



## **Branson's Smoke-Free FAQ's**

- **Why did the City of Branson propose a smoke-free ordinance and what is its purpose?**

Research has clearly shown an improvement in public health after implementation of similar smoke free ordinances within communities across the country. Therefore, the purpose for Branson's smoke-free ordinance is not only to improve public health by decreasing exposure to secondhand smoke, but to also positively respond to the recent community and tourist surveys which concluded Branson becoming smoke-free would be important and would be supported.

- **What businesses and enclosed public places are impacted by passing a smoke-free ordinance?**

The ordinance will mainly apply to all enclosed workplaces and enclosed public places within the City of Branson. The ordinance will exempt designated areas within parks and outdoor areas, which are more than 6 feet from doorways, windows, serving areas and ventilation systems or 4 feet from doorways, windows, serving areas and ventilation systems in the downtown district. The ordinance would also exempt smoking within private vehicles and residences unless residences are used as a day care, adult care, or health care facility.

- **What is the definition of a 'public place'?**

"Public Place" means an area which the public is invited or in which the public is permitted, including but not limited to, banks, health care facilities, hotels and motels, laundromats, museums, public transportation vehicles and facilities, reception areas, restaurants, retail establishments, retail stores, schools, serving areas, shelters, shopping malls, sports arenas, theaters, and waiting rooms. A private residence is a "public place" when used as a child care, adult day care, or health care facility.

- **Will smoking be allowed within public transportation?**

No. Both public transportation vehicles and facilities, including but not limited to 'Sparky' the downtown's trolley and the associated stops, will be considered public places and so smoking will be prohibited.

- **Will smoking be allowed within parks under the proposed ordinance?**

Yes, but only within designated areas as defined by the City Administrator, or the Director of Parks & Recreation on their behalf.

- **What is the definition of a 'place of employment'?**

"Place of Employment" means an area under the control of a public or private employer, including, but not limited to, work areas, private offices, employee lounges, restrooms, conference rooms, auditoriums, meeting rooms, classrooms, employee cafeterias, hallways, elevators, temporary offices, and vehicles. A private residence is a "place of employment" when used as a child care, adult day care, or health care facility.



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- **What are the benefits of a smoke free workplace?**

While a comprehensive smoke free ordinance is being considered, there are many benefits that businesses and the community will experience. A smoke free workplace will reduce fire hazards, create a cleaner environment, and improve the health of your staff and patrons at the same time as reducing health care costs. For more information on the benefits of a smoke free workplace, please visit <http://www.tobaccofreemo.org/get-informed/good-business/>

- **Will smoking be prohibited within taxis and limos as they are considered a place of employment?**

Yes.

- **What is defined as an enclosed area under the ordinance?**

An enclosed area is defined in the proposed ordinance as “all space between a floor and ceiling that is bounded on at least two sides by walls, doorways, or windows, whether open or closed. A wall includes any retractable divider, garage door, or other physical barrier, when not fully open, whether temporary or permanent.” If a business owner has any questions concerning how the ordinance applies to any particular facility, contact the Branson Planning & Development Department to schedule a site visit.

- **How many walls define an enclosed area?**

Two walls in combination with a floor and ceiling define an enclosed area based on the ordinance.

- **Does a half wall qualify as a wall?**

No. A “half wall” indicates it does not create a complete physical barrier.

- **How will patios at restaurants be impacted by the smoke-free ordinance?**

These areas are considered outdoor areas and will not be regulated by the ordinance.

- **If a restaurant builds a covered area, which is used by smokers and puts in awnings or windshields, does the area become an enclosed space?**

If a temporary windshield is installed, and not fully open, it will be considered a wall, which creates a physical barrier. The remaining three sides of the covered area will need to either not have a wall or similar physical barrier, or their openings need to be fully opened in order to have smoking allowed within the space.

- **Is renting a space within a beauty parlor, as an example, considered a place of employment under the proposed smoke free ordinance?**

A beauty parlor, whether it has rented space for individual stylists or not, falls under the definition of a place of employment because it is an enclosed area under the control of a private employer since the owner of the beauty parlor has control over renting the space. The definition specifically includes work areas and private offices which is the same idea as rented space inside a beauty parlor.



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- **Can there be a smoking area in a building where no customers are allowed where employees can smoke?**

No.

- **Do I need to tell my employees about the proposed smoke free ordinance?**

Yes. As a business owner/manager or designee, it would be recommended that you adopt a formal policy for your establishment and inform your employees of that policy. Tri-Lakes Clean Air Alliance has compiled a variety of resources to assist you with this transition. You may find those, as well as a sample "Smoke-free Workplace Policy" on their website at <http://www.tobaccofreemo.org/about-us/local-coalitions/tri-lakes-clean-air-alliance-branson/>.

- **Are private residences affected by the proposed smoke free ordinance?**

No. Private residences are not considered 'public places' nor a 'place of employment' unless the residence is used as a childcare, adult day care or health care facility.

- **Is a telecommuter prohibited from smoking in their home?**

If an employee of a business is allowed to work from home, or telecommute, the employee's home is still exempted from the ordinance as a private residence.

