

ORDINANCE NO. 19-2011

AN ORDINANCE OF THE CITY OF CORBIN,
KENTUCKY, PROHIBITING SMOKING IN ALL
BUILDINGS OPEN TO THE PUBLIC OR USED IN
WORKPLACES; SETTING FORTH REGULATIONS
RELATED THERETO; PROVIDING CERTAIN
EXEMPTIONS; AND SETTING FORTH
ENFORCEMENT AND PENALTIES THEREOF

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WHEREAS, the Board of Commissioners has researched and reviewed various reports and studies relating to smoking and second-hand smoke and the danger of same to human health; and

WHEREAS, it has been determined and the Board of Commissioners has determined that smoking and second-hand smoke is dangerous to human health; and

WHEREAS, the Board of Commissioners desire to protect the public health, welfare, and safety of the citizens and occupants of the City of Corbin, Kentucky.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF CORBIN, KENTUCKY AS FOLLOWS:

SECTION ONE. Prohibition: 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.

SECTION TWO. 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 and/or Tourism 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. Hotel 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. Arenas and/or sports arenas and related facilities,
23. Theaters and other facilities primarily used for exhibiting motion pictures, stage dramas, lectures, musical recitals, or other similar performances, and
24. Technology centers or facilities.

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, limited liability company, 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, limited liability company or other business entity, 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.

SECTION THREE. Reasonable distance: Smoking is prohibited within 25^{ft.} feet outside entrances, exits, or wheelchair ramps serving 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.

SECTION FOUR. 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 20 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.

SECTION FIVE. Notwithstanding any other provisions 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 Six of this Ordinance is posted.

SECTION SIX. 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.

SECTION SEVEN. Enforcement. The provisions of this Ordinance shall be enforced by the Corbin City Police and/or Code Enforcement Officer.

SECTION EIGHT. Violations and Penalties.

A. A person commits an offense if he/she 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 misdemeanor, 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 misdemeanor punishable, upon conviction, by a fine not to exceed _____ Dollars (\$ 150.00). 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 by law.

SECTION NINE. Other Applicable Laws.

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

SECTION TEN. All employers shall communicate the prohibition of smoking in places of employment enacted by this Ordinance to all existing employees within 30 days after the effective date of this Ordinance.

SECTION ELEVEN. 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 Board of Commissioners 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 passage and legal advertisement.

FIRST READING: 11-21-11


SECOND READING: 11-23-11

APPROVED:

By:


WILLARD MCBURNEY, MAYOR

ATTEST:


ERIN TYE, CITY CLERK

ORDINANCE NO. 19-2019

**AN ORDINANCE OF THE CITY OF CORBIN, KENTUCKY,
AMENDING ORDINANCE NO. 19-2011 TO INCLUDE
ELECTRONIC SMOKING DEVICE(S) AS BEING A PROHIBITED
METHOD OF SMOKING**

WHEREAS, the Board of Commissioners has researched and reviewed various reports and studies relating to the increased use of electronic smoking devices and the danger of same to human health; and

WHEREAS, it has been determined and the Board of Commissioners has determined that electronic smoking and the use of same is dangerous to human health; and

WHEREAS, the Board of Commissioners desire to protect the public health, welfare, and safety of the citizens and occupants of the City of Corbin, Kentucky; and

WHEREAS, the Board of Commissioners previously adopted Ordinance No. 19-2011 which prohibits smoking in all buildings open to the public or used in places of employment and the use of electronic smoking devices should and shall be regulated therein.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF CORBIN, KENTUCKY, AS FOLLOWS:

SECTION ONE: That Section Two. Definitions. Subsection A. of ORDINANCE NO. 19-2011 is hereby amended and shall read as follows:

- A. **Smoking** means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or in any form. Smoking also includes the use of an electronic smoking device which creates an aerosol or 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.

SECTION TWO: This Ordinance shall take effect immediately upon passage and legal advertisement, and all Ordinances or portions thereof in conflict herewith are hereby repealed.

FIRST READING: 11/18/19

SECOND READING: 12/9/19



SUZIE RAZMUS, MAYOR

ATTEST:

Roberta Webb
ROBERTA WEBB, CITY CLERK