

City of

DANVILLE

KENTUCKY

P.O. Box 670
Danville, KY 40423
(859) 238-1200

June 2008

Dear Employer:

On April 28, 2008, the Danville City Commission adopted an ordinance prohibiting smoking in most public places and workplaces. This ordinance also includes but is not limited to such places as retail stores, bowling centers, billiard and bingo halls, sports arenas and facilities, auction houses, outdoor events where the public is gathered, and common areas/designated rooms of hotels and motels. The ordinance will go into effect on August 8, 2008.

Many Danville business owners have questions about how to prepare for this smoke-free law. In order to assist you with implementation, the Boyle County Health Department has developed a Business Implementation Kit. The enclosed information is intended to help you implement the policy and would be useful to circulate among all of your employees. The fact sheet provides a quick reference to the smoke-free law requirements including guidelines on removing all ashtrays, where to place signage, and compliance and enforcement issues. In addition, a Frequently Asked Questions (FAQ) document has been prepared to further explain the details of the law. Smoke-Free Signs have also been included for you to display at all entrances and exits of your facility. Should you require more signs, please contact the Boyle County Health Department at (859) 236-2053.

It is our hope that you will find the information in this kit helpful. If you have any questions concerning this ordinance, you may contact the Boyle County Health Department at the number listed above.

Thank you for your cooperation in making Danville smoke-free.

Sincerely,



Paul Stansbury
City Manager

“The City of Firsts”

First Courthouse in Kentucky - 1785
First U.S. Post Office in the West - 1792
First Successful Ovariectomy in the World - 1809

First Capitol of Kentucky District - 1785
First Political Club in the West - 1786
First Constitutional Convention in the West - 1792

First College in the West - 1783
First Law School in the West - 1799
First State Supported School for Deaf - 1823

PUBLIC PLACES

ACCORDING TO CITY ORDINANCE 1733, SMOKING IS PROHIBITED IN ALL INDOOR/OUTDOOR PUBLIC PLACES AND WORKPLACES IN DANVILLE INCLUDING BUT NOT LIMITED TO:

- RETAIL STORES
- BOWLING CENTERS
- BINGO HALLS
- BILLIARDS
- RESTAURANTS
- LAUNDROMATS
- PUBLIC RESTROOMS
- OFFICES AND BANKS
- THEATRES AND AUDITORIUMS
- HOTEL AND MOTEL COMMON AREAS/AND DESIGNATED ROOMS
- GAS STATIONS AND GARAGES
- SPORTS ARENAS AND CONVENTION HALLS
- ELEVATORS, LOBBIES, HALLWAYS, STAIRS AND OTHER COMMON AREAS OF MULTIPLE UNIT RESIDENTIAL AND COMMERCIAL FACILITIES
- LICENSED CHILDCARE AND ADULT DAYCARE FACILITIES
- HEALTHCARE FACILITIES
- AUCTION HOUSES
- PRIVATE CLUBS WHEN USED FOR FUNCTIONS OPEN TO THE GENERAL PUBLIC

Workplaces/ Restaurants:

Smoking cigarettes, cigars or other tobacco products is prohibited 24 hours a day in all public places and workplaces in Danville.

- Owners must remove ashtrays and post "No Smoking" signs at all public entrances or in a position clearly visible upon entry.
- Any permanent structure that functioned as an ashtray shall be disabled or altered to prevent its use as an ashtray.

Penalties:

It is a violation of local law for any person to smoke in any area where smoking is prohibited. It is also a violation for an employee, owner, manager or person in charge to permit smoking in prohibited areas or fail to post "No Smoking" signs.

Violation by an individual may result in the following:

- Up to \$50 fine for first offense
- Up to \$100 fine for second offense

Violation by a person who owns, manages, operates, or otherwise controls a public place or place of employment who fails to comply with this ordinance may result in the following:

- Up to \$100 fine for first violation within a one year period
- Up to \$200 fine for second violation within one year
- Up to \$250 fine for each additional violation within one year

Secondhand smoke is a health hazard to everyone. Beginning August 8, 2008 a new ordinance will prohibit smoking in most places in Danville. This brochure is designed to be a general guide to this ordinance.

For more information on specific content of this ordinance, contact the Danville Police Department at (859) 238-1224.



SMOKERS WISHING TO QUIT NEED SUPPORT!

