



J. DANIEL KEMP  
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HOPKINSVILLE, KENTUCKY  
OFFICE OF THE MAYOR

Post Office Box 707  
101 N. MAIN STREET  
Hopkinsville, KY 42240  
(270) 890-0200

December 14, 2012

Dear Business Owner/Manager,

On October 18, 2012, the City of Hopkinsville adopted Ordinance 08-2012 prohibiting smoking within any workplace, building, or enclosed area that is open to the public. Effective January 1, 2013, the ordinance affects restaurants (even those with bars); educational facilities; healthcare facilities; retail stores; shopping malls; common areas of hotels, motels, apartments, and other multiple-unit residential facilities as well as childcare and adult daycare facilities. Some notable exemptions are private dwellings, age-restricted venues (21 and over), private facilities, nicotine addiction treatment facilities, and retail tobacco stores.

The city has developed a Smoke-Free Workplace Kit to assist you in complying with the ordinance. The kits may be picked up from the lobby of the Lackey Municipal Building (101 North Main Street) or the Christian County Chamber of Commerce (2800 Fort Campbell Boulevard) during regular business hours. Kits include:

- Smoke-Free Workplace Kit Instructions
- “No Smoking” decals you can use to satisfy one of the ordinance requirements
- A Fact Sheet
- Answers to Frequently Asked Questions
- A copy of the smoke-free ordinance 08-2012

You may also visit our website at <http://www.hopkinsvilleky.us/smokefree> for the most current updates on the smoke-free legislation and its implementation.

Should you have questions or need additional information packets, please contact my office at (270) 890-0200.

Sincerely,

J. Daniel Kemp  
Mayor

JDK/lmr

Enclosures



## **CITY OF HOPKINSVILLE SMOKE-FREE WORKPLACE KIT INSTRUCTIONS**

These instructions have been assembled to assist businesses and organizations in the implementation of Ordinance 08-2012 which prohibits smoking within any workplace, building, or enclosed area that is open to the public. The ordinance is effective January 1, 2013.

This kit includes:

- Smoke-Free Workplace Kit Instructions
- “No Smoking” decals you can use to satisfy one of the ordinance requirements
- A Fact Sheet
- Answers to Frequently Asked Questions
- A copy of the smoke-free ordinance 08-2012

### **INSTRUCTIONS FOR PLACEMENT OF NO SMOKING DECALS:**

- All ashtrays must be removed from any area where smoking is prohibited.
- “No Smoking” signs must be posted that are clearly visible at all public entrances. Signs must include (1) letters that are at least one inch high using the words “No Smoking”, (2) symbols at least three inches high using the words “No Smoking”, or (3) the international “No Smoking” symbol. The enclosed “No Smoking” decals may be used at all public entrances to satisfy this requirement.
- For additional information on smoke-free regulations (including extra decals), contact the Mayor’s Office at (270) 890-0200.

### **INSTRUCTIONS FOR PLACEMENT OF FACT SHEET**

Responsible individuals are requested to display a Fact Sheet at a location within the business where employees may easily refer to the information.

### **FOR MORE INFORMATION**

- Additional copies of the Smoke-Free Workplace Kit are available in the lobby of City Hall or online at [www.hopkinsvilleky.us/smokefree](http://www.hopkinsvilleky.us/smokefree).
- Specific questions related to legal provisions of the ordinance should be directed to City Attorney Doug Willen at (270) 885-9909.

101 N Main Street  
Hopkinsville, KY 42240  
Phone: (270) 890-0200

[www.hopkinsvilleky.us/smokefree](http://www.hopkinsvilleky.us/smokefree)



## CITY OF HOPKINSVILLE SMOKE-FREE WORKPLACE FACT SHEET ON ORDINANCE 08-2012

The City of Hopkinsville prohibits smoking within any workplace, building, or enclosed area that is open to the public and within any public transportation vehicle, including buses, vans or taxicabs.

For specific information related to buildings and enclosed areas covered by this ordinance and exemptions to the ordinance, please visit [www.hopkinsvilleky.us/smokefree](http://www.hopkinsvilleky.us/smokefree) or call (270) 890-0200.

### ***No Smoking Signs***

“No Smoking” signs must be posted which are clearly visible at all public entrances of any building and enclosed area subject to the ordinance. Signs must include (1) letters that are at least one inch high using the words “No Smoking”, (2) symbols at least three inches high using the words “No Smoking”, or (3) the international “No Smoking” symbol.

