said point being the POINT OF BEGINNING.

“In the event of a conflict in the Health District boundary lines described above and the map on file in the office of the City Clerk, the boundary lines depicted on the map on file in the office of the City Clerk and as designated by signage and markers in the Health District shall govern.

“(d) Smoking, as defined in Section 11-9-10 of the General City Code, as amended, is prohibited within the Health District, including all outdoor public rights-of-way, sidewalks, streets, curbs and gutters, alleys, bus stop areas and parks within the Health District, except as otherwise provided herein.

“(e) Effective Dates for the District: This designation of the district shall be effective on December 1st, 2019 and when published as required by law. The designation shall continue until modified, suspended or revoked by the city council.

“(f) Property owners within the Health District may designate a smoking area or areas on their property and in compliance with Section 11-9-10, each not to exceed 200 square feet and designated by signs and markers, where persons may smoke.

“(g) Motor Vehicles. This amendment does not include smoking in moving motor vehicles.

“(h) Private Residences. This amendment does not include smoking in private residences, except when used as a childcare, adult day care, or health care facility.

“(i) Public Education and Signage. (1) The University of Alabama at Birmingham, UAB Medical Center, The Children’s Hospital of Alabama, Cooper Green Mercy Health Services, the Jefferson County Board of Health, Southern Research and the Birmingham Veterans Affairs Medical Center shall provide education and information about the Health District to their students, patients, visitors and the public through any appropriate means. Regulatory signs may be placed in the right-of-way after obtaining approval from the City.

SECTION 2. This ordinance shall be effective upon publication as required by law.

SECTION 3. If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by declaration of any court of competent jurisdiction, such declaration shall not affect the validity of the remaining portions of this ordinance.

