

Chapter 17

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ARTICLE I. IN GENERAL**Sec. 17-1. Birth and death records.**

(a) The director of the health department will act as the local registrar in accordance with state law.

(b) All births and deaths occurring within the city limits shall be reported as prescribed by state statutes and state department of health guidelines.

(c) The handling of birth and death records by the local registrar will be done in accordance with state law and state department of health guidelines. (Code 1969, § 11-68)

State law reference(s)--Uniform Vital Statistics Law, RSMo 193.005 et seq.; local registrars of vital statistics, RSMo 193.065.

Sec. 17-2. Condition, maintenance of plumbing systems, equipment, installations.

(a) The condition and maintenance of plumbing systems, equipment, installations and facilities within the city is declared to be a matter affecting and concerning the public health.

(b) The director of health shall inspect any and all plumbing systems, equipment, installations and facilities in order to determine whether any such system, equipment, installation or facility is dangerous to the public health or may become a menace to the health of any individual or to the public.

(c) If upon such inspection it appears that any plumbing system, equipment, installation or facility is dangerous or a menace to the health of any individual or to the public, the director of health may declare such plumbing system, equipment, installation or facility a nuisance and may order the abatement of the nuisance in the same manner as other nuisances may be abated under the provisions of this code.

(d) The director of health or his representative shall examine all applications filed or permits issued by the director of public works and transportation relating to plumbing systems, equipment, installations and facilities and inspect any plans, specifications, blueprints or plats filed with any such applications. If the director of health

finds that any plumbing systems, equipment, installation or facilities proposed to be constructed, maintained or changed will result in the creating or maintaining of a nuisance, the director shall notify the director of public works and transportation of his findings and recommendations.

(e) It shall be the duty of the director of public works and transportation thereupon to withhold, suspend or revoke, as the case may be, any license or permit relating to the construction, maintenance or change of any such plumbing system, equipment, installation or facility until the plans and specifications therefor or the plats, maps or blueprints filed shall have been corrected to conform with the recommendations made by the director of health.

(Code 1969, §§ 11-244--11-246)

Cross reference(s)--Plumbing code, § 7-256 et seq.

Sec. 17-3. Authority to require immediate burial of deceased person.

Whenever the delay of the interment of the body of any deceased person within the city limits, may, in the opinion of the director of health, be injurious to the public health or constitute a nuisance, it shall be the duty of the director to issue an order directing that such body shall be interred forthwith. Such order shall be directed to the relatives, friends or persons having charge of the body. If the relatives, friends or persons as aforesaid, shall fail or refuse to obey the order, the director of health, shall have the power to secure the body and it shall be his duty to cause the body to be immediately interred in the public cemetery. (Code 1969, § 11-38)

Sec. 17-4. Compliance with orders.

(a) *Compliance required.* All persons shall comply with orders authorized by this code or state law or regulation that are issued by the director of health, the state director of health and senior services, or either of their designees, when the orders are necessary to prevent the spread of communicable disease and the orders require:

- (1) closure of any public or private school or other place of public or private assembly;
- (2) control measures, including isolation, quarantine, disinfection, immunization,

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closure of establishment, or other means to prevent the spread of a communicable disease.

(b) *Penalty.* Any person convicted of a violation this section shall, for each offense, be fined not less than \$100.00 nor more than \$500.00 or be punished by imprisonment not to exceed six months or be punished by both fine and imprisonment.

(G.O. 2945, 3-9-20)

Secs. 17-5--17-25. Reserved.

ARTICLE II. INDIVIDUAL SEWAGE DISPOSAL SYSTEMS*

DIVISION 1. GENERALLY

Sec. 17-26. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Community sewage system* means that system provided by the city for the collection and disposal of sewage or industrial wastes of a liquid nature.
- (2) *Health officer* means the health director of the St. Joseph-Buchanan County Health Department or his authorized representative.
- (3) *Individual sewage disposal system* means a sewage disposal system, other than a community system, which receives either human excreta or liquid waste or both from one or more premises. This definition includes but is not limited to septic tank soil absorption systems and chemical type toilets and such other types as may be similar to those specified in this definition.

(4) *Industrial wastes* means liquid or other wastes resulting from the processes employed in industrial and commercial establishments.

(5) *Major modifications* and *major repairs* means the redesigning and alteration of an on-site sewage system by the relocation of the system or part of the system, replacement of the septic tank or construction of a new absorption field.

(6) *Minor repair* means the repair or replacement of any part of a system without relocating or extending any part of the system, except the replacement of the septic tank or sewage tank, which is considered a major modification or major repair.

(7) *Permit* means a written permit issued by the health officer, permitting the construction of an individual sewage disposal system under this article.

(8) *Rules and regulations* means the Missouri Department of Health Rules Governing On-site Sewage Systems and any revisions thereof.

(9) *Septic tank* means a watertight receptacle which receives the discharge or a building's sanitary drainage system or part thereof, so as to separate solids from the liquid, digest organic matter through a period of detention and allow the liquids to discharge into the soil outside of the tank through a system of open joint or perforated piping or a seepage pit.

(10) *Sewage* means any human excreta, liquid waste containing animal or vegetable matter in suspension or solution, and it includes but is not limited to liquids containing chemicals in solution.

(Code 1969, § 11-268; G.O. 1381, 2-26-96; G.O. 1941, 6-9-03)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

***Cross reference(s)--**Sewers and sewage disposal, § 29-81 et seq.

Sec. 17-27. Penalty.

(a) Any person upon whom a duty is placed by the provisions of this article who shall fail, neglect or refuse to perform such duty or who shall violate any of the provisions of this article shall be deemed guilty of a misdemeanor. Each day that a violation of this article continues shall constitute a separate and distinct offense and shall be punishable as such.

(b) The minimum fine for creating a nuisance or an imminent health hazard shall be \$200.00.

(c) The minimum fine for persistent violation of creating a nuisance or imminent health hazard or performing construction or repair of an on-site sewage system without a permit shall be \$300.00.

(d) The minimum fine for construction or repair of an on-site sewage system without a permit shall be \$300.00.

(e) A person found guilty of installing or repairing an on-site sewage system without a permit shall provide a performance bond or letter of credit for \$5,000.00 to the city before beginning another installation of repair.

(Code 1969, § 11-278; G.O. 1381, 2-26-94)

Sec. 17-28. Inspections and enforcement.

(a) The health officer is authorized and directed to make such inspections at reasonable times as are necessary to determine satisfactory compliance with this article.

(b) Whenever there has been a violation of this article, the health officer shall give written notice to the person alleged to be in violation. Such notice shall identify the provision of this article and the alleged violation.

(Code 1969, § 11-277; G.O. 1381, 2-26-96)

Sec. 17-29. Compliance.

No person shall construct, alter, extend, operate or clean any individual sewage disposal system within the city contrary to the provisions of this article and the incorporated rules and regulations. No privies shall be constructed or installed for use after September 2, 1980.

(Code 1969, § 11-269; G.O. 1381, 2-26-96)

Sec. 17-30. Connection to public sewer.

(a) When a building sewer is not required by Section 29-137 to be connected to a city sewer, the building sewer shall be connected to an individual sewage disposal system or the restricted use of chemical toilets or grinder pumps may be allowed.

(b) When conditions change and Section 29-137 requires the connection of the building sewer to a city sewer, existing individual sewage disposal systems shall be abandoned and the building sewer shall discharge its sewage directly into the community sewer system. Such connections shall be completed within six months of the day the sewer becomes available, or in the case of violation as described in Section 17-37 enforcement shall be made in accordance with Section 17-28.

(Code 1969, § 11-270; G.O. 1381, 2-26-96)

Sec. 17-31. Abandoned septic tanks.

Abandoned or discontinued septic tanks or pits shall be removed or pumped out and filled with clean earth or sand.

(Code 1969, § 11-270; G.O. 1381, 2-26-96)

Sec. 17-32. Requirements.

(a) All individual sewage disposal systems that shall be constructed, altered or extended as to design, type, size, location and absorption fields shall proceed in conformance with the requirements of the Missouri Department of Health Rules Governing On-site Sewage Systems adopted by the city and any revisions thereof, a copy of which shall be retained on file with the city clerk.

(b) Exceptions to Subsection 17-32(a) are only a soil morphology or detailed soil evaluation as conducted by an onsite soil evaluator, as defined by 19 CSR 20.3.080(1)(E), in good standing with the Missouri Department of Health and Senior Services or whose license has not been suspended or revoked is allowed as the soil evaluation method for determining suitability, sizing and construction limitations for onsite sewage disposal systems.

(Code 1969, § 11-272; G.O. 1381, 2-26-96; G.O. 2193, 9-11-06)

Sec. 17-33. Construction permit.

No person shall construct a new individual sewage disposal system or make major repairs, major modifications, or any other type of repair(s) to existing systems without an individual sewage system construction permit issued by the health officer.

(Code 1969, § 11-271; G.O. 1381, 2-26-96; G.O. 1942, 6-9-03)

Sec. 17-34. Fees.

(a) The fee for an individual sewage disposal system construction permit shall be \$80.00 for new construction, major modifications or major repairs. The permit fee for minor repairs not covered by new construction, major modifications or major repairs shall be \$25.00. If more than three site visits are required to inspect or to give final approval of a system installation or repair, an additional assessment of \$20.00 for each subsequent visit shall be charged.

(b) All fees are payable to the City of St. Joseph. (Gen. Ord. No. 998, § 1(11-273), 8-3-92; G.O. 1381, 2-26-96; G.O. 1700, 5-17-99; G.O. 1942, 6-9-03)

Sec. 17-35. Appeal.

(a) Any person whose application for a permit required under this article has been denied shall have the right to appeal as established in Chapter 2, Article XIII of this code.

(b) Any person required by Section 17-30 and Section 29-137 of this code to be connected to a city sewer may obtain a variance from said code sections upon application to and approval of the plumbers' examining and appeals board. A variance application shall be filed with the director of health and heard by the board within 60 days of the filing of the application. Variances shall be granted only upon a particular finding of:

- (1) Site conditions which make the connection to the city sewer impossible and the use of an individual sewage disposal system suitable, or
- (2) A cost for connection to the city sewer which presents an undue financial hardship on the applicant as compared to the continued use of a fully functioning individual sewage disposal system.

Variances granted under this section shall lapse upon the failure of an individual sewage disposal system to properly perform or a change in the availability of the city sewer to the particular property. Any appeal of the denial of an application under this section shall be made pursuant to Chapter 536, RSMo. (Code 1969, § 11-276; G.O. 1381, 2-26-96; G.O. 1451, 8-26-96; G.O. 1901, 10-14-02)

Sec. 17-36. Inspections.

(a) It shall be the duty of the holder of a permit issued pursuant to this article to notify the health officer when the installation is ready for inspection. The health officer may make inspections during construction to determine compliance with this article.

(b) No part of any installation shall be covered until inspected and given final approval by the health officer. (Code 1969, § 11-274; G.O. 1381, 2-26-96)

Sec. 17-37. Operation and maintenance.

All individual sewage disposal systems shall be operated and maintained so as not to create a nuisance or a health hazard. The pumping, placing, putting or running onto the ground of the contents of any individual sewage disposal system or the failure of such system resulting in the outpouring or surfacing of sewage shall be presumed to be a nuisance, health hazard and a violation of this article.

(Code 1969, § 11-275; G.O. 1381, 2-26-96)

Sec. 17-38. Registered septic installers.

(a) Only installers who have been registered by the Missouri Department of Health and Senior Services, whose registration has not been suspended at the time of application for permit and at the time of construction, or whose permit has not been revoked may install an on-site sewage disposal system.

(b) Nothing herein shall prevent a homeowner from obtaining the registration through the Department of Health and Senior Services and installing his/her own system, provided that the system must be installed in compliance with Section 17-32.

(G.O. 1943, 6-9-03)

Secs. 17-39 -- 17-55. Reserved.

DIVISION 2. SCAVENGERS*

Sec. 17-56. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Scavenger means any person who shall engage in the business of emptying, cleaning, covering or removing the contents of any privy vault, cesspool, septic tank or receptacle used for similar purposes. (Code 1969, § 11-282)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Sec. 17-57. Compliance.