All ashtrays shall be removed from any area where smoking is prohibited.

### ***Reasonable Distance***

Smoking shall be prohibited within a reasonable distance from the outside entrance to any building to ensure that tobacco smoke does not enter the building through entrances, windows, ventilation systems or other means, or make contact with individuals entering or leaving the building.

### ***Employer’s Responsibility***

An owner, lessee, principal manager or person in control of a building or establishment in a building shall: (1) ensure compliance with provisions of this ordinance by customers and employees, (2) ask smokers to refrain from smoking in any “No Smoking” area, (3) not retaliate against an employee, applicant for employment, or customer because that employee, applicant, or customer complies with this ordinance, and (4) to use any other appropriate legal means to carry out the intent of this ordinance.

### ***Employee’s Responsibility***

Employee must also comply with the ordinance. Employees should request a person smoking in a “No Smoking” area to extinguish the smoking materials or step outside to a legally permissible distance. If the person refuses to comply, the employee should tell

his or her supervisor or follow the policies of the employer in reporting other violations of company policies.

### ***Enforcement of Ordinance 08-2012***

Provisions of this ordinance may be enforced by the Code of Ordinance Enforcement Board or Hopkinsville Police Department as a violation and/or a misdemeanor.

Any person who violates provisions of this ordinance, including a person who smokes in an area where smoking is prohibited, may be subject to the following penalties:

- Up to \$50 fine for a first offense
- Up to \$75 fine for a second offense
- Up to \$150 fine for a third offense
- The maximum fines listed above may be doubled if a citation is contested and upheld by the Code Enforcement Board
- Persons who smoke or who refuse to extinguish their smoking material where prohibited may be required to leave the premises and shall be subject to prosecution for criminal trespass if they do not leave when asked.

*Please call (270) 890-1300  
to report a violation.*

# CITY OF HOPKINSVILLE SMOKE-FREE WORKPLACE

## Answers to Frequently Asked Questions

### The Law: Provisions and Exemptions

**Question: Where can I find a copy of the smoke free ordinance?**

**Answer:** A copy of the ordinance can be obtained at [www.hopkinsvilleky.us/smokefree](http://www.hopkinsvilleky.us/smokefree).

**Question: When will this law take effect?**

**Answer:** Upon approval, the ordinance will become effective on January 1, 2013.

**Question: Where is smoking prohibited under the new law?**

**Answer:** Under this new law, smoking is prohibited in all enclosed public places and work places within the City of Hopkinsville with a few exceptions. The smoking ban applies, but is not limited to:

- Restaurants (even restaurants with bars)
- Public and private educational facilities
- Health care facilities
- Retail stores and shopping malls
- Hotel and motel common restrooms, lobbies, reception areas, elevators, hallways and other common-use areas
- Lobbies, hallways and other common areas in apartment buildings and other multiple-unit residential facilities
- Child care and adult day care facilities

**Question: Is there a required distance people should keep from the entrance of smoke-free buildings while smoking?**

**Answer:** There is no distance requirement mandated by the ordinance. Employers, however, may set guidelines. Smoke should not be able to enter the building through entrances, windows, ventilation systems or other means, or make contact with individuals entering or leaving the building.

**Question: What areas are exempt from the smoking ban?**

**Answer:** The following are exempt from the smoking ban provisions:

- Any dwellings, unless the dwelling is also used as a childcare facility, adult day care center or health care facility.
- Nicotine addiction facilities operated by licensed health care professionals
- Retail tobacco stores
- Venues that restrict access to persons who are 21 years of age or older at all times
- Indoor smoking areas provided in government office buildings or work places
- Facilities operated or rented by private organizations (not open to the public or admitting by purchasing a ticket or making a donation)
- Tobacco warehouses
- Theatrical productions (upon adequate notice to patrons before performance)

## The Law: Provisions and Exemptions (cont.)

**Question: Are bars exempt?**

**Answer:** To be exempt under this law, an establishment must restrict access to persons who are 21 years of age or older at all times. This means that bars within restaurants, bowling alleys and hotels must be smoke-free unless the entire establishment limits access to persons 21 or older at all times.