Boyle County Health Department



Preventive Health For A Better Future

It takes planning, preparation and practice to stop smoking. For information on cessation classes and appropriate smoking cessation websites, please contact the Boyle County Health Department at (859) 236-2053.

Smoke- Free Danville



On April 28, 2008, the Danville City Commission passed an ordinance making all public places and workplaces SMOKE-FREE.



City of Danville
Ordinance No. 1733

Smoke-Free Environment Ordinance

Table of Contents

About Danville's New Smoke-Free Law	Page 1
Frequently Asked Questions	Pages 2-3
Fact Sheet on Ordinance	Page 4
Where Smoking is Prohibited	Page 5
Sample Worksite Non-Smoking Policy	Page 6
Police Department Enforcement Protocol	Pages 7-8
Fire Department Enforcement Protocol	Page 9
Fire Department Enforcement Protocol (Spanish)	Page 10



About Danville's New Smoke-Free Law....

When will the new law go into effect?

August 8, 2008

Which buildings are covered?

The new law prohibits smoking in public buildings and workplaces in the city of Danville. The new law prohibits smoking in such places as offices, factories, restaurants, bingo halls, bowling alleys, stores, and outdoor arenas and stadiums.

What are the penalties?

When appropriate, citations will be issued to building owners, lessees, business managers, and smokers in violation of the law.

Fines for individuals violating the Smoke-Free Law are:

- First Offense: Up to \$50.00
- Second Offense: Up to \$100.00

Fines for person who owns, manages, operates, or controls a public place or place of employment who fails to comply with law are:

- First Offense: Up to \$100.00 for first violation within one year
- Second Offense: Up to \$200.00 for a second violation within one year
- Third and Subsequent Offenses: Up to \$250.00 for each additional violation within one year

How will the Smoke-Free Law be enforced?

The Danville Police Department will enforce the ordinance.

What should I do if I see someone violating the Smoke-Free Law?

If you see someone smoking in a public building or workplace such as the ones listed above:

1. Inform the business owner or manager.
2. If smoking continues, phone (859) 238-1220 to register a complaint.

FACT SHEET on ORDINANCE Prohibiting Smoking in Public Places and Workplaces in Danville, KY

In order to serve the public health, safety and general welfare, the Danville City Commission will prohibit smoking in all public places and workplaces in Danville effective August 8, 2008. The new law prohibits smoking in such places as offices, factories, restaurants, bingo halls, bowling alleys, stores, and outdoor arenas and stadiums. For specific information as to what facilities are covered or exempt, see Sections 4, 5, 6, and 8 of City of Danville Ordinance No. 1733.

No Smoking Signs:

Any building open to the public shall post "No Smoking" signs on all public entrances. For more information see Section 10 of the ordinance.

Ashtrays/Spent Smoking Materials:

All ashtrays must be removed from all areas included in this ordinance. Spent smoking materials must be discarded and not littered on any property.

Reasonable Distance:

Designated outdoor smoking areas must be at least 10 feet from any entrance, exit, window or ventilation units. A greater distance may be imposed by the property owner.

Employer's Responsibility with Ordinance No. 1733:

An owner or manager of a building establishment shall:

- Ensure compliance with the provisions of the ordinance or be subject to penalty.
- Ask smokers to refrain from smoking in any "No Smoking" area and use other legal means to carry out the intent of the smoke free law.
- Ensure compliance by employees with the no smoking ordinance.
- By law, not retaliate against an employee, applicant, for employment, or customer who complies with this ordinance.

Employee Responsibility with Ordinance No. 1733

Employees must comply with the smoke-free ordinance. Employees must request a person smoking in a no-smoking area to extinguish smoking materials or step outside to smoke. If the person refuses to comply, the employee is to notify the owner or manager on duty.

Smoker's Needing Quit Information:

Smoker's wishing to quit need support. It takes planning, preparation and practice to stop smoking. For information on cessation classes, please contact the Boyle County Health Department at (859) 236-2053.

Enforcement:

The Danville Police Department will enforce the ordinance. For information regarding violations and penalties for both individuals and businesses violating the ordinance please refer to Section 14 of Ordinance No. 1733.

For more information contact: The Danville Police Department at (859) 238-1224.

