

ORDINANCE NO. B2010-04

**CITY OF BARDSTOWN ORDINANCE PROHIBITING SMOKING
IN ALL WORKPLACES AND PUBLIC PLACES
(100% SMOKEFREE)**

WHEREAS, in order to serve the public health, safety and general welfare, it is the declared purpose of this chapter to prohibit smoking in all buildings open to the public and other establishments where employees work on the premises.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Bardstown, 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. **"Bar"** means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.

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; and private clubs.

C. **"E-cigarette"** means any electronic device composed of a mouthpiece, heating element, battery, and electronic circuits that provides a vapor of liquid nicotine and/or other substances mixed with propylene glycol to the user as he or she simulates smoking. The term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, or e-pipes, or under any other product name.

D. **"Employee"** means a person who works in consideration for direct or indirect wages or profit, or who volunteers his or her services for an employer.

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.

F. **"Enclosed Area"** means all space between a floor and ceiling that is bounded by walls, doorways, or windows, whether open or closed, covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent. A 0.011 gauge window screen with an 18 by 16 mesh count is not a wall.

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 or other clinics, including weight control clinics, nursing homes, long-term care facilities, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, psychiatrists, dentists, and all specialists within these professions. This definition shall include 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 during the course of employment, including, but not limited to, work areas, private offices, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, cafeterias, hallways, and vehicles. A private residence is not a "place of employment" unless it is used as a child care, adult day care, or health care facility.

I. **"Private Club"** means an organization, whether incorporated or not, which is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and which only sells alcoholic beverages incidental to its operation. The affairs and management of the organization are conducted by a board of directors, executive committee, or similar body chosen by the members at an annual meeting. The organization has established bylaws and/or a constitution to govern its activities. The organization has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. Section 501.

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, educational facilities, gaming facilities, health care facilities, hotels and motels, laundromats, public transportation vehicles and facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A private residence is not a "public place" unless it is used as a child care, adult day care, or health care facility.

K. "Restaurant" means 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 a bar area within the restaurant.

L. "Service Line" means an indoor 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, including but not limited to, ATM lines, concert lines, food vendor lines, movie ticket lines, and sporting event lines.

M. "Shopping Mall" means an enclosed public walkway or hall area that serves to connect retail or professional establishments.

N. "Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, in any manner or in any form. "Smoking" also includes the use of an e-cigarette which creates a vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Ordinance.

O. "Sports Arena" means a place where people assemble indoors to engage in physical exercise, participate in athletic competition, or witness sports or other events, including but not limited to sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, and bowling alleys.

SECTION 2. Application of Ordinance to Bardstown-Owned Facilities

All vehicles and enclosed facilities, including buildings owned, leased, or operated by the City of Bardstown, shall be subject to the provisions of this Ordinance.

SECTION 3. Prohibition of Smoking in Enclosed Public Places

Smoking shall be prohibited in all enclosed public places within the City of Bardstown, including but not limited to, the following places:

A. Areas available to the general public in businesses and non-profit entities patronized by the public, including but not limited to, banks, laundromats, professional offices, and retail service establishments.

B. Bars.

C. Bingo facilities.

D. Child care and adult day care facilities.

E. Convention facilities.

F. Educational facilities, both public and private.

G. Elevators.

H. Galleries, libraries, and museums.

I. Gaming facilities.

J. Health care facilities.

K. Lobbies, hallways, and other common areas in hotels and motels, as well as in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities.

L. Polling places.

M. Public transportation vehicles, including buses and taxicabs, under the authority of the City of Bardstown, and ticket, boarding, and waiting areas of public transportation facilities, including bus, train, and airport facilities.

N. Restaurants.

O. Restrooms, lobbies, reception areas, hallways, and other common-use areas.

P. Retail stores.

Q. Rooms, chambers, places of meeting or public assembly, including school buildings, under the control of an agency, board, commission, committee or council of the City of Bardstown or a political subdivision of the State, to the extent the place is subject to the jurisdiction of the City of Bardstown.

R. Service lines which are indoors.

S. Shopping malls.

T. Sports arenas: enclosed places associated with outdoor arenas.

U. Theaters and other facilities primarily used for exhibiting motion pictures, stage dramas, lectures, musical recitals, or other similar performances.

