

COMMONWEALTH OF KENTUCKY  
CITY OF LONDON  
ORDINANCE NO. 2009-03

AN ORDINANCE PROHIBITING SMOKING IN ALL BUILDINGS OPEN TO THE  
PUBLIC OR USED AS WORKPLACES

Whereas it has been determined that smoking and second-hand smoke is dangerous to human health,

*Be it Ordained by the City of London, Kentucky as follows:*

1. That smoking shall be prohibited in all enclosed areas within all enclosed buildings open to the public and within places of employment, except as hereinafter provided.
2. **Definitions:** all of the words and phrases of this Ordinance are to be given their usual and customary meaning and definition unless otherwise stated. For definitional purposes and clarity, the following definitions are given:
  - a. **Smoking** means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other lighted tobacco product in any manner or in any form.
  - b. **Enclosed buildings** open to the public means any building open to the public or in which the public is invited or permitted, including but not limited to
    1. Libraries,
    2. Areas available to and customarily used by the general public in businesses,
    3. Bars,

4. Bingo facilities,
5. Child care and adult care facilities,
6. Convention facilities,
7. Educational facilities, both public and private,
8. Elevators,
9. Gaming facilities,
10. Municipal governmental facilities including buildings and vehicles,
11. Healthcare facilities,
12. Hotels and motels,
13. Lobbies, hallways, and other common areas in apartment buildings, condominiums, retirement facilities, nursing homes, and other multiple-unit residential facilities.
14. Polling places;
15. Pool and billiard halls;
16. Public transportation facilities, including buses and taxicabs, and ticket, boarding, and waiting areas of public transit depots;
17. Restaurants;
18. Restrooms, lobbies, reception areas, hallways, and other common-use areas.
19. Retail establishments;
20. Service lines;
21. Shopping malls;
22. Sports arenas; and
23. Theaters and other facilities primarily used for exhibiting motion pictures, stage dramas, lectures, musical recitals, or other similar performances.

- c. A **private residence** is not a “public place” unless used as a childcare, adult day care, or healthcare facility.
- d. **Business** means a sole proprietorship, partnership, joint venture, corporation, or other business entity, either for-profit or not-for-profit, including any retail establishment where goods or services are sold; any professional corporation or other entity where legal, medical, dental, engineering, architectural, or other professional services are delivered.
- e. **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 individuals.
- f. **Places of employment** means an enclosed area under the control of a public or private employer where employees work or to which employees have access during the course of employment including, but not limited to, work areas, private offices, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, and vehicles. A private residence is not a “place of employment” unless it is used as a childcare, adult day care, or healthcare facility.
- g. **Enclosed** means when used in reference to an area or a building or portion thereof, means closed in on all sides from floor to ceiling by solid walls, with or without windows and exclusive of doorways.
- h. **“Every person in control of an area”** means the owner, lessee, operator, licensee or employee, servant or agent of the owner, lessee, operator or licensee of the place of employment.

3. **Reasonable distance:** Smoking is prohibited within twenty five (25) feet outside entrances, exits, or wheelchair ramps serving any entrance or exit, operable windows, and ventilation systems of enclosed areas where smoking is prohibited, so as to ensure that tobacco smoke does not enter those areas. This section shall not apply to restaurant and bar outdoor seating areas.
4. **Where smoking is not regulated:** Smoking is not regulated and the following areas are exempt from the above provisions of this Ordinance:
  - a. Private residences, except when used as a childcare, adult day care or healthcare facility.
  - b. Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided, however, that not more than 35 percent of rooms rented to guests in a hotel or motel may be so designated. 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 Ordinance. The status of rooms as smoking or nonsmoking may not be changed, except to add additional nonsmoking rooms.
  - c. Private and semiprivate rooms in nursing homes and long-term care facilities that are occupied by one or more persons, all of whom are smokers and have requested in writing to be placed in a room where smoking is permitted, provided that smoke from these places does not infiltrate into areas where smoking is prohibited under the provisions of this Ordinance.

- d. Retail tobacco stores, provided that smoke from these establishments does not infiltrate into areas where smoking is prohibited under the provisions of this Ordinance. "Retail tobacco stores" are retail stores that derive eighty percent (80%) or more of their gross sales from the sale of tobacco products.
5. Notwithstanding any other provision of this Ordinance, 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 subsection (a) of section number 6 of this Ordinance is posted.

**6. Posting of Signs.**

- a. The owner, operator, manager, or other person in control of a public place or place of employment 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) in every public place and place of employment where smoking is prohibited by this Ordinance.
- b. The owner, operator, manager, or other person in control of a public place or place of employment shall conspicuously post at every entrance thereto a sign clearly stating that smoking is prohibited therein.
- c. The owner, operator, manager, or other person in control shall remove all ashtrays from any area where smoking is prohibited by this Ordinance.

7. **Enforcement.** The provisions of this Ordinance shall be enforced by the London City Police and/or the London City Building Inspector.

8. **Violations and Penalties.**

- a. A person commits an offense if he is smoking in an area where smoking is prohibited by the provisions of this Ordinance.
- b. It shall be the duty of every person in control of an area where smoking is prohibited by the provisions of this Ordinance to request any person known to be smoking in such area to extinguish the burning tobacco product. Any knowing or intentional failure to maintain compliance with such duty shall constitute an offense.
- c. Whenever in this Ordinance an act is prohibited or is made or declared to be unlawful or an offense, or whenever in this Ordinance the doing of any thing or act is required or the failure to do any thing or act is prohibited, the violation of the provision shall be and constitute a violation punishable, upon conviction, by a fine not to exceed Two Hundred Dollars (\$200.00). Each violation shall constitute and be punishable as a separate offense. Prosecution or conviction under this provision is cumulative of and shall never be a bar to any other civil or administrative remedy provided or allowed in this Ordinance or by law.

9. **Other Applicable Laws.**

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

10. All employers shall communicate the prohibition of smoking in places of employment enacted by this Ordinance to all existing employees within 60 days after the effective date of this Ordinance.

11. **Severability.** If any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

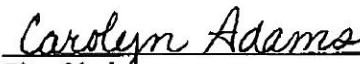
This Ordinance shall become effective immediately upon publication.

  
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Mayor Troy Rudder

First Reading Date: 7/6/09

Second Reading Date: 8/3/09

Publication Date: 8/10/09

Attested:   
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City Clerk