

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF LEE'S SUMMIT, MISSOURI, CHAPTER 17, OFFENSES, ARTICLE X, CLEAN INDOOR AIR ACT OF 2006, TO PROHBIT SMOKING IN ALL RESTAURANTS AND BARS IN THE CITY OF LEE'S SUMMIT, MISSOURI, EFFECTIVE ONE HUNDRED TWENTY (120) DAYS FROM AND AFTER APPROVAL BY A MAJORITY OF THE VOTERS OF THE CITY, AUTHORIZING AND DIRECTING SUBMITTAL TO THE VOTERS IN THE CITY OF LEE'S SUMMIT, MISSOURI, AT AN ELECTION TO BE HELD ON NOVEMBER 7, 2006, AND PROVIDING THAT NOTICE OF SAID ELECTION BE GIVEN.

WHEREAS, on the \_\_\_ day of August, 2006, the Council adopted Article X of Chapter 17 of the Code of Ordinances, the Clean Indoor Air Act of 2006, which provides for clean indoor air in workplaces and public places in the City of Lee's Summit, but which exempts restaurants and bars under certain circumstances from its prohibition against smoking in enclosed workplaces and public places in Lee's Summit, and,

WHEREAS, the City Council desires to submit to the voters at the November 7, 2006 election, a proposed amendment to Article X of Chapter 17, to repeal provisions exempting restaurants and bars under certain circumstances from the prohibition against smoking in enclosed workplaces and public places in Lee's Summit, to be effective one hundred twenty (120) days from and after the date of approval by a majority of the voters of the city

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That Chapter 17 of the Code of Ordinances of the City of Lee's Summit, Missouri, Article X, Clean Indoor Air Act of 2006, Section 17-307, Where Smoking Not Regulated, shall be amended by repealing Subsections H and I, in order to delete provisions exempting restaurants and bars under certain circumstances from Article X's prohibition against smoking in enclosed public places, Section 17-307 to read as follows:

"Sec 17-307 Where Smoking Not Regulated

Notwithstanding any other provision of this Article to the contrary, the following areas shall be exempt from the provisions of Sections 17-305 and 17-306:

- A. Private residences, except when used as a licensed child care, licensed adult day care, or licensed health care facility.
- B. Private vehicles.
- C. Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided, however, that not more than twenty percent (20%) of rooms rented to guests in a hotel or motel may be so designated.
- D. Private and semiprivate rooms in nursing homes and long-term care facilities that are occupied by one (1) or more persons, all of whom are smokers and have requested to the management thereof in writing to be placed in a room where smoking is permitted.

E Outdoor areas of places of employment

F Retail tobacco stores as defined in Section 17-303 of this Article in operation prior to the effective date of this ordinance. Any new retail tobacco store or any existing retail tobacco store that relocates to another site may only qualify for this exemption if either (a) it is located in a freestanding structure occupied solely by the business or (b) it (i) is completely enclosed on all sides by solid walls extending from the floor to the underside of the floor or roof deck above; (ii) complies with all applicable fire and building code requirements; and (iii) has a separate ventilation system whereby the air from such space is immediately exhausted to an outdoor area rather than being recirculated inside, and is negatively pressurized to prevent back streaming of second-hand smoke into adjoining areas located in a freestanding structure, and (c) it has posted at every entrance signage at a height and location conspicuous to persons entering the establishment, with primary lettering of not less than one inch in height clearly stating

**"WARNING!**

Secondhand smoke causes coronary heart disease, lung cancer and premature death, according to the Surgeon General of the United States

Retail tobacco stores as defined in Section 17-303 of this Article in operation prior to the effective date of this ordinance shall, however, also be required to post the foregoing-described signage at every entrance at a height and location conspicuous to persons entering the establishment, with primary lettering of not less than one inch in height in order to remain exempt under this section

G Private clubs as defined in Section 17-303 of this Article. A private club may only qualify for this exemption if either (a) it is located in a freestanding structure occupied solely by the private club and throughout which entire premises smoking is permitted or (b) it (i) is completely enclosed on all sides by solid walls extending from the floor to the underside of the floor or roof deck above, (ii) complies with all applicable fire and building code requirements; and (iii) has a separate ventilation system whereby the air from such space is immediately exhausted to an outdoor area rather than being recirculated inside, and is negatively pressurized to prevent back streaming of second-hand smoke into adjoining areas located in a freestanding structure, and (c) it has posted at every entrance signage at a height and location conspicuous to persons entering the establishment, with primary lettering of not less than one inch in height clearly stating