City of Danville Ordinance No. 1733

AN ORDINANCE RELATED TO THE PROTECTION OF PUBLIC HEALTH AND WELFARE BY REGULATING
SMOKING IN PUBLIC PLACES AND PLACES OF EMPLOYMENT

Where Smoking is Prohibited in Public Places:

1. Elevators
2. Restrooms
3. Lobbies
4. Reception Areas
5. Hallways
6. Any other common-use areas
7. Service lines
8. All public businesses; offices; banks; stores; Laundromats; bingo halls; gaming facilities; motion picture; stage; drama; lecture; musical recital; or similar performance
9. Restaurants/Bars, retail food production and marketing/grocery establishments
10. Libraries, galleries, museums
11. Sports arenas; sports pavilions; gymnasiums; health spas; swimming pools; roller or ice rinks; bowling alleys; or other areas where the general public assemble for sports events.
12. Convention halls
13. Rooms, chambers, places of meetings or public assembly
14. Schools
15. Health Care Facilities; including waiting rooms, hallways, wards, private and semi-private rooms
16. Auction houses
17. Shopping malls and Indoor Flea Markets and walkways/hall areas that connect retail, professional establishments or booths
18. Licensed Child Care and Adult Day Care Facilities
19. Hotels and Motels: Lobbies, hallways, and other common areas. Smoking is permitted in designated rooms
20. Private clubs when used for functions open to the general public

Where Smoking is Prohibited in Places of Employment:

1. Indoor work areas
2. Auditoriums
3. Classrooms
4. Conference and Meeting Rooms
5. Private Offices
6. Elevators/Hallways
7. Restrooms
8. Medical Facilities
9. Cafeterias
10. Employee Lounges
11. Stairs
12. Vehicles for public transportation
13. All other enclosed facilities

Sample Worksite Non-Smoking Policy/Statement of Policy

In compliance with the City of Danville Smoke-Free Ordinance No. 1733,
_____ (employer) shall be entirely smoke-free, effective 8/08/2008.

Smoking will be strictly prohibited within any enclosed company facility. This includes: company work/break areas and public spaces including conference rooms, reception areas, dining areas, restrooms, stairwells, hallways, and work stations. This policy applies to all employees, clients, customers, contractors and visitors.

Smoking shall be permitted only at a reasonable distance of at least 10 feet outside entryways, exits, operable windows, and ventilation systems of enclosed areas where smoking is prohibited, as to ensure tobacco smoke does not enter the areas.

Complaints:

Persons observing a violation of this policy should bring it to the attention of the supervisor. Customers or visitors observed violating this policy should be informed politely that smoking indoors is prohibited by the City of Danville Ordinance No. 1733. If they fail to comply, a manager or other appropriate staff person should ask the person to leave. In the event a customer or visitor refuses to leave, or becomes violent, law enforcement can be called to assist.

Investigations:

Supervisors receiving a complaint will investigate and take action to resolve the issue as soon as possible.

Violators:

Persons found to have violated this policy will be subject to disciplinary action(s) in the same manner and magnitude as violations of other company policies.

Tobacco Cessation Opportunities:

_____ (employer) encourages all employees who use tobacco products to quit such usage. Information on cessation programs is available by contacting the Boyle County Health Department in Danville at (859) 236-2053 or calling Kentucky's Tobacco Quit Line at 1-800-QUIT-NOW.

Questions:

Any question regarding the non-smoking policy should be directed to _____ (Human Resources, employer), or the Boyle County Health Department at (859) 236-2053.

Thank you for your cooperation.

Danville Smoking Ordinance: Police Department Enforcement Protocol

The ultimate goal of the Danville Police Department in the enforcement of the smoke free workplace ordinance is to gain compliance in the least disruptive manner possible.

As with any ordinance or law, the Danville Police Department will enforce the smoke free workplace ordinance in a consistent and equitable manner.

When a complaint about a person smoking in violation of the ordinance is received, the responding unit will meet with management or their representative and explain about the complaint. The officer will then explain to the actual violator what they need to do to come into compliance. The majority of people will likely stop violating the ordinance at this point and there will be no need for further enforcement.

If the violator will not comply with the request to stop violating the ordinance, the officer may warn that a citation for violation of the ordinance may be issued. It is the officer's discretion whether to cite or have the management ask the violator to leave the business.

If a violator continues to refuse to stop the prohibited behavior, the officer will then ask the business owner or their representative if they wish to ask the violator to leave the premises. If the violator is asked to leave, but they refuse, then they are trespassing under KRS 511.080 *Criminal Trespass in the Third Degree*. The officer

should give the violator a final opportunity to leave the premises voluntarily; if they refuse they should be charged with trespassing and taken into custody.

