

Introduced by \_\_\_\_\_

First Reading \_\_\_\_\_

Second Reading \_\_\_\_\_

Ordinance No. \_\_\_\_\_

Council Bill No. B 407-06

**AN ORDINANCE**

amending Chapter 11 of the City Code as it relates to smoking in public places; and fixing the time when this ordinance shall become effective.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. Chapter 11 of the Code of Ordinances of the City of Columbia, Missouri, is hereby amended as follows:

Material to be deleted in ~~strikeout~~; material to be added underlined.

Sec. 11-290. Restrictions.

Except as provided in this article, the possession of lighted smoking materials in any form including, but not limited to, the possession of lighted cigarettes, cigars, pipes, or other tobacco products, is unlawful in any of the following places used by or open to the public or serving as a place of work:

- (1) Any commercial establishment including, but not limited to, retail stores, banks, office buildings, offices, ~~and restaurants,~~ and bars;
- (2) Any public transportation vehicle including, but not limited to, buses, limousines for hire, and taxicabs;
- (3) Elevators;
- (4) Restrooms;
- (5) Libraries, educational facilities, day care facilities, museums, auditoriums, and art galleries;
- (6) Any indoor public area of a health care facility, health clinic, or ambulatory care facility including, but not limited to, laboratories associated with the rendition of health care treatment, hospitals, rest homes, nursing homes, long-term care facilities and offices of health professionals;

- (7) Any indoor place of entertainment or recreation including, but not limited to, gymnasiums, theatres, concert halls, bingo halls, arenas, and swimming pools;
- (8) All public areas and waiting rooms of public transportation facilities including, but not limited to, bus and airport facilities;
- (9) Any other enclosed areas serving as a place of work or used by the public including open office landscaping and shopping malls;
- (10) Rooms in which meetings ~~and/or~~ hearings open to the public are held, except where such rooms are in a private residence;
- (11) Anywhere in any building owned or managed by the city;
- (12) Within twenty (20) feet of an entrance to any structure in which smoking is prohibited or limited by this article. This subsection shall not apply to any person in a motor vehicle or to any person merely passing by an entrance to a structure ~~or to any person seated in an outdoor dining area;~~
- (13) The seating areas and enclosed spaces of any stadium, outdoor arena or athletic field;
- (14) The patio areas of any restaurant, bar or other commercial establishment.

Sec. 11-291. Exemptions.

(a) Except as otherwise provided in subsection (b), the restrictions of this article shall not apply to:

- (1) ~~Areas which are specifically designated as smoking areas in accordance with this article;~~
- ~~(2) 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 function and not of the proprietor or person in charge of the place, room or hall has a separate ventilation system or negative pressure vented to the outside and provided that no employees of the establishment are exposed to smoke;~~
- ~~(3) Limousines for hire and taxicabs, when the driver and all passengers affirmatively consent to smoking in such vehicle;~~
- (42) A private, enclosed office that has a ventilation system that is not shared with non-smoking offices and that is occupied exclusively by smokers, ~~even~~

~~though such office may be visited by non-smokers, except where smoking is otherwise prohibited by law, and provided that~~ This exemption does not apply to offices that are visited by members of the public or by non-smoking employees of the business. ~~¶This exemption shall not be construed to permit smoking in the reception areas of lobbies or offices or in any building owned or managed by the city with the exception of airport buildings that are leased or owned by private commercial enterprises, provided that ¶This exemption does not permit individuals on said premises to smoke in hazardous areas that may exist within said~~ any buildings;

- ~~(5) Hospitals may accommodate smoking patients by providing smoking patient rooms;~~
- ~~(63)~~ Performers upon the stage, provided that the smoking is part of a theatrical production;
- ~~(74)~~ ~~Places where more than fifty (50) percent of the volume of trade or business carried on is that of the blending of tobaccos, or sale of tobaccos, pipes, cigars or smokers' sundries~~ Retail stores which are used primarily to sell tobacco products and accessories and in which the sale of other products is merely incidental;
- ~~(8) Restaurants which seat fewer than fifty (50) persons and which conspicuously post notice that non-smoking areas are unavailable;~~
- ~~(9) Bars, taverns, lounges.~~
- (5) Membership associations that meet the following criteria:
  - a. The association is a private, not for profit organization formed before April 1, 2006; and
  - b. The association is organized primarily for the benefit of its members; and
  - c. Association members pay dues; and
  - d. The association is managed and operated by a board consisting entirely of its own members; and
  - e. The association is organized primarily as a recreational, fraternal, athletic, military veteran, religious or kindred association; and
  - f. The association is not primarily engaged in preparing and serving food or alcoholic beverages by the drink; and

g. All operational duties of the association, other than professional duties, are performed by members of the association who are not compensated for performing such duties.

