

CITY OF GLASGOW

ORDINANCE NO. 2688

AN ORDINANCE PROHIBITING SMOKING IN ENCLOSED PUBLIC PLACES

BE IT HEREBY ORDAINED BY THE CITY OF GLASGOW, KENTUCKY as follows:

SECTION 1 – PURPOSE:

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 -- DEFINITIONS:

(1) **“DWELLING”** means any place used as a primary residence; including, but not limited to, private rooms in nursing homes (except private residences when used as a childcare, adult day care, or health care facility, which shall not be considered a “dwelling” for purposes of this Ordinance).

(2) **“ENCLOSED AREA”** means all space between a floor and ceiling that is enclosed on all sides by permanent or temporary walls or windows (exclusive of doorways), which extend from floor to the ceiling.

(3) **“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.

(4) **“PRIVATE ORGANIZATION”** means 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.

(5) **“SMOKE OR 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. For greater clarity, an "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.

SECTION 3 – SMOKING PROHIBITED

Smoking shall be prohibited in all enclosed public places as those terms are defined in Section 2 above, including all enclosed city and county owned facilities and all enclosed places of employment within the city of Glasgow.

SECTION 4 – WHERE SMOKING NOT PROHIBITED

(1) The prohibition set forth in Section 3 above 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.

(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 5 – POSTING OF SIGNS

(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 ordinance 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 areas where smoking is not prohibited.

SECTION 6 – DUTIES OF PERSONS IN CONTROL OF ENCLOSED PUBLIC PLACES

(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, or any other person in control of an enclosed public place shall ensure compliance by subordinates, employees, and agents with this chapter.

SECTION 7 – DECLARATION 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 5 is posted.

SECTION 8 – ENFORCEMENT

Enforcement of this Ordinance shall be by citation issued by any police officer of the city of Glasgow. Notice of the provisions of the Ordinance shall be provided by publication.

SECTION 9 – VIOLATIONS AND PENALTIES

(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 10 – PROHIBITION OF SMOKING IN OUTDOOR AREAS

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 11 – NONRETALIATION; NONWAIVER OF RIGHTS

(1) 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.

(2) 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 – EFFECTIVE DATE

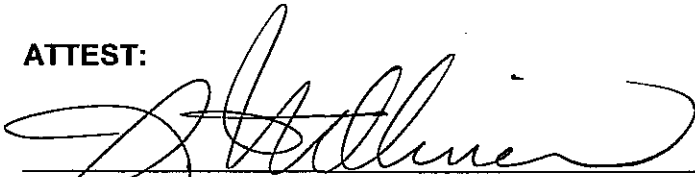
This Ordinance shall become effective ninety (90) days after publication.



DARRELL PICKETT, MAYOR

Smoking ord
2688

ATTEST:



SHEILA OLIVER, CITY CLERK/ADMINISTRATOR

First Reading: 3-8-10

Second Reading: 3-22-10