

AN ORDINANCE AMENDING CHAPTER 95 OF THE 1988 CITY OF SPRINGFIELD CODE OF ORDINANCES, AS AMENDED, BY ADDING ARTICLE XIV, THE SPRINGFIELD CLEAN INDOOR AIR ORDINANCE OF 2006, AS AMENDED.

WHEREAS, many health organizations have conducted studies that show secondhand smoke can cause health problems in non-smokers; and

WHEREAS, secondhand smoke is particularly hazardous to elderly people, people with cardiovascular disease, and individuals with impaired respiratory function; and

WHEREAS, children exposed to secondhand smoke have an increased risk of asthma, respiratory infections, sudden death syndrome, developmental abnormalities and cancer; and

WHEREAS, the City Council desires to promote public health while simultaneously protecting the economic stability of the local business community; and

WHEREAS, Public Act 94-517, effective January 1, 2006, amends the Illinois Clean Indoor Air Act, 410 ILCS 80/1 *et seq.*, to allow municipalities to regulate smoking in public places.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SPRINGFIELD, ILLINOIS:

Section 1: That the City Council of the City of Springfield, Illinois, hereby amends Chapter 95 of the 1988 City of Springfield Code of Ordinances, as amended, by adding Article XIV, attached hereto as Exhibit A.

Section 2: That the previous Article XIV, Penalty, is renumbered as Article XV.

Section 3: This ordinance shall become effective on September 17, 2006, at 3:00 a.m.

PASSED: _____, 2006

SIGNED: _____, 2006

RECORDED: _____, 2006

MAYOR

ATTEST: _____
CITY CLERK

Approved as to legal sufficiency:

Requested by: Mayor Timothy J. Davlin

Office of Corporation Counsel/Date

EXHIBIT A

ARTICLE XIV. THE SPRINGFIELD CLEAN INDOOR AIR ORDINANCE OF 2006.

§ 95.751 Title.

This Article shall be known as the Springfield Clean Indoor Air Ordinance of 2006.

§ 95.752 Interpretation With Other Laws.

Nothing in this Article overrides any existing elimination of smoking that is already covered by fire code restrictions.

§ 95.753 Definitions.

The following words and phrases shall have the following meanings when used in this Article:

“Employee” means any person who is employed by an employer in consideration for direct or indirect monetary wages or profit.

“Employer” means any person, business, partnership, corporation or association, including without limitation a municipal corporation, trust, or non-profit entity that employs the services of more than two persons.

“Health Care Facility” means any office or institution providing care or treatment of diseases, whether physical, mental, emotional or physiological, including without limitation hospitals, rehabilitation hospitals or facilities, clinics, nursing homes, homes for the chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semi-private rooms and wards within health care facilities.

“Place of Employment” means any enclosed area under the control of a public or private employer where employees are during the course of employment, including but without limitation work areas, employee lounges, restrooms, conference rooms, classrooms, employee cafeterias, hallways and vehicles. A private residence is not a “Place of Employment” unless it is used as a childcare, adult day care or health care facility.

“Public Place” means any enclosed indoor area to which the public is invited or in which the public is permitted, including without limitation banks, bars, concert facilities, educational facilities and government buildings to the extent the place is subject to the jurisdiction of the City, health care facilities, laundromats, members-only clubs or associations, museums, public transportation facilities, reception areas, restaurants, retail service establishments, retail stores, shopping malls, sports arenas, theatres, and zoos. A private residence is not a “Public Place” unless it is used as a childcare, adult day care or health care facility.

“Retail Tobacco Store” means any retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental, does not hold a liquor license, and where no one under 18 is permitted.

“Smoking” means inhaling, exhaling, burning or carrying any lighted cigar, cigarette or other lighted tobacco product in any manner or in any form.

§ 95.754 Prohibition of Smoking in Public Places and Places of Employment.

Smoking shall be prohibited in public places and places of employment within the City of Springfield, except as provided in section 95.756.

§ 95.755 Duty to Inform Employees of Smoking Prohibition.

Each employer, owner or manager whose place of employment is affected by the prohibition of smoking set forth in this Article shall inform all existing employees by the effective date of this Article and all prospective employees upon their application for employment of the prohibition on smoking.

§ 95.756 Exemptions.