No scavenger shall carry on his business except in the manner prescribed by ordinance and pursuant to the rules and regulations of the department of health pertaining to the emptying, cleaning, covering or removing of contents of any privy vault, cesspool, septic tank or other receptacle used for similar purposes. (Code 1969, § 11-283)

Sec. 17-58. License required.

No privy vault, cesspool, septic tank or other receptacle used for similar purposes shall be cleaned, emptied, covered or removed except by a scavenger duly licensed by the city to conduct his business. (Code 1969, § 11-284)

Sec. 17-59. Issuance, revocation of license or permit.

(a) Any occupation license or permit issued by any officer or department of the city to a scavenger shall be approved by the director of health who shall at the time of the issuance of such license or permit furnish the scavenger with a copy of the rules and regulations of the department of health pertaining to scavengers.

***Cross reference(s)**--Businesses, ch. 8.

(b) If any scavenger shall fail to comply with such rules and regulations, the director of health may at any time withdraw his approval of the license or permit issued to any such scavenger, and the license and permit so issued shall be deemed to be revoked or suspended as the director of health may deem necessary. (Code 1969, § 11-285)

Sec. 17-60. Bond.

Any person engaged in the business of scavenger shall enter into a bond to the city in the sum of \$1,000.00 to ensure faithful compliance with the ordinances of the city. The bond shall be approved by the city attorney. (Code 1969, § 11-286)

Sec. 17-61. Carrying license, permit while engaged in business.

Every scavenger shall carry his license or permit while engaged in business, so that the license or permit may be available for inspection by the police or by officers of the health department. (Code 1969, § 11-287)

Sec. 17-62. Use of pumps, tanks, barrels, vehicles.

In carrying on their business, all scavengers shall use odorless, sanitary pumps and airtight odorless tanks set upon vehicle trucks. A scavenger shall pump the contents of any vault, privy, cesspool, septic tank or similar container, if liquid enough to pump, directly into the odorless tanks set upon vehicle trucks by means of such odorless sanitary pumps. No vault, privy, cesspool, septic tank or similar container shall be emptied or the contents thereof removed in any other manner than is provided in this section. However, when the contents of any such vault, privy, cesspool, septic tank or similar container are of such consistency that the odorless sanitary pumps can in no way be used in the removal thereof, the contents shall be

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taken up and removed in odorless tight barrels, in vehicles, such barrels to be kept thoroughly clean and to have airtight covers. No person shall move any of the contents of privy vaults, cesspools, septic tanks or similar containers except only in

perfectly tight tanks or casks which shall be on regularly licensed vehicles.
(Code 1969, § 11-288)

Sec. 17-63. Condition of vehicles, tanks used by scavengers.

Before any vehicle or tanks shall be used for the purpose specified in this division, they shall be well painted and kept so painted. The vehicle beds shall be at least 36 inches high on the sides and ends, and the side beds shall be built straight with the flanges and in such manner as the health officer may direct. Airtight odorless tanks need not be built to the same height or the same shape as vehicle beds for hauling barrels.
(Code 1969, § 11-289)

Sec. 17-64. Identification of vehicles.

Vehicles used for the purpose specified in this division shall have painted on the sides thereof, in plain letters and figures, the permit or license number of the vehicle and the name and address of the proprietor to whom the vehicle belongs. The letters and numbers shall be large enough in size and so placed that they may be distinctly seen and easily read.
(Code 1969, § 11-290)

Secs. 17-65--17-80. Reserved.

ARTICLE III. SWIMMING POOLS, SPAS AND SIMILAR FACILITIES

Sec. 17-81. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Public means those pools, spas, hottubs and whirlpool baths operated by a municipality, other political subdivision, any other governmental or quasigovernmental agency offered for use to the general public.

Semipublic means pools, spas, hottubs and whirlpool baths operated by entities such as hotels, motels, apartment houses, clubs, schools and camps which serve as adjuncts to the main facility or are generally made available to patronage of such establishments on a fee, membership or other compensatory basis.
(Code 1969, § 11-296)

Sec. 17-82. Scope and purpose.

This article shall apply to all public and semipublic swimming pools, spas, hottubs and whirlpool baths within the corporate limits of the city. The purpose of this article is to regulate the design, construction, equipment, operation and maintenance of such pools, spas, hottubs or whirlpool baths so that hazards to health and safety shall be minimized.

Sec. 17-83. Adoption of rules and regulations.

The inspection of swimming pools, spas, hottubs and whirlpool baths, in addition to the regulatory requirements for the equipment, operation and maintenance, shall be in accordance with the Rules and Regulations Relating to Swimming Pools, Spas and Similar Facilities adopted by reference, of which three certified copies shall be on file in the office of the city clerk.
(Code 1969, § 11-297)

Sec. 17-84. Permit to operate.

No person shall operate or maintain a public or semipublic swimming pool, spa or similar facility unless he has applied for and obtained a permit to operate each individual pool, spa or similar facility from the health department. The permit shall be valid for one year, unless otherwise suspended or revoked for cause and must be renewed annually. The permit shall be conspicuously posted on the pool premises. A permit to operate a swimming pool, spa or similar facility issued under the provisions of this division may be granted at any time during the year, but shall expire on the next succeeding June 30.

(Code 1969, § 11-298; G.O. 1944, 6-9-03)

Sec. 17-85. Construction permit.

Before any public or semipublic swimming pool, spa, hottub or whirlpool shall be constructed, application for a permit therefor shall be made to the director of health. Written plans and specifications shall accompany such application and conform to the requirements of the rules and regulations. Upon approval by the

director, a permit to construct such installation shall be issued. Nothing in this article or the regulations adopted pursuant to this article shall be deemed to exempt any person from the requirements of the building code and any permits required thereunder or from any requirement of state or federal law or regulation.

(Code 1969, § 11-299)

Sec. 17-86. Inspection prior to operation.

The director of health shall inspect a public or semipublic swimming pool, spa, hottub or whirlpool before it is opened for operation and before issuing a permit to operate, to ascertain that the construction and equipment complies with the requirements of the rules and regulations or with the plans and specifications submitted with the application for construction of a new facility.

(Code 1969, § 11-300)

Sec. 17-87. Authority to deny, suspend or revoke permits.

If a person fails to comply with the rules and regulations of the health department required in this article, after due notice, the director of health shall have the power to suspend or revoke any permit and prohibit the use of a swimming pool, spa, hottub or whirlpool until such time as such is, in the opinion of the director, in compliance with the rules and regulations adopted pursuant to this article or no longer constitutes a health hazard. Such action by the director shall be in writing and delivered either by handing such notice to the person in charge of the facility or by a certified mail to the last known address of the person in charge of such facility.

(Code 1969, § 11-301)

Sec. 17-88. Fees.

(a) The fee for a swimming pool/spa construction permit shall be \$50.00 and collected at the time the permit is issued.

(b) The fee for a permit to operate shall be \$75.00 annually and collected by the financial services department for authorization and issuance of a city swimming pool/spa permit to operate.

(c) Permit fees will be deposited in the public health fund.

(G.O. 1976, 10-13-03)

Secs. 17-89--17-105. Reserved.

**ARTICLE IV. FOOD SERVICE
ESTABLISHMENTS AND RETAIL FOOD
STORES***

Sec. 17-106. Food service sanitation ordinance adopted.

The 1999 edition of the Food and Drug Administration's Food Code, as codified in the 1999 edition of the Missouri Food Code, as published by the United States Public Health Service/Food and Drug Administration, be, and the same is, hereby adopted as the Food Code of the City of Saint Joseph, Missouri, for regulating the design, construction, management, and operation of food establishments. Three copies of the above described food code shall be kept on file and available for public review in the office of the city clerk.

(Code 1969, § 10-1; G.O. 1858, 11-26-01)

Sec. 17-107. Additions and revisions.

Any addition or revision of the food code adopted by reference in this article, whether in whole or in part, will be reviewed and adopted, if desired, by subsequent ordinance.

(Code 1969, § 10-2; G.O. 1858, 11-26-01)

Sec. 17-108. Permits and fee schedule.

(a) Each food service establishment/retail food store within the corporate limits of the city shall be

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required to obtain and post in view of the public a city food and beverage permit in order to operate a food service establishment/retail food store, and each permit shall be renewed on or before July 1 of each year.

(b) Permit fees will be deposited in the public health fund and will be based upon the public

*Cross reference(s)--Alcoholic beverages, ch. 4; lunch wagons, § 8-351 et seq.

State law reference(s)--Sanitation in establishments handling food, RSMo 196.190 et seq. health risk priority as assessed by the "St. Joseph-Buchanan County Health Department Food Assessment Document", a copy of which is on file in the office of the city clerk. Permit and other fees identified in this section shall be collected by and deposited with the financial services department for authorization and issuance of a city food and beverage permit.

(c) The fee schedule shall be as follows:

- (1) Restaurants (based on an assessment to determine food risks to the public):
 - a. High\$300.00 per year
 - b. Medium200.00 per year
 - c. Low 100.00 per year
- (2) Retail food store.....\$100.00 per year
- (3) Bakery\$100.00 per year
- (4) Mobile food unit:
 - a. Ice cream vendors. \$25.00 per year
 - b. Push cart..... 50.00 per year
 - c. Self-contained food unit. 100.00 per year
- (5) Temporary food event (festivals):
 - a. 1-3 days..... \$25.00 per vendor
 - b. 4-14 days..... 35.00 per vendor

This fee is tripled unless the permit is purchased and the health department is notified at least seven working days in advance of the event.

- (6) Temporary food event (non festival):
 - a. 1-3 days.....\$15.00 per vendor
 - b. 4-14 days.....20.00 per vendor

This fee is tripled unless the permit is purchased and the health department is notified at least seven working days in advance of the event.

- (7) Re-inspection fee..... \$75.00
- (8) Plan review/pre-opening inspection..... \$100.00
- (9) Hazardous food (vending machines)..... \$10.00 per machine
- (10) Catering \$300.00 per year
- (11) Prep kitchen\$300.00 per year
- (12) Bar\$100.00 per year
- (13) Bar/restaurant:
 - a. Bar.....\$100.00 per year
 - b. Restaurant:
 - i. High \$300.00 per year
 - ii. Medium.....200.00 per year
 - iii. Low. 100.00 per year
- (14) Seasonal establishment (operates less than six months of the year).....\$50.00 per year
- (15) Change of ownership \$50.00 processing fee
- (16) Establishments, such as large grocery stores, that contain more than one type of food operation within the same physical facility will be charged separately according to its type as follows:
 - a. Retail food store \$100.00 per year
 - b. Bakery \$100.00 per year
 - c. Deli.\$100.00 per year
 - d. Self-service salad

- bar \$100.00 per year
- e. Restaurant.....\$300.00 per year
 - i. High \$300.00 per year
 - ii. Medium..... 200.00 per year
 - iii. Low. 100.00 per year

more than \$500.00. Each day that a violation continues shall be deemed a separate offense." (G.O. 1953, 6-23-03)

Secs. 17-112--17-125. Reserved.

ARTICLE V. MEAT AND MEAT PRODUCTS*

(d) Permit fees will be prorated on a quarterly basis for those establishments beginning business during a calendar year. No refunds will be issued.

(e) Upon inspection by the health department, operating establishments, if they are found to meet minimum sanitary requirements, may be

issued a city food and beverage permit by the director of health.

(f) New owners of establishments shall, before engaging in business, make application for a city food and beverage permit. The director of health shall then request the necessary inspection. (Gen. Ord. No. 1185, § 1(10-3), 6-20-94; G.O. 1858, 11-26-01; G.O. 1955, 6-23-03)

*State law reference(s)--Meat inspections, RSMo 265.300 et seq.

Sec. 17-126. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Beef patty or imitation hamburger means beef products where fillers or extenders such as water, soybean products and other starches and materials are used in a product which simulates hamburger. The acceptable limits of fillers or extenders shall be within the limits established by the regulations of the state.

Hamburger or ground beef consists of fresh chopped or ground beef, with or without the addition of beef fat as such and seasoning, and shall not contain more than 30% fat.

Meat and meat products means meat and food products described and referred to in the regulations of the United States Department of Agriculture, and means and includes the flesh of cattle, hogs, sheep, goats, poultry, fish or any other animals used as a source of food.

