

CITY OF BEATTYVILLE, KENTUCKY
AN ORDINANCE RELATING TO CLEAN
AIR REGULATION ORDINANCE
NO.6162009

700.00 CLEAN INDOOR AIR REGULATION

PURPOSE: (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 smoke free air, and to recognize that the need to breathe smokefree air shall have priority over the desire to smoke.

700.010 DEFINITIONS The following words and phrases, whenever used in this regulation, shall be construed as defined in this section:

700.011 "Business" means any sole proprietorship, partnership, joint venture, corporation, or other business entity formed for profit making purposes including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architecturally or other professional services are delivered and private clubs.

700.012 "Employee" means any person who is employed by any employer in the consideration for direct or indirect monetary wages or profit, or a person who volunteers his or her services for a non-profit entity.

700.013 "Employer" means any person, partnership, corporation, including a municipal corporation, or non-profit entity, which employs the services of one or more individual persons.

700.014 "Enclosed Area" means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of door or passageways) which extend from the door to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid, office landscaping, or similar structures.

700.015 "Health Care Facility" means an office or institution providing care or treatment of discuses, 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, homes for the aging or chronically ill, laboratories, and offices of surgeon, chiropractors, physical therapists, physicians, dentists, and all specialists within these professions, This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms and wards within healthcare facilities.

700.016 "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, work areas, employee lounges, restrooms, conference and meeting rooms, classrooms, employee cafeterias, county vehicles. A private residence is not a "place of employment" unless it is used as a childcare, adult day care or health care facility.

700.017 "Public Place" means any enclosed area to which the public is invited or in which the public is permitted, including but not limited to, banks, educational facilities, health care facilities, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing /grocery establishment Is, retail service establishments, retail stores, theaters and facilities primarily used for exhibiting any picture, stage, drama, lecture, musical recital or similar performance, bingo halls, gaming facilities and waiting rooms. A private residence is not a "public place."

700.018 "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.

700.019 "Private Function" shall be defined as a function in which no fee is charged and no tickets are sold, and no public announcements are made to the event and/or function.

700.020 **"Restaurant"** means any coffee shop, cafeteria, sandwich stand, private and public school cafeteria, and any other eating establishment which gives or offers for sale food to the public, guests, or employees, as well as kitchens in which food is prepared on the premises or serving elsewhere, including catering facilities.

700.021 **"Retail Tobacco Store"** means a retail store utilized primarily for the sale of tobacco products and accessories a in which the sale of other products is merely incidental.

700.022 **"Service Line"** means any indoor line at which one (1) or more persons are waiting for or receiving service OF any kind, whether or not such service involves the exchange of money.

700.023 **"Shopping Mall or Flea Markets"** means an enclosed walkway or hall area that serves to connect retail, professional establishments, or booths.

700.024 **"Smoking"** means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, hookah, or any other lighted or heated tobacco or plant product intended for inhalation, including marijuana, whether natural or synthetic, in any manner or in any form. "Smoking" 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 in this Article.

700.025 **"Sports Arena"** means sports pavilions, gymnasium, health spas, boxing arenas, swimming pools, roller and e rinks, bowling alleys and other similar places where me Tiber-s of the general public assemble either to engage in physical exercise, participate in athletic completion, or witness sports.

700.026 **"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.

700.027 **"Electronic Smoking Device"** means 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 device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor.

700.028 "Employed" 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.

700.029 "Hookah" means a water pipe and any associated products and devices which are used to produce fumes, smoke, and/or vapor from the burning of material including, but not limited to, tobacco, shisha, or other plant matter.

700.030 "Playground" means any park or recreational area designed in part to be used by children that has play or sports equipment installed or that has been designated or landscaped for play or sports activities, or any similar facility located on public or private school grounds or on [City or County] grounds.

700.031 "Public Place" means an area to which the public is invited or in which the public is permitted, including but not limited to, banks, bars, educational facilities, gambling facilities, health care facilities, hotels and motels, laundromats, parking structures, 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.

700.032 "Recreational Area" means any public or private area open to the public for recreational purposes, whether or not any fee for admission is charged, including but not limited to, amusement parks, athletic fields, beaches, fairgrounds, gardens, golf courses, parks, plazas, skate parks, swimming pools, trails, and zoos.