If the management or their representative refuses to make any effort toward resolving the violation, the officer should warn them that they may themselves be in violation of the smoke free workplace ordinance. If they still refuse to cooperate, the officer should gather the appropriate information to complete a criminal complaint and, after conferring with the County Attorney, determine the legitimacy of the charge.

When an officer is responding to a report of a person violating the ordinance by smoking within 10 feet of the entrance to a business, the officer will use his or her discretion in determining whether the subject has made a “good faith” effort to remain clear of the entrance. If the person does not respond to the officer’s recommendation to move a reasonable distance from the entrance, then the officer should warn the perpetrator that they may be cited for the ordinance violation. The officer will decide whether to cite on scene, or gather the information for a summons. If an unknown perpetrator refuses to give any personal information (name, date of birth etc.), then the officer will have no choice but to arrest on the ordinance violation.

The Danville Police Department is committed to enforcing this ordinance, and all ordinances and statutes, in accordance with community standards and expectations.

TO: All fire officers, Danville Fire Department
CC: City Manager Paul Stansbury
FROM: Mike Thomas, Fire Chief
DATE: 25 June 2008
RE: Smoking ordinance

By ordinance the ban on smoking in public places will take effect in August of 2008. Per the City of Danville's Smoking in Public and Places of Employment ordinance, the Fire Department has been designated as personnel enforcing this ordinance.

The ordinance goes further to explain that the fire department, while on otherwise legal inspections of an establishment, shall inspect for compliance with this ordinance. Firefighters would not normally enforce this ordinance while on other than inspection-type details, on meal breaks or while off duty.

Traditionally, the fire chief and fire marshal perform inspections of properties. In cases of pre-incident planning (Preplans) inspections, our personnel may come across potential violations of the smoking ordinance. As a department, please be advised of the following conditions regarding enforcement by fire department personnel.

- (1) Per the ordinance, it is the responsibility of the establishment owner to enforce this ordinance among employees and customers. If a potential violation has been identified, please contact the property owner or a manager and inform them of the potential violation.
- (2) It may be advisable for inspection personnel to carry a brochure or literature to hand out with regards to the smoking ordinance; we will see if the City has or will get some type of hand-out material that can be readily available for inspectors and personnel.
- (3) A brief report of violations noted should be forwarded to the fire chief and fire marshal detailing the date, time, location, and type of violation, as well as actions taken by our personnel. Typically citations or criminal summons would be managed, if needed, by the fire chief.
- (4) Firefighters are not to confront individual violators nor are they to issue citations, tickets, or summons to violators. If warranted, the fire chief will make a follow-up contact or other measures.
- (5) In the event of non-compliance by a property owner or manager or in the event of a confrontation from a citizen, fire personnel should contact Danville Police and should not pursue the matter beyond that described above.

The Fire Chief and the Fire Marshal (in that order) shall be contact personnel for further issues.

PARA: Todos los oficiales del fuego, cuerpo de bomberos de Danville

Cc: Administrador municipal Paul Stansbury

DE: Mike Thomas, jefe de bomberos

FECHA: 25 de junio de 2008

RE: Ordenanza que fuma

Por la ordenanza la interdicción en fumar en lugares públicos tomará efecto en agosto de 2008. Por la ciudad de Danville que fumaba en ordenanza del público y de los lugares o del empleo, el cuerpo de bomberos se ha señalado como personales que hacían cumplir esta ordenanza. La ordenanza va más lejos a explicar que el cuerpo de bomberos, mientras que en inspecciones de otra manera legales de un establecimiento, examinará para saber si hay conformidad con esta ordenanza. Los bomberos no harían cumplir normalmente esta ordenanza mientras que encendido con excepción del inspección-tipo detalles, en pausas para el almuerzo o mientras que las vacaciones. Tradicionalmente, el jefe de bomberos y el mariscal de fuego realizan inspecciones de características. En casos de las inspecciones del planeamiento del pre-incidente (proyecta), nuestros personales pueden parecer violaciones potenciales de la ordenanza que fuma. Como departamento, sea aconsejado por favor de las condiciones siguientes con respecto a la aplicación por los personales del cuerpo de bomberos.