Sausage consists of fresh ground pork, with or without added seasoning, which fat content shall not exceed 50%.

Slaughterhouse means and includes any place where live animals or fowl are slaughtered for human consumption. (Code 1969, § 10-54)

Sec. 17-109. Denial or revocation of permit - appeal.

Any applicant denied or whose permit is revoked under the provisions of this article and the food code adopted pursuant to Sections 17-106 and 17-107, shall have the right to appeal as established in Chapter 2, Article XIII of this code. (Code 1969, § 10-4; G.O. 1858, 11-26-01; G.O. 1901, 10-14-02)

Sec. 17-110. Penalty for late payment of permit.

All permit fees fixed by Section 17-108 which are not paid by the due date provided, shall be immediately subject to a 10% penalty charge on the balance due plus a 1% penalty assessment against the balance due for every 30 day period thereafter. (G.O. 1454, 9-9-96; G.O. 1858, 11-26-01)

Sec. 17-111. Violations and penalties.

Any person violating any provisions of this article, including the standards adopted by reference, shall be guilty of a misdemeanor punishable by a fine of not less than \$25.00 nor

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Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Sec. 17-127. Authority for regulations and inspections.

The director of health or his authorized representative is authorized and empowered to establish such regulations and make such inspections as may reasonably be deemed necessary to carry into effect the provisions of this article.

(Code 1969, § 10-59)

Sec. 17-128. Permit to slaughter meat, process meat, etc.

(a) It shall be unlawful for any person to slaughter any animal or fowl for human consumption or to prepare meat products or to manufacture or process meat food products in the city without first having applied for and obtained from the director of health a permit to engage in such business.

(b) The permit provided for in this section shall be issued only to a person having a suitable building, equipment and sanitary facilities approved by the director of health.

(c) The director of health or his authorized representative shall have the power to revoke or suspend any permit issued pursuant to this section if the person operating under such permit does not comply with its provisions and with all ordinances and lawful regulations of the health department applicable to such establishments.

(d) Establishments subject to inspection by the United States Department of Agriculture shall be exempt from the requirements of this section.

(Code 1969, §§ 10-55--10-58)

Sec. 17-129. Compliance with federal and state standards.

All meat processed, stored or sold within the city shall comply with standards for the inspection

and labeling of carcasses, meat and meat food products currently used by the United States Department of Agriculture and the state.

(Code 1969, § 10-60)

Sec. 17-130. Standards for slaughterhouses.

All slaughterhouses operated in the city shall comply with the standards currently used by the United States Department of Agriculture and the state.

(Code 1969, § 10-61)

Sec. 17-131. Inspection legend or stamp.

All carcasses, meat and meat food products kept or offered for sale in the city shall bear the inspection legend of the United States Department of Agriculture and the state.

(Code 1969, § 10-62)

Sec. 17-132. Confiscation, destruction of unwholesome, unstamped meat or meat products.

The director of health or his authorized representative shall have power to confiscate, destroy or denature adulterated, decayed, unwholesome, misrepresented or unstamped meat or meat products.

(Code 1969, § 10-63)

Sec. 17-133. Permit to vend from vehicles.

No person shall sell, peddle or vend meat or meat products of any kind, dressed poultry or fish from any vehicle in the city unless a permit is obtained from the director of health.

(Code 1969, § 10-64)

Sec. 17-134. Labeling of beef patty or imitation hamburger.

Beef patty or imitation hamburger shall be labeled with the ingredients listed in the order of their predominance.

(Code 1969, § 10-65)

Secs. 17-135--17-160. Reserved.

ARTICLE VI. RESERVED

Secs. 17-161--17-190. Reserved.

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**ARTICLE VII. CIGARETTES, CIGARETTE
TOBACCO AND SMOKELESS TOBACCO***

DIVISION 1. GENERAL PROVISIONS

Sec. 17-191. Purpose.

The purpose of this article is to establish restrictions on the sale, distribution and use of cigarettes, cigarette tobacco and smokeless tobacco in order to reduce the number of children and adolescents who use these products.

(G.O. 1506, 4-7-97)

Sec. 17-192. Definitions.

For the purpose of this article, the following definitions shall apply unless the context otherwise requires:

*State law reference(s)--Sales of tobacco products to minors, RSMo 407.925 et seq.; local ordinances restricting tobacco sales to minors, RSMo 407.932.

- (1) *Cigar* means a small compact roll of tobacco leaves prepared for smoking.
- (2) *Cigarette* means any product which contains nicotine, is intended to be burned under ordinary conditions of use and consists of:
- Any roll of tobacco wrapped in paper or in any substance not containing tobacco; or
 - Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described above in Subsection (1).
- (3) *Cigarette retailer* means any person or business entity who sells cigarettes, cigarette tobacco, cigars, and/or smokeless tobacco for personal consumption, and from the sale of these products derives more than 80% of its gross sales.
- (4) *Cigarette tobacco* means any product that consists of loose tobacco that contains nicotine and/or delivers nicotine through a nicotine delivery device and is intended for use by consumers in a cigarette or tobacco pipe. Unless otherwise stated, the requirements pertaining to cigarettes shall also apply to cigarette tobacco, cigars and pipe tobacco.
- (5) *Distributor* means any person who furthers the distribution of cigarettes or smokeless tobacco, whether domestic or imported, at any point from the original place of manufacture to the person who sells or distributes the product to individuals for personal consumption. Common carriers are not considered distributors for purposes of this article.
- (6) *Manufacturer* means any person, including any repacker and/or relabeler, who manufactures, fabricates, assembles, processes or labels a finished cigarette or smokeless tobacco product.
- (7) *Minor* means a person younger than 21 years of age.
- (8) *Nicotine* means the chemical substance named 3-(1-Methyl-2-pyrrolidinyl) pyridine or C INF 10H INF 14N INF 2, including any salt or complex of nicotine.
- (9) *Package* means a pack, box, carton or container of any kind in which cigarettes or smokeless tobacco are offered for sale, sold or otherwise distributed to consumers.
- (10) *Point of sale* means any location at which a consumer can purchase or otherwise obtain cigarettes or smokeless tobacco for personal consumption.
- (11) *Retailer* means any person who sells cigarettes, cigarette tobacco, cigars and/or smokeless tobacco to individuals for personal consumption, or who owns or operates a facility where cigarettes, cigarette tobacco, cigars and/or smokeless tobacco are sold.
- (12) *Smokeless tobacco* means any product that consists of cut, ground, powdered or leaf tobacco that contains nicotine and that is intended to be placed in the oral cavity.
- (13) *Vending machine* means any mechanical, electric or electronic, self-service device which, upon insertion of money, tokens or any other form of payment, dispenses tobacco products.

(Gen. Ord. No. 1077, § 1(11-347), 5-10-93; G.O. 1506, 4-7-97; G.O. 2685, 4-29-13; G.O. 2942, 1-13-20)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

State law reference--Similar provisions, RSMo 407.925.

DIVISION 2. AGE RESTRICTIONS

Sec. 17-193. General responsibilities of minors younger than 18 years of age.

No person younger than 18 years of age shall be allowed to possess cigarettes, cigarette tobacco, cigars or smokeless tobacco.

(Gen. Ord. No. 1077, § 1(11-348), 5-10-93; G.O. 1506, 4-7-97; G.O. 2942, 1-13-20)

State law reference(s)--Similar provisions, RSMo 407.931.

Sec. 17-194. General responsibilities of manufacturers, distributors and retailers.

Each manufacturer, distributor and retailer is responsible for ensuring that the cigarettes, cigarette tobacco, cigars or smokeless tobacco it manufactures, packages, distributes, sells or otherwise holds for sale comply with all applicable requirements under this article. This article shall not apply to adult family members who distribute cigarettes, cigarette tobacco, cigars or smokeless tobacco to minors on property that is not open to the public.

(Gen. Ord. No. 1077, § 1(11-349), 5-10-93; G.O. 1506, 4-7-97; G.O. 1846, 9-17-01; G.O. 2942, 1-13-20)

State law reference(s)--Similar provisions, RSMo 407.927.

Sec. 17-195. Additional responsibilities of retailers or cigarette retailers or his/her agent.

In addition to the other responsibilities under this article, each retailer, cigarette retailer or his/her agent shall ensure that all sales of cigarettes, cigarette tobacco, cigars or smokeless tobacco to any person comply with the following requirements:

- (1) No retailer, cigarette retailer or his/her agent may sell cigarettes, cigarette tobacco, cigars or smokeless tobacco to any person younger than 21 years of age;
- (2) Except as otherwise provided in Subsection (4) of this section or in Section 17-197 below, each retailer, cigarette retailer or his/her agent shall verify, by means of photographic identification containing the bearer's date of birth, that no person purchasing cigarettes, cigarette tobacco, cigars or smokeless tobacco is younger than 21 years of age;
- (3) No such verification is required for any persons who appears to be over the age of 26;
- (4) Except as otherwise provided in Section 17-196(b)(2)b., a retailer, cigarette retailer or his/her agent may sell cigarettes, cigarette tobacco, cigars or smokeless tobacco only in a direct, face-to-face exchange without the assistance of a vending machine;
- (5) No retailer, cigarette retailer or his/her agent may break or otherwise open any cigarette, cigarette tobacco, cigar or smokeless tobacco package to sell or distribute individual cigarettes or a number of unpackaged cigarettes that is smaller than the minimum quantity of cigarette tobacco or smokeless tobacco that is smaller than the smallest package distributed by the manufacturer for individual consumer use;
- (6) Each retailer or his/her agent shall ensure that no self-service displays are installed, placed, or maintained in the retailer's establishment, except for a cigarette retailer, provided that he/she complies with the remainder of this section at the time of business license renewal and at the written request of the city shall provide proof that at least 80% of his/her gross sales are from various tobacco products; and
- (7) Each retailer, cigarette retailer or his/her agent shall ensure that his/her employees are made aware of the provisions of this article and shall ensure that his/her employees comply with the provisions of this article.

(Gen. Ord. No. 1077, § 1(11-351), 5-10-93; G.O. 1506, 4-7-97; G.O. 1846, 9-17-01; G.O. 2685, 4-29-13; G.O. 2942, 1-13-20)

Sec. 17-196. Conditions of manufacture, sale and distribution.

(a) *Minimum cigarette package size.* Except as otherwise provided under this article, no manufacturer, distributor or retailer may sell or cause to be sold or distribute or cause to be distributed, any cigarette package that contains fewer cigarettes than federal or state law requires.

(b) *Vending machines, self-service displays, mail order sales and other "impersonal" modes of sale.*

(1) Except as otherwise provided under this article, a retailer, cigarette retailer or his/her agent may sell cigarettes, cigarette tobacco, cigars and smokeless tobacco only in a direct, face-to-face exchange between the retailer, cigarette retailer or his/her agent and the consumer. Examples of methods of sale that are not permitted include vending machines and self-service displays.

(2) *Exceptions.* The following methods of sale are permitted:

- a. Mail order sales, excluding mail order redemption of coupons and distribution of free samples through the mail;
- b. Vending machines (including vending machines that sell packaged, single cigarettes) and self-service displays that are located in facilities where the retailer, cigarette retailer or his/her agent ensures that no person younger than 21 years of age is present, or permitted to enter, at any time.
- c. Any cigarette retailer shall posts signs at its entrances in plain view stating "According to Section 17-196 of the Code of Ordinances of the City of St. Joseph, no person under the age of 21 shall be allowed to enter this establishment. Violators will be subject to prosecution."

(c) *Free samples.* No manufacturer, distributor or retailer may distribute or cause to be distributed any free samples of cigarettes, cigarette tobacco, cigars or smokeless tobacco.

(d) *Restrictions on labels, labeling and advertising.* No manufacturer, distributor or retailer may sell or distribute, or cause to be sold or distributed, cigarettes, cigarette tobacco, cigars or smokeless tobacco with labels, labeling or advertising not in compliance with federal and state law.

(G.O. 1506, 4-7-97; G.O. 1846, 9-17-01; G.O. 2685, 4-29-13; G.O. 2942, 1-13-20)

Sec. 17-197. Sale and distribution by a third party.

No person shall sell or distribute cigarettes, cigarette tobacco, cigars or smokeless tobacco to a person who is younger than 21 years of age, except as specifically allowed by this division; provided it is understood that a retailer retains ownership of said cigarettes, cigarette tobacco, cigars and smokeless tobacco through the duration of the sales transaction.