700.100 This BCO is applicable to City-Owned or County-Owned Facilities, within the City of Beattyville.

700.101 All enclosed facilities, including building and vehicles that are owned or leased by the cities of Beattyville, Kentucky, shall be subject to the provisions of this BCO.

700.200 PROHIBITION OF SMOKING IN PUBLIC PLACES

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

1. Elevators

2. Restrooms, lobbies, reception areas, hallways, and any other common use areas
3. Service lines
4. All areas available to and customarily used by the general public in all businesses and non-profit entities; patronized by the public, including but not limited to, attorneys' offices and other offices, banks, and laundromats
5. Restaurants
6. Public areas such as galleries, libraries, and museums
7. Sports arenas and convention halls
8. Rooms, chambers, places or meeting or public assembly, including school buildings under the control of any board, council) commission, committee, including joint committee, or any political subdivision of the State during such time as a public meeting is in progress, to the extent such place is subject to the jurisdiction of Beattyville, Kentucky.
9. Waiting rooms, hallways, wards, private and public rooms, health care facilities, including, but not limited to, hospitals, clinics, physical therapy facilities, doctors' offices, dentists offices, and any other health care providers
10. Auction houses and indoor flea markets
11. Childcare and adult day care facilities
12. Lobbies, hallways, and other common areas all hotels and motels
13. Gambling facilities
14. Hotel and motels
15. Bingo facilities

16. Bars

17. Public transportation

18. Educational facilities, both public and private

19. Polling places

20. Retail stores

700.300 NO IMITATIONS ON GOING SMOKE FREE

700.310 Notwithstanding any other provision of this section, any owner, operator, manager or other person who controls a public place or place of employment may declare that entire establishment or facility as a nonsmoking establishment.

700.400 PROHIBITION OF SMOKING IN PLACE OF EMPLOYMENT

700.401 It shall be the responsibility of employers to provide a smoke free workplace for all employees, but employers are not required to incur any expense to make structural or other physical modifications.

700.402 On or before the effective date of this regulation. Each employer having an enclosed place of employment located within Lee County shall adopt, implement, make known and maintain a written smoking policy, and which shall contain the following requirements.

700.403 Smoking shall be prohibited in all enclosed facilities within a place of employment without exception. This includes common work areas, auditoriums, classrooms, conference- and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles, and all other enclosed facilities. Smoking shall be prohibited in all private clubs. Smoking shall be prohibited in the following enclosed residential facilities:

1. All private and semi-private rooms in nursing homes.
2. All hotel and motel guest rooms.

Prohibition of Smoking in Outdoor Places of Employment

- A. In, and within 15 feet of, outdoor seating or serving areas of restaurants, bars, and gambling facilities.
- B. In outdoor shopping malls, including parking structures.
- C. In all outdoor arenas, stadiums, and amphitheaters. Smoking shall also be prohibited in, and within 15 feet of, bleachers and grandstands for use by spectators at sporting and other public events.
- D. In outdoor recreational areas, including parking lots.
- E. In, and within 15 feet of, all outdoor playgrounds.
- F. In, and within 15 feet of, all outdoor public events.
- G. In, and within 15 feet of, all outdoor public transportation stations, platforms, and shelters.
- J. In all outdoor service lines, including lines in which service is obtained by persons in vehicles, such as service that is provided by bank tellers, parking lot attendants, and toll takers. In lines in which service is obtained by persons in vehicles, smoking is prohibited by both pedestrians and persons in vehicles, but only within 15 feet of the point of service.
- K. In all outdoor place of employment where two or more employees are required to be in the course of their employment. This includes, without limitation, work areas, construction sites, and temporary offices such as trailers, restroom facilities, and vehicles. Smoking shall be prohibited in outdoor common areas of apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities, except in designated smoking areas, not to exceed twenty-five percent (25%) of the total outdoor common area, which must be located at least 15 feet outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited.

700.404 This smoking policy shall be communicated to all employees within three (3) weeks its adoption.

700.405 All employers shall supply a written copy of this smoking policy upon request to any existing or prospective employee.

700.410 REASONABLE DISTANCE

700.411 Designated smoking areas shall occur at a reasonable distance or any entrance, exit, or ventilation units of any enclosed area where smoking is prohibited to ensure that tobacco smoke does not enter the area through entrances, windows, ventilation systems or any other means.

