

CITY OF STANFORD, KENTUCKY

305 EAST MAIN STREET

STANFORD, KY 40484

STANFORD CODE OF ORDINANCE

TITLE IX: GENERAL REGULATIONS

CHAPTER 96: SMOKING IN PUBLIC PLACES & PLACES OF EMPLOYMENT

SECTION NOS. 96.01-96.17

ORDINANCE BANNING SMOKING IN PUBLIC PLACES AND

PLACES OF EMPLOYMENT

**ORDINANCE BANNING SMOKING IN PUBLIC PLACES AND
PLACES OF EMPLOYMENT**

WHEREAS, According to numerous studies, tobacco is a major contributor to indoor air pollution. Breathing secondhand smoke is a cause of disease in healthy non-smokers. These diseases include 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 up to 65,000 Americans annually. (National Cancer Institute (NCI)).

WHEREAS, The Public Health Service's National Toxicology Program (NTP) has listed secondhand smoke as a known carcinogen. (Environmental Health Information Service (EHIS)).

WHEREAS, Secondhand smoke is particularly hazardous to the elderly, individuals with cardiovascular disease and individuals with impaired respiratory function, including asthmatics and those with obstructive airways disease. Children exposed to secondhand smoke have an increased risk of asthma, respiratory infections, Sudden Infant Death Syndrome (SIDS), developmental abnormalities and cancer. (California Environmental Protection Agency (CALEPA)).

WHEREAS, The U. S. Surgeon General has determined that the simple separation of smoker and non-smokers within the same air space may reduce, but does not eliminate, the exposure of nonsmokers to secondhand smoke. (Department of Health and Human Services).

WHEREAS, the City of Stanford accordingly adopts the foregoing as justification for this Ordinance:

To protect the health and welfare by prohibiting smoking in public places and places of employment; To guarantee the right of nonsmokers to breathe smoke-free air; and to recognize that the public's need to breathe smoke-free air shall have priority over the individual's desire to smoke.

NOW THEREFORE BE IT ORDAINED BY THE CITY OF STANFORD AS FOLLOWS;

Section 1: Definitions

The following words and phrases, whenever used in this Ordinance, shall be construed as defined in this section.

- (1) Alternative nicotine product means a noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means.
- (2) Business means a sole proprietorship, partnership, joint venture, corporation, or any 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, or other professional services are delivered; and private clubs.
- (3) Employee means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and a person who volunteers his or her services for a business.
- (4) Employer means a person, business, association, municipal corporation or trust, with one (1) or more employees.
- (5) Enclosed Area means all space between a floor and ceiling that is closed in on all sides by doors, walls, or windows, whether open or closed, the combination of which extend from the floor to the ceiling. A wall includes any physical barrier, whether temporary or permanent.
- (6) Health Care Facility means an office or institution providing care or treatment of diseases, whether physical, mental, 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, 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 all waiting rooms, hallways, private rooms, semi-private rooms, and wards within health care facilities.
- (7) Park means a tract of land, great or small, dedicated and maintained for the purposes of pleasure, exercise, amusement, or ornament; a place to which the public at large may resort to for recreation, air, and light. A park may include various facilities used by the public generally for recreation, including tennis, pitching horse shoes, croquet, baseball, basketball, golf, walking, horseback riding, picnicking [sic], and general outdoor exercise. Recreational parks are governmental in design because their purpose is to promote and benefit the health and pleasure of the people at large.
- (8) Place of employment means any area under the control of a public or private employer that employees normally frequent during the course of employment, including, but not limited to, common work areas, auditoriums, private offices, elevators, medical facilities, stairs, employee lounges, restrooms, conference and meeting rooms, classrooms, cafeterias, hallways, and work vehicles. A private residence is not a place of employment unless it is used as a childcare, adult day care or health care facility.

- (9) Private club means an organization, whether incorporated or not, which is the owner, lessee, or occupant of a building or portion thereof exclusively for club purposes at all times, which is operated solely for a recreational, fraternal, social, 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 and annual meeting. The organization has established by-laws and/or a constitution to govern its activities. The organization has been granted an exemption from the payment of federal income as a club under 26 U.S.C. 501.
- (10) 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, health care facilities, hotel and motel lobbies Laundromats, polling places, reception areas, restaurants, retail food production, and marketing/grocery establishments, retail service establishments, retail stores, shopping malls, sports arenas theaters and facilities primarily used for exhibiting any motion picture, stage drama, lecture, musical recital, or similar performance, bingo halls, gaming facilities, waiting rooms and public transportation facilities. A public transportation facility would include depots, shelters, buses, and taxis. Also, considered public places would be elevators, common areas of apartment buildings, condominiums, or other multi-unit residential facilities. A private club is a public place when being used for childcare, adult day care, or health care facility.
- (11) 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.
- (12) Retail tobacco store means a retail store utilized primarily for the sale of tobacco products, alternative nicotine products, vapor products and accessories and in which the sale of other products is merely incidental.
- (13) 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.
- (14) Shopping mall or flea markets means an enclosed public walkway or hall area that serves to connect retail, professional establishments, or booths.
- (15) Smoking means inhaling, burning, or carrying any lighted cigar, cigarette, pipe, or any other combustible tobacco product or vapor product.

