



*Mary Fallin*  
Governor

**FILED**

FEB 06 2012

OKLAHOMA SECRETARY  
OF STATE

**EXECUTIVE DEPARTMENT**

**EXECUTIVE ORDER 2012-01**

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I, Mary Fallin, Governor of the State of Oklahoma, by the authority vested in me pursuant to Sections 1 and 2 of Article VI of the Oklahoma Constitution, hereby direct and order as follows:

Title 63 of the Oklahoma Statutes, Section 1-1523 prohibits smoking in all public places, in any indoor workplace, and all vehicles owned by the State of Oklahoma and all of its agencies and instrumentalities.

The Oklahoma Legislature, at 63 O.S. § 1-1515 (B), has found that breathing secondhand smoke causes disease, including lung cancer in healthy non-smokers; breathing secondhand smoke causes respiratory infection, decreased respiratory function, bronchoconstriction and bronchospasm. The population at most risk are the elderly, children, people with cardiovascular disease, and people with impaired respirator function, asthmatics, and those with obstructive airway disease.

The U.S. Surgeon General has issued a report stating that there is no risk-free level of exposure to secondhand smoke, which has immediate adverse effects on the cardiovascular system and causes coronary heart disease and lung cancer.

The United State Department of Health and Human Services, Centers for Disease Control and Prevention has found that the use of smokeless tobacco is known to be a cause of cancer and increases the risk of developing cancer of the oral cavity; the use of smokeless tobacco is associated with leukoplakia, gum disease and tooth decay; and the use of smokeless tobacco during pregnancy increases the risk of preeclampsia, premature birth and low birth weight.

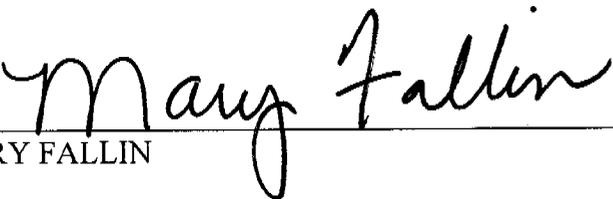
The use of any tobacco product shall be prohibited on any and all properties owned, leased or contracted for use by the State of Oklahoma, including but not limited to all buildings, land and vehicles owned, leased or contracted for use by agencies or instrumentalities of the State of Oklahoma.

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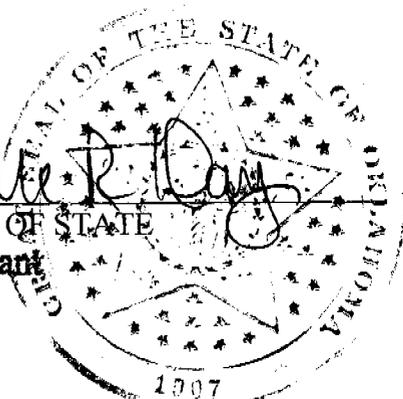
The Executive Order shall be distributed to all members of the Governor's Executive Cabinet and the chief executives of all state agencies, who shall cause the provisions of this order to be implemented by all appropriate officials and agencies of state government. Implementation shall be achieved no later than six (6) months from the date of this order. The Oklahoma State Department of Health ("OSDH") and Tobacco Settlement Endowment Trust ("TSET") will provide assistance to state agencies for implementing this order.

IN WITNESS WHEREOF, I have set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 6<sup>th</sup> day of February, 2012.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA

  
\_\_\_\_\_  
MARY FALLIN

ATTEST:

  
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SECRETARY OF STATE  
Assistant  
  
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**Mary Fallin**  
Governor

**FILED**

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OKLAHOMA SECRETARY  
OF STATE

**EXECUTIVE DEPARTMENT  
EXECUTIVE ORDER 2013-43**

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I, Mary Fallin, Governor of the State of Oklahoma, by the authority vested in me pursuant to Sections 1 and 2 of Article VI of the Oklahoma Constitution, hereby direct and order as follows:

In 2012, I signed Executive Order 2012-01, which prohibited the use of any tobacco product on any and all properties owned, leased or contracted for use by the State of Oklahoma, including but not limited to all buildings, land and vehicles owned, leased or contracted for use by agencies or instrumentalities of the State of Oklahoma. The goal of this Executive Order was to provide for a healthier work environment, encourage healthier lifestyle choices for state employees and protect visitors to state property.