**Question: In order to allow smoking, can an establishment be smoke-free during the day, and limit access to 21 and up at night?**

**Answer:** No, an establishment must limit access to patrons 21 and up at all times to be exempt from this law.

**Question: Are establishments with separately ventilated smoking rooms exempt?**

**Answer:** No, they are not.

## Restaurants and Bar Establishments

**Question: I operate a restaurant. If I prohibit smoking and allow customers of all ages in the establishment during the daytime hours but at night restrict access to only those who are twenty-one years of age or older, can I allow smoking during the night when no one under 21 will be permitted inside?**

**Answer:** No. An "age-restricted venue" under the ordinance means a legal establishment that affirmatively restricts access to its building or facilities at all times to persons who are twenty-one (21) years of age or older. An establishment that is age-restricted only at night but allows people of all ages during the daytime hours would not be an establishment that restricts access at all times to persons twenty-one years of age or older.

**Question: Will all restaurants be smoke-free?**

**Answer:** All restaurants in Hopkinsville will be smoke-free unless they choose to limit access to people 21 and older at all times. This includes restaurants with bars, as well as chain and hotel restaurants. Restaurants can allow smoking on outdoors patios.

**Question: I know that I have to prohibit smoking in my restaurant, but can I build a smoking room in my restaurant with a separate entrance and limit access to that room to smokers twenty-one (21) years of age or older?**

**Answer:** No. A restaurant is a public place and the ordinance bans smoking in public places. You would have to restrict access to the entire restaurant to people, including employees, twenty-one (21) years of age and older in order to qualify for an exemption.

**Question: I own a restaurant. I know that people can smoke in an open air patio. How far from the entrance to the restaurant must my first smoking table be placed?**

**Answer:** The exemption for open air patios still requires you to keep smoke from that area from infiltrating into areas where smoking is prohibited. There is no minimum distance requirement. However, smoke should not be able to enter the restaurant through entrances, windows, ventilation systems or other means, or make contact with individuals entering or leaving the restaurant.

## Apartment Complexes

**Question:** *I live in a multi-resident housing complex. If my neighbors are smoking outside on their patio/porch and their smoke infiltrates into my residence through the heating and/or air conditioning unit, is this a violation of the Ordinance?*

**Answer:** No. The ordinance provides no protection against the secondhand smoke of your neighbor infiltrating into your residence. The ordinance does prohibit smoking in lobbies, hallways, and other enclosed common areas of apartment building and other multiple-unit residential facilities.

## Requirements of Compliance

**Question:** *What is required of employers or business owners?*

**Answer:** Employers and business owners are required by law to do the following:

- Post "No Smoking" signs at every entrance to every public place and place of employment where smoking is prohibited.
- Notify and inform all existing and prospective employees that smoking is prohibited.
- Inform patrons and customers who are found smoking on the premises that it is prohibited.

## Enforcement and Penalties

**Question:** *Who is responsible for enforcing the smoking ban?*

**Answer:** The provisions of this ordinance may be enforced by the Code of Ordinance Enforcement Board or Christian County District Court. The decision on whether enforcement shall take place with the Code Enforcement Board or the Christian County District Court shall be at the city's discretion.

**Question:** *What are the penalties for violating the smoking ban?*

**Answer:** Any person violating a provision of this ordinance shall be subject to a fine.

- For a first offense, a fine of not greater than \$100
- For a second offense, a fine of not greater than \$150
- For all other offenses, a fine of not greater than \$300

Each day that a violation continues shall constitute a separate offense.

## Filing a Complaint

**Question:** *How do I register a complaint about a violation of the smoking ban?*

**Answer:** Call 270-890-1300 or mail information to the Hopkinsville Police Department, 101 N Main Street, Hopkinsville, KY 42240.

**ORDINANCE 08-2012**

**AN ORDINANCE REGULATING SMOKING  
IN ENCLOSED PUBLIC PLACES AND WORK PLACES, ESTABLISHING CIVIL FINES  
FOR VIOLATION AND ESTABLISHING ENFORCEMENT PROCEDURES**

**WHEREAS**, it is in the best interest of the City of Hopkinsville to enact smoking regulations in public places and work places to protect the health of its citizens; and

**WHEREAS**, on August 23, 2012 the Committee of the Whole forwarded an ordinance regulating smoking to City Council.

**NOW THEREFORE, BE IT ORDAINED** by the City Council of the City of Hopkinsville, Kentucky as follows:

**SECTION ONE**

**REGULATING SMOKING ON PUBLIC PROPERTY**

**A. DECLARATION OF PUBLIC POLICY.**

In order to eliminate exposure of the public and workers in work places to secondhand smoke and to reduce the harmful health effects of such exposure to secondhand smoke, the regulation of smoking in public places and work places is required in the interests of public health, safety and welfare of the citizens and workers of the City.

