

BILL 1331

ORDINANCE 2295

**AN ORDINANCE TO REGULATE SMOKING IN PLACES OF PUBLIC ACCOMMODATION IN THE CITY OF PLATTSBURG, MISSOURI.**

Whereas, the Board of Aldermen of the City of Plattsburg, Missouri, passed an ordinance to call for an election in November 2016 as to whether smoking should be prohibited in certain public areas; and

Whereas, on November 8, 2016, the citizens of the City of Plattsburg voted 551 in favor, and 371 against, a prohibition on smoking in certain public areas; and

Whereas, the Board of Aldermen desires to affirm the will of the voters and enact a smoking prohibition that protects the health of the public in places of public accommodation, while respecting the rights of private property owners; therefore,

Be it ordained by the Board of Aldermen of the City of Plattsburg, Missouri, as follows:

- I. The Municipal Code of Plattsburg, Missouri is revised by adding a new Chapter 255, to read as follows

**CHAPTER 255: SMOKING REGULATIONS**

**SECTION 255.010: PROHIBITION OF SMOKING IN PLACES OF PUBLIC ACCOMMODATION**

- A. The following words, when used in the article, will have the meanings as ascribed herein, except where the context clearly indicates a different meaning:
  - i. ***“Enclosed”*** means all space between a floor and a ceiling that is enclosed by walls, doorways, or windows, whether open or closed. A wall includes any retractable divider, garage door, or physical barrier, whether temporary or permanent.
  - ii. ***“Place of Public Accommodation”*** means all places or businesses where the general public is invited or permitted to be present. Places of Public Accommodation include, but are not limited to, banks, educational facilities, health facilities, laundry facilities, public transportation facilities, reception areas, waiting rooms, restaurants, retail establishments, stores, theaters, bars, bowling alleys, gymnasiums, spas, and salons. A building may contain areas that are places of public accommodation, and areas that are not.
  - iii. ***“Private Club”*** means any place or business permitting the presence of only members and their bona fide guests, and where the general public

is not welcome. A Private Club is not a Place of Public Accommodation, except for such occasions as a Private Club permits the presence of members of the general public.

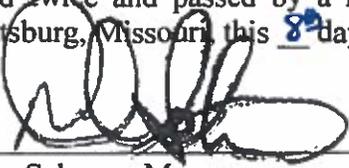
iv. **Smoking** or **“to Smoke”** means inhaling, exhaling, burning, carrying or possessing any lighted cigar, cigarette, pipe, other tobacco product, electronic cigarette, e-cigarette, vapor pen, personal vaporizer, or electronic nicotine delivery system.

- B. Smoking is prohibited in all enclosed places of public accommodation.
- C. No one Smoke within 10 feet of the entrance to an enclosed place of public accommodation.
- D. A hotel, motel, bed-and-breakfast, or provider of lodging for daily rental may designate up to 25% of its available room space as “smoking” rooms. Smoking is allowed in rooms so designated, but not in other enclosed places of public accommodation in such places, or in the rooms not designated as smoking rooms.
- E. A person having ownership, management, or control of an enclosed place of public accommodation shall not knowingly permit or allow any person to to Smoke in such place. It shall be an affirmative defense to such alleged violation hereunder if a person having ownership, management, or control of an enclosed place of public accommodation has asked the person Smoking to discontinue Smoking and to leave the enclosed place of public accommodations.
- F. A person having ownership, management, or control of an enclosed place of public accommodation shall clearly and conspicuously post “No Smoking” signs or symbols at all entrances where Smoking is prohibited by this Section.
- G. A person who Smokes in an area where Smoking is prohibited by the provisions of this Section shall be guilty of an ordinance violation, punishable by a fine not to exceed \$50.
- H. A person having ownership, management, or control of an enclosed place of public accommodation and who fails to comply with the provisions of this Section shall be guilty of an ordinance violation, punishable as follows:
  - i. For a first violation, a fine and court costs not to exceed \$200.
  - ii. For a second violation within a 12-month period, a fine and court costs not to exceed \$275.

iii. For a third or subsequent violations within a 12-month period, a fine and court costs not to exceed \$350.

2. This ordinance shall be in full force and effect upon approval by the Board of Aldermen of the City of Plattsburg.

Read twice and passed by a majority vote of the Board of Aldermen of the City of Plattsburg, Missouri, this 8<sup>th</sup> day of December, 2016.



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Dave Schauer, Mayor

ATTEST:



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Lisa Read, City Clerk