In the last couple of years, there has been an increase in the use of electronic cigarettes and vaping devices, including use in the work place and public places. While the popularity and use of these products has increased, we still do not know the potential long-term health effects associated with these devices. We do, however, know that the vapor produced from these devices can release chemicals such as nicotine and other tobacco related contaminants, including tobacco-specific nitrosamines and formaldehyde. Because the secondhand vapor contains chemicals, it can impact bystanders.

Additionally, many electronic cigarettes and vaping devices look like traditional cigarettes and emit a vapor that looks like cigarette smoke. The similarity of these products to combustible cigarettes, which are prohibited on state property under Executive Order 2012-01, may create confusion for employees and visitors and present enforcement challenges for state agencies.

On December 17, 2013, Secretary of Health and Human Services Dr. Terry Cline released a Public Health Advisory to consumers and advised using caution when using or considering using these e-cigarette and vaping devices. This is, in part, due to the reality that these devices contain and emit harmful chemicals, are currently unregulated, and pose known and unknown health risks to users and non-users alike.

State and local laws and ordinances have been created to ensure clean indoor air for Oklahoma citizens in most places. The vapor emitted from these devices contains chemicals and toxins that undermine Oklahoma citizens' expectations of clean indoor air. Accordingly, over 100 worksites across Oklahoma have voluntarily prohibited the use of these devices on their property. Another 65 school districts have passed similar polices thereby protecting approximately 150,000 of our children while on school property.

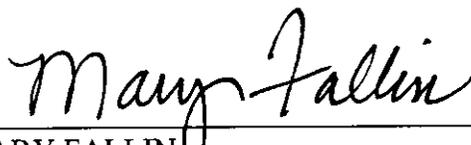
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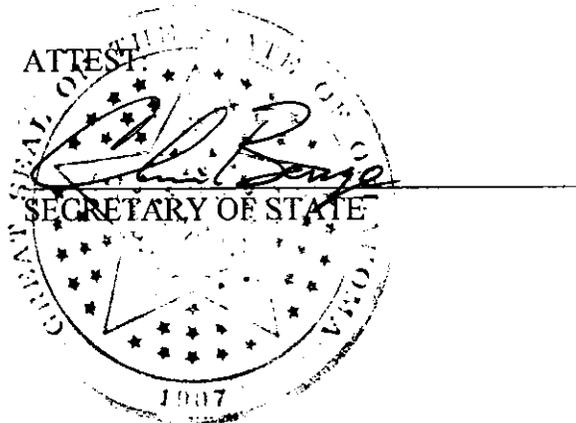
Therefore, the use of any electronic cigarette or vaping device shall be prohibited on any and all properties owned, leased or contracted for use by the State of Oklahoma, including but not limited to all buildings, land and vehicles owned, leased or contracted for use by agencies or instrumentalities of the State of Oklahoma. Provided, however, this Executive Order shall not apply to residents of Veteran's Affairs Residential Facilities while at those facilities.

The Executive Order shall be distributed to all members of the Governor's Executive Cabinet and the chief executives of all state agencies, who shall cause the provisions of this order to be implemented by all appropriate officials and agencies of state government. The Oklahoma State Department of Health ("OSDH") and Tobacco Settlement Endowment Trust ("TSET") will provide assistance to state agencies for implementing this order. The Executive Order shall be effective January 1, 2014.