(G.O. 1506, 4-7-97; G.O. 1846, 9-17-01; G.O. 2942, 1-13-20)

Sec. 17-198. Persons 18 years of age or older may sell or handle cigarettes, cigarette tobacco, cigars or smokeless tobacco, when.

Persons at least 18 years of age may stock, arrange displays, accept payment for, and sack for carryout cigarettes, cigarette tobacco, cigars or smokeless tobacco, provided they do not deliver cigarettes, cigarette tobacco, cigars or smokeless tobacco away from the licensed business premises.

(G.O. 2942, 1-13-20)

DIVISION 3. ENFORCEMENT AND PENALTIES

Sec. 17-199. Enforcement.

It shall be the responsibility of the chief of police and the director of health to enforce the requirements of this article.

(Gen. Ord. No. 1077, § 1(11-352), 5-10-93; G.O. 1506, 4-7-97)

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Sec. 17-200. Penalty.

Any person convicted of violating any section of this article shall be fined as follows:

- (1) First offense \$50.00;
- (2) Second offense..... \$100.00;
- (3) Third and subsequent offenses and community service, not to exceed 24 hours; and \$250.00
- (4) For any offense -- Imprisonment not to exceed six months; whether or not to impose such imprisonment shall be at the discretion of the municipal judge.

(Gen. Ord. No. 1077, § 1(11-353), 5-10-93; G.O. 1506, 4-7-97)

Secs. 17-201--17-205. Reserved.

DIVISION 4. COMMUNITY SMOKING DEVICES

Sec. 17-206. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) A “hookah” or “hookah pipe”, also known as a narghile, shisha or hubble-bubble, is a single or multi-stemmed instrument for smoking sweet, often flavored, tobacco. The smoke is filtered through liquid, typically water in the base of the hookah's pipe before inhalation by the user. The tobacco smoke is referred to as mu’assel, or “shisha”. The liquid used which is typically water acts to cool the smoke prior to inhalation.

(G.O. 2457, 2-21-12)

Sec. 17-207. Regulations.

Any person who operates a hookah pipe or any other shared tobacco smoking device in a business establishment shall comply with all business licenses, zoning ordinances, public health guidelines and/or ordinances, building regulations, and/or any other applicable ordinances or regulations of the city.

Patrons under 18 years of age shall not be allowed to use a hookah pipe or possess any tobacco products for use in a hookah pipe or other device.

Patrons may not bring a hookah pipe, hose, shaft, tobacco or other component into an establishment for use. All hookah pipes used must be furnished by the establishment utilizing the pipe.

A mouthpiece must be used by each patron utilizing the hookah pipe. Mouthpieces must be made of wood, metal, or plastic. Wooden and metal mouthpieces shall be sealed and impermeable. A new, clean mouthpiece must be used for each patron. Mouthpieces must be sold or provided by the establishment utilizing the pipe. Mouthpieces or mouth tips must be new, individually wrapped, sealed, and stored in a clean, dry location where they are not exposed to splash, dust, or other contamination and remain at least 15cm (6 inches) above the floor before use.

The hookah pipe hose(s) or shaft must be sanitized between each patron use. The hose(s) or shaft must be wiped with 70% isopropyl alcohol using an alcohol wipe, clean cloth or an acceptable concentration chlorine bleach solution.

The hookah pipe and all components shall be cleaned and sanitized at the end of each period of operation prior to the start of the next period of operation, and at more frequent intervals as needed.

The hookah pipe and all components shall be disassembled during the cleaning and sanitization process to allow access of a detergent solution to all parts. Equipment components and utensils shall be scraped to remove all burnt tobacco, charcoal or any other sediment or debris. A test-tube style brush may be necessary to remove clogs from the inside of the pipe. All components shall be effectively washed to remove or completely loosen soils by using manual or mechanical means necessary such as the application of detergents containing wetting agents and emulsifiers; abrasive cleaners; hot water; brushes; scouring pads; or high pressure sprays. Washed components and equipment shall be rinsed so that abrasives are removed and cleaning chemicals are

removed or diluted through the use of water or a detergent-sanitizer solution by using one of the following procedures:

- (1) A three-compartment sink
- (2) Alternative manual warewashing equipment equivalent to a 3-compartment sink
- (3) A three-step washing, rinsing, and sanitizing procedure in a warewashing system

After being cleaned equipment shall be sanitized in hot water manual operations by:

- (1) Immersion for at least 30 seconds
- (2) Hot water mechanical operations by being cycled through equipment that achieves a surface temperature of 71 degrees Celsius (160 degrees Fahrenheit) as measured by an irreversible registering temperature indicator, or
- (3) Chemical manual operations, including the application of sanitizing chemicals by immersion, manual swabbing, brushing, or pressure spraying methods, using a solution, providing:
 - a. An exposure time of at least ten seconds for chlorine solution,
 - b. An exposure time of at least seven seconds for a chlorine solution of 50 mg/L that has a pH of ten or less and a temperature of at least 38 C (100 F) or a pH of eight or less and a temperature of at least 24 C (75 F),
 - c. An exposure time of at least 30 seconds for other chemical sanitizing solutions, or
 - d. An exposure time used in relationship with a combination of temperature, concentration, and pH that, when evaluated for efficacy, yields sanitization as defined.

After sanitization, all equipment and components shall be allowed to air dry completely before the unit is reassembled. The pipe shall be

stored in a clean, dry location whereas not to be exposed to splash, dust, or other contamination. (G.O. 2457, 2-21-12)

Sec. 17-208. Penalty.

(a) Any business entity, or individual who shall violate or fail to comply with this division shall be deemed guilty of a misdemeanor upon conviction and punishment shall be assessed as follows:

- (1) For the first conviction by a fine of not less than \$25.00 nor more than \$500.00 and/or up to 30 days incarceration.
- (2) For the second conviction within a consecutive 12 month period by a fine of not less than \$75.00 nor more than \$500.00 and/or up to 90 days incarceration.
- (3) For the third and subsequent convictions in a consecutive 12 month period by a fine of not less than \$200.00 nor more than \$500.00 and/or up to six months incarceration.

(b) Fines received for violation of failure to comply shall be deposited in the public health fund.

(G.O. 2457, 2-21-12)

Secs. 17-209--17-220. Reserved.

ARTICLE VIII. TATTOOING

DIVISION 1. GENERALLY

Sec. 17-221. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Artist* means a person who practices the art of tattooing.
- (2) *Director* means the director of health and his designee.

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- (3) *Operator* means any individual, partnership or corporation owning, controlling or leasing, acting as agent for, conducting, managing or operating a tattooing establishment.
- (4) *Tattooing* means any method of placing designs, letters, scrolls, figures, symbols or any other marks upon or under the skin with ink or colors, by the aid of needles or instruments.
- (5) *Tattooing establishment* means any place or facility where the art of tattooing is performed.

- (6) *Temporary tattooing establishment* means a fixed location at which an individual operator performs tattooing for a specified period of not more than seven days in conjunction with a single event, convention or celebration.

(Gen. Ord. No. 1173, § 1(11-355), 5-23-94; G.O. 2838, 6-19-17)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Sec. 17-222. Regulations.

Any operator or artist must comply with the following regulations:

- (1) No tattoo may be administered to any person less than 18 years of age. Where there is doubt about such age, the operator or artist will obtain proof of age before the tattoo procedure is done.
- (2) Before administering a tattoo, the patron must be advised that the tattoo should be considered permanent; that it can be removed only with a surgical procedure; and that any effective removal may leave permanent scarring and disfigurement. A written cautionary notice to that effect shall be furnished to and signed by the patron and retained on file at the establishment.
- (3) The skin surface to be tattooed must be free of rash, pimples, infection or recent scar tissues. The patron must be in apparent good health, and the skin to be tattooed generally free of all appearance of pathological conditions.
- (4) Tattoos may not be administered to any person under the influence of drugs or alcohol, and the operator and/or artist is charged with the responsibility of making reasonable observation and inquiry to assure himself that the patron is, in fact, sober and not under the influence of drugs.
- (5) Written instructions approved by the director regarding the proper care of the tattooed skin as a precaution against infection shall be provided to each patron following the tattoo procedure.

- (6) The regulations in this section shall in no way be construed to allow nor permit the removal of any tattoo nor shall the tattoo operator perform or attempt to perform any procedure which is intended to remove any tattoo. Any attempt known by the director by a tattoo operator or artist to perform a tattoo removal procedure, shall result in the immediate suspension of the operator's permit and/or artist's card and the scheduling of a show cause hearing as to why the operator's permit and/or artist's card should not be revoked. The above procedure shall not preclude prosecution of the tattoo operator during the same period of permit suspension.

(Gen. Ord. No. 1173, § 1(11-362), 5-23-94)

Sec. 17-223. Premises.

(a) Premises and equipment in tattooing establishments must be maintained in a sanitary manner. This includes physical cleanliness as well as antiseptic precautions.

(b) Tattooing establishments shall be equipped with hot and cold running water. Adequate toilet facilities with soap and towels properly installed and in compliance with applicable ordinances, rules and regulations of the city shall be provided.

(c) Tattooing establishments shall be well lit with not less than 50 footcandles of light in all cleaning and working areas.

(d) Tattooing establishments shall have ventilation as required by applicable ordinances of the city.

(e) Tattooing establishments shall be of sufficient size to accommodate the required equipment for the business done therein.

(f) Floors, walls and ceilings of tattooing establishments shall be clean and in good repair.

(g) Adequate equipment and facilities shall be provided for the proper disposition of all disposable items in tattooing establishments.

(h) All tables and chairs used in the tattooing process shall be constructed of a material

allowing easy and thorough cleaning and shall be maintained in a clean and sanitary condition.

(i) The director shall be permitted access to all areas of the premises and records of tattooing establishments at any reasonable time.
(Gen. Ord. No. 1173, § 1(11-363), 5-23-94)

Sec. 17-224. Sterilization of equipment.

(a) *Cup of ink or colors.* Individual cups of ink or colors shall be used for each patron and discarded after use.

(b) *Needles and other instruments.* A new needle shall be used for each patron and properly disposed of after individual use. Other instruments used in administering the tattoo, including hand pieces, needle bars and razor blade holders, must be thoroughly disinfected, cleaned with soap and water and thoroughly rinsed again after each person and before sterilization.

(c) *Methods of sterilization.* Equipment shall be sterilized by steam pressure sterilization (autoclave), for a minimum of 30 minutes at 250 degrees Fahrenheit (121 degrees Celsius), followed by a drying time of not less than 15 minutes.

(d) *Sterilization requirements.*

- (1) To prepare for steam pressure sterilization, each needle shall be flushed with distilled water and left distinctly moist, just before the sterilization process is initiated. The tubes containing the needles should rest on their sides in the sterilizer to facilitate air removal and steam contact to each tube and needle.
- (2) When an autoclave procedure is used, indicator tape or other acceptable test method shall be used to check the effectiveness of sterilization.
- (3) Records of methods of sterilization together with temperature cycle for each sterilization process shall be kept on file for inspection by the director.

(4) All instruments and needles shall be stored in a closed metal or glass container.

(5) All tattoo stencils shall be of a disposable, single-use type and shall be used once and discarded.

(Gen. Ord. No. 1173, § 1(11-364), 5-23-94; G.O. 1746, 2-7-00)

Sec. 17-225. Minimum acceptable aseptic technique.

(a) Neither patrons, operators nor artists shall consume or bring food or drink into the area where the art of tattooing takes place and shall not smoke during the procedure or in the room where the art of tattooing takes place.

(b) Operators and artists must be free from communicable disease while administering tattoos and present no pustular lesions of the hands or arms.

(c) Immediately before administering a tattoo, the tattoo artist must thoroughly wash his hands in hot water with soap, using a short-bristled brush and then dry the hands with a disposable paper towel.

(d) The tattoo artist shall wear a clean and easily cleanable smock while administering the tattoo procedure.

(e) The tattoo artist, while administering a tattoo, shall wear an effective hair restraint, have clean fingernails and in general pay particular attention to his personal hygiene.

