Kansas City, Mo., Smoking Ordinance


Background

On April 8, 2008, voters approved a smoking ordinance that eliminates smoking in bars and restaurants, in addition to all other enclosed workplaces except for casino gaming floors. This ordinance went into effect June 6, and enforcement began at 12:01 a.m. on June 21, when a temporary restraining order was lifted.

The purpose of the smoking ordinance is to protect those working in Kansas City, Mo., from the dangers of secondhand or environmental tobacco smoke.

It does not regulate what anyone does on their own personal time, in their own homes or cars (unless they are being used as a public business, for example a day care or taxi) or outside.

Currently

Smoking is prohibited in all enclosed workplaces, including bars and restaurants. The responsibilities of the business owners, owners and managers are detailed in the ordinance under Section 34-474.

Violations of the ordinance may result in a fine of up to $50 for the person smoking in an enclosed workplace. If the establishment where the smoking takes place does not enforce the ordinance, it may be fined up to $100 for the first offense, $200 for the second and $500 for the third and each subsequent violations; each day a violation occurs is considered a separate violation.

Violations are reported to both the Health Department and to Regulated industries, and bars with multiple repeat violations over time risk losing their liquor licenses, in addition to the ordinance penalties.

Hotels may designate up to 25 percent of rooms to be smoking rooms. They may also designate a higher percentage temporarily if they are more than 75 percent booked for a convention or meeting, provided they clean those additional rooms afterwards sufficient to remove odor and "particulate residue" before allowing them to be occupied again.

Casino gaming floors are currently exempted until other metropolitan area casinos are covered by similar smoking ordinances.
E-cigarettes

The Smoking Ordinance does not currently address e-cigarettes. They are not considered tobacco products and there is no second-hand smoke.

In the future

In the long run, this ordinance will also help businesses and protect business owners. Cities and states that have had smoking ordinances in place for several years have seen a decrease in employees calling in sick and lower costs for health care as a result. Employees in those states, even regular smokers, have noticed that they can breathe easier and go longer without getting out of breath, and those who have tried to quit smoking and still want to do so find it easier to do when smoking isn't allowed at work.

For more information...

- Our Environmental Health Services Division handles education on and enforcement of the ordinance. For more information on the ordinance, please feel free to contact them at 816-513-6192.
- Learn more about our tobacco use prevention program; you also may call 816-513-6211 for more information on quitting.

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ARTICLE XII. SMOKING PROHIBITED IN ENCLOSED PLACES OF EMPLOYMENT, PUBLIC PLACES AND PUBLIC SIDEWALKS ABUTTING ACUTE CARE HOSPITALS [13]

Sec. 34-471. Purpose.

It is the purpose of this article that the city promotes public health by decreasing citizens exposure to secondhand smoke and creates smoke free environments for workers and citizens through regulation in the work place and all public places.

(Ord. No. 080073, § 4, 1-17-08)

Sec. 34-472. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Acute care hospital means hospitals licensed as such under RSMo ch. 197.

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.

Casino gaming area means the area of a state-licensed excursion gambling boat where gaming is allowed for those 21 years of age or older.

City attorney means the city attorney for the City of Kansas City, Missouri or his or her designee.

Director of health means the director of health of the City of Kansas City, Missouri or his or her designee.

Employee means any person who performs services for an employer, with or without compensation.
Employer means a person, partnership, association, corporation, trust, or other organized group of individuals, including the city or any agency thereof, which utilizes the services of one or more employees.

Enclosed means a space bound by walls (with or without windows) continuous from the floor to the ceiling and enclosed by doors, including, but not limited to, offices, rooms, all space therein screened by partitions, which do not extend to the ceiling or are not solid, "office landscaping" or similar structures and hallways.

Permanently designated means a hotel or motel room may be designated as a smoking room only one time a year.

Place of employment means any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference rooms and classrooms, employee cafeterias and hallways. A private residence is not a "place of employment" unless it is used as a childcare, adult day care or health care facility.

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 facilities, laundering facilities, public transportation facilities, reception areas, production and marketing establishments, retail service establishments, retail stores, theaters, and waiting rooms. A private residence is not a "public place."

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 at no cost or 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 an attached bar.