IN WITNESS WHEREOF, I have set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 23<sup>rd</sup> day of December, 2013.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA

  
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MARY FALLIN



## CHAPTER 96: SMOKING REGULATIONS (St. Joseph County, Indiana)

### Section

- 96.01 Definitions
- 96.02 Applicability to county-owned facilities
- 96.03 Prohibition of smoking in public places and certain places of employment
- 96.04 Prohibition of smoking in places of employment
- 96.05 Where smoking not regulated (exceptions)
- 96.06 Outside distance
- 96.07 Posting of signs; removing of paraphernalia
- 96.08 Enforcement
- 96.09 Violations and penalties
- 96.10 Nonretaliation
- 96.11 Other applicable laws
- 96.12 Severability
- 96.13 No local preemption
- 96.14 Effective date
- 96.15 Legal construction

### § 96.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**BAR or TAVERN.** An establishment that:

- (1) Must possess a valid alcoholic beverage license under the State of Indiana;
- (2) Allows no patron or employee under age 18 to enter at any time;
- (3) Employs no person under the age of 18;
- (4) Provides written notice as a part of its annual application for retail food

establishment license to the Health Department that it intends to allow smoking, intends to serve only patrons over the age of 18, and that this election may be made only twice a year (other than an initial enrollment period of three months after the effective date of this chapter); and

(5) If located within a building with a business required to be smokefree by this chapter, the establishment must be located on a separate floor, or on the same floor but separated from the business required to be smokefree by walls, windows or closeable doors, and allows no patron or employee under the age of 18.

**BUSINESS.** Any sole proprietorship, partnership, joint venture, corporation or other business entity either for profit-making purposes or not-for-profit, including but not limited to retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, accounting, insurance, financial, architectural or other professional services are delivered, sold or offered to the public.

**EMPLOYEE.** Any person who is employed by any employer for direct or indirect monetary wages or profit, including those employed full-time, part-time, on a temporary basis, or by contract through a third party, or any person who volunteers their services for a nonprofit entity.

**EMPLOYER.** Any person, partnership and corporation, including a municipal corporation, or other business entity or nonprofit entity, who employs the services of one or more individual persons.

**ENCLOSED AREA.** All space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of door or passage ways), which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid, “office landscaping” or similar structures.

**HEALTH CARE FACILITY.** An office or institution providing care or treatment of diseases, whether physical, mental or emotional, or other medical, physiological or psychological

conditions, including but not limited to hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists and all specialists within these professions. This definition shall include all area waiting rooms, hallways, private rooms, semiprivate rooms and wards within health care facilities, including but not limited to the above named locations.

**PLACE OF EMPLOYMENT.** Any enclosed area under the control of a public or private employer; or nonprofit entity with employees or volunteers who normally frequent during the course of employment or volunteering, including but not limited to work areas, private offices, employee lounges and restrooms, conference and classrooms, employee cafeterias and hallways.

**PRIVATE CLUB.** A facility owned or operated by an association or corporation, which shall:

- (1) Not be operated for pecuniary gain; and
- (2) Consist of a membership:
  - (a) Formed as a lodge, union local chapter or corresponding unit of a fraternal order recognized on a national basis;
  - (b) Comprised of persons who have served in the armed forces of the United States; or
  - (c) Formed as a recognized, exclusive association of persons organized for a joint or common purpose for which application for membership, the payment of dues and self-governance by the membership are distinguishing characteristics; and
  - (d) Where entry into and use of the facility is restricted to members and guests of members.

**PUBLIC PLACE.** Any enclosed area to which the public is invited or in which the public is permitted, including but not limited to banks, educational facilities, health facilities, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, theaters and waiting rooms. A private residence is not a PUBLIC PLACE.

**RESTAURANT.** 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 an attached bar.

**RETAIL TOBACCO STORE.** A retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental. The term does not include retail stores where food or beverages are sold for consumption on the premises or where an area has been set aside on the premises for customers to consume any food or beverage.

**SERVICE LINE.** Any indoor or outdoor area line at which one or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money.

**SHOPPING MALL.** An enclosed public walkway or hall area that serves to connect retail or professional establishments.

**SMOKING.** Inhaling, exhaling, burning or carrying any lighted cigar, cigarette, weed, plant or other lighted tobacco product or smoking equipment.

**SPORTS ARENA.** Any indoor or outdoor space used as a sports pavilion, gymnasium, health spa, boxing arena, swimming pool, roller and ice rink, football field, soccer field and other similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition or witness sports events.

