

BILL NO. 19-069

ORDINANCE NO. 19053

AN ORDINANCE AMENDING CHAPTER 11, ARTICLE 2 "SMOKING IN PUBLIC PLACES AND PLACES OF EMPLOYMENT," OF THE INDEPENDENCE CITY CODE TO UPDATE SECTION 3 "DEFINITIONS."

WHEREAS, a need has been determined to revise provisions within Chapter 11 of the Independence City Code; and,

WHEREAS, numerous studies have found that tobacco smoke is a major contributor to indoor air pollution, and that breathing secondhand smoke (also known as environmental tobacco smoke) is a cause of disease in smokers and healthy nonsmokers alike, including heart disease, stroke, respiratory disease, and lung cancer; and,

WHEREAS, the use of electronic cigarettes is on the rise, and smoke-free laws create an environment that discourages kids from starting smoking; and,

WHEREAS, secondhand smoke is particularly hazardous to elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease. Children exposed to secondhand smoke have an increased risk of asthma, respiratory infection, sudden infant death syndrome, developmental abnormalities, and cancer; and,

WHEREAS, the Independence City Council has determined to make certain changes to the Code;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF INDEPENDENCE, MISSOURI, AS FOLLOWS:

SECTION 1. Section 11.02.003 of the Independence City Code is hereby amended as follows:

"SEC. 11.02.003. DEFINITIONS.

The following words and phrases, whenever used in this Article, shall be as defined as follows:

BAR means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to, taverns, nightclubs, cocktail lounges and cabarets, and which hold one of the following liquor licenses: (i) retailer of non-intoxicating beer by the drink; (ii) retailer of malt liquor and light wine by the drink; or (iii) retailer of intoxicating liquor by the drink.

BUSINESS means a sole proprietorship, partnership, joint venture, corporation, or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered.

**ELECTRONIC CIGARETTE means any electronically actuated device which in operation causes the user to exhale any smoke, vapor, or other substance other than those produced by unenhanced human exhalation. ELECTRONIC CIGARETTE includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, a nicotine replacement device, or under any other product name or descriptor. The term ELECTRONIC CIGARETTE does not include any asthma inhaler or other device that has been specifically approved by the United States Food and Drug Administration.**

EMPLOYEE means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and a person who volunteers his or her services for a non-profit entity.

EMPLOYER means a person, business, partnership, association, corporation, including a municipal corporation, trust, or non-profit entity that employs the services of one or more individual persons.

ENCLOSED AREA means all space between a floor and ceiling that is enclosed on all sides by walls or windows (exclusive of doorways).

HEALTH CARE FACILITY means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of physicians, chiropractors, physical therapists, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.

PLACE OF EMPLOYMENT means an area under the control of a public or private employer that employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, and vehicles. A private residence is not a "place of employment" unless it is used as a child care, adult day care, or health care facility.

PUBLIC PLACE means an enclosed area to which the public is invited or in which the public is permitted, including but not limited to, banks, bars, educational facilities, health care facilities, laundromats, public transportation facilities, reception areas, restaurants, casinos, food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A private residence is not a "public place" unless it is used as a child care, adult day care, or health care facility.

RESTAURANT means an eating establishment, including but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" shall include a bar area within the restaurant.

SERVICE LINE means an indoor line in which one (1) or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money.

SHOPPING MALL means an enclosed public walkway or hall area that serves to connect retail

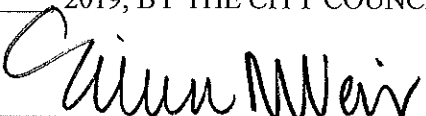
or  
professional establishments.

**SMOKE or SMOKING means either (1) the inhaling, exhaling, burning, or carrying of any lighted or heated cigar, cigarette, pipe, weed, plant, herb, hookah, any other lighted or heated smoking equipment or other combustible substance in any manner or in any form; or (2) the use of any electronic cigarette in any form including vaping.**

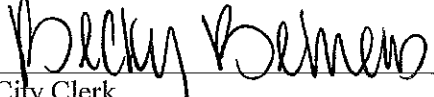
SPORTS ARENA means sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys, and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events.

SECTION 2. That all other parts and provisions of the City Code remain in full force and effect unless previously or subsequently amended or repealed.

PASSED THIS 7<sup>th</sup> DAY OF October 2019, BY THE CITY COUNCIL  
OF THE CITY OF INDEPENDENCE, MISSOURI.

  
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Presiding Officer of the City Council  
of the City of Independence, Missouri

ATTEST:

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

APPROVED AS TO FORM AND LEGALITY:

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

REVIEWED BY:

  
\_\_\_\_\_  
City Manager