(f) The skin surrounding the area where a tattoo is to be placed shall be washed with a germicidal soap and then shaved with a disposable blade immediately prior to the art of tattooing. Following shaving, the skin must be gently scrubbed with 70% isopropyl alcohol, using a sterile gauze pad, which shall be disposed of after use.

(g) Individual razor blades shall be used when the customer is shaved and the razor then disinfected and prepared as in Section 17-224(b) through (d) between each use.

(h) During any phase of the tattoo procedure, should the tattoo artist be interrupted for other duties, i.e., answer phone, etc.; the tattoo artist

shall wash his hands as in Subsection (c) of this section before resuming the tattoo procedure.

(i) The tattoo shall be bandaged with a sterile nonstick type bandage when the tattoo is finished.

(j) All infections resulting from the practice of tattooing shall be reported within ten calendar days of receipt of this information to the director by the person owning or operating the tattooing establishment.

Secs. 17-226--17-250. Reserved.

DIVISION 2. PERMITS AND
ARTISTS' CARDS

**Sec. 17-251. Required documents;
prohibitions.**

(a) It shall be unlawful for any individual to operate a tattooing establishment without first applying for, and subsequently receiving, a permit from the director in the manner provided in this Division 2.

(b) It shall be unlawful for the owner and/or operator of any tattooing establishment to employ a person as a tattoo artist without such person having first secured a valid artist's card; and it shall be unlawful for any person who does not possess a valid artist's card to perform a tattooing procedure.

(c) The issuance of the artist's card referenced in this Division 2 shall be subject to the applicant's compliance with all regulations required by the director, which includes passing a physical examination. In addition, the applicant must furnish the director with a written statement from a licensed physician verifying that he or she is free of communicable disease prior to receiving said artist's card.

(d) An artist's card shall be granted only on the express condition that it shall be subject to suspension or revocation by the director in the event satisfactory evidence has been provided to the director substantiating that a violation of any rule of the director or provision of this code or applicable state law, has occurred; or upon a ruling issued pursuant to an administrative hearing conducted in accordance with the process set forth

in Chapter 2, Article XIII, Division 1, of this city code.

(Gen. Ord. No. 1173, § 1(11-356, 11-358), 5-23-94; G.O. 2748, 8-18-14)

Sec. 17-252. Fees.

(a) *Permit to operate tattooing establishment.* The director shall issue a permit to the applicant:

(1) Upon approval of his or her application for a permit to engage in the business of tattooing, (which requires submission of all documentation required by the State of Missouri for the licensure of tattooing establishments, as well as verification that said establishment employs a City of St. Joseph and State of Missouri licensed tattoo artist), and

(2) Upon payment of the required license fee. More specifically, the owner and/or operator shall pay a permit fee of \$50.00 per year, or for any portion of the year. Said permit fee shall be payable annually, in advance, to the director of administrative services.

(b) *Artist's card.* The director shall issue an artist's card to the applicant:

(1) Upon approval of his or her application for an artist's card, (which requires submission of all documentation required by the State of Missouri, as well as verification of the documentation set out in Subsection 17-251(c)); and

(2) Upon payment of the required license fee. More specifically, the tattoo artist shall pay a fee of \$25.00 per year, or for any portion of the year. Said fee shall be payable annually, in advance, to the director of administrative services.

(c) *Reinstatement; inspection.* Any owner or individual who operates a tattooing establishment for which a permit has been suspended may, at any time, make application for reinstatement of the permit. Within seven calendar days after receipt of a satisfactory application, accompanied by a statement signed by the applicant relaying that

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violations have now been remedied, the director shall re-inspect the establishment, and may conduct as many additional re-inspections as he or she may deem necessary, thereafter, to ensure that the applicant is in compliance with all relevant requirements. Upon a finding of compliance, the director shall reinstate the permit. Each separate inspection related to reinstatement shall prompt the assessment of an inspection fee of \$25.00, payable to the director of administrative services.
(Gen. Ord. No. 1173, § 1(11-357, 11-359), 5-23-94; G.O. 2748, 8-18-14)

Sec. 17-253. Expiration of permit, artist’s card.

A permit or artist’s card issued under the provisions of this division may be granted at any time during the year; but all permits and artist’s cards issued under this division shall expire on the next succeeding June 30. Such permit or artist’s card shall not be transferable.
(Gen. Ord. No. 1173, § 1(11-360), 5-23-94; G.O. 1746, 2-7-00; G.O. 2748, 8-18-14)

Sec. 17-254. Posting required.

All permits, artists' cards and regulations of the director shall be posted at all times in a conspicuous place in the tattooing establishment.
(Gen. Ord. No. 1173, § 1(11-361), 5-23-94; G.O. 2748, 8-18-14)

Secs. 17-255—17-259. Reserved.

DIVISION 3. TEMPORARY TATTOOING ESTABLISHMENT

Sec. 17-260. Issuance of temporary tattooing establishment license.

(a) The director may issue a temporary establishment license for a specified event to any tattoo establishment upon successful completion of an inspection. A temporary establishment license shall be in effect for not more than seven consecutive days and shall not be transferable to a different location.

(b) The inspection of a temporary tattooing establishment shall be conducted by an inspector serving as a representative of the division and shall

be conducted immediately prior to the beginning of the establishment’s operation.

(c) A completed application for a temporary establishment license shall be available for the health department to review at least 14 calendar days prior to the event.

(d) No temporary tattooing establishment may be operated without a license granted by the director. No temporary establishment license may be issued without a prior inspection.

(e) A temporary establishment license shall be conspicuously displayed for the public’s view in the temporary establishment.
(G.O. 2838, 6-19-17)

Sec. 17-261. Operation of temporary tattooing establishment.

(a) The operator of a temporary tattooing establishment shall:

- (1) Hold a current license, issued by the State of Missouri, or another state with equal or higher standards, and be at least 18 years of age;
- (2) Submit a completed application with the required temporary establishment fee to the director of planning and community development, who will forward it to the health department for review. The application shall state the name and contact information of the event host, as well as the name and contact information of each practitioner working at the temporary establishment, and state license number or identifier, regardless of issuing state;

- (3) Provide the director with a list of all practitioners who will be working at the temporary establishment at least 14 calendar days prior to the event. The list shall set forth each practitioner’s demographic information, state in which license was issued, current license number. Any changes or additions made to an application after initial submission, must receive final approval from planning and community development and the

health department prior to the start of the event. No tattooing practitioners may be added to an application after the start of a temporary event. Any artist found to be tattooing at an event, who is not included and approved on the application submitted, will be subject to penalties outlined in Section 17-208 Penalty, as will the event operator; and

(4) Be responsible for all practitioners.
 (b) Each temporary tattooing establishment shall be equipped with the following:

- (1) An approved toilet, and hand washing facility easily accessible for each artist;
- (2) Potable water under pressure;
- (3) Hot or tempered water for hand washing and cleaning easily accessible for each artist; and
- (4) Connection to an approved sewage connection system.

(c) Each temporary establishment will be subject to the enforcement of all provisions listed in this code, during individual site, booth or artists' area inspections at any temporary tattooing event.

(d) Each temporary facility shall be constructed according to the following specification:

- (1) Each temporary facility shall be restricted to a stationary physical location; and
- (2) Each temporary facility shall be equipped with a roof, and at least three walls to prevent dust and debris from entering the establishment.

(e) *Fees.* The applicant or event organizer shall file a completed application, and tender a fee of \$50.00. Each practicing tattoo artist shall pay a fee of \$25.00 per temporary event, at least 14 calendar days prior to the event. All said fees are payable to the director of administrative services.
 (G.O. 2838, 6-19-17)

Sec. 17-262. Temporary tattooing practitioner license issued by the State of Missouri.

(a) The Director of the Division of Professional Registration of the State of Missouri shall issue a temporary license to practice tattooing under the following requirements:

- (1) The applicant for temporary licensure is entering the State of Missouri for the sole purpose of participating in a state or national convention wherein the applicant will be practicing the profession of tattooing; and
- (2) The applicant files a completed application with the division at or prior to the official start of the portion of the convention wherein the practice of tattooing takes place and tenders a fee of \$50.00.

(b) A temporary licensure to practice tattooing issued pursuant to this rule shall be valid for a period not to exceed seven days and shall not be renewable.

(c) Out-of-state applicants receiving a temporary license pursuant to this rule shall agree to designate the division as its agent to the purpose of service of process in the event such person is named in a lawsuit pertaining to his or her temporary tattooing licensure in the State of Missouri.
 (G.O. 2838, 6-19-17)

Secs. 17-263--17-264. Reserved.

ARTICLE IX. AIR POLLUTION*

Sec. 17-265. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Air contaminant* means any particulate matter, gas or vapor, exclusive of water vapor, including but not limited to smoke, charred paper, dust, soot, grime, carbon or any other particulate matter or irritating odorous matter, fumes or gases or any combination thereof.

- (2) *Air contaminant source* means any source of emission of an air contaminant, whether privately or publicly owned or operated.

an enclosed chamber. For the purposes of this definition, a chamber shall be regarded as enclosed when, during the time combustion takes place, only such apertures, ducts, stacks, flues or chimneys as are necessary to provide combustion air and to permit the escape of exhaust gases are open.

***Cross reference(s)**--Burning solid waste, § 24-12; burning on paved streets, § 25-8.

State law reference(s)--Air conservation, RSMo ch. 643.

- (3) *Air pollution* means the presence in the ambient air of one or more air contaminants in quantities, of characteristics and of a duration which directly and proximately cause or contribute to injury to human, animal or plant life or health or to property or which unreasonably interfere with the enjoyment of life or use of property.

- (9) *Particulate matter* means any material, except uncombined water, that exists in a finely divided form as a liquid or solid at standard conditions.

- (4) *Ambient air* means that portion of the atmosphere, external to buildings, to which the general public has access.

- (10) *Premises* means land, improvements and the ambient air above such land or improvements.

- (5) *Director* means the city manager or his designated representative. The designated representative shall serve in that capacity at the pleasure of the city manager. The city manager or his designated representative is authorized and empowered to enforce the provisions of this article or similar laws in this Code.

- (11) *Process* means any reaction, operation or treatment, the equipment used in connection therewith and all methods or forms of manufacturing or processing that may emit any air contaminants.

- (6) *Incinerator* means any article, machine, equipment, contrivance, structure or part of a structure used to burn refuse or to process refuse material by burning other than open burning.

- (12) *Smoke* means small gas-borne particles, resulting from combustion, consisting of carbon, ash and other material.

- (7) *Opacity* means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

- (13) *Smoke observer* means any person who is currently certified by the state department of natural resources as a qualified smoke observer.

- (8) *Open burning* means the burning of any materials wherein air contaminants resulting from combustion are emitted directly into the ambient air without passing through a stack or chimney from

- (14) *Source operation* means the last operation preceding the emission of an air contaminant, which operation:

- a. Results in the separation of the air contaminant from the process materials or in the conversion of the process materials into air contaminants, as in the case of combustion fuel; and
- b. Is not principally an air pollution abatement operation.

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(15) *Stationary source* means any building, structure, facility or installation that emits or may emit any air contaminant.

(Code 1969, § 11-336; G.O. 1697, 5-3-99)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Sec. 17-266. Enforcement; order of abatement.

(a) *Issuance of orders.* Whenever the director determines that the terms or conditions of this article have been violated, he may order that the violation be abated within a reasonable time to be prescribed by him; such order to be served by personal service, certified or registered mail.

(b) *Prosecution in municipal court.* If a violation of this article occurs, the director may request the city attorney to file for injunctive relief or prosecution in the municipal court.

(c) *Proceedings in circuit court.* The director is authorized to institute proceedings in the circuit court in the name of the city, through the department of law, in order to enforce the terms and conditions of this article.

(d) *Stop orders.* Upon notice of the director that work on the installation of a machine, contrivance, equipment, device, process or operation that may cause the emission of air contaminants is being prosecuted, such work shall be immediately stopped. The stop work order shall be in writing and shall be served upon the person responsible for the premises on which the work is occurring or upon the person doing the work and shall state the conditions under which the work may be resumed.

(e) *Violation of stop order.* Any person who shall continue any work in or about such machine, contrivance, equipment, device, process or operation after having been served with a stop work order, except such work as he is directed to perform to remove a violation or unsafe condition, shall be in violation of this article, and each day the violation occurs shall be a separate offense.