(16) Sports arena means sport pavilions, stadiums, gyms, health spas, boxing arenas, swimming pools, parks, 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.

(17) Tobacco product means any cigarette, cigar, snuff, smokeless tobacco product, smoking tobacco, chewing tobacco, and any kind or form of tobacco prepared in a manner suitable for chewing or smoking, or both, or any kind or form of tobacco that is suitable to be placed in a person's mouth.

(18) 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 deliver 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.

Section 2: Application to city-owned or city-operated facilities.

Facilities, including all buildings and vehicles, owned or operated by the city, shall constitute public places as defined in division (b), and shall be governed by this section. In addition to penalties established by this section, a violation of this policy by a city employee on or in city property will be cause for disciplinary measures against such employee by supervisory personnel under employs policies and procedures.

Section 3: Prohibition of smoking in enclosed public places.

Smoking is prohibited in all enclosed public places as defined in division (b) above, within the City of Stanford, Kentucky.

Section 4: Prohibition of smoking in places of employment.

- (1) Smoking is prohibited in all enclosed places of employment.
- (2) 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 outdoor arenas, parks, and stadiums.

Smoking is prohibited in the seating areas of all outdoor arenas, stadiums and amphitheaters. Smoking is prohibited in all park areas.

Section 6: Reasonable distance.

Any designated outdoor smoking areas shall occur at a reasonable distance from any entrance, exit, window, or ventilation units of any enclosed area where smoking is prohibited to insure that tobacco smoke does not enter the area through entrances, windows, ventilation systems or any other means. In no instance shall a designated outdoor smoking area be permitted within ten (10) feet from the perimeter of any enclosed area. A greater distance may be imposed by the property owner.

Section 7: Where smoking is not regulated.

Notwithstanding any other provision of this section to the contrary, the following areas shall be exempt from the provisions of divisions (d) and (e):

- (1) Private residences, except when used as a licensed childcare, adult care, or health care facility.
- (2) Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided, however, that not more than (20%) of rooms rented to guests in a hotel or motel may be so designated. All smoking rooms on the same floor must be contiguous. Smoke from the designated smoking rooms shall not infiltrate into any areas where smoking is prohibited under the provisions of this section. The status of rooms as smoking or nonsmoking may not be changed, except to add additional nonsmoking rooms.
- (3) Retail tobacco stores, provided that smoke from these premises does not infiltrate into areas where smoking is prohibited under the provisions of this section.
- (4) Private clubs and businesses that have no employees; provided that when such clubs or businesses are being used for functions to which the general public is invited, the prohibitions set out in divisions (d) and (e) shall apply, provided that smoke from these premises does not infiltrate into areas where smoking is prohibited under the provisions of this section.
- (5) Outdoor areas of places of employment, except those covered by the provisions of divisions (f) and (g), provided that smoke from these premises does not infiltrate into areas where smoking is prohibited under the provisions of this section.

Section 8: Declaration of Establishment as non-smoking

Notwithstanding any other provision of this section, an owner, operator, or manager or any other person in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place regardless of its designation under this section. In such areas designated as non-smoking, signs must be posted according to the specifications listed in division (j) and smoking will not be allowed as if those areas were subject to the prohibitions of divisions (d) through (f) of this section.

Section 9: Posting of signs.

- (1) "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 area where smoking is prohibited by this section, by the owner, operator, manager or other person having control of such building or other area.
- (2) Every area where smoking is prohibited by this section shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.

Section 10: Ashtrays; spent smoking materials.

All ashtrays shall be removed from any area within which this section or the owner, operator, manager, or other person having control of the area prohibits smoking, except for ashtrays displayed for sale and not for use on the premises. Spent smoking materials shall be properly discarded and not littered on the grounds of any property, including the city sidewalks.

Section 11: Non-retaliation and non-waiver of rights.

- (1) No person or employer shall discharge, refuse to hire or in any manner retaliate against any employee, applicant for employment, or customer because such employee, applicant, or customer exercises any right to a smoke-free environment afforded by this section.
- (2) An employee who continues to work in a setting where an employer allows smoking in violation of this section does not waive or otherwise surrender any legal rights the employee may have against the employer or any other party.

Section 12: Enforcement.

- (1) The City Fire Department, The Code Enforcement Officers, The City Police, and all other city officials or employees designated by the City Manager shall enforce this section. Enforcement shall begin 6 weeks after March 8th, 2018.

- (2) Notice of the provisions of this section shall be given to all applicants for a business license in the City of Stanford.
- (3) Any citizen who desires to register a complaint under this section may initiate enforcement with any of the authorized persons listed above.
- (4) The Fire Department, or other individuals listed above that are in an establishment performing otherwise legal inspections, shall inspect for compliance with this section.
- (5) If an owner, manager, operator, or employee of an establishment subject to this section observes a person violating this section, he or she shall immediately direct the person in violation to stop smoking. If the person violating this section does not stop smoking, the owner, manager, operator, or employee shall call the police. In no event is an owner or agent of the premises to forcibly remove the person violating this section. Compliance is achieved under the section if the owner or agent of the premises follows these steps.
- (6) Notwithstanding any other provision of this section, the city, an employee or any person aggrieved by a failure to comply with this section, whether by commission or omission, including violations on the part of an owner, manager, operator, or other person(s) in control of a public place or place of employment covered by this section may bring legal action to enforce this section, either by civil action seeking injunctive relief or by civil complaint in a court of competent jurisdiction.