SECTION 4. Prohibition of Smoking in Enclosed Places of Employment

A. Smoking shall be prohibited in all enclosed places of employment, without exception.

B. This prohibition on smoking shall be communicated to all existing employees by the effective date of this Ordinance and to all prospective employees upon their application for employment.

SECTION 5. Prohibition of Smoking in Private Clubs

Smoking shall be prohibited in all private clubs.

SECTION 6. Prohibition of Smoking in Enclosed Residential Facilities

Smoking shall be prohibited in the following enclosed residential facilities:

A. All private and semi-private rooms in nursing homes.

SECTION 7. Prohibition of Smoking in Outdoor Areas

Smoking shall be prohibited within a reasonable distance of outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited, so as to ensure that tobacco smoke does not enter those areas.

SECTION 8. 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, unless used as a childcare, adult day care, or health care facility, and except as provided in Section 6.
- B. Outdoor areas of places of employment except those covered by the provisions of Section 7.

SECTION 9. Declaration of Establishment as Nonsmoking

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 Section 10(A) is posted.

SECTION 10. Posting of Signs and Removal of Ashtrays

- A. "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 Ordinance, by the owner, operator, manager, or other person in control of that place.
- B. Every public place and place of employment where smoking is prohibited by this Ordinance shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited. Every vehicle that constitutes a place of employment under this Ordinance shall have at least one conspicuous sign, visible from the exterior of the vehicle, clearly stating that smoking is prohibited.
- C. All ashtrays intended for use on the premises shall be removed from any area where smoking is prohibited by this ordinance by the owner, operator, manager, or other person having control of the area.

SECTION 11. Nonretaliation; Nonwaiver of Rights

- A. 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 Ordinance or reports or attempts to prosecute a violation of this Ordinance. Notwithstanding Section 13, violation of this Subsection shall be a misdemeanor, punishable by a fine not to exceed \$1000 for each violation.
- B. An employee who works in a setting where an employer allows smoking does not waive or otherwise surrender any legal rights the employee may have against the employer or any other party.

SECTION 12. Enforcement

- A. This Ordinance shall be enforced by the Bardstown Police Department and the Code Enforcement Officer of the City of Bardstown.
- B. Notice of the provisions of this Ordinance shall be given to all current license holders and all applicants for a business license in the City of Bardstown.
- C. An owner, manager, operator, or person in charge of an establishment, facility, or agency regulated by this Ordinance shall inform persons violating this Ordinance of the appropriate provisions thereof. Employees of establishments, facilities, or agencies regulated by this Ordinance shall inform the owner, manager, operator, or person-in-charge that a violation is occurring.
- D. The Bardstown/Nelson County Health Department, The Bardstown Volunteer Fire Department, The Bardstown Code Enforcement Office, or their designees shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this Ordinance.
- E. Notwithstanding any other provision of this Ordinance, an employee or private citizen may bring legal action to enforce this Ordinance.
- F. In addition to the remedies provided by the provisions of this Section, the Bardstown Police Department, Code Enforcement Office or any person aggrieved by the failure of the owner, operator, manager, or other person in control of a public place or a place of employment to comply with the provisions of this Ordinance may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction.
- G. Any citizen who desires to register a complaint under this Ordinance may initiate enforcement with the Bardstown Police Department or Code Enforcement Office.

SECTION 13. 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 a violation, punishable by a fine not exceeding fifty dollars (\$50) plus court costs.

- B. Except as otherwise provided in Section 11(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 Ordinance shall be guilty of a violation, punishable by:
1. A fine not exceeding one hundred dollars (\$100) plus court costs for a first violation.
 2. A fine not exceeding two hundred dollars (\$200) plus court costs for a second violation within one (1) year of the first violation date.
 3. A fine not exceeding two hundred fifty dollars (\$250) plus court costs for each additional violation within one (1) year of the second violation date.
- C. In addition to the fines established by this Section, violation of this Ordinance by a person who owns, manages, operates, or otherwise controls a public place or place of employment may result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.
- D. Violation of this Ordinance is hereby declared to be a public nuisance, which may be abated by the Bardstown Police Department or Code Enforcement Office by restraining order, preliminary and permanent injunction, or other means provided for by law, and the City of Bardstown may take action to recover the costs of the nuisance abatement.
- E. Each day on which a violation of this Ordinance occurs shall be considered a separate and distinct violation.