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~~[H-- Restaurants as defined in Section 17-303 of this Article which have been previously qualified and designated as Smoking Restricted Establishments pursuant to Section 17.6 of the City Code, prior to the passage of this Article-- This exemption shall sunset on the 7<sup>th</sup> anniversary of the effective date of this Article -- A restaurant may only qualify for this exemption if it has posted at every entrance signage at a height and location conspicuous~~

to persons entering the establishment, with primary lettering of not less than one inch in height clearly stating

**"THIS IS A SMOKE-RESTRICTED ESTABLISHMENT.**

Smoking is permitted only in certain separately ventilated and designated areas. Secondhand tobacco smoke is not circulated to nonsmoking areas. (Pursuant to LSCO Section 17-307)."

And only if it has posted at every entrance to the area where smoking is permitted signage at a height and location conspicuous to persons entering the area, with primary lettering of not less than one inch in height clearly stating

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~~Bars as defined in Section 17-303 of this Article. A bar may only qualify for this exemption if it does not allow admission to any person under the age of 21 and either (a) it is located in a freestanding structure occupied solely by the business or (b) (i) is completely enclosed on all sides by solid walls extending from the floor to the ceiling inside of the floor or roof deck above; (ii) complies with all applicable fire and building code requirements; and (iii) has a separate ventilation system whereby the air from such space is immediately exhausted to an outdoor area rather than being recirculated inside, and is negatively pressurized to prevent back streaming of second-hand smoke into adjoining areas located in a freestanding structure, and (c) it has posted at every entrance signage at a height and location conspicuous to persons entering the establishment, with primary lettering of not less than one inch in height clearly stating~~

**"WARNING!**

Secondhand smoke causes coronary heart disease, lung cancer and premature death, according to the Surgeon General of the United States." ]"

SECTION 2: That the amendment to Section 17-307 of Chapter 17 of the Code of Ordinances of the City of Lee's Summit, Missouri, Article X, Clean Indoor Air Act of 2006, herein, shall be effective one hundred twenty (120) days from and after the date of approval of this ordinance by the voters of the city.

SECTION 3: That this ordinance shall be referred to the people for approval and shall be in full force and effect from and after the date of its approval by a majority of the votes cast thereon.

SECTION 4: That an election shall be held on November 7, 2006, placing before the voters within the City of Lee's Summit the following question:

"Shall Article X of Chapter 17 of the Code of Ordinances of the City of Lee's Summit, Missouri, be amended to prohibit smoking in all restaurants and bars in the City of Lee's

Summit, Missouri, effective one hundred twenty (120) days from and after the date of approval by a majority of the voters of the city?"

SECTION 5 The form of Notice of Election showing said question, a copy of which is attached hereto and made a part hereof, is hereby approved.

SECTION 6. That at said election the qualified registered voters of the city shall vote at the polling places within the city, as designated by the Board of Election Commissioners of Jackson County, Missouri, and the Election Authority of Cass County, Missouri.

SECTION 7 That the judges and clerks at said election shall be designated by the Board of Election Commissioners of Jackson County, Missouri, and the Election Authority of Cass County, Missouri.

SECTION 8. The City Clerk is hereby authorized and directed to notify the Board of Election Commissioners of Jackson County, Missouri, and the County Clerk of Cass County, Missouri, of the passage of this Ordinance no later than 5:00 P.M. on Tuesday, August 29, 2006, and to include in said notification all of the terms and provisions required by Chapter 115, RSMo, as amended.

SECTION 9 That this ordinance shall be in full force and effect from and after the date of its passage and approval.

PASSED by the City Council of the City of Lee's Summit, Missouri, this 10<sup>th</sup> day of August, 2006.

*Karen R. Messerli*  
Mayor Karen R. Messerli

ATTEST:

*Denise R. Chisum*  
City Clerk Denise R. Chisum

APPROVED by the Mayor of said city this 10<sup>th</sup> day of August, 2006

*Karen R. Messerli*  
Mayor Karen R. Messerli

ATTEST:

*Denise R. Chisum*  
City Clerk Denise R. Chisum

APPROVED AS TO FORM:

*Robert H. Handley*  
City Attorney Robert H. Handley