CITY OF FARMINGTON
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FOR IMMEDIATE RELEASE:

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FARMINGTON CITY COUNCIL SCHEDULES PUBLIC HEARINGS REGARDING PROPOSED SMOKING BAN ORDINANCE

Farmington, Missouri (April 28, 2015) – The Farmington City Council has scheduled two public hearings regarding the proposed smoking ban ordinance. The public hearings are scheduled for May 14th, 2015 and June 11, 2015 at 6:30 p.m. in the City Council chambers at Long Memorial Hall.

Written comments may be submitted to the City of Farmington, Attention of the Mayor and City Council, 110 West Columbia Street, Farmington, Missouri 63640, or e-mail to smokingban@farmington-mo.gov. A copy of the proposed ordinance is available at www.farmington-mo.gov, or at the office of the City Clerk, 110 West Columbia, Farmington, Missouri.

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BILL

AN ORDINANCE OF THE CITY OF FARMINGTON, MISSOURI AMENDING THE MUNICIPAL CODE OF THE CITY OF FARMINGTON, TITLE II: PUBLIC HEALTH, SAFETY AND WELFARE BY ADDING CHAPTER 237: SMOKING REGULATIONS; AND PROVIDING FOR SUBMISSION OF THIS ORDINANCE TO THE QUALIFIED VOTERS OF SAID CITY FOR THEIR APPROVAL AT THE MISSOURI GENERAL ELECTION TO BE HELD ON NOVEMBER 3, 2015.

WHEREAS, the City Council of the City of Farmington desires to enact certain regulations to protect the citizens of Farmington from exposure to second hand smoke resulting from the use of smoking tobacco or electronic cigarette vapors in public places; and

WHEREAS, the City Council of the City of Farmington conducted a public hearing regarding said regulations on May 14, 2015 and June 11, 2015, wherein interested citizens were provided the opportunity to address the City Council and provide public comment on the proposed regulations; and

WHEREAS, the City Council of the City of Farmington desires to submit the ordinance to the qualified voters of Farmington for their approval at the general election to be held on November 3, 2015; now therefore,

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BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FARMINGTON, MISSOURI AS FOLLOWS:

SECTION 1. That the Municipal Code of the City of Farmington, Title II: Public Health, Safety and Welfare is hereby amended by adding the following new chapter:

CHAPTER 237: SMOKING REGULATIONS

SECTION 237.010: DEFINITIONS

As used in this Chapter, the following terms shall have these prescribed meanings:

BUSINESS: A sole proprietorship, partnership, joint venture, corporation, limited liability company, 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 and private clubs.

CITY: The City of Farmington, Missouri.

ELECTRONIC CIGARETTE: An electronic and/or battery-operated device, intended to emulate smoking that can be used to deliver an inhaled dose of vapors including nicotine

and/or other substances. "Electronic cigarette" includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, a vapor cigarette or any other product name or descriptor.

EMPLOYEE: Any person who performs services for an employer with or without compensation.

EMPLOYER: A person, partnership, association, corporation, trust or other organized group of individuals which utilizes the services of at least one (1) employee.

ENCLOSED AREA: A space bound by walls (with or without windows) continuous from the floor to the ceiling and enclosed by doors, including, but not limited to, offices, rooms, all space therein screened by partitions which do not extend to the ceiling, or are not solid, "office landscaping" or similar structures and hallways.

PERMANENTLY DESIGNATED SMOKING ROOM: A hotel or motel room designated as a smoking room and with such designation being changeable only one (1) time a year.

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

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PRIVATE CLUB: A not-for-profit organization incorporated under the laws of the State of Missouri for fraternal or social purposes or for a congressionally chartered veterans' organization, which has a defined membership and restricts admission to members of the club and their guests. Private club shall not include an establishment that is generally open to members of the general public upon payment of a fee. A private club shall not be considered a "public place" except when it is the site of a meeting, event or activity that is open to the public.