SECTION 14. Public Education

The Community Prevention Center and the Bardstown/Nelson County Health Department shall engage in a continuing program to explain and clarify the purposes and requirements of this Ordinance to citizens affected by it, and to guide owners, operators, and managers in their compliance with it. The program may include publication of a brochure for affected businesses and individuals explaining the provisions of this ordinance.

SECTION 15. Governmental Agency Cooperation

The Code Enforcement Officer shall from time-to-time request other governmental and educational agencies having facilities within the City of Bardstown to establish local operating procedures in cooperation and compliance with this Ordinance. This includes urging all Federal, State, County and School District agencies to update their existing smoking control regulations to be consistent with the current health findings regarding secondhand smoke.

SECTION 16. Other Applicable Laws

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

SECTION 17. Liberal Construction

This ordinance shall be construed so as to further its stated purposes.

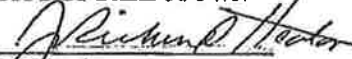
SECTION 18. Severability

If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

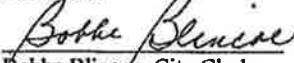
SECTION 19. Effective Date

This Ordinance shall be effective ninety (90) days from and after the date of its adoption and publication as required by law.

CITY OF BARDSTOWN


J. Richard Heaton, Mayor

ATTEST:


Bobbe Blincø, City Clerk

Dated: 3-9-2010

The City of Bardstown does hereby find that:

The 2006 U.S. Surgeon General's Report, *The Health Consequences of Involuntary Exposure to Tobacco Smoke*, has concluded that (1) secondhand smoke exposure causes disease and premature death in children and adults who do not smoke; (2) exposure of adults to secondhand smoke has immediate adverse effects on the cardiovascular system and causes coronary heart disease and lung cancer; (3) there is no risk-free level of exposure to secondhand smoke; (4) establishing smokefree workplaces is the only effective way to ensure that secondhand smoke exposure does not occur in the workplace, because ventilation and other air cleaning technologies cannot completely control for exposure of nonsmokers to secondhand smoke; and (5) evidence from peer-reviewed studies shows that smokefree policies and laws do not have an adverse economic impact on the hospitality industry. (U.S. Department of Health and Human Services. *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006.)

Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution, and that breathing secondhand smoke (also known as environmental tobacco smoke) is a cause of disease in healthy nonsmokers, including heart disease, stroke, respiratory disease, and lung cancer. The National Cancer Institute determined in 1999 that secondhand smoke is responsible for the early deaths of approximately 53,000 Americans annually. (National Cancer Institute (NCI), "Health effects of exposure to environmental tobacco smoke: the report of the California Environmental Protection Agency. Smoking and Tobacco Control Monograph 10," *Bethesda, MD: National Institutes of Health, National Cancer Institute (NCI)*, August 1999.)

The Public Health Service's National Toxicology Program (NTP) has listed secondhand smoke as a known carcinogen. (Environmental Health Information Service (EHIS), "Environmental tobacco smoke: 2530 San Pablo Avenue, Suite J • Berkeley, California 94702 • (510) 841-3032 / FAX (510) 841-3071 www.no-smoke.org • anr@no-smoke.org first listed in the Ninth Report on Carcinogens," *U.S. Department of Health and Human Services (DHHS), Public Health Service, NTP*, 2000; reaffirmed by the NTP in subsequent reports on carcinogens, 2003, 2005.)

Scientific evidence has firmly established that there is no safe level of exposure to second-hand tobacco smoke, a pollutant that causes serious illness in adults and children. There is also indisputable evidence that implementing 100% smoke-free environments is the only effective way to protect the population from the harmful effects of exposure to secondhand smoke. (World Health Organization (WHO), "Protection from exposure to secondhand smoke: policy recommendations," *World Health Organization (WHO)*, 2007.)

