

City of St. Charles, Illinois

Ordinance No. 2007-M-9

**An Ordinance Amending Title 8 (Health and Safety) of
the St. Charles Municipal Code**

**Adopted by the
City Council
of the
City of St. Charles
February 5, 2007**

**Published in pamphlet form by
authority of the City Council
of the City of St. Charles,
Kane and Du Page Counties,
Illinois, February 9, 2007**

Nancy Garrison

City Clerk



2/9/07
pamphlet

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CITY CLERK 2/5/07
PAGE

ORDINANCE NO. 2007-M-9

CITY OF ST. CHARLES, ILLINOIS

AN ORDINANCE AMENDING TITLE 8 (HEALTH AND SAFETY)
OF THE ST. CHARLES MUNICIPAL CODE

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

WHEREAS, children exposed to secondhand smoke have an increased risk of asthma, respiratory infections and cancer; and

WHEREAS, smoking is a potential cause of fires; and

WHEREAS, pursuant to the Illinois Clean Indoor Air Act (410 ILCS 80/1 *et seq.*) municipalities are expressly permitted to regulate smoking in public places; and

WHEREAS, the City of St. Charles has held public meetings with respect to considering the adoption of regulations for smoking in indoor public places and in places of employment; and

WHEREAS, after careful and considerable research, discussion, and debate, and after review and consideration of the testimony and written materials presented at public meetings by residents and other interested parties, the City Council has determined that amending the City Code to ban smoking in all enclosed public places and places of employment would better protect the public from the well documented health and environmental hazards and injuries caused by smoking and the effects of secondhand smoke; and

WHEREAS, the City Council has determined that the adoption of regulations for smoking in indoor public places as set forth in this Ordinance is in the best interests of the City and its residents.

NOW THEREFORE, BE IT ORDAINED, BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ST. CHARLES, KANE AND DUPAGE COUNTIES, ILLINOIS, as follows:

SECTION ONE: The foregoing recitals are hereby adopted and incorporated into and made a part of this Ordinance as if fully set forth herein.

SECTION TWO: Title 8, Chapter 36 of the St. Charles Municipal Code is hereby added to read as follows:

**“Title 5 Health and Safety
Chapter 4 Smoking in Public Places**

08.36.010 Definitions.

08.36.020 Prohibition of Smoking in Enclose Indoor Areas of Public Places.

08.36.030 Designation of Other No-Smoking Areas.

08.36.040 Exemptions.

08.36.050 Signs.

08.36.060 Penalties.

08.36.070 Other Applicable Laws.

08.36.080 Severability.

08.36.010 Definitions.

For the purposes of this Chapter, the following terms shall have the following meanings:

“Business” means any sole proprietorship, partnership, joint venture, corporation, association, limited liability partnership, limited liability company or any other business entity, whether formed for profit or non-profit purposes.

“City” means the City of St. Charles, Kane and DuPage Counties, Illinois.

“Employee” means any Person who is employed or retained by a Business, and shall include the owner or operator of a sole proprietorship or other similar business entity.

“Employer” means any Person or Business that employs one or more Employees.

“Enclosed Indoor Area” means all space in any structure or building that is enclosed on all sides by any combination of walls, windows, or doorways, extending from the floor to the ceiling.

“Owner” means any Person in control of a building or structure by virtue of ownership or lease.

“Person” means any natural Person, Business, or Private Club or Lodge, or any combination thereof.

“Place of Employment” means an area under the control of a public or private Employer within the City that Employees normally frequent during the course of employment, and includes, without limitation, common work areas, private offices, auditoriums, classrooms, conference and meeting rooms, cafeterias,

elevators, lounges, staircases, hallways, restrooms, medical facilities, clubs, and the interior of a vehicle of public conveyance. "Place of employment" does not include a private dwelling unit, unless the dwelling is also used as a day care facility for children or adults or as a health care facility.

"Place of Employment" does not include that part of a private dwelling used as a home office by a single employee only who resides in that dwelling.

"Place of Religious Assembly" means an indoor facility or place of public assembly primarily and regularly used for religious worship or religious instruction.

"Private Club or Lodge" means an organization, whether incorporated or not, which is the owner, lessee, or occupancy of a building or indoor portion thereof used exclusively for club purposes at all times, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and if alcoholic beverages are sold such sale is incidental to its operation. The affairs and management of the organization are conducted by a board of directors, executive committee, or similar body chosen by the members at an annual meeting. The organization has established bylaws and/or a constitution to govern its activities. The organization has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. Section 501.

"Public Entrance" means every doorway or other means of ingress or egress to a Public Place or Place of Employment.

