

CITY OF VERSAILLES
ORDINANCE NO.2014-40

TITLE; AN ORDINANCE RELATING TO THE PROTECTION OF THE PUBLIC HEALTH AND WELFARE BY REGULATING SMOKING OF TOBACCO, AND VAPOR PRODUCTS (AKA ELECTRONIC TOBACCO PRODUCTS) IN BUILDINGS OPEN TO THE GENERAL PUBLIC AND PLACES OF EMPLOYMENT.

Whereas, the elected representatives of the City of Versailles have determined that it is necessary and appropriate to address the health issues created by the smoking of tobacco and vapor products, which contain nicotine, in places of employment and places open to the general public;

Now, therefore, BE IT ORDAINED IN THE CITY OF VERSAILLES, KENTUCKY as follows:

Section 1. Definitions: The following words and phrases, whenever used in this Ordinance, shall be construed as defined in this Section:

- (A) "Buildings" means any structure open to the public that is enclosed on all sides and top from weather, whether or not windows and doors are open. If a person owns, leases or possesses only a portion of the building, the term building applies to the ownership, leasehold or possessory interest as well.
- (B) "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.
- (C) "Dwelling" means any place used primarily for sleeping overnight and conducting activities of daily living, including, without limitation, house, duplex, town home, apartment, mobile home trailer, a hotel or motel room, but not a hotel or motel lobby, common elevator, common hallway or other common area. A dwelling does not include a hospital room, hospice facility or nursing home room.
- (D) "Employee" means a person who works in consideration for direct or indirect monetary wages or profit, or who volunteers his or her services for an entity.
- (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 individual persons. A private club which employs exclusively from within or operated solely by member volunteers is not an employer.

- (F) "Enclosed Area" means all space between a floor and ceiling that is enclosed on all sides by solid walls or windows (exclusive of doorways), which extend from the floor to the ceiling.
- (G) "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, Optometrists, Podiatrists, Veterinarians, County Health Departments 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, but is not limited to, all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.
- (H) "Place of Employment" means an area under the control of a public or private employer that employees normally frequent or may need to access during the course of employment, including, but not limited to, work areas, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias and hallways. A private residence is not a "place of employment" unless it is used as a childcare, adult day care, or health care facility.
- (I) "Private Club" means an establishment which maintains selective members, is operated by the membership and does not provide food or lodging for pay to anyone who is not a member or a member's guest.
- (J) "Public Place" means an enclosed area to which the public is invited or in which the public is permitted, including, but not limited to, banks, bars, churches, educational facilities, health care facilities, hotels and motels, laundromats, polling places, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, schools and retail stores. "Public place" also means shopping malls, sports arenas, theaters, waiting rooms, parks and playgrounds, but shall not include unenclosed adjacent parking lots and access ways that are a reasonable distance from areas where smoking is prohibited, as defined within Section 6. A private residence is not a "public place" unless it is used as a childcare, adult day care, or health care facility.
- (K) "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.
- (L) "Shopping Mall" means an enclosed public walkway or hall area that serves to connect retail or professional establishments.
- (M) "Smoking" means inhaling, exhaling, burning, or carrying any electronic cigarette, lighted cigar, cigarette, pipe, or other lighted tobacco product or any

other lighted substance intended for smoking, whether otherwise legally possessed or consumed in any manner or in any form.

- (N) "Sports Arena" means sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys, and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events.
- (O) "Vapor Product" means any noncombustible product that employs a heating element, battery, power source, electronic circuit, or other electronic, chemical or mechanical means, regardless of shape or size and including the component parts and accessories thereto, that can be used to delivery vaporized nicotine or other substances to users inhaling from the device. "Vapor product" includes but is not limited to any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and every variation thereof, regardless of whether marketed as such, and any vapor cartridge or other container of a liquid solution or other material that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar product or device. Vapor product does not include any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug and Cosmetic Act.

Section 2. Application of Ordinance to City-owned Facilities:

All facilities, including buildings and vehicles, that are owned, leased or otherwise operated by the City of Versailles, shall be subject to the provisions of this ordinance.

Section 3. Prohibition of Smoking in Public Places:

Smoking is prohibited in all public places as defined in Section 1(J), above within the city limits of Versailles, Kentucky.