(b) The proprietor or person having control of an area which is otherwise exempt from the provisions of this article may apply the provisions of this article to such area by posting a "No Smoking" sign or a sign with the international "No Smoking" symbol in the area in accordance with the provisions of section 11-293.

Sec. 11-292. ~~Designation of smoking areas~~ Hotels and motels.

~~(a) When not otherwise prohibited by law, limited smoking areas may be designated by the proprietors or persons in charge of restaurants, bingo halls, pool halls and bowling alleys. The bowling areas, child care areas and youth recreation areas of a bowling alley shall not be designated smoking areas. Youth bowling leagues and youth bowling tournaments shall not be conducted in any bowling alley while smoking is allowed in designated areas of the bowling alley. Nothing in this section shall be construed to require the designation of smoking areas.~~

~~(b) Where smoking areas are designated, existing physical barriers and functioning ventilation systems may be used to minimize the irritating and toxic effects of smoke in adjacent non-smoking areas. This provision shall not be construed to require fixed structural or other physical modifications in providing these areas or to require operation of any existing heating, ventilating and air conditioning system in any manner which decreases its energy efficiency or increases its electrical demand, or both, nor shall this provision be construed to require installation of new or additional heating, ventilating or air conditioning systems.~~

~~(c) No area shall be designated a smoking area if it must be crossed to obtain access to a non-smoking area or a restroom. This subsection shall not apply when there is no feasible alternative area to designate a smoking area without making structural alterations.~~

Hotels and motels shall designate non-smoking rooms.

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Sec. 11-294. Public education.

The director of health shall engage in a continuing program to inform and to educate the public regarding the health consequences of smoking; shall clarify the purposes of this article to citizens affected by it; and shall guide owners, operators, and managers in their compliance.

Sec. 11-295. Penalty.

Any person violating, neglecting, or refusing to comply with any provision of this article shall be guilty of an infraction ~~and shall be fined as set out in chapter 16 of this Code punishable by a fine of not more than two hundred dollars (\$200.00).~~

Sec. 11-296. Enforcement.

The authority to administer and enforce the provisions of this article is vested in the director ~~of health and his~~ the director's duly authorized ~~representative or representatives.~~

SECTION 2. This ordinance shall be in full force and effect from and after its passage.

PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor and Presiding Officer

APPROVED AS TO FORM:

\_\_\_\_\_  
City Counselor

Source

Health  
S. Browning

*S. Browning*

**TO:** City Council  
**FROM:** City Manager and Staff  
**DATE:** September 12, 2006  
**RE:** Smoking Ordinance



**EXECUTIVE SUMMARY:**

Amending Chapter 11 of the City Code as it relates to smoking in public places.

Fiscal Impact

YES  
NO X

**DISCUSSION:**

The Board of Health has carefully considered the matter of amending the existing smoking ordinance to strengthen worker protection from exposure to environmental tobacco smoke. Council accepted the report of the Board of Health in July 2006. A Council work session is scheduled for October 9, 2006 to hear public comment regarding the proposed changes.

The proposed amendment would prohibit smoking in the following areas:

- the indoor premises and outdoor patios of bars / restaurants;
- the seating areas and enclosed spaces of stadiums, athletic fields, and arenas;
- limousines and taxicabs;
- bowling alleys.

The ordinance provisions do not apply to:

- retail stores which are primarily used to sell tobacco products;
- private offices not open to the public and who do not have non-smoking employees;
- private, non-profit membership associations where activities of the association are performed by uncompensated members of the association.

**FISCAL NOTE:**

None

**SUGGESTED COUNCIL ACTION:**

If Council is in support of the Board of Health recommendation to amend the smoking ordinance, an affirmative vote is in order.

Other Info.