

Smoke-Free Ordinance Amendment No. 083, Series 2017 What you need to know

This information is provided for general informational purposes only and is not intended to be legal advice or to be used as a defense in any proceeding related to enforcement. Persons wanting legal advice as to the specific application of the law to their situation should contact their legal counsel.

General Information

What is the purpose of the law?

The purpose of Louisville Metro's Smoke-Free Ordinance (No. 083, Series 2017) is to protect the health of residents and visitors by reducing exposure to secondhand smoke and vapor inside public places and places of employment.

Where can I find a copy of the Ordinance?

[Click here](#) for a copy of the Ordinance.

When will this law take effect?

Ordinance No. 083, Series 2017, known as the "Smoke-Free Ordinance", was signed into law by Mayor Greg Fischer on May 22, 2017, and becomes effective on August 21, 2017.

What constitutes smoking under the Ordinance?

"Smoke or smoking" is defined under Section 1: 90.02 as "the act of inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or form. Smoking also includes the use of an electronic smoking device or the use of any oral smoking device for the purpose of circumventing the prohibition of the smoking in the Ordinance."

Where is smoking prohibited?

Smoking is prohibited indoors in public places and places of employment.

What are some examples of public places and places of employment that do not allow smoking indoors?

Some examples of places that do not allow smoking indoors include hotels, motels, nursing homes, healthcare facilities, assisted living facilities, bowling alleys, theatres, restaurants, bars, retail stores, and workplaces.

Is there a distance requirement away from doors where people can smoke outside?

Yes, smoking must be at least 15 feet away from any doorways, windows, and intake vents of buildings.

What about outdoor environments?

Outdoor environments are not specifically covered by the Louisville Metro Smoke-Free Ordinance. Smoking must be at least 15 feet away from any doorways, windows, and intake vents. However, businesses may voluntarily choose to create smoke-free outdoor areas.

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Is smoking permitted on outdoor patios?

Smoking is permitted on an outdoor patio that is 15 feet from all public entrances and where smoke cannot enter an area where smoking is prohibited.

Are electronic cigarettes (e-cigarettes) allowed under the Smoke-Free Ordinance?

No. Electronic smoking devices can only be used inside electronic smoking retail stores, private residences, extended stay lodging, and outdoors. And, only the consumption of non-tobacco and non-nicotine products from an electronic smoking device at an electronic smoking retail store is allowed.

What resources are available to help people quit smoking?

The Louisville Metro Department of Public Health and Wellness offers help to quit smoking, including, classes with peers, online coaching, and phone counseling. [Click here](#) to learn more about the stop smoking resources available to help you quit.

Businesses

How can a restaurant, bar or lodging establishment know if it is required to comply with the new smoke-free law?

The law prohibits smoking in “any building or establishment, which is open to the public, used to host or hold a public event, or employs one or more persons who work on the premises.”

What does the law require a proprietor/owner/manager to do?

A person in charge of a restaurant, bar or lodging establishment that is subject to the new smoke-free law must:

- Direct any person who is smoking to extinguish or stop using the cigarette, cigar or other lighted tobacco item, including electronic cigarettes and hookah.
- Prohibit smoking 15 feet from any door, windows that open, or intake vents.

Are signs required?

Yes, businesses are required to post a sign “with letters of not less than one inch high or symbols no less than three inches high, using the words “No Smoking” or the international “No Smoking” symbol consisting of a pictorial representation of a burning cigarette surrounded by a red circle with a red bar across it conspicuously either on all public entrances or in a position clearly visible on entry into building or establishment.” Printable smoke-free signs are available [here](#).

Can we provide a covered area outside for smokers?

The Smoke-Free Ordinance only prohibits smoking in buildings or establishments and 15 feet from any doorway, open window or air intake of an enclosed area. According to Section 1: 90.02 a building is “any structure enclosed from the weather, whether or not windows or doors are open, which is closed in overhead by a roof or other covering of any material, whether permanent or temporary, and has 80% or more of its perimeter closed in by walls or other non-porous coverings of any material, whether permanent or temporary”.

