

## ORDINANCE NO. 19 - 01

### AN ORDINANCE AMENDING AND RESTATING ORDINANCE NO. 09-01 PROHIBITING SMOKING IN ANY ENCLOSED AREA IN BUILDINGS OPEN TO THE PUBLIC

Whereas, the City Council of the City of Campbellsville, Kentucky adopted Ordinance 09-01 on June 1, 2009 which prohibited smoking in any enclosed area in buildings open to the public;

Whereas, certain forms of smoking were not contemplated in the Smoking Ordinance such as electronic cigarettes and vaping devices and the City Council of the City of Campbellsville, Kentucky desires to amend and restate the Smoking Ordinance to encompass these smoking devices.

BE IT ORDAINED BY THE CAMPBELLSVILLE CITY COUNCIL:

Section 1 - In order to serve the public health, safety and general welfare, it is the declared purpose of this Ordinance to prohibit smoking in all enclosed public places.

Section 2 - This Ordinance of the City of Campbellsville shall be and hereby is created to read as follows:

Section 3 - Definitions:

- (1) DWELLING. Any place used as a primary residence.
- (2) ENCLOSED PUBLIC PLACE. An area that:
  - (a) is closed overhead by a roof or other covering of any material, whether permanent or temporary; and
  - (b) has forty (40) percent or more of its perimeter closed in by walls or other coverings of any material, whether permanent or temporary; and
  - (c) is open to the public.
- (3) PRIVATE ORGANIZATION. An establishment which maintains selective members, is operated by the membership, does not provide food or lodging for pay to anyone who is not a member or a member's guest and has been granted an exemption from the payment of federal income tax as a non-profit organization under 26 USC

Section 501.

- (4) ELECTRONIC SMOKING DEVICE. Any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person in any manner for the purpose of inhaling vapor or aerosol from the product. The term includes any such product, whether manufactured, distributed, marketed or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, vape pen, Juul or under any other similar product name or descriptor.
- (5) SMOKING. Inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco product or plant product intended for inhalation, including hookahs and marijuana, in any manner or form, whether or not legally possessed. "Smoking" also includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Ordinance.
- (6) RETAIL TOBACCO STORE. A retail store devoted primarily to the sale of tobacco, tobacco products, electronic smoking devices and accessories utilized for the consumption of tobacco and in which the sale of other products is merely incidental, and that is not operated as part of, or in conjunction with any business subject to the prohibition of Section 4. The sale of such other products shall be considered incidental if such sales generate less than 25% of the total annual gross sales. Revenue generated from cigarette vending machine sales shall not be used to determine whether a business satisfies the definition of a retail tobacco store.

Section 4.

Smoking shall be prohibited in all enclosed public places, including all enclosed places of employment within the City of Campbellsville.

Section 5.

- (1) The prohibition set forth in Section 4 shall not apply to any of the following:

- (a) In any dwelling.
  - (b) A private organization except when the establishment is open to the public.
  - (c) A retail tobacco store provided that smoke does not infiltrate into an area where smoking is otherwise prohibited by the provisions of this ordinance.
- (2) Nothing in this chapter shall authorize smoking in any place where it is otherwise prohibited by statute, ordinance, regulation or by order of the Fire Marshall.

#### Section 6.

This Ordinance shall be liberally construed so as to further its purposes.

#### Section 7.

- (1) An owner, lessee, principal manager, or person in control of an enclosed public place shall post signs, with letters of not less than one inch high or symbols no less than three inches high, using the words "No Smoking" 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 conspicuously either on all public entrances or in a position clearly visible on entry into the enclosed public place.
- (2) The owner, operator, manager, or designee or employee of every enclosed public place shall inform persons violating this chapter of the applicable provisions thereof and require compliance.
- (3) All ashtrays except for ashtrays displayed for sale and not for use on the premises and except for receptacles located outside the enclosed public place used only for disposal of smoking material, and other smoking paraphernalia shall be removed from any area where smoking is prohibited and shall not be permitted by the owner, operator, manager or other person having control of the enclosed public place. Any permanent structure that functioned or was used as an ashtray shall be disabled or altered to prevent its use as an

ashtray.

- (4) The requirements of this section do not apply to any exempt dwelling.

Section 8.

- (1) An owner, lessee, principal manager, or person in control of an enclosed public place shall:
  - (a) Ask smokers to refrain from smoking in any no-smoking area;
  - (b) Use any other legal means which may be appropriate to further the intent of this chapter.
- (2) An owner, principal manager, proprietor, on any other person in control of an enclosed public place shall ensure compliance by subordinates, employees, and agents with this chapter.

Section 9.

Enforcement of this Ordinance shall be by citation issued by any police officer or code enforcement officer of the city of Campbellsville. Notice of the provisions of the chapter shall be provided by publication.

Section 10.

- (1) An owner, manager, proprietor, lessee or other person in control of the premises who violates any provision herein, including a person who smokes in an area where smoking is prohibited, shall be subject to the following penalties:
  - (a) A fine of \$25 for the first offense;
  - (b) A fine of \$100 for the second offense;
  - (c) A fine of \$250 for the third and each subsequent offense.
  - (d) Persons who smoke in an area where smoking is prohibited and who refuse to

extinguish their smoking material when asked, may be required to leave the premises, and shall be subject to prosecution for trespass if they do not leave when asked.

(e) If the person who violates any provisions of this ordinance is the owner, manager, proprietor, lessee or other person in control of the premises, the fines described in sub-paragraphs (a), (b) and (c) above shall be doubled.

(2) Each calendar day during which the violation occurs shall constitute a separate and distinct offense.

Section 11.

Smoking is prohibited within 15 feet from the main outside entrance for the public to any enclosed public place as to ensure that tobacco smoke does not enter the enclosed public place through entrances, windows, ventilation systems, or other means.


Section 12.

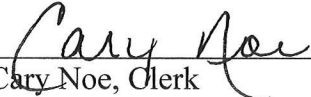
No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or customer because that employee, applicant, or customer exercises any rights afforded by this ordinance.

Section 13. This Ordinance shall become effective ninety (90) days after publication.

The sponsors of this Ordinance are council members David A. Nunery and Stan McKinney.

This Ordinance was introduced and given a first reading at a regular meeting of the City Council held on the 6th day of May, 2019; it received its second reading, passage and became effective at the regular meeting of the City Council held on the 3<sup>rd</sup> day of June, 2019.

  
Brenda Allen, Mayor

ATTEST:   
Cary Noe, Clerk