(Code 1969, § 11-339; G.O. 1697, 5-3-99)

Sec. 17-267. Preventing particulate matter from becoming airborne.

(a) *Handling, transporting, storing.* No person may cause or permit the handling or transporting or storage of any material in a manner which may allow particulate matter to become airborne in such quantities and concentrations that it remains visible in the ambient air beyond where it originates or that its presence may be found beyond the premises where it originates.

(b) *Construction, use, repair, demolition.* No person may cause or permit a building or its appurtenances or a road or a driveway or an open area to be constructed, used, repaired or demolished without applying all such reasonable measures as may be required to prevent particulate matter from becoming airborne so that it remains visible beyond the premises where it originates or that its presence may be found beyond the premises where it originates. The director may require such reasonable measures as may be necessary to prevent particulate matter from becoming airborne, including but not limited to paving or frequent cleaning of roads, driveways and parking lots; application of dust-free surfaces; application of water on construction or demolition sites; and the planting and maintenance of vegetative ground cover.

(Code 1969, § 11-337; G.O. 1697, 5-3-99)

Sec. 17-268. Emission of visible air contaminants.

(a) *Mobile source emissions.* No person shall cause or permit the emissions of visible air contaminants from any internal combustion engine for more than five consecutive seconds at any one time, except this subsection shall not apply to jet or other aircraft engines and heavy-duty construction equipment.

(b) *Stationary source emissions.*

(1) No person may discharge into the ambient air from any stationary source any air contaminant of such opacity as to obscure a smoke observer's view to a degree greater than 20 percent opacity.

(2) A person may discharge into the ambient air from any single source of emission for a period aggregating not more than six minutes in any 60 minutes any air contaminant of such opacity as to obscure a smoke observer's view to a degree not greater than 60 percent, except this subsection shall not apply to the following:

- a. Woodburning stoves or fireplaces in residential dwellings.
- b. Fires used for recreational purposes or food preparation.
- c. Fires used for the purpose of training firefighters.
- d. Fires permitted in Section 24-12.

(c) *Incinerator emissions.* No person shall cause or permit the emission of particulate matter from the chimney stack or vent of any incinerator of such opacity as to obscure a smoke observer's view to a degree greater than 20 percent opacity.

(d) *Emission of odors.* No person may cause, permit or allow the emission of odorous matter in such concentrations and frequencies or for such durations that such odor can be perceived at the point of complaint in a residential area and cause such physiological effects as nausea, headache, loss of sleep, loss of appetite, impaired breathing or allergic reactions when attested to by a physician's statement or when derived as testimony in a court of law.

(Code 1969, § 11-338; G.O. 1697, 5-3-99)

ARTICLE X. EMERGENCY MEDICAL SERVICES VEHICLES

Sec. 17-275. Definitions.

The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(1) *Emergency medical services vehicle* means any privately or publicly owned vehicle or craft that is specially designed, constructed or modified, staffed or equipped for, and is intended or used, maintained or operated for the transportation of persons who are sick,

injured, wounded or otherwise incapacitated or helpless, or who require the presence of medical equipment being used on such individuals, but the term does not include any motor vehicle specially designed, constructed or converted for the regular transportation of persons who are disabled, handicapped, normally using a wheelchair, or otherwise not acutely ill, or emergency vehicles used within airports.

(2) *Person* means any individual, corporation, limited liability company, partnership, or other organization or entity.

(G.O. 2424, 4-4-11)

Sec. 17-276. Operation of emergency medical services vehicles; permit required.

(a) As of January 1, 2011, it shall be unlawful for any person to transport a patient in an emergency medical services vehicle without holding a valid city permit. This section shall not apply to the following:

- (1) Any transport of patients originating outside the city and terminating in the city;
- (2) Any transport that results from the rendering of assistance at the request of the centralized EMS dispatch center in a disaster or major emergency or in response to the request by the EMS dispatch center for mutual aid;
- (3) Any transport of patients who are being returned to the point of origination outside the city, provided that such a return transport occurs within 24 hours of the initial transport into the city; and
- (4) Any transport of patients originating inside the city and terminating outside the city if specifically requested by a patient.

(b) Any city police officer may issue a warrant, citation or summons charging a person driving an emergency medical services vehicle, as well as the registered owner of the vehicle, in the city in violation of this section.

(c) In any prosecution charging a violation of

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this section where the driver is unknown, proof that the emergency medical services vehicle

reasonable assessment of the financial stability of the applicant to provide the proposed service and the financial feasibility of the proposal); and

- (3) Other pertinent operational aspects of the proposed service as determined by the director of health.

described in the complaint, summons, ticket, citation or warrant transported a person from a location within the corporate city limits, together with proof that the defendant was at the time of transport the registered owner of the vehicle, shall constitute a presumption in evidence that the registered owner was the person who committed the violation.

Only applications fully completed with all required documentation shall be considered by the director of health.

(b) In determining whether to award a permit, the director of health shall consider all information submitted, together with the following:

(d) A violation of this section shall be a misdemeanor and may also, at the option of the city, be enforced by equitable relief in Circuit Court. To the extent such equitable relief is sought, the city may recover reasonable attorneys' fees.

- (1) The ability and quality of existing emergency medical services within the proposed service area;
- (2) Response times of existing emergency medical services in the proposed service area;
- (3) Minimum numbers of personnel and staffed emergency service vehicles for the proposed service; and
- (4) Potential negative (clinical, operational, fiscal) impacts of the proposed new service on existing city services.

(G.O. 2424, 4-4-11)

Sec. 17-277. Application and awarding of permits.

(c) Upon review and approval of an application, the director of health shall award a permit for the operation of emergency medical service vehicles, subject to such public health, safety, and general welfare requirements as it may impose under this article. Specifically, each applicant for an emergency medical services vehicle permit shall be required to provide emergency medical services coverage to all individuals within the city limits, 24 hours per day, 365 days per year. In addition, each applicant shall be required to respond to a call, to transport, to render first aid treatment, or otherwise provide services originating within the city, as may be reasonably necessary, regardless of a patient's inability to pay for such services and regardless of the patient's location within the city, unless there is a reasonable cause for provider's emergency medical services vehicles being unavailable (as determined by the director of health). The award of a permit may be further

(a) Any person desiring to apply for a permit to operate an emergency medical services vehicle within the city shall file an application with the city's director of health. Along with such application, the applicant shall provide documentation of organization and corporate structure, an attestation as to the competency and fitness of the applicant (and/or its officers/directors/employees), and evidence of a valid Missouri ambulance license from the Missouri Department of Health. In addition, the application shall contain the following information, in a form reasonably approved by the director of health:

- (1) The proposed area and level of service; hours of operation; the initial number of emergency service vehicles; an estimate of necessary equipment and supplies;
- (2) An outline of the financial feasibility of the proposed service (including initial source of funds, adequacy of sources of future revenue, and a proposed first year budget with sufficient detail to allow for a

conditioned upon the attainment of norms for quality of care and response times that the director of health and/or the city establishes, from time to time, for the city's emergency medical services system generally, and which are consistent with the then current national benchmarks.

(d) A non-waivable, non-refundable application fee of \$2,500.00 shall be submitted to

the city, in conjunction with the application itself, to cover the time expended by city staff and its consultants, as well as all costs and expenses associated with reviewing and, if approved, processing the application.

(e) The holder of a permit shall be referred to in this article as an "authorized provider."

(f) No permit may be transferred by any means, except to a successor entity under which there is no change in ownership or control.
(G.O. 2424, 4-4-11)

Sec. 17-278. Coordinated emergency medical services dispatch.

All authorized providers under this article shall be coordinated from the emergency medical services dispatch center designated by the city. No authorized provider shall publish or advertise any telephone number for the purpose of receiving requests for emergency response services except the emergency number (911) of the emergency medical services dispatch center.
(G.O. 2424, 4-4-11)

Sec. 17-279. System-wide medical direction.

The city shall approve a single system-wide medical director, but shall assume no financial responsibility with respect to the services provided; said services shall be paid by the emergency service provider(s). The medical director shall be a licensed physician and possess the qualifications contained in the Missouri Code of State Regulations, as more specifically set out in the Rules of the Department of Health and Senior Services, Title 19, Division 30, Chapter 40, Section 303 (19 CSR 30-40.303).

The responsibilities of the system-wide medical director shall include:

- (1) Recommending medically appropriate response time standards to the director of health;
- (2) Establishing standards for patient care, for ambulances and first responder vehicles;
- (3) Developing and revising clinical protocols for communications, first responder and emergency medical services personnel;
- (4) Conducting medical audits; and
- (5) Overseeing the development and administration of written and practical tests for the determination of emergency medical services personnel, first responders, and emergency medical services dispatch center personnel for the purpose of ensuring that all certified personnel who participate in pre-hospital patient care and emergency medical services dispatch maintain knowledge and skill levels at least consistent with industry standards and with that needed to implement emergency medical services system protocols and standing orders.

(G.O. 2424, 4-4-11)

Sec. 17-280. Suspension of authorization to operate.

The director of health may summarily and indefinitely suspend any permit issued pursuant to this article for any reason involving a danger to public health, safety or welfare, including bankruptcy or insolvency. Grounds for suspension shall include, but are not limited to:

- (1) Failure to provide emergency medical services coverage to individuals within the city limits, 24 hours per day, 365 days per year;
- (2) Failure to respond to a call, to transport, or to render first aid treatment, as may be reasonably necessary;
- (3) Refusal or failure to provide services originating within the city because of a

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patient's inability to pay for such services, because a patient is located at a particular location within the city, or because the provider's emergency medical services vehicles are unavailable without reasonable cause (as determined by the director of health); and

- (4) Failure to meet the norms for quality of care and response times established by the director of health and/or the city from time to time, and which are consistent with the then current national

benchmarks.
(G.O. 2424, 4-4-11)

Sec. 17-281. Appeals.

(a) Any person whose permit to operate an emergency medical services vehicle is denied, revoked or suspended, or who is charged with a violation of this article, may appeal to the director of health, or such other hearing officer as may be required by law. Any such appeal shall be in writing and state the name and address of the appealing party and the nature of his/her/its appeal, and shall be made within ten (10) working days after the denial, revocation, suspension or charge.

(b) The director of health shall hold a public hearing within ten working days after notice of appeal is filed. Notice of hearing shall contain a time and date for the hearing and be directed to the appealing party at the address given on his/her/its appeal by certified mail. The appellant, his/her/its attorney and any other person(s) whose interests may be affected on the matter, shall be given an opportunity to be heard, present evidence and examine adverse witnesses.

(c) The director of health shall render his/her decision in writing within a reasonable time; however, in no event later than ten working days after the conclusion of the hearing. Minutes of the hearing shall be made and kept by an individual designated by the director of health.

(d) Any person aggrieved by a decision of the director of health may appeal that determination to the Circuit Court of Buchanan County, Missouri

under the provisions of Chapter 536 RSMo. The appeal shall be made within 30 days after the earlier of the mailing by certified mail or hand delivery of the decision to the aggrieved party.
(G.O. 2424, 4-4-11)

ARTICLE XI. SMOKE-FREE INDOOR AIR WORKPLACES AND PUBLIC PLACES*

Sec. 17-325. Title.

This article shall be known as the St. Joseph Smoke-Free Indoor Air Ordinance of 2014.
(Election: 4-8-14)

Sec. 17-326. Definitions.

The following words and phrases, whenever used in this article, shall be construed as defined in this section:

- (1) *Bar* means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.
- (2) *Business* means a sole proprietorship, partnership, joint venture, corporation, or other business entity, either for-profit or not-for-profit, including retail establishments where goods or services are sold; professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered.
- (3) *Casino gaming areas* means the areas of a state-licensed gambling facility where gaming is allowed for those 21 years of

age or older, including any VIP lounge, accessible only through the gaming floor, whether or not gaming is allowed in the VIP lounge.

- (4) *Employee* means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit.

***Editor's note:** This article was approved by the voters at an election held April 8, 2014, and became effective on June 7, 2014. The City Council passed Special Ordinance No. 8751, on January 21, 2014, which placed the issue on the ballot.