Section 13: Violations and penalties.

- (1) A person who smokes in an area where smoking is prohibited by the provisions of this sections shall be guilty of a civil violation, punishable by a fine not exceeding fifty dollars (\$50.00) for the first offense and a fine not exceeding one hundred dollars (\$100.00) for the second offense, and two hundred and fifty (\$250.00) for each additional offense .
- (2) A person who owns, manages, operates, or otherwise controls a public place or place of employment and fails to comply with the provisions of this section shall be guilty of a civil violation, punishable by:
 - a. A fine not exceeding one hundred dollars (\$100.00) for a first violation within a one (1) year period
 - b. A fine not exceeding two thousand three hundred dollars (\$500.00) for a second violation within one (1) year.
 - c. A fine not exceeding two hundred fifty dollars (\$250.00) for each additional violation within one (1) year

- (3) In addition to the fines established by this division (n), violations of this section 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.
- (4) Violation of this section is declared to be a public nuisance, which may be abated by the city or its designated agents by restraining order, preliminary and permanent injunction, or other means provided for by the law. The city may recover the reasonable costs of any court enforcement action seeking abatement of this nuisance.
- (5) Each day on which a violation of this section occurs shall be considered a separate and distinct violation.

Section 14: Public education.

The city may seek the assistance of the Lincoln County Health Department to provide a continuing education program to explain and clarify the purposes and requirements of this regulation to citizens affected by it, and to guide owners, operators, and managers in their compliance with it. Such programs may include publication of a brochure for affected businesses and individuals explaining the provisions of this section.

Section 15: Governmental agency cooperation.

The city requests the assistance of the agencies listed in Section 12 in order to effectively implement this Ordinance.

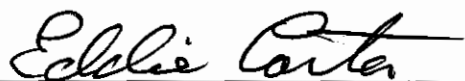
Section 16: Other applicable laws.

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

Section 17: Construction.

Each section shall be construed so as to further its stated purpose.

This Ordinance shall take effect on this the 8th day of March, 2018.



Mayor Eddie Carter
City of Stanford

CERTIFICATE

I, the undersigned, hereby certify that I am the duly qualified and acting City Clerk of the City of Stanford, Kentucky; that the foregoing is a full, true and correct copy of a Resolution adopted by the Governing Authority of said City at a meeting held on the _____ day of _____, 2018; that said official action appears as a matter of public record in the official records or Journal of the Governing Authority; that said meeting was held in accordance with all applicable requirements of Kentucky law, including KRS 61.810, 61.815, 61.820 and 61.823; that a quorum was present at said meeting; that said official action has not been modified, amended, revoked or repealed and is now in full force and effect.

IN TESTIMONY WHEREOF, witness my signature this on the 8th day of March, 2018.

Peggy Ouberson
City Clerk (Acting)
(City Seal)

SUMMARY OF ORDINANCE 96.01-96.17

**ORDINANCE BANNING SMOKING IN PUBLIC PLACES AND
PLACES OF EMPLOYMENT**

In an effort to curtail the negative effects of smoking, which have a deleterious effect on the health of its citizens; to protect the health and welfare by prohibiting smoking in public places and places of employment; To guarantee the right of nonsmokers to breathe smoke-free air; and to recognize that the public's need to breathe smoke-free air. The City of Stanford establishes a tobacco ban as well as a ban of their electronic counterparts in public places and places of employment. There shall be no tobacco or electronic imitation thereof within 10 feet of the perimeter bounding public places or places of employment, within the City of Stanford. This Ordinance further establishes a graduated civil fine with the first offense for individuals being \$50.00, \$100.00 for the second offense, and \$250.00 for each subsequent offense within a one year period. Business shall be fined \$100.00 for the first offense, \$500.00 for the second offense, and \$250.00 for each additional violation within a one year period. Enforcement of this Ordinance shall begin six weeks from the date of its enactment.

This Ordinance shall take effect on this the 8th day of March, 2018

CERTIFICATE

I, the undersigned, hereby certify that I am the duly qualified and acting City Clerk of the City of Stanford, Kentucky; that the foregoing is a true and correct summary of a Resolution adopted by the Governing Authority of said City at a meeting held on the 8th day of March, 2018; that said official action appears as a matter of public record in the official records or Journal of the Governing Authority; that said meeting was held in accordance with all applicable requirements of Kentucky law, including KRS 61.810, 61.815, 61.820 and 61.823; that a quorum was present at said meeting; that said official action has not been modified, amended, revoked or repealed and is now in full force and effect.

IN TESTIMONY WHEREOF, witness my signature this on the 8th day of March, 2018.

Peggy Arherson
City Clerk (acting)
(City Seal)