- (1) Por la ordenanza, es la responsabilidad del dueño del establecimiento hacer cumplir esta ordenanza entre empleados y clientes. Si se ha identificado una violación potencial, entre en contacto con por favor el propietario o a un encargado e infórmeles la violación potencial.
- (2) Puede ser recomendable que los personales de la inspección lleven un folleto o una literatura para repartir en lo que respecta a la ordenanza que fuma; veremos si la ciudad tiene o consigue cierto tipo de material del folleto que pueda ser fácilmente disponible para los inspectores y los personales.
- (3) Un breve informe de las violaciones conocidas se debe remitir al mariscal del jefe de bomberos y de fuego que detalla la fecha, la época, la localización, y el tipo de violación, así como medidas tomadas por nuestros personales. Típicamente las citaciones o el emplazamiento criminal serían manejados, si fueron necesitadas, por el jefe de bomberos.
- (4) Los bomberos no deben enfrentar a violadores individuales ni son para publicar citaciones, boletos, o el emplazamiento a los violadores. Si está autorizado, el jefe de bomberos hará un contacto de la carta recordativa u otras medidas.
- (5) En caso de incumplimiento de un propietario o de un encargado o en caso de confrontación de un ciudadano, los personales del fuego deben entrar en contacto con la policía de Danville y no deben perseguir la materia más allá de eso descrita arriba.

El jefe de bomberos y el mariscal de fuego (en esa orden) serán personal del contacto para otras ediciones.



City of Danville's Comprehensive Smoke-Free Law Ordinance No. 1733 Frequently Asked Questions (FAQ's)

1. Q: When does the comprehensive Smoke-Free Law Take Effect?
A: August 8, 2008

2. Q: What businesses must ban smoking?
A: Public buildings and workplaces in Danville must now prohibit smoking. The new law prohibits smoking in offices, factories, churches, restaurants, bingo halls, bowling alleys, stores, and outdoor arenas and stadiums. The new law does not apply to private residences, except when used as a licensed childcare, adult day care, or health care facility. The law does not apply to hotel and motel rooms rented to guests that are designated as smoking rooms. However, no more than 20% of rooms rented to guests may be designated as smoking and all smoking rooms on the same floor must be contiguous. The law also excludes retail tobacco stores and private clubs and businesses that have no employees (except for when club or business is being used for a public function).

3. Q: Does the new law allow smoking in rooms with independently ventilated enclosed smoking areas?
A: No. The law does not allow any exemption for independently ventilated enclosed smoking areas.

4. Q: Can I step outside a building and smoke?
A: Yes, as long as you remain at least 10 feet from the entrance to any entrance, exit, window or ventilation unit of any enclosed area where smoking is prohibited. A greater distance may be imposed by the property owner.

5. Q: Who will enforce the law?
A: Primary enforcement will rest with the Danville Police Department.

6. Q: Who can be cited for violating the law?

A: Individual offenders as well as the building owner, manager, operator or person in control of the public place or place of employment.

7. Q: What should I do if someone refuses to stop smoking in my establishment?

A: You should immediately ask the person that is smoking to stop smoking. If the person violating the ordinance does not stop smoking, 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. In no event is an owner or agent of the premises to forcibly remove an individual in violation of the ordinance.

8. Q: What are the penalties for breaking this law?

A: For an individual who is found smoking:

- up to \$50.00 for first offense
- up to \$100.00 for second offense

For a person who owns, manages, operates, or otherwise controls a public place or place of employment who fails to comply with the ordinance:

- up to \$100.00 for first violation within a one year period
- up to \$200.00 for a second violation within one year
- up to \$250.00 for each additional violation within one year

9. Q: Does the law prohibit smoking in public parks or other outdoor arenas?

A: The law does not prohibit smoking in public parks. The law does prohibit smoking in outdoor arenas.

10. Q: How do I report a violation of the smoking ordinance?

A: Contact the Danville Police Department at (859) 238-1220. **DO NOT CALL 911.**

11. Q: Where can I get No Smoking signs?

A: Contact the Health Department at (859) 236-2053.

12. Q: Who do I contact for information about quitting smoking?

A: You may contact the Boyle County Health Department Tobacco Cessation Program at (859) 236-2053.

13. Q: What if I have questions regarding my building or business?

A: Questions can be addressed to the Police Department at (859) 238-1224.