**TOBACCO BAR.** A business that:

(1) Offers alcoholic beverages for sale to customers for consumption on the licensed premises pursuant to a Type 210 retailer permit issued by the Indiana Alcohol and Tobacco Commission;

(2) Does not admit customers or hire employees who are less than 21 years of age; and/or

(3) Generated 10% or more of its total annual gross income from the on-site sale of tobacco products in the previous calendar year.

(Ord. 04-06, passed 1-17-2006)

#### § 96.02 APPLICABILITY TO COUNTY-OWNED FACILITIES.

All enclosed facilities owned or leased by St. Joseph County shall be subject to the provisions of this chapter. This section shall not be deemed to restrict smoking in individual motor vehicles owned or leased by St. Joseph County.

(Ord. 04-06, passed 1-17-2006)

#### § 96.03 PROHIBITION OF SMOKING IN PUBLIC PLACES AND CERTAIN PLACES OF EMPLOYMENT.

Smoking shall be prohibited in all public places within St. Joseph County, unless exempted by § 96.05, including but not limited to the following areas:

(A) Restaurants that do not restrict patrons to those 18 years of age or older;

(B) Retail stores and shopping malls;

(C) All places of employment within St. Joseph County to be phased in by April 10, 2007, except where enumerated in § 96.05;

(D) Restrooms, lobbies, reception areas, hallways and any other common-use areas;

(E) Elevators, aquariums, art galleries, libraries, zoos and museums;

(F) Any facility which is primarily used for exhibiting any motion picture, stage, drama, lecture, musical recital or other similar performance, except when the performers are smoking as part of a theatrical production;

(G) Sports arenas, football stadiums and convention halls, indoor driving ranges and miniature golf courses;

(H) Healthcare facilities, all businesses, all public places as defined herein, all service lines and sports arenas;

(I) Polling places;

(K) Bowling alleys, except in an enclosed bar area; and

(L) The following outdoor areas;

1. All areas provided by eating establishments that do not limit access to patrons 18 years or older;

2. Within courtyards' and other covered areas where air circulations is impeded by architectural, landscaping or other barriers;

3. All St. Joseph County, city, township and town municipally owned, leased and/or operated parks and recreational areas.

(Ord. 04-06, passed 1-17-2006; Ord. 49-06, passed 5-9-2006)

#### § 96.04 PROHIBITION OF SMOKING IN PLACES OF EMPLOYMENT.

(A) Smoking shall be prohibited in all enclosed areas within places of employment without exception. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medicals facilities cafeterias, employee lounges, stairs, restrooms and all other enclosed facilities.

(B) This prohibition on smoking shall be communicated to all existing employees by the effective date of this chapter and to all prospective employees upon their application for employment or hiring. A prominently placed sign in an area available to all employees posted on or before the effective date shall be proof of this required communication.

(Ord. 04-06, passed 1-17-2006)

§ 96.05 WHERE SMOKING NOT REGULATED (EXCEPTIONS).

The following places are exempt from provisions of §§ 96.03 and 96.04:

(A) Private residences and independent or assisted living facilities that are considered private residences, except when used as a child care, adult day care or health care facility;

(B) Family-owned and operated businesses in which all employees are related to the owner, and offices of self-employed persons in which all employees are related to the self-employed person, but only if the enclosed areas these businesses and offices occupy are not open to the public;

(C) Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided, however, that not more than 25% of rooms rented to guests in a hotel or motel may be so designated;

(D) Retail tobacco stores and tobacco bars; provided, that smoke from these places does not infiltrate into areas where smoking is prohibited under the provisions of this chapter;

(E) All establishments limiting access to those patrons 18 years of age or older, pursuant to a state statutory requirement;

(F) Outdoor areas of public or private golf courses, not to include miniature golf courses;

(G) Bingo establishments;

(H) Private motor vehicles;

(I) Outdoor areas of places of employment except those covered by the provisions of § 96.03;

(J) Private clubs as defined in § 96.01;

(K) Any hall, room or assembly area owned or operated by a church, synagogue or other place of worship that is rented or leased out for a social function;

(L) Any bar or tavern which:

(1) Possesses a valid alcoholic beverage license under the State of Indiana;

(2) Allows no patron or employee under age 18 hired after April 10, 2006 to enter at any time;

(3) Employs no person under the age of 18 hired after April 10, 2006;

(4) Provides written notice as a part of its annual application for retail food establishment license to the Health Department that it intends to allow smoking, intends to serve only patrons over the age of 18, and that this election may be made only twice a year (other than an initial enrollment period of three months after the effective date of this chapter); and

(5) If located within a business required to be smokefree by this chapter, the establishment must be located on a separate floor, or on the same floor but separated from the business required to be smokefree by walls, windows or closeable doors and allows no patron or employee under the age of 18 hired after April 10, 2006.

