

CHAPTER 270: RESTRICTIONS ON SMOKING IN PUBLIC PLACES**SECTION 270.010: DEFINITIONS**

For the purpose of this Chapter, the following words and phrases shall have the following interpretation and/or meanings indicated below:

BAR: Any licensed establishment which serves liquor on the premises for which not more than ten percent (10%) of the gross sales receipts of the business are supplied by food purchases, either for consumption on the premises or elsewhere.

BUSINESS: A sole proprietorship, partnership, joint venture, corporation, limited liability company (LLC) or other business entity, either for-profit or not-for-profit, including retail establishments where goods or services are sold; professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered; and private clubs.

EMPLOYEE: A person who is employed by an employer in consideration for direct or indirect monetary wages or profit and a person who volunteers his or her services for a non-profit entity.

EMPLOYER: A person, business, partnership, limited liability company (LLC), association, corporation, including a municipal corporation, trust or non-profit entity that employs the services of one (1) or more individual persons.

ENCLOSED AREA: All space between a floor and ceiling that is enclosed on all sides by solid walls or windows (exclusive of doorways), which extend from the floor to the interior ceiling.

HEALTH CARE FACILITY: An office or institution providing care or treatment of diseases, whether physical, mental or emotional.

PLACE OF EMPLOYMENT: An area under the control of a public or private employer that employees normally frequent during the course of employment including, but not limited to, work areas, private offices, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways and vehicles. A private residence is not a "place of employment" unless it is used as a child care, adult day care or health care facility.

PRIVATE CLUB: An organization, whether incorporated or not, which is the owner, lessee or occupant of a building or portion used exclusively for club purposes at all times, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent or athletic purposes, but not for pecuniary gain and which only sells alcoholic beverages incidental to its

operation. The affairs and management of the organization are conducted by a board of directors, executive committee or similar body chosen by the members at an annual meeting. The organization has established bylaws and/or a constitution to govern its activities. The organization has been granted an exemption from the payment of Federal income tax as a club under 26 U.S.C. Section 501. A private club is a "public place" when being used for a function to which the general public is invited.

PUBLIC PLACE: An enclosed area to which the public is invited or in which the public is permitted, including, but not limited to, banks, educational facilities, gaming facilities, health care facilities, hotels and motels, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters and waiting rooms. A private residence is a "public place" when it is used as a child care, adult day care or health care facility.

RESTAURANT: An eating establishment, including, but not limited to, coffee shops, cafeterias, sandwich stands and private and public school cafeterias, which gives or offers for sale food to the public, guests or employees, as well as kitchens and catering facilities in which food is prepared on the premises or elsewhere for serving elsewhere. The term "restaurant" shall include a bar area within the restaurant.

RESTAURANT/BAR: Any establishment having a restaurant or similar facility on the premises at least fifty percent (50%) of the gross income of which is derived from the sale of prepared meals or food consumed on such premises or which has an annual gross income of at least two hundred thousand dollars (\$200,000.00) from the sale of prepared meals or food consumed on such premises where alcohol is served.

RETAIL TOBACCO STORE: A retail store used primarily for the sale of smoking materials and smoking accessories in which the sale of other products is incidental and where smoking is permitted within the public place. "Retail tobacco store" does not include a tobacco department of a larger commercial establishment such as a department store, discount store or bar or retail stores used primarily for the sale of smoking materials where no provisions for smoking within the public place are provided or permitted.

SERVICE LINE: An indoor line in which one (1) or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money.

SHOPPING MALL: An enclosed public walkway or hall area that serves to connect retail or professional establishments.

SMOKING: Inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe or other lighted tobacco product, or any medical marijuana or marijuana-infused product, in any manner or in any form.

SPORTS ARENA: Sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition or witness sports or other events.

SECTION 270.020: APPLICATION OF CHAPTER TO CITY OWNED FACILITIES

All enclosed facilities, including buildings and vehicles owned, leased or operated by the City, shall be subject to the provisions of this Chapter.

SECTION 270.030: PROHIBITION OF SMOKING IN ENCLOSED PUBLIC PLACES

Smoking shall be prohibited in all enclosed public places, except as defined by Section 191.769, RSMo., (2—4) and (6) within the City.

SECTION 270.040: PROHIBITION OF SMOKING IN PLACES OF EMPLOYMENT

Smoking shall be prohibited in all enclosed facilities within places of employment, except those businesses where smoking is not regulated. Smoking is not prohibited in vehicles if occupied exclusively by the driver or if all passenger(s) consent. Smoking is not prohibited in the place of employment of a sole proprietor with no other employee(s) or in a place of employment of any individual who is the sole employee at a facility to which the public is not invited or in a place of employment where smoking is not regulated.