CITY OF DANVILLE
ORDINANCE NO. 1733

AN ORDINANCE RELATED TO THE PROTECTION OF PUBLIC HEALTH AND
WELFARE BY REGULATING SMOKING IN PUBLIC PLACES AND PLACES OF
EMPLOYMENT

Whereas, the Board of Commissioners of the City of Danville, pursuant to KRS 61.165, adopted Ordinance No # 1733, regulating smoking in and on all properties owned or used by the City of Danville, but requiring the City to “provide accessible indoor smoking areas in buildings where smoking is otherwise restricted”; and

Whereas, KRS 61.165 has been amended and no longer requires that indoor smoking areas be provided in buildings where smoking is prohibited; and

Whereas, the Commission has received and considered the results of an Indoor Air Quality assessment of certain establishments and places of employment in Boyle County, facilitated by the Boyle County Health Department, which study establishes that employees who work in Boyle County venues where smoking is allowed are exposed to pollution levels two times the annual Environmental Protection Agency (EPA) exposure standards for fine particle air pollution, that levels of indoor air pollution in Boyle County are 6.5 times higher in restaurants with smoking compared to nonsmoking restaurants, and that the level of indoor air pollution in Boyle County is 8.1 times higher than that in smoke-free cities around the United States; and

Whereas, the Board of Commissioners has made findings establishing that the smoking of tobacco products produces a form of air pollution, a danger to health and a material public nuisance and, after significant study and debate of the issues, deems it to be in the best interest of the citizens of the City of Danville, Kentucky, to adopt this regulation of smoking in all public places and places of employment within the City of Danville;

Now, therefore, be it ordained by the Board of Commissioners of the City of Danville as follows:

SECTION 1. Findings and Intent: The Board of Commissioners of the City of Danville finds that:

- A. According to numerous studies, tobacco smoke 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)).

- B. The Public's Health Service's National Toxicology Program (NTP) has listed secondhand smoke as a known carcinogen. (Environmental Health Information Service (EHIS).
- C. 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 (Cal EPA).
- D. The US Surgeon General has determined that the simple separation of smokers and nonsmokers within the same air space may reduce, but does not eliminate, the exposure of nonsmokers to secondhand smoke. (Department of Health and Human Services).

Accordingly, the Board of Commissioners of the City of Danville adopts the foregoing as justification for this Ordinance, the purpose of which is

- 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
- 3. To recognize that the public's need to breathe smoke-free air shall have priority over the individual's desire to smoke.

SECTION 2. Definitions: The following words and phrases, whenever used in this Ordinance, shall be construed as defined in this section:

- A. "Business" means a sole proprietorship, partnership, joint venture, corporation, or 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.
- B. "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.
- C. "Employer" means a person, business, association, municipal corporation, or trust, with one or more employees.
- D. "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.
- E. "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, semi-private rooms, and wards within health care facilities.

- F. "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.
- G. "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, 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 by-laws 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.
- H. "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 a function to which the general public is invited. A private residence is not a "public place" unless it is used as a childcare, adult day care, or health care facility.
- I. "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.

- J. "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.
- K. "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.
- L. "Shopping Mall" or "Flea Markets" means an enclosed public walkway or hall area that serves to connect retail, professional establishments, or booths.
- M. "Smoking" means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other combustible tobacco product.
- N. "Sports Arena" means sports pavilions, stadiums, gyms, health spas, boxing arenas, swimming pools, 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.

SECTION 3. Application of Ordinance 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 Section 2, and shall be governed by this Ordinance. In addition to penalties established by this Ordinance, 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 employee policies and procedures.

SECTION 4. Prohibition of Smoking in Enclosed Public Places:

Smoking is prohibited in all enclosed public places as defined in Section 2 above, within the City of Danville, Kentucky.

SECTION 5. Prohibition of Smoking in Places of Employment:

- A. Smoking is prohibited in all enclosed places of employment.
- B. 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 6. Prohibition of Smoking in Outdoor Arenas and Stadiums:

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

SECTION 7. 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 entrance to any enclosed area. A greater distance may be imposed by the property owner.