Section 4. Prohibition of Smoking in Places of Employment:

- (A) Smoking is prohibited in all enclosed places of employment. This prohibition includes, but is not limited to common work areas, auditoriums, classrooms, conference and meeting rooms, elevators, hallways, maintenance areas, attics, crawl spaces, health care facilities, cafeterias, employee lounges, stairs, restrooms, and service lines within city limits of Versailles, Kentucky.

Section 5. Prohibition of Smoking in Outdoor Arenas and Stadiums:

Smoking is prohibited in all service lines and in the seating areas of all outdoor arenas, stadiums and amphitheaters within Versailles, Kentucky.

Section 6. Reasonable Distance:

Smoking is prohibited within a reasonable distance of not less than three (3) feet, from any outside entrance to or open windows of any area in which smoking is prohibited by this ordinance and from the air intake of a ventilation system serving an enclosed area where smoking is prohibited, in order to insure tobacco smoke does not enter that enclosed area through entrances, windows, ventilation systems or other means.

Section 7. Where Smoking Not Regulated:

Notwithstanding any other provision of this Ordinance to the contrary, the following areas shall be exempt from the provisions of Sections 3 and 4:

- (A) Private residences and dwellings, except when used as a licensed childcare, adult day care or health care facility.
- (B) Private clubs that employ from within or whose only employees are member volunteers; provided that when such clubs are being used for functions or on occasions to which the general public is invited, the prohibitions set out in Sections 3 and 4 shall apply.

Section 8. Declaration of Establishment as Nonsmoking:

Nothing in this ordinance may be construed as preventing an owner, operator, manager or other authorized person in control of any establishment, facility or outdoor area from declaring the entire campus or property associated with that establishment, facility or outdoor area smoke free. Enforcement of any such restrictions exceeding the scope of this ordinance would be the responsibility of the authorized person in control of the affected establishment, facility or outdoor area.

Section 9. Enforcement:

- (A) Enforcement of this Ordinance shall be the responsibility of any and all sworn law enforcement officers who may be assigned to work within the City of Versailles, if so directed by their superiors. Enforcement shall be primarily done on a complaint basis but can be done at any time witnessed by an enforcement official.
- (B) Notice of the provisions of this Ordinance shall be given to all applicants for a business license in the City of Versailles by the appropriate clerk.
- (C) Owners, managers, operators or employees of establishments regulated by this Ordinance shall inform persons seen violating this Ordinance of the requirements of this Ordinance. In the event an owner, manager, operator or employee of an establishment regulated by this Ordinance observes a person or persons violating this Ordinance, he or she shall immediately direct the person or persons in violation to extinguish the item being smoked.

Section 10. Violations and Penalties:

- (A) A person who smokes in an area where smoking is prohibited, by the provisions of this Ordinance, shall be guilty of violating the Nuisance Ordinance and punishable by a fine not exceeding fifty dollars (\$50.00).
- (B) 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 Ordinance shall be guilty of a violation, punishable by:
 - (1) A fine not exceeding fifty dollars (\$50.00) for a first violation.
 - (2) A fine not exceeding one hundred dollars (\$100.00) for a second violation within one (1) year from a previous offense date.
 - (3) A fine not exceeding two hundred and fifty dollars (\$250.00) for the third and each additional violation within one (1) year from a previous offense date.
- (C) Violation of this Ordinance is declared to be a public nuisance, which may be abated by the City of Versailles or its designated agents by restraining order, preliminary and permanent injunction, or other means provided for by law. The City of Versailles may recover the reasonable costs of any court enforcement action seeking abatement of this nuisance.
- (D) Each day on which a violation of this Ordinance occurs shall be considered a separate and distinct violation. Multiple violations witnessed in a single observance shall also be considered separate and distinct violations.

Section 11. Other Applicable Laws:

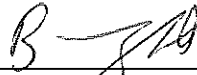
This Ordinance shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

Section 12. Severability:

If any provision, clause, sentence, or paragraph of this Ordinance or its application to any person or factual context shall be held invalid, that invalidity shall not affect the remaining provisions of this Ordinance, which may be given effect independent of the provision or application declared invalid.

Introduced and given first reading at a meeting of the Versailles City Council, Versailles, Kentucky held on the 16th day of September 2014, and fully adopted after the second reading at a meeting of the said City Council held on the 6th of October 2014.

VERSAILLES CITY COUNCIL

BY: 

Brian Traugott, Mayor

ATTEST:



Allison White, City Clerk