SECTION 270.050: PROHIBITION OF SMOKING IN OUTDOOR AREAS

Smoking shall be prohibited in the following outdoor places:

1. Within a reasonable distance of one hundred (100) feet outside entrances, operable windows and ventilation systems of enclosed areas where smoking is prohibited, so as to ensure that tobacco smoke does not enter those areas.
2. In all private outdoor arenas, stadiums, skate parks, ball fields and amphitheatres, except in designated smoking areas, which may be established only in perimeter areas at least one hundred (100) feet from any seating areas or concession stands. Smoking shall also be prohibited in and within one hundred (100) feet of bleachers and grandstands for use by spectators at sporting and other public events.
3. In all City park property.
4. In all public transit stations, platforms and shelters under the authority of the City.

SECTION 270.060: WHERE SMOKING NOT REGULATED

Notwithstanding any other provision of this Chapter to the contrary, the following areas shall be exempt from the provisions of Sections 270.030, 270.040 and 270.050:

1. Private residences, except when used as a childcare, adult day care or health care facility.

2. Private clubs, except when being used for a function to which the general public is invited; provided that smoke from such clubs does not infiltrate into areas where smoking is prohibited under the provisions of this Chapter.
3. Outdoor areas of places of employment except those covered by the provisions of Section 270.050.
4. Businesses licensed as restaurant bars or bars, as defined in this Chapter, as of the effective date of this Chapter.
5. Businesses licensed as bars, as defined in this Chapter, subsequent to the effective date of this Chapter.
6. Performers upon the stage provided the smoking is a required part of a theatrical production.
7. Any property owned or leased by a State or Federal governmental agency.

SECTION 270.070: SIGNAGE REQUIRED

Any establishment where smoking is not regulated must post at every entrance signage at a height and location conspicuous to persons entering the establishment with primary lettering of not less than one (1) inch in height clearly stating: "WARNING! Secondhand smoke causes coronary heart disease, lung cancer and premature death, according to the Surgeon General of the United States. Smoking is not regulated in this establishment."

SECTION 270.080: RESERVED

SECTION 270.090: DECLARATION OF ESTABLISHMENT AS NON-SMOKING

Notwithstanding any other provision of this Chapter, an owner, operator, manager or other person in control of an establishment, facility or outdoor area may declare that entire establishment, facility or outdoor area as a non-smoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of Section 270.100 is posted.

SECTION 270.100: POSTING OF SIGNS

- A. "No Smoking" signs shall be clearly and conspicuously posted in every public place and place of employment where smoking is prohibited by this Chapter, by the owner, operator, manager or other person in control of that place.
- B. Every public place and place of employment where smoking is prohibited by this Chapter shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited. Every vehicle that constitutes a place of employment under this Chapter shall have at least one (1) conspicuous sign, visible from the exterior of the vehicle, clearly stating that smoking is prohibited.

- C. All ashtrays shall be removed from any area where smoking is prohibited by this Chapter by the owner, operator, manager or other person having control of the area.

SECTION 270.110: RESERVED

SECTION 270.120: ENFORCEMENT

- A. This Chapter shall be enforced by the City Code Enforcement Officer, Police Department, or City Manager.
- B. Notice of the provisions of this Chapter shall be given to all applicants for a business license in the City.
- C. Any citizen who desires to register a complaint under this Chapter may initiate enforcement with the City Code Enforcement Officer.
- D. The Code Enforcement Officer shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this Chapter.
- E. An owner, manager, operator or employee of an establishment regulated by this Chapter shall inform persons violating this Chapter of the provisions of this Chapter.
- F. Notwithstanding any other provision of this Chapter, an employee or private citizen may bring legal action to enforce this Chapter.
- G. In addition to the remedies provided by the provisions of this Section, the Code Enforcement Officer or any person aggrieved by the failure of the owner, operator, manager or other person in control of a public place or a place of employment to comply with the provisions of this Chapter may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction.

SECTION 270.130: VIOLATIONS AND PENALTIES

- A. Upon conviction or a plea of guilty, any person, firm or corporation violating or failing to comply with any of the provisions of this Chapter shall be subject to the penalty provisions provided for in Section 100.220 of the City Code.
- B. In addition to the fines established by this Section, violation of this Chapter by a person who owns, manages, operates or otherwise controls a public place or place of employment may result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.
- C. Violation of this Chapter is hereby declared to be a public nuisance which may be abated by the Code Enforcement Officer by restraining order, preliminary and permanent injunction or other means provided for by law and the City may take action to recover the costs of the nuisance abatement.

- D. Each day on which a violation of this Chapter occurs shall be considered a separate and distinct violation.

SECTION 270.140: PUBLIC EDUCATION

The City shall engage in a continuing program to explain and clarify the purposes and requirements of this Chapter to citizens affected by it and to guide owners, operators and managers in their compliance with it. The program may include publication of a brochure for affected businesses and individuals explaining the provisions of this Chapter.

SECTION 270.150: OTHER APPLICABLE LAWS

This Chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.