**B. DEFINITIONS.**

As used in this ordinance, the following terms and their derivatives shall have the following meanings unless the context indicates or requires a different meaning:

“Age-restricted venue” means a legal establishment that affirmatively restricts access to its buildings or facilities at all times to persons who are twenty-one (21) years of age or older by requiring each person who attempts to gain entry to such buildings or facilities to submit for inspection an acceptable form of identification for the express purpose of determining if the person is twenty-one (21) years of age or older.

“Building” shall mean any structure enclosed from the weather, whether or not windows or doors are open. If a person leases or possesses only a portion of a building, the term “building” applies to the leasehold or possessory interest as well.

“Dwelling” shall mean any place used primarily for sleeping overnight and conducting activities of daily living, including without limitation, a hotel or motel room or suite or a hospital, hospice or nursing home room, but not a hotel, motel, hospital, hospice or nursing home lobby, common elevator, common hallway or other common area.

“Enclosed Area” shall mean an area that is closed in overhead by a roof or other covering of any material, whether permanent or temporary, and has forty percent (40%) or more

of its perimeter closed in by wall or other coverings of any material, whether permanent or temporary.

“Establishment” shall mean any business or other entity operating or otherwise located in a building or portion thereof, and open to the public, including but not limited to manufacturing facilities, industrial plants, banks, laundromats, retail stores, professional offices, restaurants, bars, gaming facilities, child day care facilities and adult day care facilities.

”Open to the public.” Buildings, portions thereof, or establishments therein, are “open to the public” when their physical nature, function, custom, usage or notice would cause a reasonable person to believe no invitation or permission to enter is required.

“Private Organization.” An organization which is the owner, lessee, or occupant of a building, that is not open to the public. The building will be used exclusively for the organization’s or a member’s purposes at all times. The organization must maintain selective members, and be operated by the membership. The organization neither provides food, drink, nor lodging for pay to anyone who is not a member or a member’s guest, nor permits others to provide food, drink, or lodging for pay to anyone who is not a member or a member’s guest. The organization has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. § 501. A private organization is an “establishment” only when being used for a function to which the general public is invited.

“Retail Tobacco Store” shall mean any place used primarily for the sale of tobacco products, including but not limited to cigarettes, pipe tobacco, chewing tobacco and accessories, and in which the sale of other products is merely incidental. The sale of such other products shall be considered incidental if such sales generate less than one-third of the total annual gross sales.

“Smoke or Smoking” shall mean inhaling, exhaling, burning, possessing, or carrying any lighted cigar, cigarette, pipe, or other combustible tobacco product.

“Tobacco Warehouse” shall mean any warehouse building offering tobacco for purchase at auction and the definition established in KRS 248.010(4).

“Work Place” shall mean any building or portion thereof in which an establishment is located, including, but not limited to work areas, private offices, lounges, restrooms, conference rooms, meeting rooms, classrooms, cafeterias, and hallways.

### **C. PUBLIC PROHIBITIONS AND EXCEPTIONS.**

1. No person shall smoke within any building or enclosed area that is open to the public or any work place.

2. No person shall smoke within any public transportation vehicle, including buses, vans or taxicabs, or any city owned and/or insured vehicle.

3. The prohibition does not apply to the following locations provided smoke does not infiltrate into areas where smoking is prohibited under this section:

a. Any dwelling, unless the dwelling is also used as a childcare facility, adult day care center or health care facility. This exception does not extend to the lobby, common restrooms, common hallway, common elevator, or any other common area of a building or enclosed area containing attached dwelling units or hotel or motel rooms. If a hospital, hospice, or nursing home permits smoking in its dwelling rooms, smoking is not allowed in any room shared with another person without that person's consent;

b. Any room used for psychological treatment of nicotine addiction by a licensed health care professional, or in a physically separate and independently ventilated room in a hospital, hospice facility or licensed long term care facility open to all residents as a smoking room and for no other purpose;

c. A retail tobacco store;

d. Indoor smoking areas provided in county, state or federal governmental office buildings or work places;

e. Buildings and facilities operated by private organizations, except when open to the public;

f. Tobacco warehouses;

g. A rental room or hall being used by a person or group for a private social function that is not open to the public nor is admittance obtained by purchase of a ticket or the making of a donation;

h. A performer as part of a theatrical production so long as adequate notice is provided to patrons before the performance; or

i. Age-restricted venues.