SECTION 8. Where Smoking is Not Regulated:

Notwithstanding any other provision of this Ordinance to the contrary, the following areas shall be exempt from the provisions of Section 4 and 5:

- A. Private residences, except when used as a licensed child care, adult day care or health care facility.
- B. Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided, however, that not more than twenty percent (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 areas where smoking is prohibited under the provisions of this Ordinance. The status of rooms as smoking or nonsmoking may not be changed, except to add additional nonsmoking rooms.
- C. Retail tobacco stores, provided that smoke from these premises does not infiltrate into areas where smoking is prohibited under the provisions of this Ordinance.
- D. 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 Sections 4 and 5 shall apply, provided that smoke from these premises does not infiltrate into areas where smoking is prohibited under the provisions of this Ordinance.
- E. Outdoor areas of places of employment, except those covered by the provisions of Sections 6 and 7, provided that smoke from these premises does not infiltrate into areas where smoking is prohibited under the provisions of this Ordinance.

SECTION 9. Declaration of Establishment as Non-Smoking:

Notwithstanding any other provision of this Ordinance, an owner, operator, manager or other authorized 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 Ordinance. In such areas designated as non-smoking, signs must be posted according to the

specifications listed in Section 10 and smoking will not be allowed as if those areas were subject to the prohibitions of Sections 4 through 6 of this Ordinance.

SECTION 10. Posting of Signs:

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

SECTION 11. Ashtrays; Spent Smoking Materials:

All ashtrays shall be removed from any area within which this Ordinance 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 12. Non-Retaliation and Non-Waiver of Rights:

- A. 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 Ordinance.
- B. An employee who continues to work in a setting where an employer allows smoking in violation of this Ordinance does not waive or otherwise surrender any legal rights the employee may have against the employer or any other party.

SECTION 13. Enforcement:

- A. 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 Ordinance.
- B. Notice of the provisions of this Ordinance shall be given to all applicants for a business license in the City of Danville.
- C. Any citizen who desires to register a complaint under this Ordinance may initiate enforcement with any of the authorized persons listed above.
- D. The Fire Department, or other individuals listed above that are in an establishment performing otherwise legal inspections, shall inspect for compliance with this Ordinance.

E. If an owner, manager, operator, or employee of an establishment subject to this Ordinance observes a person violating the Ordinance, he or she shall immediately direct the person in violation to stop smoking. If the person violating the Ordinance does not stop smoking, 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.

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

F. Notwithstanding any other provision of this Ordinance, the City, an employee or any person aggrieved by a failure to comply with this Ordinance, 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 a place of employment covered by this Ordinance may bring legal action to enforce this Ordinance, either by civil action seeking injunctive relief or by criminal complaint in a court of competent jurisdiction.

SECTION 14. Violations and Penalties:

- A. A person who smokes in an area where smoking is prohibited by the provisions of this Ordinance shall be guilty of a 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..
- 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:
1. A fine not exceeding one hundred dollars (\$100.00) for a first violation within a one-year (1) period.
 2. A fine not exceeding two hundred dollars (\$200.00) for a second violation within one (1) year.
 3. A fine not exceeding two hundred and fifty dollars (\$250.00) for each additional violation within one (1) year.
- C. In addition to the fines established by this section, violations 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 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 law. The City may recover the reasonable costs of any court enforcement action seeking abatement of this nuisance.
- E. Each day on which a violation of this Ordinance occurs shall be considered a separate and distinct violation.

SECTION 15. Public Education:

The City of Danville shall seek the assistance of the Boyle 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 Ordinance.

SECTION 16. Governmental Agency Cooperation:

The City requests the assistance of the agencies listed in Section 13 of this document in order to effectively implement this Ordinance.

SECTION 17. Other Applicable Laws:

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

SECTION 18. Construction:

This Ordinance shall be construed so as to further its stated purposes.

SECTION 19. Severability:

If any provision, clause, sentence, or paragraph of this Ordinance or its application to any person or factual context shall be held invalid, that invalidity shall not affect the remaining provisions of this Ordinance, which may be given effect independent of the provision or application declared invalid.

SECTION 20. Repealer

Ordinance 1683, which is found in Section 9-7 of the Danville Code of Ordinances, is repealed by this new Ordinance.

SECTION 21. Effective Date:

This Ordinance shall be effective no later than ninety (90) days from and after passage and publication.

HUGH COOMER, MAYOR

ATTEST:

DONNA PEEK, CITY CLERK

| Given 1st Reading and Passed this 14th day of April, 2008.

| Given 2nd Reading and Passed this 28th day of April, 2008.

| Publication Dates: May 8, 2008 and _____