(M) Notwithstanding any other provision herein, smoking shall not be allowed in any area if the smoke from smoking is allowed to enter, either directly or indirectly, any other area where smoking is prohibited under this chapter;

(N) Any business claiming an exemption pursuant to this section shall provide to any enforcement agency listed in this chapter, within 15 business days of written demand, adequate written proof that it qualifies for the exemption claimed;

(O) Extension of time. This chapter shall allow a one-time two-year extension for certain food service establishments that meet the following criteria:

(1) Certify prior three years of food sales (excluding alcohol) of less than \$450,000 per year. This amount shall be prorated monthly if the applicant has been in business for less than three years;

(2) Establishments meeting the criteria must apply with the Health Department within 45 days of chapter adoption; and

(3) No new food service establishments established after the adoption of this chapter shall be eligible for this extension.

(P) A designated room or other enclosed area within a business or place of employment otherwise subject to the nonsmoking ban provided in this chapter, provided that the area is limited exclusively to the employees of the place of employment or business; and further provided that the area is completely enclosed and separate from the remainder of the smoke-free enclosed areas of the place of employment or business, by solid floor to ceiling walls and doors or windows which must remain closed except for entry or exit of persons to or from the room, or where a window or door ventilates to the outside of the building. No business or place of employment shall be designated as a smoking room in its entirety; and

(Q) Pool halls that do not allow or admit any patron or employee under 18 years of age to enter at any time.

(Ord. 04-06, passed 1-17-2006; Ord. 49-06, passed 5-9-2006; Ord. 92-06, passed 9-12-2006)  
§ 96.06 OUTSIDE DISTANCE.

Smoking is prohibited within such distance outside any portion of an enclosed area where smoking is prohibited, to prevent tobacco smoke from entering the restricted area through entrances, windows, ventilation systems or other means.

(Ord. 04-06, passed 1-17-2006)

§ 96.07 POSTING OF SIGNS; REMOVING OF PARAPHERNALIA.

(A) Where smoking is prohibited herein, the owners, occupants and persons in control of the premises 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) shall be clearly and conspicuously posted in every public place and place of employment where smoking is prohibited by this chapter, by the owner, operator, manager or other person in control of that place. Every public place and place of employment where smoking is prohibited by this chapter shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited; and

(2) Remove or not permit the use of ashtrays, lighters or matchbooks for smoking in any area where smoking is prohibited.

(B) Where smoking is not prohibited herein, the owners, occupants and persons in control of the premises shall clearly and conspicuously post the following sign at every entrance: “Warning: This is a Smoking Establishment”. This entrance sign shall be in clear and conspicuous type. Entrance signs may be made available without charge through the local Indiana Tobacco Prevention and Cessation Agency grant.

(Ord. 04-06, passed 1-17-2006)

§ 96.08 ENFORCEMENT.

(A) The owners, occupants and persons in control of the premises shall ask any person who smokes in an area where smoking is prohibited to refrain from smoking and, if the person does not comply with this request, ask the person to leave, and if the person refuses to leave, contact the appropriate law enforcement authorities and handle the situation consistent with lawful methods for handling persons acting in a disorderly manner. Upon a complaint being lodged or registered with the St. Joseph County Health Department regarding an alleged violation of this chapter, the agency is hereby authorized to initiate enforcement of this chapter. A copy of this chapter shall be given to all applicants for a health permit in St. Joseph County, Indiana.

(B) Any person who desires to lodge or register a complaint under this chapter may initiate enforcement by lodging or registering the complaint by telephone, mail, and electronic communication or in person with the St. Joseph County Health Department. Such department

may require a complainant to execute an affidavit when an establishment is accused of a third violation or greater which may result in a fine under this chapter.