PUBLIC PLACE: Any enclosed or other area to which the public is invited or in which the public is permitted, including, but not limited to, banks, educational facilities, reception areas, health facilities, laundering facilities, public transportation facilities, production and marketing establishments, retail service establishments, retail stores, theaters and waiting rooms, and a private residence used as a child care, adult day care, respite care or health care facility.

RESTAURANT: An eating establishment, including, but not limited to, coffee shops, cafeterias, sandwich stands and private and public school cafeterias, which provides 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 and lounge area within the restaurant.

SERVICE LINE: Any indoor or outdoor line at which one (1) or more persons are waiting for or receiving service of any kind, whether or not such 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 or heated cigar, cigarette, pipe, or other device or materials intended for the purpose using tobacco or other smoke producing products.

SPORTS ARENA: Sports pavilions, gymnasiums, health spas, boxing arenas, outdoor and indoor swimming pools, outdoor athletic fields, outdoor and indoor roller and ice skating rinks, bowling alleys and other similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition or witness sporting events.

SECTION 237.020: PROHIBITION OF SMOKING IN ENCLOSED PLACES OF EMPLOYMENT AND OTHER PUBLIC PLACES.

A. It shall be unlawful for any person to possess lighted or heated smoking materials in any form including, but not limited to, the possession of lighted or heated cigarettes, cigars, pipes or other devices or materials intended for the purpose using tobacco or other smoke producing products, or electronic cigarettes within an enclosed place of employment in the City of Farmington.

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B. It shall be unlawful for any person to possess lighted or heated smoking materials in any form including, but not limited to, the possession of lighted or heated cigarettes, cigars, pipes or other devices or materials intended for the purpose using tobacco or other smoke producing products, or electronic cigarettes within an enclosed public place or within any other places hereinafter specified:

1. In any public building owned or operated by the City.

2. Elevators in public buildings.

3. Restrooms in public buildings.

4. Libraries, educational facilities, child care and adult day care facilities, respite care facilities, museums, auditoriums, aquariums and art galleries.

5. Any health care facility, health clinic or ambulatory care facilities, including, but not limited to: laboratories associated with the rendition of health care treatment, hospitals, nursing homes, doctors' offices and dentists' offices.

6. Any indoor place of entertainment or recreation including, but not limited to, gymnasiums, theaters, concert halls, bingo halls, arenas and swimming pools.

7. Service lines.

8. Facilities primarily used for exhibiting a motion picture, stage, drama, lecture, musical recital or other similar performance.

9. Shopping malls or retail establishments.

10. Indoor and outdoor sports arenas.

11. Restaurants, including lounge and bar areas except outdoor dining areas which are not "enclosed areas" as defined in this Chapter.

12. Convention facilities.

13. All indoor public areas and waiting rooms of public transportation facilities, including, but not limited to, bus and mass transportation facilities.

14. Any other area used by the public or serving as a place of work.

15. Every room, chamber, place of meeting or public assembly, including school buildings under the control of any board, council, commission, committee, including, but not limited to, joint committees, or agencies of the City or County or any political subdivision of the State during such time as a public meeting is in progress, to the extent such place is subject to the jurisdiction of the City.

16. Rooms in which meetings or hearings open to the public are held, except where such rooms are in a private residence.

17. Sidewalks, driveways and other open areas within twenty five (25) feet of the entry to any building owned or occupied by any governmental entity, or within fifteen (15) feet of the entry to any building open to the public; provided however, that this entryway prohibition shall not apply within outside dining areas where smoking is permitted or to entries that are located less than fifty (50) feet from another public entry.

SECTION 237.030: RESPONSIBILITIES OF PROPRIETORS, OWNERS, AND MANAGERS.

A. It shall be unlawful for any person having control of a place listed in this Chapter to knowingly permit, cause, suffer or allow any person to violate the provisions of this Chapter. It shall be an affirmative defense to an alleged violation of this Section that the person having control of a place has asked that the lighted or

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heated cigarette, cigar, pipe or other tobacco product be extinguished and asked the person to leave the establishment if that person has failed or refused to extinguish the lighted or heated cigarette, cigar, pipe or other tobacco product, or electronic cigarette.

