

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

§ 700.000 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 smoke-free 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, architectural or other professional services are delivered.

§ 700.012 "Employee" means any person who is employed by any employer in the consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services for an employer.

§ 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 passage ways) which extend from the floor 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 diseases, 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 surgeons, 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 health care 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, class rooms, 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 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 establishments, retail service establishments, retail stores, theaters and facilities primarily used for exhibiting any motion 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 any establishment that 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 is not profit oriented.
- § 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 for serving elsewhere, including catering facilities.

- § 700.021 "Retail Tobacco Store" means a retail store utilized primarily for the sale of tobacco products and accessories and 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 cigar, cigarette, pipe, or other combustible tobacco product.
- § 700.025 "Sports Arena" means sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.
- § 700.100 This BCO is applicable to all 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 of meeting or public assembly, including school buildings under the control of any board, council, commission, committee, including joint committees, 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 semiprivate rooms of 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. Licensed childcare and adult day care facilities
12. Lobbies, hallways, and other common areas of hotels and motels

§ 700.300 NO LIMITATIONS 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 PLACES 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.
- § 700.404 The smoking policy shall be communicated to all employees within three (3) weeks of its adoption.
- § 700.405 All employers shall supply a written copy of the 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 of any entrance, exit, 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.
- § 700.420 WHERE SMOKING NOT REGULATED
- § 700.421 Notwithstanding any other provisions of this regulation to the contrary, the following areas shall be exempt from BCO 700.
- § 700.422 Private residences, except when used as childcare adult day care or health care facility.
- § 700.423 No more than fifty (50%) of hotel and motel rooms rented to guests. All smoking rooms on the same floor must be contiguous and smoke from these rooms must not infiltrate in areas where smoking is prohibited under the provisions of this regulation. The status of rooms as smoking or nonsmoking

may not be changed, except to add additional non smoking rooms.

- § 700.424 Outdoor areas of places of employment except those outdoor seating areas of restaurants.
- § 700.425 Retail tobacco stores, provided that smoke from these places does not infiltrate into areas where smoking is prohibited under the provisions of this regulation.
- § 700.430 EXCEPTION
Notwithstanding any provision to the contrary within BCO 700, any business may provide a designated smoking area that is enclosed and has a ventilation unit in place, or, an area outside that is not close enough for smoke to enter through entrances, windows, ventilation systems or any other means:
- § 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 in 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, by the owner, operator, manager or other person having control of 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 stating that smoking is prohibited.
- § 700.600 ASHTRAYS AND OTHER 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.
- § 700.700 ENFORCEMENT
- § 700.701 If an owner, manager, operator or employee of 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 the police.

- § 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 an 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 purposes 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 a 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 invalidity shall not affect the other provisions of 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 sixty (60) days from and after the date of its adoption.

Adopted this 16th day of June, 2008

Wilma Kelley
City Clerk

James H. Hark
Mayor

Date: 6-16-2008