(C) An owner, manager, operator or employee of an establishment regulated by this chapter shall inform persons violating this chapter of the appropriate provisions thereof.

(D) The Department shall undertake reasonable and good-faith efforts to assure compliance with this chapter. Where deemed necessary, as indicated in § 96.09(G), the St Joseph County Health Department shall refer complaints for further enforcement to the St. Joseph County Prosecutor's office.

(Ord. 04-06, passed 1-17-2006)

#### § 96.09 VIOLATIONS AND PENALTIES.

(A) 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 chapter shall be found in violation which is punishable as set forth in the Appendix: Schedule of Fines and Fees.

(B) Any fines collected herein shall be deposited in a non-reverting line item account maintained in the budget of the St. Joseph County Health Department, with the sums being applied toward enforcement of this chapter and in furtherance of the intent of this chapter.

(C) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises, or any person or employee occupying the premises subject to regulation under this chapter to fail to comply with any of its provisions.

(D) Each day on which a violation of this chapter occurs shall be considered a separate and distinct violation.

(E) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation under this chapter to knowingly or willfully allow smoking to occur where prohibited by this chapter. It is a defense to this section, if the foregoing persons or their employees act in a reasonable and timely manner to personally inform the violator of the prohibition and request that he or she refrain from smoking.

(F) It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this chapter.

(G) A person who smokes in an area where smoking is prohibited by the provisions of this chapter shall be guilty of an infraction, punishable by a fine as set forth in the Appendix: Schedule of Fines and Fees, which fine shall be processed through the St. Joseph County Health Department. Furthermore, if after multiple violations have occurred by either the same person or the same establishment and the St. Joseph County Health Department has reason to believe that fines will not be effective in enforcing this chapter, then the St. Joseph County Prosecutor's office shall be empowered to seek any and all other remedies provided by law.

(H) The Board of Health has adopted an appeal procedure for any aggrieved individual or establishment, which has been found in violation of this chapter, a copy of which is attached to Resolution R3-06 and which is hereby adopted by reference as if set out in full herein. Copies are available through county offices.

(Ord. 04-06, passed 1-17-2006; Res. R3-06, passed 4-11-2006; Res. R8-06, passed 6-13-2006)  
Penalty, see § 10.99

#### § 96.10 NONRETALIATION.

No person or employer shall discharge, refuse to hire or in any manner retaliate against an employee, applicant for employment, or customer because that employee, applicant or customer exercises any rights afforded by this chapter or reports or attempts to prosecute a violation of this chapter.

(Ord. 04-06, passed 1-17-2006)

#### § 96.11 OTHER APPLICABLE LAWS.

(A) This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

(B) Furthermore, the St. Joseph County Council shall periodically request other governmental and educational entities having facilities within St. Joseph County to establish local operating procedures in cooperation and compliance with this chapter. This includes urging all federal, state, county, city and school district agencies to update their existing tobacco control policies to be consistent with current health findings with regard to the hazards of second-hand smoke.

(C) In addition, the St. Joseph County Health Department shall engage in a continuing program to explain and clarify the purposes and requirements of this chapter.

(Ord. 04-06, passed 1-17-2006)

§ 96.12 SEVERABILITY.

If any sections, sentence or provision of this chapter, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

(Ord. 04-06, passed 1-17-2006)

§ 96.13 NO LOCAL PREEMPTION.

Nothing herein prohibits an owner or lessee of real estate or property subject to this chapter from imposing smoking restrictions greater than those contained in this chapter.

(Ord. 04-06, passed 1-17-2006)

§ 96.14 EFFECTIVE DATE.

This chapter shall be in full force and effect from and after its passage by the County Council of St. Joseph County, its approval by the Board of Commissioners of St. Joseph County and such publications as required by law, effective April 10, 2006.

(Ord. 04-06, passed 1-17-2006)

§ 96.15 LEGAL CONSTRUCTION.

This chapter shall be construed with the intent so as to further its purposes.

(Ord. 04-06, passed 1-17-2006)