"Public Place" means an Enclosed Indoor Area that is open to and used by the general public, or any indoor area to which the public is invited or in which the public is permitted, including, but not limited to:

1. Banks
2. Any Business
3. Educational facilities.
4. Government buildings
5. Health care facilities
6. Laundromats
7. Museums
8. Public transportation facilities
9. Reception areas
10. Restaurants
11. Bars, Taverns, and Pubs
12. Retail food production and marketing establishments
13. Retail service establishments
14. Retail stores
15. Indoor shopping malls

16. Theaters
17. Vehicles of public transport
18. Common or public areas (including without limitation lobbies, hallways, waiting rooms, reception areas, public restrooms, elevators and staircases) and common areas of multiple family residences, condominiums, dormitory buildings, nursing home care facilities, and other multiple family residential structures
19. Polling places
20. Food stores
21. Cafeterias
22. Auditoriums
23. Rooms, chambers, halls, or other locations within which meetings, hearings, or gatherings are held, to which the public is invited or in which the public is permitted, including specifically, but without limitation, any Enclosed Area under the control of the City of St. Charles where there is in progress any public meeting or hearing

“Retail Tobacco Store” means a tobacco retailer whose business exclusively or primarily involves the sale of tobacco products and related goods.

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

A private residence used as business is not a “Public Place” unless it is used as a child day care home, adult day care home, or health care facility.

08.36.020 Prohibition of Smoking in Enclosed Indoor Areas of Public Places.

- A. It shall be unlawful to Smoke in any Enclosed Indoor Area of any Public Place.
- B. It shall be unlawful for the Owner or occupant, as the case may be, in control of a Public Place to knowingly permit Smoking in any Enclosed Indoor Area of a Public Place.

08.36.030 Designation of Other No-Smoking Areas.

Nothing in this Chapter shall be deemed to limit the Owner, manager, operator or other Person in control of a Public Place or a Place of Employment to further prohibit Smoking by designating areas not otherwise subject to the prohibitions set forth herein as a place where Smoking is also prohibited, provided that the Owner, manager, or occupant shall cause signs to be posted at appropriate locations advising Persons that Smoking is prohibited within said designated area.

08.36.040 Exemptions.

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

- A. Private dwelling units used as a business, except when used as a licensed childcare, adult care facility, or health care facility.
- B. Hotel, motel, bed and breakfast, resort, and conference center sleeping rooms that are rented to guests and are designated as Smoking rooms, provided that no more than twenty percent (20 %) of the total number of rentable rooms are designated as permitted Smoking rooms.
- C. Retail tobacco stores, provided that Smoke from these places does not infiltrate into areas where Smoking is prohibited under the provisions of this Chapter.
- D. Private Clubs or Lodges.
- E. Privately-owned vehicles that are not used for public or for-hire transportation.
- F. Any Enclosed Indoor Area exceeding twelve thousand (12,000) square feet for any event that is open to the general public, subject to the following:
 - 1. The square footage required herein shall be located in a single room or other space that is segregated from the rest of the structure or building by any combination of permanent walls, windows or doorways extending from the floor to the ceiling.
 - 2. In no event shall said single room or other space be segregated by temporary or movable walls, or any combination of permanent and temporary walls, windows or doorways.
- G. Any Enclosed Indoor Area wherein receptions, banquets or any other gatherings are being held, to which attendance by the public is by invitation only, and the general public is not otherwise invited or permitted, subject to the following:
 - 1. Said receptions, banquets or any other gatherings shall be located and limited to a single room or other space that is segregated from the rest of the structure or building by any combination of permanent walls, windows or doorways extending from the floor to the ceiling and shall have a minimum area of four hundred (400) square feet.
 - 2. In no event shall said single room or other space be segregated by temporary or movable walls, or any combination of permanent or temporary walls, windows or doorways.

3. Said single room or other space shall be located in a building or structure that has a total Enclosed Indoor Area of twelve thousand (12,000) square feet, regardless of whether said Enclosed Indoor Area is segregated.
 4. Said reception, banquet or other gathering shall be scheduled prior to the commencement thereof, and shall be in accordance with a single written contract between the Owner of the Enclosed Indoor Area and the Person that is to utilize the single room or other space as described herein.
- H. Any space wherein the performance of any live musical, dance, theatrical or dramatic event, provided that such Smoking is limited to that which is necessary for the portrayal of characters in the context of the plot or storyline of the musical, dance, theatrical or dramatic event.

