

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 215 OF THE CODE OF ORDINANCES OF THE CITY OF CREVE COEUR REGARDING SMOKING IN PUBLIC PLACES.

WHEREAS, Chapter 215 of the City Code of Ordinances address issues regarding public health including restriction of smoking in public places; and

WHEREAS, the City Council has determined that it is in the public interest and that it will further protect the public health by changing such provisions to restrict smoking in outdoor dining and seating areas;

NOW, THEREFORE, be it ordained by the City Council of the City of Creve Coeur, Missouri, as follows:

Section 1. Sections 215.080 and 215.090 of the Code of Ordinances are hereby amended to read as follows:

Section 215.080. Definitions.

[Ord. No. 5158 §1, 11-8-2010; Ord. No. 5215 §1, 8-22-2011]

As used in this Article, the following words shall have the meanings indicated:

BUSINESS

A sole proprietorship, partnership, joint venture, corporation, 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

Any person who performs services for an employer, with or without compensation.

EMPLOYER

A person, partnership, association, corporation, trust or other organized group of individuals, including the City or other governmental body or any agency thereof, which utilizes the services of at least one (1) employee.

ENCLOSED AREA

Any indoor space and any space bound by walls (with or without windows or doors) or similar partitions on at least three (3) sides that effectively divide space from the floor to ceiling, including, but not limited to, offices, rooms, all space therein screened by partitions which do not extend to the ceiling or are not solid, "office landscaping" or similar structures and hallways, designed for human occupancy in which people congregate including for amusement, entertainment, eating, drinking, education, labor, or similar purposes, including, but not limited to, bars and restaurants.

PERMANENTLY DESIGNATED SMOKING ROOM

A hotel or motel room that may be designated as a smoking room, with such designation being changeable only one (1) time per calendar year.

PLACE OF EMPLOYMENT

Any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference rooms and classrooms, employee cafeterias and hallways. 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

A not-for-profit organization incorporated or chartered by law for fraternal or social purposes, which has a defined membership and restricts admission to members of the club and their guests. Private club shall not include an establishment that is generally open to members of the general public upon payment of a fee or that has employees and meets the definition of place of employment. A private club shall not be considered a "public place" except when it is the site of a meeting, event or activity that is open to the public. A private club shall not be considered a "place of employment" by reason of the occasional use of independent contractors, such as caterers that have their own employees, in the club's enclosed areas.

PUBLIC MEETING

A gathering in person of members of a governmental body, whether in open or closed session, as defined in Chapter 610, RSMo.

PUBLIC PLACE

Any enclosed area, outdoor dining or seating area, or service line to which the public is invited or in which the public is permitted. A private residence is not a "public place" unless it is used as a child care, adult day care, or health care facility. Outdoor areas are not "public places" as defined herein, other than such outdoor dining or seating areas or service lines.

SERVICE LINE

Any indoor or outdoor line at which one (1) or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money. A service line is a public place. People waiting inside their cars, such as in a drive-thru line, shall not be considered to be in a "service line" as defined herein.

SMOKING

Inhaling, exhaling, burning or carrying any ignited, lighted or heated cigarette, cigar, pipe or other smoking product, equipment or apparatus involving tobacco or other plant material or nicotine in any form.

SMOKING SHELTER

An accessory structure that meets all applicable provisions of the zoning and building codes, with a maximum size of two hundred (200) square feet, that is detached from principal buildings, that is located more than twenty-five (25) feet from entrances, exits, operable windows and ventilation intakes of public places and places of employment, in which there is no service, possession or consumption of food or alcoholic beverages, and that is no more than seventy-five percent (75%) enclosed at any time. The percentage of enclosure shall be calculated based on the elevation area below the roof of all elevations. For calculation

purposes, screens are not considered to be enclosures but louvers, windows and other solid materials qualify as enclosures. No other wall, fence, roof overhang or other obstruction of any kind may be located within five (5) feet of the openings if they have the effect of blocking the free flow of air through the required opening.

Section 215.090. Prohibition of Smoking in Places of Employment and Public Places.

[Ord. No. 5158 §1, 11-8-2010; Ord. No. 5215 §1, 8-22-2011]

A.

No person shall engage in smoking in any place of employment or any vehicle owned by the City of Creve Coeur.

B.

No person shall engage in smoking in a public place or in a public meeting.

C.

No person shall engage in smoking on any sidewalk, driveway or other open area within fifteen (15) feet of the entry to any place of employment, public place, or public meeting, or within fifteen (15) feet of any public place that is an outdoor dining or seating area or service line, provided that no person who simply walks past such an area along a route open to the public shall be charged with a violation of this section. ~~provided that this prohibition shall not apply within any outside dining area where smoking is permitted by the proprietor.~~

D.

No person shall dispose of smoking waste or place or maintain a receptacle for smoking waste in any area in which smoking is prohibited under this Article.

E.

Exceptions. Notwithstanding any other provision of this Article to the contrary, the following shall not be subject to the smoking restrictions of this Article:

1.

Private residences, not serving as places of employment or public places, and private vehicles;

2.

Private clubs except for any such club which was not already open to its members within the City prior to January 1, 2011 which is also a place of employment and except for any such club regardless of when first open to members within the City when it is the site of a meeting, event or activity that is open to the public;

3.

Permanently designated smoking rooms, not to exceed twenty percent (20%) of the guest rooms of the hotel or motel.

4.

Smoking shelters.

Section 2. This ordinance shall become effective in accordance with Section 3.11 (g) of the City Charter.

ADOPTED THIS ____ DAY OF _____, 2016.

ELLEN LAWRENCE
PRESIDENT OF CITY COUNCIL

APPROVED THIS ____ DAY OF _____, 2016

BARRY GLANTZ, MAYOR

ATTEST:

DEBORAH RYAN, CITY CLERK, MPCC