B. A person having control of a place shall 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) near all entrances where smoking is prohibited pursuant to this Chapter. Such signage shall consist of letters not less than one (1) inch in height.

C. It shall be the responsibility of employers to provide smoke-free workplaces for all employees.

SECTION 237.040: DECLARATION OF ESTABLISHMENT AS NON-SMOKING

Notwithstanding any other provision of this Chapter, an owner, operator, manager, other person in control of an establishment, facility, or outdoor area may declare the entire establishment, facility or outdoor area as a non-smoking place. No person shall smoke in places so declared and posted with signs pursuant to this Chapter.

SECTION 237.050: EXCEPTIONS

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Notwithstanding any other provision of this Chapter to the contrary, the following shall not be subject to the smoking restrictions of this Chapter:

A. Private residences not serving as enclosed places of employment or enclosed public places;

B. Private clubs;

C. Performers on stage in a theatrical production, where smoking is required as a part of the production;

D. Private and semi-private rooms in nursing homes and long-term care facilities, the residents of which are all smokers, and have all requested from the management of the facility to be placed in a room where smoking is permitted;

E. Permanently Designated Smoking Rooms, not to exceed twenty percent (20%) of the guest rooms;

F. Cigar bars, provided that smoke does not infiltrate into areas where smoking is otherwise prohibited and that no food preparation is conducted on premises;

G. Facilities owned or operated by federal, state, or county governments, and used solely for governmental purposes.

SECTION 237.060: CHAPTER NOT TO PRECLUDE MORE EXTENSIVE PROHIBITIONS BY PROPRIETORS, OWNERS, OR MANAGERS.

Nothing in this Section shall be construed or applied in such a manner as to interfere with or prohibit a property owner, business operator or public entity, including the City, from more broadly prohibiting smoking on or about their property or from prohibiting smoking in areas, at times, or under conditions which do not fall within the prohibitions established by this Code.

SECTION 237.070: NOTICE TO LICENSE APPLICANTS.

Notice of the provisions of this Section shall be given to all applicants for licenses issued by the City pertaining to the use of property for business or commercial purposes to which the public will be invited or permitted.

SECTION 237.080: PENALTIES.

Every person who shall be convicted of a violation of this Section shall be subject to a fine in accordance with the general penalties prescribed in Section 100.110: General Penalty – Continuing Violations of this Code.

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SECTION 2. This ordinance shall be submitted to the qualified voters of the City of Farmington, Missouri for their approval at the election hereby called and to be held in said City on November 3, 2015; and shall become effective on January 1, 2016 if a majority of the qualified voters voting at said election vote in favor of the ordinance.

The ballot submission shall be:

> Shall the City of Farmington, Missouri enact Ordinance Number _____ approving and adopting an amendment to the Municipal Code of the City of Farmington, Title II: Public Health, Safety and Welfare, Chapter 237: Smoking Regulations?
>
> _____Yes
>
> _____No
>
> If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No". If a majority of the qualified voters voting at said election shall vote in favor of the approval of this ordinance, then the same shall be binding and in full force and effect.

SECTION 3. If any section, sentence, phrase or clause of this ordinance shall be held invalid for any reason by a court of competent jurisdiction, the invalidity of such said section, sentence, phrase or clause shall not impair the validity of the remaining sections, sentences, phrases or clauses of the ordinance, the City Council hereby declares that it would have passed the remaining portions of this ordinance had it known that said section, sentence, phrase or clause would have been invalid.

SECTION 4. All ordinances or parts of ordinances in conflict herewith shall be and the same hereby are repealed; this ordinance shall be in full force and effect twelve months from and after its approval by a majority vote of the qualified voters of the City of Farmington during the election first stated above.

DULY READ AND PASSED THIS _____ DAY OF _____, 2015.

_____
Stuart "Mit" Landrum, Mayor

ATTEST:

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_____
Paula Cartee, City Clerk

Approved this _____ day of _____, 2015.

_____
Stuart "Mit" Landrum, Mayor

ATTEST:

_____
Paula Cartee, City Clerk

APPROVED AS TO FORM:

_____
R. Scott Reid, City Counselor