Service line means any indoor line at which one or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.

Smoking means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe or other tobacco product.

Sports arena means sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice skating 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.

Sec. 34-473. Prohibition of smoking in enclosed places of employment and all enclosed public places; prohibition of smoking on sidewalks abutting hospitals.

(a) The possession of lighted smoking materials in any form, including but not limited to, the possession of lighted cigarettes, cigars, pipes or other tobacco products, shall be prohibited in all enclosed places of employment within the city.

(b) The possession of lighted smoking materials in any form, including but not limited to, the possession of lighted cigarettes, cigars, pipes or other tobacco products, shall be prohibited in all enclosed public places within the city, including but not limited to the following places:

1. Any vehicle of public transportation, including but not limited to buses, limousines for hire and taxicabs;
2. Elevators;
(3) Restrooms;
(4) Libraries, educational facilities, childcare and adult day care facilities, museums, auditoriums, aquariums and art galleries;
(5) Any health care facility, health clinic or ambulatory care facilities, including but not limited to laboratories associated with the rendition of health care treatment, hospitals, nursing homes, doctors’ offices and dentists’ offices;
(6) Any indoor place of entertainment or recreation, including but not limited to gymnasiums, theaters, concert halls, bingo halls, billiard halls, betting establishments, bowling alleys, arenas and swimming pools;
(7) Service lines;
(8) Facilities primarily used for exhibiting a motion picture, stage, drama, lecture, musical recital, or other similar performance;
(9) Shopping malls;
(10) Sports arenas, including enclosed places in outdoor arenas;
(11) Bars;
(12) Restaurants;
(13) Convention facilities;
(14) All public areas and waiting rooms of public transportation facilities, including but not limited to bus and airport facilities;
(15) Any other area used by the public or serving as a place of work, including open office landscaping;
(16) Every room, chamber, place of meeting or public assembly, including school buildings under the control of any board, council, commission, committee, including, but not limited to joint committees, or agencies of the city 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 the city;
(17) All enclosed facilities owned by the city; and
(18) Rooms in which meetings or hearings open to the public are held, except where such rooms are in a private residence.

(c) Possession of lighted smoking materials in any form, including but not limited to the possession of lighted cigarettes, cigars, pipes or other tobacco products, is prohibited on public sidewalks abutting acute care hospital property lines.

(d) No one shall possess lighted smoking materials in any form, including but not limited to lighted cigarettes, cigars, pipes or other tobacco products in a manner that impedes entrance to or exit from a building where smoking is prohibited pursuant to this section.

(e) It shall be unlawful for any person to violate the provisions of this section.

(Ord. No. 080073, § 4, 1-17-08)

Sec. 34-474. Responsibilities of proprietors, owners and managers.

(a) A person having control of a place listed in section 34-473 shall not knowingly permit, cause, suffer or allow any person to violate the provisions of section 34-473 in that place. It shall be an affirmative defense to an alleged violation of this subsection that the person having control of a place has asked that the lighted cigarette, cigar, pipe or other tobacco product be extinguished and asked the person to leave the establishment if that person has failed or refused to extinguish the lighted cigarette, cigar, pipe or other tobacco products.

(b)
A person having control of a place 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) near all entrances where smoking is prohibited by this Article. Such signage shall consist of letters not less than one inch in height.

(c) It shall be the responsibility of employers to provide smoke-free workplaces for all employees.

(d) Each employer having any enclosed place of employment located within the city shall adopt, implement, make known and maintain a written smoking policy which shall contain the following requirements:

- 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.

(e) The smoking policy shall be communicated to all employees within four weeks of the adoption of this Ordinance.

(f) All employers shall supply a written copy of the smoking policy upon request to any existing or prospective employee.

(Cross reference— Licenses and miscellaneous business regulations, ch. 40.)

Sec. 34-475. Where smoking is not regulated. 🍴

Notwithstanding any other provision of this article to the contrary, the following shall not be subject to the smoking restrictions of this article:

(a) Private residences, not serving as enclosed places of employment or enclosed public places;

(b) Twenty-five percent of hotel and motel rooms may be permanently designated as smoking rooms or a higher percentage adjusted by the hotel or motel when on a given date it has a 75 percent or greater occupancy rate due to the booking of guests for conventions or meetings and needed to meet the demands of the convention or meeting, provided the hotel or motel cleans those added rooms in a manner sufficient to remove the odor and particulate residue of smoking from those rooms before they are again occupied as non-smoking rooms.

