

**ORDINANCE NO. 195**

**AN ORDINANCE OF THE TOWN OF SAINT PAUL, TEXAS, PROHIBITING SMOKING IN RESTAURANTS AND OTHER PUBLIC BUILDINGS IN THE C AND CR ZONING DISTRICTS; PROVIDING DEFINITIONS; PROVIDING EXCEPTIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, it is a generally accepted principle that second-hand smoke from cigarettes and other tobacco and non tobacco products constitutes a hazard to a person's health; and

**WHEREAS**, it is necessary, in order to improve and protect the public's health, to eliminate smoking in certain public places;

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SAINT PAUL, TEXAS:**

**SECTION 1.** That the following definitions shall apply to this ordinance:

*Person* means any individual.

*Public building* means any building in a C or CR zoning district, other than a building used as a private residence. If portions of a building are used as a private residence and another portion of the building is used for business purposes or commercial activities, then "public building" as used herein shall apply to the portions of the building used for business purposes or commercial purposes, but not the portion used solely as a residence. The term "public building" includes, but is not limited to, retail establishments, restaurants, bars and taverns, in the C or CR zoning districts.

*Restaurant* means an establishment in a C or CR zoning district that offers or serves food or drinks prepared or served in the establishment for its patrons, and which may serve alcohol with a valid Texas Alcoholic Beverage Commission License, as long as the establishment derives less than 75 percent of its gross revenues from alcohol sales, and includes all indoor and outdoor seating areas, kitchen, bar area, restrooms and lobby of the restaurant.

*Retail tobacco store* means any retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

*Smoke* or *smoking* means inhaling, exhaling, or burning a lighted cigar, cigarette, pipe or other lighted tobacco or non tobacco product, including synthetic cannabinoids or salvia divinorum sold under such names as "K-2" or its alternative names, in any manner or

form, including the use of an ingestion device, such as a hookah, pipe, bowl, mask, bong, or chillum, used or intended for use in ingesting, inhaling or otherwise introducing a smoking product into the human body.

## **SECTION 2.**

(a) It shall be unlawful for any person to perform the following acts in any public building in a C or CR zoning district in the Town or within 20 feet of any entrance or exit to any public building:

- (1) Smoke, or
- (2) Carry or use a lighted cigarette, cigar, or ingestion device, or
- (3) Light a tobacco or non tobacco product for the purpose of smoking.

(b) It shall be unlawful for any owner, operator, manager, or employee of any restaurant or public building in a C or CR zoning district to allow, suffer, or permit the operation or use thereof unless one or more of the following signs have been posted at a location clearly visible to a person entering the restaurant or public building:

- (1) A "No Smoking" sign, or
- (2) The international "No Smoking" symbol (depiction of a burning cigarette enclosed in a red circle with a red bar across it).

(c) It shall be unlawful for any owner, operator, manager or employee of any restaurant or public building in a C or CR zoning district to place or allow to be placed any of the following items in any public building or within 20 feet from an entrance or exit to any public building:

- (1) Ashtrays, or
- (2) Signs that indicate that smoking is permitted.

(d) It shall be unlawful for the owner, operator, manager or employee of any restaurant or public building in a C or CR zoning district to allow, suffer or permit smoking in such restaurant or public building in violation of the provisions of this ordinance.

**SECTION 3.** Notwithstanding any other provision of this ordinance to the contrary, the following areas shall not be subject to the smoking restrictions of this ordinance:

- (a) Any building for which a specific use permit has been granted by the Town Council under the zoning ordinance to allow smoking.

**SECTION 4.** That all provisions of the ordinances of the Town of Saint Paul, Texas, in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 5.** That should any word, sentence, paragraph, subdivision, clause, phrase, or section of this ordinance be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance, which shall remain in full force and effect.

**SECTION 6.** Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the Town of Saint Paul, Texas, shall be punished by a fine not to exceed the sum of five hundred dollars (\$500.00) for each offense.

**SECTION 7.** That this ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law in such cases provides.

**DULY PASSED** by the Town Council of the Town of Saint Paul, Texas, on the 12<sup>th</sup> day of July , 2010.

**APPROVED:**

**Opie Walter**  
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**OPIE WALTER, MAYOR**

**ATTEST:**

**Bruce Dunn**  
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**BRUCE DUNN, TOWN SECRETARY**

**APPROVED AS TO FORM:**

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**ROBERT L. DILLARD, III, TOWN ATTORNEY**  
**(RLD; 7-8-10; 44306)**

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**Duly passed by the Town Council of the Town of Saint Paul, Texas, on the 12<sup>th</sup> day of July, 2010.**

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**Opie Walter**  
**OPIE WALTER, MAYOR**

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**Bruce Dunn**  
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