4. Nothing in this ordinance shall prevent an owner, operator, manager or other person having control of an establishment, including, without limitation, any motor vehicle, outdoor area, or dwelling, from prohibiting smoking completely in such place, and no person shall fail to abide by such a private prohibition.

5. Nothing in this ordinance shall authorize smoking in any place where it is otherwise prohibited by statute, ordinance, regulation or order of the Fire Marshal.

#### **D. REMOVAL OF ASHTRAYS REQUIRED; POSTING OF SIGNS.**

1. All ashtrays shall be removed from any area where smoking is prohibited by this ordinance and shall not be permitted by the owner, operator, manager or other person having control of the establishment. Any permanent structure that functioned or was used as an ashtray shall be disabled or altered to prevent its use as an ashtray.

2. The owner, lessee, principal manager or person in control of a building or an establishment subject to this ordinance shall post signs, with letters of not less than one inch (1") high or symbols no less than three inches (3") 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 building or establishment.

#### **E. DUTY TO ENSURE COMPLIANCE.**

1. No owner, lessee, principal manager or person in control of a building or establishment in a building shall fail: (1) to ask smokers to refrain from smoking in any no-smoking area, and (2) to use any other legal means which may be appropriate to further the intent of this ordinance.

2. No owner, lessee, principal manager, proprietor or any other person in control of a business shall fail to ensure compliance with this ordinance by subordinates, employees and agents.

#### **F. SMOKING NEAR BUILDING ENTRANCES PROHIBITED.**

Smoking shall be prohibited within a reasonable distance from the outside entrance to any building so as to ensure that tobacco smoke does not enter the building through entrances, windows, ventilation systems or other means, or make contact with individuals entering or leaving the building.

#### **G. RETALIATION PROHIBITED.**

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.

#### **H. ENFORCEMENT AND PENALTIES.**

1. The provisions of this ordinance may be enforced by the Code of Ordinance Enforcement Board established in Section 33.180 *et seq.*, or in the alternative, the Christian County District Court, as a misdemeanor and/or violation. The decision on whether enforcement shall take place with the Code Enforcement Board or the Christian County District Court shall be at the city's discretion.

2. Any person who violates any provision of this ordinance shall be guilty of a violation and shall be subject to a fine. A first offense under this chapter shall result in a fine of not greater than \$100. A second offense shall result in a fine of not greater than \$150. All other offenses shall result in a fine of not greater than \$300. Each day that a violation continues shall constitute a separate offense.

3. 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 criminal trespass if they do not leave when asked.

4. Violations of this ordinance are declared to be a public nuisance which may be abated by the City by restraining order, preliminary and permanent injunction or other

means provided by law. The City may recover the reasonable costs of any court enforcement action seeking abatement of this nuisance.

**SECTION TWO**

If any section, subsection, sentence, clause, or phrase of this ordinance is held unconstitutional or otherwise invalid, such infirmity shall not affect the validity of the remaining portions of this ordinance.

**SECTION THREE**

Any and all existing ordinances inconsistent with this ordinance are hereby repealed.

**SECTION FOUR**

This ordinance shall take effect January 1, 2013 after its passage and publication according to law.

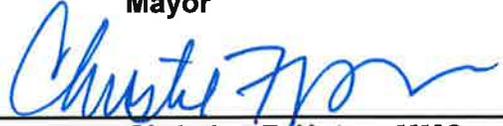
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**ORDINANCE 08-2012  
REGULATING SMOKING IN ENCLOSED PUBLIC PLACES AND WORK PLACES**

PUBLICLY READ AND PASSED FIRST TIME: October 16, 2012

PUBLICLY READ AND PASSED SECOND TIME: October 18, 2012

APPROVED:   
J. Daniel Kemp  
Mayor

ATTEST:   
Christine F. Upton, MMC  
City Clerk