Notwithstanding any other provision of this Article to the contrary, the following areas shall be exempt from the provisions of this Article:

- (a) Private residences, except when used as a childcare, adult care facility or health care facility.
- (b) Private vehicles.
- (c) Hotel and motel sleeping rooms that are rented to guests and are designated as smoking rooms provided, however, that not more than 25 percent (25%) of the rooms rented to guests in a hotel or motel may be so designated.
- (d) Retail tobacco stores, provided that smoke from these places does not infiltrate into areas where smoking is prohibited under the provisions of this Article.
- (e) Stage productions, ballets or similar exhibitions where a cast member smokes as part of a performance.
- (f) Private and semi-private rooms in nursing homes and long-term care facilities that are occupied by one or more persons, all of whom are smokers, and have requested, in writing, to be placed in a room where smoking is permitted.

§ 95.757 Declaration of Establishments or Outdoor Areas as Non-Smoking.

Notwithstanding any other provision of this Article, 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 by conforming to the requirements of section 95.758.

§ 95.758 Posting of Signs.

Every public place and place of employment where smoking is prohibited by this Article shall have posted at all public and employee entrances a conspicuous sign clearly stating that smoking is prohibited. Those public places where limited smoking is allowed shall have posted at all public and employee entrances a conspicuous sign clearly stating that smoking is allowed only in the following areas: (list of areas where smoking is allowed in conformance with this Article).

Smoking shall be prohibited in any place in which a sign conforming to the smoking prohibition requirements of this Article is posted.

§ 95.759 Removal/Restriction of Smoking Paraphernalia.

The owner, operator, manager or other person having control of an area where the provisions of this Article prohibit smoking shall remove all ashtrays and other smoking paraphernalia intended for use where smoking is prohibited. Such smoking paraphernalia may be maintained in those restricted areas where smoking is allowed.

§ 95.760 Non-retaliation.

No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or customer because that employee, applicant or customer exercises any rights afforded by or reports a violation of this Article. No employee or customer may in any manner retaliate against an employer or business owner, operator, manager or employee because that employer or place of business enforced the provisions of this Article.

§ 95.761 Enforcement.

- (a) The applicable local health department shall enforce the provisions of this Article.
- (b) Notice of the provisions of this Article shall be given to all applicants for a business license in the City of Springfield.
- (c) Any person who desires to register a complaint under this Article may initiate enforcement with the local health department.
- (d) The local health department shall, while a business is undergoing otherwise mandated inspections, inspect for compliance with the provisions of this Article.
- (e) An owner, operator, manager or employee of a business regulated by this Article shall so inform persons in their establishments who are violating this Article of the appropriate provisions thereof.
- (f) In addition to the remedies provided by the provisions of this Article, the applicable local health department may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction.

§ 95.762 Violations and Penalties.

- (a) A person who smokes in an area prohibited by this Article shall be guilty of an infraction, punishable by a fine not less than fifty dollars (\$50) and not more than three hundred dollars (\$300).
- (b) A person or entity that owns, manages, operates or otherwise controls a public place or place of employment and who fails to comply with the provisions of this Article shall be guilty of an infraction, punishable by:
 - (1) A fine not exceeding fifty dollars (\$50) for the first violation. For purposes of this provision, a first violation is one violation in any twelve-month period.
 - (2) A fine not exceeding two hundred dollars (\$200) for the second violation within one (1) year of the first violation.
 - (3) A fine not more than five hundred dollars (\$500) for each additional violation within one (1) year and a five (5) day suspension or revocation of any permit or license issued by the City of Springfield to the person for the premises on which the violation occurred.
 - (4) Each day on which a violation of this Article occurs shall be considered a separate and distinct violation.
 - (5) Revenues collected pursuant to the enforcement of this Article shall be dedicated to the enforcement of such Article and to public education.

§ 95.763 Public Education.

The applicable local health department shall engage in a continuing program to explain and clarify the purposes and requirements of this Article to citizens affected by it, and to guide owners, operators and managers in their compliance with it.

§ 95.764 Government Agency Cooperation.

The Mayor and the City Council shall annually request that other governmental and additional agencies having facilities located within the City of Springfield establish local operating procedures in cooperation and compliance with this Article. This includes urging all federal, state, county, city, special district and school district agencies to update their existing smoking control regulations to be consistent with the provisions of this Article.

§ 95.765 Severability.

If any provision, clause, sentence or paragraph of this Article or the application thereof to any person or circumstance shall be held invalid by a court of competent jurisdiction, such invalidity shall not affect the other provisions of this Article that can be given effect without the invalid provision or application, and to the end the provisions of this Article are declared to be severable.