- (5) *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.
- (6) *Enclosed area* means all space between a floor and a ceiling that is bounded on at least two sides by walls, doorways, or windows, whether open or closed. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent and whether or not containing openings of any kind.
- (7) *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, long-term care facilities, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, psychiatrists, 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.

- (8) *Membership club* means an organization, whether incorporated or not, which is the owner, lessee, or occupant of a building or 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 which only sells alcoholic beverages 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.
- (9) *Place of employment* means an area under the control of a public or private employer, including, but not limited to, work areas, private offices, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, construction sites, temporary offices, 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.
- (10) *Public place* means an 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, hotels and motels, laundromats, public transportation vehicles and facilities, reception areas, restaurants, retail 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.
- (11) *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.

(12) *Service line* means an indoor or outdoor 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, including but not limited to, ATM lines, concert lines, food vendor lines, movie ticket lines, and sporting event lines.

(13) *Shopping mall* means an enclosed public walkway or hall area that serves to

connect retail or professional establishments.

(14) *Smoking* means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other tobacco or plant product intended for inhalation.

(15) *Sports arena* means a place where people assemble to engage in physical exercise, participate in athletic competitions, or witness sports or other events, including sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, and bowling alleys.

(Election: 4-8-14; G.O. 2821, 11-7-16)

Sec. 17-327. Application of article to city-owned facilities and property.

All enclosed areas, including buildings and vehicles owned, leased, or operated by the City of St. Joseph shall be subject to the provisions of this article.

(Election: 4-8-14)

Sec. 17-328. Prohibition of smoking in enclosed public places.

Smoking shall be prohibited in all enclosed public places within City of St. Joseph, including but not limited to, the following places:

(1) Aquariums, galleries, libraries, and museums.

(2) Areas available to the general public in businesses and non-profit entities patronized by the public, including but not limited to, banks, laundromats, professional offices, and retail service establishments.

(3) Bars.

(4) Child care and adult day care facilities.

(5) Convention facilities.

(6) Educational facilities, both public and private.

(7) Elevators.

(8) Health care facilities.

(9) Hotels and motels, except in designated private sleeping rooms allowed for smoking and rented to guests, in accordance with the restrictions contained in Section 17-332 of this article.

(10) Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities.

(11) Polling places.

(12) Public transportation vehicles, including buses and taxicabs, under the authority of the City of St. Joseph, and ticket, boarding, and waiting areas of public transportation facilities, including bus, train, and airport facilities.

(13) Restaurants.

(14) Restrooms, lobbies, reception areas, hallways, and other common-use areas.

(15) Retail stores.

(16) Rooms, chambers, places of meeting or public assembly, including school buildings, under the control of an agency, board, commission, committee or council of the City of St. Joseph or a political subdivision of the State, to the extent the place is subject to the jurisdiction of the City of St. Joseph.

(17) Service lines.

(18) Shopping malls.

(19) Sports arenas.

(20) Theaters and other facilities primarily used for exhibiting motion pictures, stage performances, lectures, musical recitals, or other similar performances.

(Election: 4-8-14)

Sec. 17-329. Prohibition of smoking in enclosed places of employment

(a) Smoking shall be prohibited in all enclosed places of employment, except as may be otherwise provided in Section 17-332 of this article. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles, and all other enclosed facilities.

(b) This prohibition on smoking shall be communicated to all existing employees by the effective date of this article and to all prospective employees upon their application for employment.

(Election: 4-8-14)

Sec. 17-330. Prohibition of smoking in enclosed residential facilities.

Smoking shall be prohibited in the following enclosed residential facilities:

(1) All private and semiprivate rooms in nursing homes.

(2) At least 90% of hotel and motel sleeping rooms that are rented to guests. Designated non-smoking hotel and motel rooms shall have signage outside the hotel room saying the room is a non-smoking room.

(Election: 4-8-14)

Sec. 17-331. Prohibition of smoking in outdoor public places.

Smoking shall be prohibited within a reasonable distance of five feet from outside entrances, operable windows, and air intake ventilation systems of enclosed areas where smoking is prohibited, so as to prevent tobacco smoke from entering those areas.

(Election: 4-8-14; G.O. 2734, 6-9-14)

Sec. 17-332. Where smoking not regulated.

Notwithstanding any other provision of this article to the contrary, smoking shall not be prohibited in the following areas:

(1) Private vehicles or private residences, unless they are used as a childcare, adult day care, or health care facility.

(2) Not more than 10% of hotel and motel sleeping rooms rented to guests and designated as smoking rooms. All smoking rooms on the same floor must be contiguous, and smoke from these rooms must not infiltrate into areas where smoking is prohibited under the provisions of this article. The status of rooms as smoking or non-smoking may not be changed, except to add additional non-smoking rooms.

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- (3) Membership clubs that have no employees present, except when being used for a function to which the general public is invited; provided that smoke from such clubs does not infiltrate into areas where smoking is prohibited under the provisions of this ordinance. This exemption shall not apply to any organization that is established for the purpose of avoiding compliance with this ordinance.

- (4) Casino gaming areas as defined by this ordinance.
(Election: 4-8-14)

Sec. 17-333. Elimination of exemption.

Casino gaming areas shall be exempt from this article until smoking within the casino areas where gambling games are allowed is prohibited by ordinance, statute or law in all non-Native American casinos located in the Missouri counties of Jackson, Platte and Clay, and the Kansas counties of Johnson and Wyandotte (the relevant counties). To determine when casino gaming areas are no longer exempt from this article as described above:

- (1) The city clerk with the advice of the city manager will maintain a library of smoking ordinances from all cities that have casinos located within their corporate limits in the relevant counties.
- (2) When smoking within casino gaming areas has been banned in those jurisdictions in which casinos are located in the relevant counties, the city clerk shall provide for public notice through the city’s internet site, news releases and a communication to the city council.
- (3) Such notice shall state that smoking shall be prohibited in casino gaming areas 60 days from the date of the public notice.
- (4) The provisions of this section shall not become effective until 60 days from the date of the public notice.

(Election: 4-8-14)

Sec. 17-334. Declaration of establishment or outdoor area as nonsmoking.

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 nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of Section 335(1) is posted.

(Election: 4-8-14)

Sec. 17-335. Posting of signs and removal of ashtrays.

The owner, operator, manager, or other person in control of a public place or place of employment where smoking is prohibited by this article shall:

- (1) Clearly and conspicuously post “No Smoking” signs or the international “No Smoking” symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) in that place.
- (2) Clearly and conspicuously post at every entrance to that place a sign stating that smoking is prohibited.
- (3) Remove all ashtrays from any area where smoking is prohibited by this article, except for ashtrays displayed for sale and not for use on the premises.

(Election: 4-8-14)

Sec. 17-336. Non-retaliation; non-waiver of rights.

(a) No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, customer, or resident of a multiple-unit residential facility because that employee, applicant, customer, or resident exercises any rights afforded by this article or reports or attempts to prosecute a violation of this article. Notwithstanding Section 17-338, violation of this subsection shall be a misdemeanor, punishable by a fine not to exceed \$1,000 for each violation.

(b) Any employee who works in a setting where an employer allows smoking does not waive or otherwise surrender any legal rights the employee may have against the employer or any other party. (Election: 4-8-14)

Sec. 17-337. Enforcement.

(a) This article shall be enforced by the city manager, department of health, or another authorized designee.

(b) Notice of the provisions of this article shall be given to all applicants for a business license in the City of St. Joseph.

(c) Any citizen who desires to register a complaint under this article may initiate enforcement with the department of health or an authorized designee.

(d) The health department, fire department, or their designees shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this article.

(e) An owner, manager, operator, or employee of an area regulated by this article shall direct a person who is smoking in violation of this article to extinguish the product being smoked. If the person does not stop smoking, the owner, manager, operator, or employee shall refuse service and shall immediately ask the person to leave the premises. If the person in violation refuses to leave the premises, the owner, manager, operator, or employee shall first contact the health department, and, if deemed necessary, the appropriate law enforcement agency.

(f) Notwithstanding any other provision of this article, an employee or private citizen may bring legal action to enforce this article. (Election: 4-8-14)

Sec. 17-338. Violations and penalties.

(a) A person who smokes in an area where smoking is prohibited by the provisions of this article shall be guilty of an infraction, punishable by a fine not exceeding \$50.00.

(b) Except as otherwise provided in subsection (a) above, a person who 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 \$100.00 for a first violation.
- (2) A fine not exceeding \$200.00 for a second violation within one year of the previous violation.
- (3) A fine not exceeding \$500.00 for each additional violation within one year of the previous violation.

(c) In addition to the fines established by this section, violation of this article by a person who owns, manages, operates, or otherwise controls a public place or place of employment may result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.

(d) Violation of this article is hereby declared to be a public nuisance, which may be abated by the department of health by restraining order, preliminary and permanent injunction, or other means provided for by law, and the City of St. Joseph may take action to recover the costs of the nuisance abatement.

(e) Each day on which a violation of this article occurs shall be considered a separate and distinct violation. (Election: 4-8-14)

Sec. 17-339. Other applicable laws.

This article shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws. (Election: 4-8-14)

Sec. 17-340. Liberal construction.

This article shall be liberally construed so as to further its purposes. (Election: 4-8-14)

Sec. 17-341. Severability.

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If any provision, clause, sentence, or paragraph of this article or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

(Election: 4-8-14)

Sec. 17-342. Effective date.

This article shall be effective 60 days from the date of its passage or adoption.

(Election: 4-8-14)

Secs.17-343--17-359. Reserved.

ARTICLE XII. PRESCRIPTION DRUG MONITORING PROGRAM

Sec. 17-360. Title.

This article shall be known as the prescription drug monitoring program (PDMP).

(G.O. 2844, 11-6-17)

Sec. 17-361. Definitions.

The following words and phrases, whenever used in this article, shall be construed as defined in this section:

- (1) *Controlled substance* means a drug, substance, or immediate precursor in Schedules II, III and IV as set out in Chapter 195 RSMo.
- (2) *Department* means the City of St. Louis County Department of Public Health.
- (3) *Director* means the director of the City of St. Joseph Health Department or his/her designee to carry out the duties of the director specified in this ordinance.
- (4) *Local public health department (LPHD)* means the City of St. Joseph Health Department.
- (5) *Dispenser* means a person who delivers a Schedule II, III or IV controlled substance

to a patient. However, the term does not include:

- a. A hospital as defined in Section 197.020 RSMo that distributes such substances for the purpose of inpatient care, or dispenses prescriptions for controlled substances at the time of discharge from such facility;
- b. A practitioner or other authorized person who administers such substance; and
- c. A wholesale distributor of a Schedule II, III or IV controlled substance.

(6) *Patient* means a person who is the ultimate intended user of a drug for whom a prescription is issued, or for whom a drug is dispensed, not including a hospice patient enrolled in a Medicare certified hospice program who has controlled substances dispensed to him or her by such Hospice program.

(7) *Prescription Drug Monitoring Program* means PDMP.

(8) *Schedule II, III and IV controlled substance* means a controlled substance listed in Schedules II, III or IV as set out in chapter 195 RSMo or the Controlled Substance Act 21 U.S.C Section 812.

(G.O. 2844, 11-6-17)

Sec. 17-362. Establishment of monitoring program.

- (1) The City of St. Joseph, Missouri (St. Joseph) shall join St Louis County Department of Public Health to establish and maintain a program for monitoring the prescribing and dispensing of all Schedule II, III, and IV controlled substances by professionals licensed to prescribe or dispense such substances in St. Joseph, and may implement such rules which are necessary to implement such program.
- (2) St Louis County Department of Public Health holds a contract with Appriss. St. Joseph will have a subscription to participate in the contract.

- (3) This ordinance gives authority for St Louis County Department of Public Health to receive information from St. Joseph through the Appriss system.
- (4) The program established and maintained shall operate so as to be consistent with federal law concerning regulation of narcotics and with privacy of lawful users of same. The director may implement other rules and regulations to further the purpose of this article. The rules shall be effective upon approval of the city council.
- (5) St. Joseph will submit all required documentation through the PDMP approved by St Louis County Department of Public Health.
- (6) Within seven business days of having dispensed a Schedule II, III or IV controlled substance all dispensing agencies must submit by electronic means, information regarding such dispensing through the approved vendor system.
- (7) The information submitted for each dispensing site to the PDMP shall at a minimum include:
 - a) The pharmacy's drug enforcement administration (DEA) number;
 - b) The date of dispensation; and
 - c) If dispensed via a prescription: the prescription number; whether the prescription is a new or a re-fill; the prescriber's DEA number or national provider identifier number; the national drug code of the drug

dispensed; the quantity and dosage of the drug dispensed; and identifier for the patient for whom the drug was dispensed, including but not limited to any one of the following: driver license number, government issued identification number, insurance cardholder identification number, or the patient's name, address, and date of birth.