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Can people smoke in a business when it is not open to the public such as after hours, on weekends, or on holidays?

No. Smoking is prohibited at all times in businesses.

What if a customer in a business refuses to comply with the law?

Staff must remind customers or other visitors of the law and should politely explain that they must step outside to smoke. Staff should be trained on what to say to customers, for example: “The smoke-free law prohibits smoking indoors. Thank you for your cooperation.” In most cases, when asked to stop smoking, a customer will do so. If necessary, established protocols for handling disruptive customers should be followed.

Does the law apply to work vehicles?

The Smoke-Free Ordinance does not mention work vehicles. Businesses may restrict smoking in vehicles as company policy, but it is not part of the law.

Exemptions

Is hookah smoking allowed?

Hookah smoking indoors is prohibited under the law just as cigar, pipe, cigarette, or electronic smoking device use is.

Hookah lounges that meet specific criteria and that register and are approved by the Louisville Metro Department of Public Health and Wellness may allow smoking of non-tobacco products through a hookah.

What are the requirements for a hookah lounge to allow smoking?

Smoking may be allowed at existing hookah lounges that meet specific criteria, this includes:

- Businesses with primary operations dedicated to the allowance of on-site smoking through one or more hookah pipes, including but not limited to establishments know as hookah bars.
- To meet the definition, the lounge must:
 - Been in operation as of May 1, 2017,
 - Not allow minors in the building,
 - Not sell alcoholic beverages, and
 - Not be licensed as a Food Service Establishment.
- Only the consumption of non-tobacco products through a hookah at a hookah lounge is allowed.
- Hookah lounges must register with the Louisville Metro Department of Public Health and Wellness by August 21, 2017 and operate continuously with no cessation of operation to remain eligible for the exception.

Can I serve food as a hookah lounge?

Hookah Lounges permitting smoking inside are NOT allowed to serve food as a Food Service Establishment permitted under LMCO 118. Food Service Establishments are those which prepare and serve ready to eat food to customers, but does not include food in vending machines,

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single serving beverages in original containers, and other prepackaged, original container, snack-type, non-potentially hazardous (ex. food that can spoil (dairy products, deli meats, etc.)) foods. Other licensing may apply.

How do I register for the hookah lounge exemption?

You can download the registration form for a hookah lounge [here](#).

What are the requirements for an electronic smoking retail store to allow the use of an electronic smoking device indoors?

The use of electronic smoking devices may be allowed at electronic smoking retail stores that meet specific criteria, this includes:

- Businesses with at least 85% of sales dedicated to the sale of electronic smoking devices, accessories, and/or products.
- To meet the definition, the electronic smoking retail store cannot:
 - Allow minors in the building,
 - Sell alcoholic beverages,
 - Be licensed as a Food Service Establishment, or
 - Have an entrance that opens to a common area with other retail establishments.
- Only the consumption of non-tobacco and non-nicotine products from an electronic smoking device at an electronic smoking retail store is allowed.

Enforcement

What are the penalties for breaking the law?

Fines, for owners/operators and smokers within a one year period:

- 1st violation = penalty of no less than \$50, and no more than \$100
- 2nd violation = penalty of no less than \$150, and no more than \$250
- 3rd and additional violations = penalty of no less than \$350, and no more than \$500

Who enforces the law?

The Louisville Metro Department of Public Health and Wellness as well as all other law enforcement officials of Louisville Metro.

How is the law enforced?

The owner or manager of the establishment is responsible for compliance and is required to direct any person who is smoking to extinguish the lighted tobacco product or to put away the electronic smoking device. If a restaurant or bar is out of compliance, an employee or member of the public can call and report the violation. Complaints will be investigated by the Louisville Metro Department of Public Health and Wellness.

How can I file a complaint?

To report violations, please call Metro Call at 311.