

AN ORDINANCE TO PROVIDE PERSONS WITH ACCESS TO SMOKE-FREE AIR IN CERTAIN AREAS IN CERTAIN PUBLIC PLACES, WITH PENALTY PROVISIONS.

WHEREAS, the Missouri General Assembly has adopted the Missouri "Clean Indoor Air Act" more correctly known as Sections 191.765-191.777 Missouri Revised Statutes, and

WHEREAS, the people of this City are entitled to the freedom to attend public meetings and public functions without being subjected to second-hand air pollution, and

WHEREAS, the City governing body desires to adopt regulations compatible with the state regulation on this subject,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF ST. MARY, MISSOURI, AS FOLLOWS:

SECTION 1. OFFENSES.

The following shall be offenses under the ordinances of this community, and shall be punishable as provided in Section Six (6) of this Ordinance.

1. No person shall smoke in a public place or in a public meeting except in a designated smoking areas.
2. No proprietor or other person in charge of a public place or public meeting shall permit, cause, suffer or allow a person to smoke in those areas where smoking is prohibited.

SECTION 2. DUTIES OF PERSON HAVING CONTROL OF PUBLIC PLACE.

The person having custody or control of a public place or public meeting shall:

1. Make reasonable efforts to prevent smoking in the public place or public meeting by posting appropriate signs indicating no-smoking or smoking area and arrange seating accordingly. These signs shall be placed at a height and location easily seen by a person entering the public place or public meeting and not obscured in any way;
2. Arrange seating and utilize available ventilation systems and physical barriers to isolate designated smoking areas;
3. Making a reasonable request of persons smoking to move to a designated smoking area;
4. Allow smoking in designated areas of theater lobbies only.

SECTION 3. "PUBLIC PLACE" DEFINED.

A "public place" is any enclosed indoor area used by the general public or serving as a place of work including, but not limited to:

1. Any retail or commercial establishment;
2. Health care facilities, health clinics or ambulatory care facilities including, but not limited to, laboratories associated with health care treatment, hospitals, nursing homes, physicians' offices and dentists' offices;
3. Any vehicle used for public transportation, but not limited to, buses, taxicabs and limousines for hire;
4. Restrooms;
5. Elevators;
6. Libraries, educational facilities, day care facilities, museums, auditoriums and art galleries;
7. All public areas and waiting rooms of public transportation facilities including, but not limited to, bus and airport facilities;
8. Any enclosed indoor place used for entertainment or recreation including, but not limited to, gymnasiums, theater lobbies, concert halls, arenas and swimming pools;
9. Any other enclosed indoor areas used by the general public including, but not limited to, corridors and shopping malls;

However, the following areas are not considered a public place;

10. An entire room or hall which is used for private social functions, provided that the seating arrangements are under the control of the sponsor of the functions and not of the proprietor or other person in charge;

11. Limousines for hire and taxicabs, where the driver and all passengers agree to smoking in such vehicle;
12. Performers on the stage, provided that the smoking is part of the production;
13. A place where more than fifty percent of the volume of trade or business carried on is that of the blending of tobaccos or sale of tobaccos, cigarettes, pipes, cigars or smoking sundries;
14. Any bar, any tavern, a restaurant that seats less than fifty people, any bowling alley or any billiard parlor, provided such establishment post at least two signs stating that "Nonsmoking Areas are Unavailable";
15. Private residences; and
16. Any enclosed indoor arena, stadium or other facility which may be used for sporting events and which has a seating capacity of more than fifteen thousand persons.

SECTION 4. OTHER DEFINITIONS.

As used in this ordinance, the following terms mean;

1. "Bar" or "tavern", any licensed establishment which serves liquor on the premises for which not more than ten percent of the gross sales receipts of the business are supplied by food purchases, either for consumption on the premises or elsewhere;
2. "Other person in charge", the agent of the proprietor authorized to give administrative directions to and general supervisions of the activities within the public place, work place or public meeting at any given time;
3. "Proprietor", the party who ultimately controls, governs or directs the activities within the public place, work place or public meeting, regardless of whether he is the owner or lessor of such place or site. The term does not mean the owner of the property unless he ultimately controls, governs or directs the activities within the public place or public meeting. The term "proprietor" shall apply to a corporation as well as an individual;
4. "Public meeting", a gathering in person of members of a governmental body, whether an open or closed session, as defined in chapter 610, Revised Statutes of Missouri;
5. "Restaurant", any building, structure or ara used, maintained or advertised as or held out to the public to be an enclosure where meals for consideration of payment are made available to be consumed on the premises;
6. "Smoking", possession of burning tobacco in the form of a cigarette, cigar, pipe or other smoking equipment.

SECTION 5. DESIGNATED SMOKING AREA.

A smoking area may be designated by persons having custody or control of public places, except in places in which smoking is prohibited by the fire marshal or by other law, ordinance or regulation. No public place shall have more than thirty (30) percent of its entire space designated as a smoking area.

1. Restaurants. A proprietor or other person in charge of a restaurant shall designate an area of sufficient size to accommodate usual and customary demand for nonsmoking areas by customers or patrons.

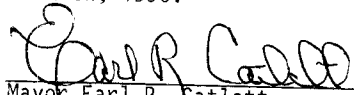
SECTION 6. PENALTY.

Any person who violates this ordinance shall be fined an amount not more than two hundred dollars.


SECTION 7. SEVERABILITY

It is the intention in adopting this ordinance that each section, subsection, paragraph, sentence, clause, and phrase contained herein are severable, and if any should be declared unconstitutional or otherwise invalid, such invalidity shall not effect any of the remaining sections, subsections, paragraphs, sentences, clauses and phrases.

Passed and approved this the 12th day of March, 1996.


 Mayor Earl R. Catlett

ATTEST:


 City Clerk JoAnn E. Donze

Aldermen	aye	nay	abstain	absent
Robert Bequette	X			
Roger Odem	X			
Robert Schultz				
Stephen Schwent	X			X

I, JoAnn E. Donze, Clerk of the City of St. Mary, Missouri do hereby certify that the foregoing ordinance was duly passed and adopted by the Board of Aldermen of the City of St. Mary at a regular meeting thereof assembled this the 12th day of March, 1996.

JoAnn E. Donze

 City Clerk JoAnn E. Donze