700.420 WHERE SMOKING NOT REGULATED

700.421 Notwithstanding any other provisions or this regulation to the contrary, the following areas shall be exempt from BCO

700.422 Private residences, except when used as childcare adult day care or health care facility.

700.500 POSTING OF SIGNS

700.501 "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed within a red circle with a red bar across it) shall be clearly and conspicuously posted in every building or other area where smoking is prohibited by this regulation, b) the owner, operator, manager or other person having control or such building or other area.

700.502 Every public place where smoking is prohibited by this regulation shall have posted at every entrance a conspicuous sign clearly slating that smoking is prohibited.

700.600 ASHTRAYS AND SMOKING PARAPHERNALIA

700.601 All ashtrays and other smoking paraphernalia shall be removed from any area where smoking is prohibited by this regulations by the owner, operator, manager or other person having control of such area.

700.701 If an owner, manager, operator, or employee any establishment regulated by the regulations observes a person violating these regulations, he or she shall immediately direct the person in violation to stop smoking. If the person violating the regulations does not comply with this request the owner, manager, operator, or employee shall ask the person to leave the premises. If the person in violation refuses to leave, the owner manager, operator, or employee shall call police.

A. A person who smokes in an area where smoking is prohibited by the provisions of this Ordinance shall be guilty of violation, punishable by a fine not exceeding fifty dollars (\$50).

B. 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 a fine not exceeding one hundred dollars (\$100) for a first violation. A fine not exceeding two hundred dollars (\$200) for a second violation within one (1) year. A fine not exceeding five hundred dollars (\$500) for each additional violation within one (1) year.

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 City of Beattyville Code Enforcement Officer, by restraining order, preliminary and permanent injunction, or other means provided for by law, and the City of Beattyville 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.

700.702 In no event is an owner or agent of the premises to forcibly remove the person violating the regulations. Compliance is achieved under this subsection if the owner or agent of the premises follows these steps.

700.703 Enforcement of this regulations shall be implemented by the Beattyville Police Department, or its designee.

700.704 The Beattyville Police Department shall, while in any establishment and is undergoing otherwise mandated inspections, inspect for compliance of this ordinance.

700.705 Notice of the provisions set forth in this regulations shall be given to all applicants for a business license in the City of Beattyville.

700.706 Any citizen who desires to register a complaint under this chapter may initiate enforcement with the Beattyville Police Department.

700.707 The mere presence of a person smoking within the premises of an establishment governed by this Regulation does not constitute a violation on the part of the establishment. The establishment and its agents shall only be charged for a violation of this Regulation if the responsible agent(s) of the establishment fail to timely satisfy each responsibility prescribed for them in this Section.

700.708 Notwithstanding any other provision of the Regulation, the Beattyville Police Department, an employee, or any person aggrieved by the failure to comply with this Regulation, whether by commission or omission, including violations on the part of an owner, operator, manager, employee, or other person(s) in control of a public place or a place of employment covered by this Regulation, either by civil action seeking

700.850 PUBLIC EDUCATION

700.851 The Beattyville Police Department shall engage in a continuing education program to explain and clarify the purpose and requirements of this regulation to citizens affected by it, and to guide owners, operators, and managers in their compliance with it. Such program may include publication of brochure for affected businesses and individuals explaining the provisions of this ordinance.

700.880 OTHER APPLICABLE LAWS

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

700.900 SEVERABILITY

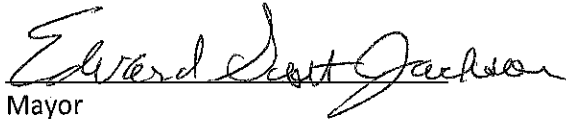
700.901 If any provision, clause, sentence or paragraph of this regulation or the application thereof to any person or circumstances shall be held invalid, such individual shall not affect the other provisions or this regulation which can be given effect without the invalid provision or application,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

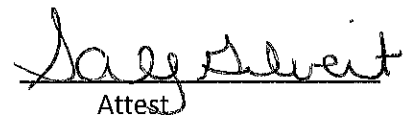
700.990 Effective Date

700.991 This regulation shall be effective thirty (30) days after the date of its adoption.

First Reading 11/8/21

Second Reading 12/13/21


Mayor


Attest