A study of hospital admissions for acute myocardial infarction in Helena, Montana before, during, and after a local law eliminating smoking in workplaces and public places was in effect, has determined that laws to enforce smokefree workplaces and public places may be associated with a reduction in morbidity from heart disease. (Sargent, Richard P.; Shepard, Robert M.; Glantz, Stanton A., "Reduced incidence of admissions for myocardial infarction associated with public smoking ban: before and after study," *British Medical Journal* 328: 977-980, April 24, 2004.) Similar studies have been conducted in Bowling Green, Ohio; Monroe County, Indiana; Pueblo, Colorado; New York State; France; Greece; Italy; and Scotland. All of these studies have reached the conclusion that communities see an immediate reduction in heart attack admissions after the implementation of comprehensive smokefree laws. ([n.a.], "Bibliography of Secondhand Smoke Studies." *American Nonsmokers' Rights Foundation*, February 26, 2008.)

A significant amount of secondhand smoke exposure occurs in the workplace. Employees who work in smoke-filled businesses suffer a 25-50% higher risk of heart attack and higher rates of death from cardiovascular disease and cancer, as well as increased acute respiratory disease and measurable decrease in lung function. (Pitsavos, C.; Panagiotakos, D.B.; Chrysohoou, C.; Skoumas, J.; Tzioumis, K.; Stefanadis, C.; Toutouzas, P., "Association between exposure to environmental tobacco smoke and the development of acute coronary syndromes: the CARDIO2000 case-control study," *Tobacco Control* 11(3): 220-225, September 2002.)

Studies measuring cotinine (metabolized nicotine) and NNAL (metabolized nitrosamine NNK, a tobacco-specific carcinogen linked to lung cancer) in hospitality workers find dramatic reductions in the levels of these

biomarkers after a smokefree law takes effect. Average cotinine levels of New York City restaurant and bar workers decreased by 85% after the city's smokefree law went into effect. ([n.a.], "The State of Smoke-Free New York City: A One Year Review," *New York City Department of Finance, New York City Department of Health & Mental Hygiene, New York City Department of Small Business Services, New York City Economic Development Corporation*, March 2004). After the implementation of Ontario, Canada's Smokefree Indoor Air Law, levels of NNAL were reduced by 52% in nonsmoking casino employees and cotinine levels fell by 98%. (Geoffrey T. Fong, et. al., "The Impact of the Smoke-Free Ontario Act on Air Quality and Biomarkers of Exposure in Casinos: A Quasi-Experimental Study," *Ontario Tobacco Control Conference, Niagara Falls, Ontario*, December 2, 2006.)

Secondhand smoke is particularly hazardous to elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease. (California Environmental Protection Agency (Cal EPA), "Health effects of exposure to environmental tobacco smoke", *Tobacco Control* 6(4): 346-353, *Winter*, 1997.) The Americans With Disabilities Act, which requires that disabled persons have access to public places and workplaces, deems impaired respiratory function to be a disability. (Daynard, R.A., "Environmental tobacco smoke and the Americans with Disabilities Act," *Nonsmokers' Voice* 15(1): 8-9.)

The U.S. Centers for Disease Control and Prevention has determined that the risk of acute myocardial infarction and coronary heart disease associated with exposure to tobacco smoke is non-linear at low doses, increasing rapidly with relatively small doses such as those received from secondhand smoke or actively smoking one or two cigarettes a day, and has warned that all patients at increased risk of coronary heart disease or with known coronary artery disease should avoid all indoor environments that permit smoking. (Pechacek, Terry F.; Babb, Stephen, "Commentary: How acute and reversible are the cardiovascular risks of secondhand smoke?" *British Medical Journal* 328: 980-983, April 24, 2004.)

Given the fact that there is no safe level of exposure to secondhand smoke, the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) bases its ventilation standards on totally smokefree environments. ASHRAE has determined that there is currently no air

filtration or other ventilation technology that can completely eliminate all the carcinogenic components in secondhand smoke and the health risks caused by secondhand smoke exposure, and recommends that indoor environments be smokefree in their entirety. (Samet, J.; Bohanon, Jr., H.R.; Coultas, D.B.; Houston, T.P.; Persily, A.K.; Schoen, L.J.; Spengler, J.; Callaway, C.A., "ASHRAE position document on environmental tobacco smoke," *American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE)*, 2005.)