08.36.050 Signs.

- A. Each Owner, lessor, lessee, employer, or other Person in control of a Public Place or Place of Employment shall post conspicuous "No Smoking" signs in Enclosed Areas and at every Public Entrance of any Public Place or Place of Employment where Smoking is prohibited within thirty (30) days of the effective date of this ordinance. Such "No Smoking" signs shall have a white field with the words "No Smoking" printed in red letters, four inches high with a one-half inch face, or shall bear the international "No Smoking" symbol, which consists of a pictorial representation of a cigarette enclosed in a circle with a bar across it or such other sign, approved by the City, that clearly states that Smoking is prohibited.
- B. Each Owner, lessor, lessee, employer, or other Person in control of an Enclosed Indoor Area subject to the exemptions set forth in Section 08.36.040(F) and (G), shall post a conspicuous "Smoking Permitted" sign at each entrance thereto. Such "Smoking Permitted" signs shall have a white field with the words "Smoking Permitted" printed in red letters, four inches high with a one-half inch face, or such other sign, approved by the City, that clearly states that Smoking is permitted.
- C. It shall be unlawful for any Person to remove, deface or obscure any sign posted pursuant to the provisions of this Section.

08.36.060 Penalties.

- A. Any Person who Smokes in an area where Smoking is prohibited under the provisions of this chapter shall be guilty of an offense punishable by a fine of not less than fifty dollars (\$50.00) and not more than two hundred fifty dollars (\$250.00).
- B. Any Person who owns, manages, operates or otherwise controls a Public Place or a Place of Employment that knowingly permits Smoking in an area where

Smoking is prohibited pursuant to this Chapter, or otherwise fails to comply with the requirements of this Chapter, shall be guilty of an offense punishable by a fine of not less than:

1. One hundred dollars (\$100.00) for a first offense;
2. Two hundred fifty dollars (\$250.00) for a second offense; and
3. Five hundred fifty dollars (\$550.00) for a third or subsequent offense.

In addition to the penalties set forth in this Paragraph, any such violation may result in the imposition of a fine, suspension or revocation of any business or liquor license issued for the premises on which the violation occurred.

- C. Any Person who fails to post the signs required by this Chapter shall be guilty of an offense punishable by a fine of not less than Two Hundred Fifty Dollars (\$250.00).
- D. Each day that any violation of this Chapter shall continue shall constitute a separate offense.”

08.36.070 Other Applicable Laws.

This Chapter shall not be interpreted or be construed to permit Smoking where it is otherwise restricted by other applicable laws.

08.36.080 Severability.

If any provision or part of this Chapter or application thereof to any Person or circumstance is held to be invalid, the remainder of the Chapter and the application of the provision or part thereof to other Persons not similarly situated or to other circumstances shall not be affected thereby.”

SECTION THREE: The regulation of smoking as set forth in this Chapter shall be evaluated two (2) years from the effective date of this Ordinance, and the results of that evaluation presented to the City Council.

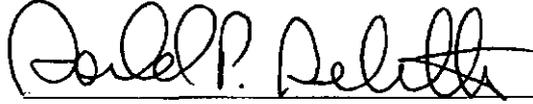
SECTION FOUR: That all ordinances and resolutions, or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, expressly repealed.

SECTION FIVE: This Ordinance shall become effective May 1, 2007.

PRESENTED to the City Council of the City of St. Charles, Illinois, this 5th day of Feb., 2007.

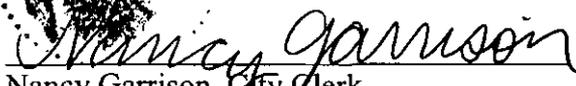
PASSED by the City Council of the City of St. Charles, Illinois, this 5th day of February 2007.

APPROVED by the Mayor of the City of St. Charles, Illinois, this 5th day of February, 2007.



Donald P. DeWitte, Mayor





Nancy Garrison, City Clerk

COUNCIL VOTE:

Ayes : 6
Nays : 4
Absent :

APPROVED AS TO FORM:

City Attorney

DATE: _____

State of Illinois)
) ss.
Counties of Kane and DuPage)

Certificate

I, NANCY GARRISON, certify that I am the duly elected and acting Municipal City Clerk of the City of St. Charles, Kane and DuPage Counties, Illinois.

I further certify that on February 5, 2007, the Corporate Authorities of such municipality passed and approved Ordinance No. 2007-M-9, entitled

"An Ordinance Amending Title 8 (Health and Safety) of the St. Charles Municipal Code,"

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 2007-M-9, including the Ordinance and a cover sheet thereof was prepared, and a copy of such Ordinance was posted in the municipal building, commencing on February 9, 2007, and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the municipal clerk.

DATED at St. Charles, Illinois, this 5th day of February 2007.



Nancy Garrison

Municipal Clerk