

**SUMMARY
OF
CITY OF MANCHESTER, KENTUCKY
ORDINANCE # 2011-010**

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

WHEREAS, the City Council of the City of Manchester, pursuant to KRS 61.165, adopted Ordinance No. 2011-010, regulating smoking in and on all properties owned or used by the City of Manchester, but requiring the City to “provide accessible indoor smoking areas in building 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 City Council has received and considered the results of an Indoor Air Quality assessment of certain establishments and places of employment in Clay County, facilitated by the Cumberland Valley District Health Department, which study establishes that employees and patrons in Clay County public venues are exposed to harmful levels of SHS. On average, workers and patrons in Clay County were exposed to indoor air pollution levels approximately 2.2 times the National Ambient Air Quality Standard, and the level of indoor air pollution in these venues was 3.8 times higher than Georgetown and 4.2 times higher than Lexington’s average PM_{2.5} levels after implementation of their smoke free laws as seen in Exhibit 1; and
Now, therefore, be it ordained by the City Council of the City of Manchester as follows:

SECTION 1. Findings and Intent:

Accordingly, the City Council of the City of Manchester 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:

Define terms used in the ordinance.

SECTION 3. Application of Ordinance to City-Owned or City-Operated Facilities:

In addition to penalties established by this ordinance, a violation of this policy by a city employee on or in a 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 Manchester, 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 sports arenas, stadiums, and amphitheaters.

SECTION 7. Reasonable Distance:

Any designated outdoor smoking area shall occur at a reasonable distance from any entrances, 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 fifteen (15) 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:

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:

SECTION 11. Ashtrays, Spent Smoking Materials:

SECTION 12. Non-Retaliation and Non-Waiver of Rights:

SECTION 13. Enforcement:

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).

- 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 occurs.
- 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:

SECTION 16. Governmental Agency Cooperation:

SECTION 17. Other Applicable Laws:

Defines how the ordinance is to be applied in light of other applicable laws.

SECTION 18. Construction:

Describe how the ordinance is to be applied.

SECTION 19. Severability:

Establishes what is to happen if any part(s) but not all of this ordinance is declared invalid.

SECTION 20. Repealer:

SECTION 21. Effective Date:

This Ordinance shall be effective no later than sixty (60) days from and after passage and publication.

BE IT SO ORDAINED BY THE CITY OF MANCHESTER on this the day of 30TH day of November, 2011.

ATTEST:	YEAS	NAYS
Mark Deaton	_____	<u> X </u>
Harvey Hensley	<u> X </u>	_____
John Ed Pennington	<u> X </u>	_____
Betty Meredith	ABSENT	_____
Penny Robinson	_____	<u> X </u>
Fred Rogers	ABSENT	_____
Dorothy Sizemore	_____	<u> X </u>
Terry Wilson	<u> X </u>	_____
Mayor George Saylor	<u> X </u>	_____

 _____, Mayor

 _____, City Clerk

Date: 11/21/11
(First Reading)

Date: 11/30/11
(Second Reading)

Date: 11/30/11
(Adopted)