Residual tobacco contamination, or "thirdhand smoke," from cigarettes, cigars, and other tobacco products is left behind after smoking occurs and builds up on surfaces and furnishings. This residue can linger in spaces long after smoking has ceased and continue to expose people to tobacco toxins. Sticky, highly toxic particulate matter, including nicotine, can cling to walls and ceilings. Gases can be absorbed into carpets, draperies, and other upholsteries, and then be reemitted (off-gassed) back into the air and recombine to form harmful compounds. (Singer, B.C.; Hodgson, A.T.; Nazaroff, W.W., "Effect of sorption on exposures to organic gases from environmental tobacco smoke (ETS)," *Proceedings: Indoor Air 2002*, 2002.) Tobacco residue is noticeably present in dust throughout places where smoking has occurred. (Matt, G.E.; Quintana, P.J.E.; Hovell, M.F.; Bernert, J.T.; Song, S.; Novianti, N.; Juarez, T.; Floro, J.; Gehrman, C.; Garcia, M.; Larson, S., "Households contaminated by environmental tobacco smoke: sources of infant exposures," *Tobacco Control* 13(1): 29-37, March 2004.) Unregulated high-tech smoking devices, commonly referred to as electronic cigarettes, or "e-cigarettes," closely resemble and purposefully mimic the act of smoking by having users inhale vaporized liquid nicotine created by heat through an electronic ignition system. After testing a number of e-cigarettes from two leading manufacturers, the Food and Drug Administration (FDA) determined that various samples tested contained not only nicotine but also detectable levels of known carcinogens and toxic chemicals, including tobacco-specific nitrosamines and diethylene glycol, a toxic chemical used in antifreeze. The FDA's testing also suggested that "quality control processes used to manufacture these products are inconsistent or non-existent." ([n.a.], "Summary of results: laboratory analysis of electronic cigarettes conducted by FDA," *Food and Drug Administration (FDA)*, July 22, 2009; <http://www.fda.gov/NewsEvents/PublicHealthFocus/ucm173146.htm> Accessed on: October 22, 2009) E-cigarettes produce a vapor of undetermined and potentially harmful substances, which may appear

similar to the smoke emitted by traditional tobacco products. Their use in workplaces and public places where smoking of traditional tobacco products is prohibited creates concern and confusion and leads to difficulties in enforcing the smoking prohibitions.

The Society of Actuaries has determined that secondhand smoke costs the U.S. economy roughly \$10 billion a year: \$5 billion in estimated medical costs associated with secondhand smoke exposure and \$4.6 billion in lost productivity. (Behan, D.F.; Eriksen, M.P.; Lin, Y., "Economic Effects of Environmental Tobacco Smoke," *Society of Actuaries*, March 31, 2005.) Numerous economic analyses examining restaurant and hotel receipts and controlling for economic variables have shown either no difference or a positive economic impact after enactment of laws requiring workplaces to be smokefree. Creation of smokefree workplaces is sound economic policy and provides the maximum level of employee health and safety. (Glantz, S.A. & Smith, L. The effect of ordinances requiring smokefree restaurants on restaurant sales in the United States. *American Journal of Public Health*, 87:1687-1693, 1997; Colman, R.; Urbonas, C.M., "The economic impact of smoke-free workplaces: an assessment for Nova Scotia, prepared for Tobacco Control Unit, Nova Scotia Department of Health," *GPI Atlantic*, September 2001.)

Hundreds of communities in the U.S., plus numerous states, including Arizona, Delaware, Illinois, Iowa, Massachusetts, New Jersey, New York, Ohio, Utah, and Washington, have enacted laws requiring all workplaces, restaurants, bars, and other public places to be smokefree, as have numerous countries, including Bhutan, France, Iceland, Ireland, New Zealand, Norway, Singapore, Uruguay, and the United Kingdom constituent countries of England, Northern Ireland, Scotland, and Wales. There is no legal or constitutional "right to smoke." Business owners have no legal or constitutional right to expose their employees and customers to the toxic chemicals in secondhand smoke. On the contrary, employers have a common law duty to provide their workers with a workplace that is not unreasonably dangerous.

The smoking of tobacco is a form of air pollution, a positive danger to health, and a material public nuisance.

Accordingly, the Bardstown City Council finds and declares that the purposes of this ordinance are (1) to protect the public health and welfare

by prohibiting smoking in public places and places of employment; and (2) to guarantee the right of nonsmokers to breathe smokefree air, and to recognize that the need to breathe smokefree air shall have priority over the desire to smoke in public places and places of employment.