(c) Any location where this ordinance is not yet in effect pursuant to section 34-480

(d) Business establishment where more than 80 percent of the volume of trade or business carried on is that of the blending of tobaccos, or the sale of tobaccos, pipes, cigars or smokers' sundries and smoking-related paraphernalia, provided that:

1. The establishment is the sole occupant of a building that stands alone from other buildings; or

2. Has separate heating, ventilation and air conditioning equipment that vents or exchanges air outside of the building or structure in which the business establishment is situated which prevents the mixing of air from the establishment with air from the other portions of the premises where smoking is prohibited under the provisions of this article; and

3. Does not allow those under the age of 18 years old into the areas where the possession of lighted smoking materials occurs.

This subsection shall not apply to a business that sells or serves foods or alcoholic beverages.

(Cross reference— Licenses and miscellaneous business regulations, ch. 40.)
Sec. 34-476. Penalty for violation of this article.  

(a) A person who smokes in an area where smoking is prohibited by the provisions of this article shall be guilty of an ordinance violation, punishable by a fine not exceeding $50.00.  

(b) A person having control of a public place or place of employment and who fails to comply with the provisions of this Article shall be guilty of an ordinance violation, punishable by:  

1. A fine not exceeding $100.00 for a first violation.  
2. A fine not exceeding $200.00 for a second violation within a one-year period.  
3. A fine not exceeding $500.00 for a third or subsequent violations within a one-year period.  
4. Each day on which a violation of this Article occurs shall be a separate and distinct violation.

(Ord. No. 080073, § 4, 1-17-08)

Sec. 34-477. Public education.  

The director of health shall engage in a continuing program to inform and to educate the public regarding the health consequences of smoking, including the adverse health consequences of peoples' exposure to secondhand smoke, shall clarify the purpose of this article to citizens affected by it, and shall guide owners, operators and managers in their compliance.

(Ord. No. 080073, § 4, 1-17-08)

Sec. 34-478. Other applicable laws.  

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

(Ord. No. 080073, § 4, 1-17-08)

Sec. 34-479. Construction.  

This article shall be liberally construed so as to further its purposes. The provisions of this article are severable. If any provision or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

(Ord. No. 080073, § 4, 1-17-08)

Sec. 34-480. Effective dates.  

(a) Except as provided below, this article will become effective 60 days after passage of a simple majority of voters and if the number of votes exceeds the number of votes cast in favor of the ballot question approving committee substitute for Ordinance No. 080036, as amended.  

(b) Casino gaming areas shall be exempt from this article until all casinos located in the Missouri counties of Jackson, Platte and Clay, and the Kansas counties of Johnson and Wyandotte (the relevant counties) are obligated by ordinance, statute or law to prohibit smoking within the casino areas where gambling games are allowed.  

1. Determination of effective date. To determine when casino gaming areas are no longer exempt from this article as described above:  
   i. The city clerk with the advice of the director of health will maintain a library of smoking ordinances from all cities located in the relevant counties.
When smoking within casino gaming areas has been banned in those jurisdictions in which casinos are located in the relevant counties, the city clerk shall provide for public notice through the city's internet site, news releases and a communication to the city council.

iii. Such notice shall state that this article will apply to casino gaming areas after 60 days from the date of the notice.

(Ord. No. 080073, § 4, 1-17-08)

**Sec. 34-481. Enforcement of article.**

(a) The authority to administer the provisions of this article is vested in the director of health and his or her duly authorized representative(s).

(b) Whenever the need arises, the director of health may call upon the fire and police departments and other departments of the city to aid in the enforcement of the provisions of this article.

(c) Notice of the provisions of this article shall be given to all applicants for a business license in the city.

(d) Any citizen who desires to register a complaint under this article may initiate enforcement with the health department.

(Ord. No. 080073, § 4, 1-17-08)

**Secs. 34-482—34-510. Reserved.**