- (8) The dispenser's submission of the required information to the PDMP shall be in accordance with the transmission standards established by the American Society for Automation in Pharmacy, or any of its successor organizations.
- (9) All data submitted to the current vendor, Appriss, will be monitored and reviewed by St. Louis County Department of Public Health.

(G.O. 2844, 11-6-17)

Sec. 17-363. Dispensation information to be closed pursuant to law.

- (1) Except when provided to persons or agencies authorized by this ordinance to receive such information, dispensation information submitted to the PDMP is a closed record and not subject to public disclosure except as provided by law. No person shall provide such information to any person or agency not authorized by this ordinance to receive it. A request for information made under Chapter 610 RSMo shall be referred to the municipal prosecutor or other lawful prosecuting authority who shall take all reasonable and lawful steps to ensure non-disclosure of the information except as required by law.
- (2) The director of the PDMP shall develop and maintain procedures to ensure that the privacy and confidentiality of patients, and personal information collected, recorded, transmitted, and maintained are not disclosed to persons not authorized by this ordinance to receive dispensation information

(G.O. 2844, 11-6-17)

Sec. 17-364. Use of monitoring system by dispensers not in St. Joseph.

St Louis County Public Health Department may permit dispensers located in counties to participate in the PDMP and allow data entered to be viewed. The department will have access to all data entered by all Missouri cities and counties participating in the prescription drug monitoring program, as well as data provided by all states using the Appriss system. All Missouri cities, counties and states participating will have access to data entered by St. Joseph. Permission for access shall be conditional upon the participant complying in all respects with the provisions of the ordinance.

(G.O. 2844, 11-6-17)

Sec. 17-365. Notification of law enforcement.

The director of the St. Louis County Department of Public Health, or his or her designee, shall review dispensation information transmitted to LPHD and if the director of the St. Louis County Department of Public Health, or his or her designee, develops a reasonable belief that a violation of law has occurred, or develops a reasonable belief that a breach of professional standards has occurred, the director of the St. Louis County Department of Public Health, or his or her designee, shall notify the appropriate law enforcement agency and/or the appropriate professional licensing regulatory agency. The director of the St. Louis County Department of Public Health, or his or her designee, may provide any dispensation information requested by such entities when advised that such information is required for conduct of an official investigation.

(G.O. 2844, 11-6-17)

Sec. 17-366. Persons authorized to be provided dispensation information.

- (1) Dispensation information and other data compiled by the prescription drug monitoring program may be provided to the following persons upon a duly made request of the St. Louis County Department of Public Health:
 - a. Persons who are authorized to prescribe or dispense a controlled

substance if the requesting person demonstrates that the request is made

for the purpose of providing medical or pharmaceutical care for a patient. This includes persons within or outside the state of Missouri.

- b. Persons who request their own dispensation information in accordance with the law.
- c. The state board of pharmacy.
- d. Any state board charged with regulating a healthcare professional authorized to prescribe or dispense controlled substances, and which has duly requested the information or data in the course of a current and open investigation into the acts of a professional under the jurisdiction of a state board. Only information related to the subject professional shall be provided.
- e. Local, state, and federal law enforcement, or prosecutorial officials, both inside or outside of Missouri, who are engaged in the administration, investigation, or enforcement of laws governing prescription drugs based on a specific case and under subpoena issued pursuant to court order.
- f. The MO HealthNet Division of the Missouri Department of Social Services regarding MO HealthNet program recipients.
- g. A judge or other judicial officer under a subpoena issued pursuant to a court order.

(G.O. 2844, 11-6-17)

Sec. 17-367. Obedience to law required.

- (1) No person, absent lawful authority, shall knowingly access or disclose prescription or dispensation information maintained by the prescription drug monitoring program, or knowingly violate any other provision of this ordinance.

- (2) Any person convicted of violating this ordinance shall be punished by a fine of up to \$500.00 or up to one year in jail, or both.

(G.O. 2844, 11-6-17)

Sec. 17-368. Acceptance of grants.

The city council, on behalf of the City of St. Joseph, is authorized to accept grants or donations from private or public persons or organizations made in support of the PDMP authorized by this ordinance.

(G.O. 2844, 11-6-17)

Sec. 17-369. Revisions or revocation of ordinance.

If the city council finds the provisions of the prescription drug monitoring program ordinance are substantially similar to a statute of the State of Missouri regulating the same subject, the city council by order may suspend any or all of the provisions of this ordinance, or amend as necessary.

(G.O. 2844, 11-6-17)

Sec. 17-370. Acceptance and effective date.

Enforcement of this ordinance shall begin on February 6, 2018.

(G.O. 2844, 11-6-17)

Sec. 17-371. Severability.

If any provision, clause, sentence or paragraph of this article or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this article that can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

(G.O. 2844, 11-6-17)

Secs. 17-372--17-379.

**ARTICLE XIII. ELECTRONIC
CIGARETTES AND OTHER NICOTINE
DELIVERY SYSTEMS (ENDS).**

Sec. 17-380. Definitions.

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(a) *Business* means a sole proprietorship, partnership, joint venture, corporation, or other business entity, either for-profit or not-for-profit, including retail establishments where goods or services are sold; professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered.

(b) *Electronic Cigarettes*. Also known as e-cigarettes, vapes, e-hookahs, vape pens, and electronic nicotine delivery systems (ENDS). Work by heating a liquid to produce an aerosol that users inhale into their lungs.

(c) *Employee* means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit.

(d) *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.

(e) *Enclosed area* means all space between a floor and a ceiling that is bounded on at least two sides by walls, doorways, or windows, whether open or closed. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent and whether or not containing openings of any kind.

(f) *Place of employment* means an area under the control of a public or private employer, including, but not limited to, work areas, private offices, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, construction sites, temporary offices, 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.

(g) *Public place* means an 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, hotels and motels, laundromats, public transportation vehicles and facilities, reception areas, restaurants, retail 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.

(h) *Smoking* means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other tobacco or plant product intended for inhalation.

(i) *Vapor product* means any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form; vapor product includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.
(G.O. 2931, 10-21-19)

Sec. 17-381. Application of article to city-owned facilities and property.

All enclosed areas, including buildings and vehicles owned, leased, or operated by the City of St. Joseph shall be subject to the provisions of this article.
(G.O. 2931, 10-21-19)

Sec. 17-382. Use of vapor products in public places prohibited.

The use of vapor products shall be prohibited in all enclosed public places, including but not limited to the following places:

- (1) Aquariums, galleries, libraries, and museums.
- (2) Areas available to the general public in businesses and non-profit entities patronized by the public, including but not limited to, banks, laundromats, professional offices, and retail service establishments.
- (3) Bars.
- (4) Child care and adult day care facilities.

- (5) Convention facilities.
- (6) Educational facilities, both public and private.
- (7) Elevators.
- (8) Health care facilities.
- (9) Hotels and motels, except in designated private sleeping rooms where smoking is not allowed under this chapter.
- (10) Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities.
- (11) Polling places.
- (12) Public transportation vehicles, including buses and taxicabs, and ticket, boarding, and waiting areas of public transportation facilities, including bus, train, and airport facilities.
- (13) Restaurants.
- (14) Restrooms, lobbies, reception areas, hallways, and other common-use areas.
- (15) Retail stores.
- (16) Rooms, chambers, places of meeting or public assembly, including school buildings, under the control of an agency, board, commission, committee, or council of the City of St. Joseph or a political subdivision of the State, to the extent the place is subject to the jurisdiction of the City of St. Joseph.
- (17) Service lines.
- (18) Shopping malls.
- (19) Sports arenas.
- (20) Theaters and other facilities primarily used for exhibiting motion pictures, stage

performances, lectures, musical recitals, or other similar performances.
(G.O. 2931, 10-21-19)

Sec. 17-383. Where vapor products are not regulated.

Notwithstanding any other provision of this article to the contrary, the use of vapor products shall not be prohibited in any area in which smoking is not prohibited under this chapter.
(G.O. 2931, 10-21-19)

Sec. 17-384. Non-retaliation; non-waiver of rights.

No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, customer, or resident of a multiple-unit residential facility because that employee, applicant, customer, or resident exercises any rights afforded by this article or reports or attempts to prosecute a violation of this article. Notwithstanding Section 17-379, violation of this subsection shall be a misdemeanor, punishable by a fine not to exceed \$500 for each violation.
(G.O. 2931, 10-21-19)

Sec. 17-385. Enforcement.

(a) This article shall be enforced by the city manager, department of health, or another authorized designee.

(b) Notice of the provisions of this article shall be given to all applicants for a business license in the City of St. Joseph.

(c) Any citizen who desires to register a complaint under this article may initiate enforcement with the department of health or an authorized designee.

(d) The health department, fire department, or their designees shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this article.

(e) An owner, manager, operator, or employee of an area regulated by this article shall direct a person who is using vapor products in violation of this article to discontinue such use. If the person

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does not discontinue use of vapor products, the owner, manager, operator, or employee shall refuse service and shall immediately ask the person to leave the premises. If the person in violation refuses to leave the premises, the owner, manager, operator, or employee shall first contact the health department, and, if deemed necessary, the appropriate law enforcement agency.
(G.O. 2931, 10-21-19)

Sec. 17-386. Violations and penalties.

(a) A person who uses vapor products in an area where use of vaping products is prohibited by the provisions of this article shall be guilty of a misdemeanor, punishable by a fine not exceeding \$50.00.

(b) Except as otherwise provided in subsection (a) above, a person who 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 a misdemeanor, punishable by:

- (1) A fine not exceeding \$100.00 for a first violation.
- (2) A fine not exceeding \$200.00 for a second violation within one year of the previous violation.
- (3) A fine not exceeding \$500.00 for each additional violation within one year of the previous violation.

(c) Violation of this article is hereby declared to be a public nuisance, which may be abated by the department of health by restraining order, preliminary and permanent injunction, or other means provided for by law, and the City of St. Joseph may take action to recover the costs of the nuisance abatement.

(d) Each day on which a violation of this article occurs shall be considered a separate and distinct violation.
(G.O. 2931, 10-21-19)

Sec. 17-387. Other applicable laws.

This article shall not be interpreted or construed to permit the use of vapor products where the use is otherwise restricted by other applicable laws.
(G.O. 2931, 10-21-19)

Sec. 17-388. Liberal construction.

This article shall be liberally construed so as to further its purposes.
(G.O. 2931, 10-21-19)

Sec. 17-389. Severability.

If any provision, clause, sentence, or paragraph of this article or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.
(G.O. 2931, 10-21-19)

Sec. 17-390. Effective date.

This article shall be effective 60 days from the date of its passage or adoption.
(G.O. 2931, 10-21-19)

Sec. 17-391. Electronic cigarette and refill component age restrictions.

(a) *Providing prohibited.* No person shall sell, give away, procure for, or deliver any electronic cigarette to any person under the age of 21 years.

(b) *Retailer requirements.* In addition to the other responsibilities under this article, each retailer selling, or offering for sale, electronic cigarettes shall ensure that all sales of electronic cigarettes to any person comply with the following requirements:

- (1) No retailer may sell electronic cigarettes to any person younger than 21 years of age;
- (2) Each retailer shall verify, by means of photographic identification containing the bearer's date of birth, that no person purchasing electronic cigarettes is younger than 21 years of age;

- (3) Each retailer shall ensure that its employees are made aware of the provisions of this section and shall ensure that its employees comply with the provisions of this section.

(c) *Exception.* Persons at least 18 years of age, may obtain or possess electronic cigarettes to stock, arrange displays, accept payment for, and sack for carryout electronic cigarettes, provided they do not deliver electronic cigarettes away from the licensed business premises.

(G.O. 2942, 1-13-20)