- **Is smoking prohibited in a home that is used for a licensed business, such as an Insurance Broker, Real Estate, Tax, or other legally authorized home businesses?**

Private residences are exempted from the ordinance unless used as a childcare, adult day care, or health care facility. However, the home business is required to meet any requirements of the City's Zoning Ordinance, including type of business, impact of business on appearance of the property or disturbance to neighbors, and no employee outside the family residing at the residence may be employed.

- **If my house is considered non-smoking due to it being used as a childcare, adult day care or health care facility, and I go into my open garage to smoke, is that illegal?**

If smoking is prohibited within the personal residence and the garage meets the definition of an "enclosed area," smoking will also be prohibited in the garage. "Enclosed area" includes "all space between a floor and ceiling that is bounded on at least two sides by walls, doorways, or windows, whether open or closed. A wall includes any retractable divider, garage door, or other physical barrier, when not fully open, whether temporary or permanent."

- **Is a home a place of employment when service workers are present, such as housekeepers, plumbers, electrician, contractors etc.?**

Private residences are exempted from the ordinance unless used as a childcare, adult day care, or health care facility.



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- **Is smoking prohibited in homes where home health care is being provided? Is the home then a place of employment under the proposed smoke free ordinance?**

Private residences are exempted from the ordinance unless used as a childcare, adult day care, or health care facility.

- **At what point is a home or building under construction changed from open air to enclosed qualifications?**

For most construction projects, the building will be required to comply with the ordinance at the point where it is "dried in", or at any point in construction when the space between the floor and ceiling is bounded on at least two sides by walls, doorways, or windows, whether open or closed. A wall includes any retractable divider, garage door, or other physical barrier, when not fully open, whether temporary or permanent.

- **Where is smoking proposed to be allowed within apartment complexes under the proposed smoking ordinance?**

While residents will be able to smoke within their units, they will not be able to smoke within 6 feet of outside entrances, operable windows and ventilation systems of enclosed areas where smoking is prohibited.

- **Can smoking be allowed within a hotel room if it is being used as a private residence under the proposed ordinance?**

Not more than 20% of any hotel or motel's rooms may be designated for smoking. Additionally, a hotel and motel room may be defined as private residence, thus allowing smoking within the room, if a person resides within it for 30 consecutive days. Condominium units will be regulated the same.

- **Do I need to post "No Smoking" signs?**

Yes. Signs must be posted to indicate that smoking is not allowed inside the establishment or within vehicles considered places of employment. The smoke-free ordinance provides clear instructions that signs should include the international "No Smoking" symbol, a picture of a burning cigarette in a red circle with a red bar across it. These signs must be clearly placed near every entrance. The Tri-Lakes Clean Air Alliance will provide a limited amount of signs free of charge on a first-come, first-served basis. Additionally, signs may be made available at City Hall and at the Taney County Health Department.

- **Is a special size or sign required?**

No, as long as the sign is able to be easily read.

- **Is specific wording required on the sign?**

No, the sign must only state that smoking is prohibited or use the international no smoking symbol.



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- **Is each business tenant (owner of such business) also required to post signs within the office suites?**

Yes.

- **Do signs need to be posted on employee entrances, shopping entrances, back doors, or just public entrances?**

Signs must be posted at all entrances.

- **Is a non-smoking sign required to be posted on all company vehicles, even if they are outside Branson? Is smoking prohibited?**

Yes, signs need to be posted. However, the ordinance will only be enforced while the vehicle is within Branson.

- **How will complaints against out of town based company vehicles be handled?**

The ordinance cannot be legally enforced against vehicles from companies, which do not maintain a local office. The Interstate Commerce Clause of the U.S. Constitution prohibits a city from enforcing regulations on vehicles passing through our community, which may inhibit interstate commerce.

- **Who will enforce the Branson smoke-free ordinance?**

The Taney County Health Department will be assisting to provide education up until the implementation of the ordinance on July 1, 2015. Additionally, the health department will be working with business owners to bring them into compliance after the effective date occurs and with penalty provisions as necessary. However, after the effective date, multiple city departments will be able to conduct inspections and respond to complaints in an effort to address any concerns, enforce this policy, and use penalties as necessary.

- **How will an enforcement agent determine that a business is complicit instead of trying to stop a smoker?**

This will be determined on a case-by-case basis.

- **What information is needed for a complaint to be prosecuted?**

The Municipal Prosecutor must prove beyond a reasonable doubt that a city code violation occurred. The amount of evidence needed to reach that burden of proof will be determined on a case-by-case basis.

- **Will video or photographic evidence of smoking be acceptable?**

Video and photographic evidence may be helpful when the Municipal Prosecutor's Office receives summons to review. Whether this evidence is used or not in the prosecution of a specific case will be decided on a case-by-case basis.



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- **What is the penalty for a violation?**

A person who smokes in an area where smoking is prohibited by the provisions of this policy shall be guilty of an ordinance violation punishable by a fine not to exceed \$25.00. Additionally, a violation of this ordinance by a person who owns, manages, operates, or otherwise controls a public place or place of employment may result in the same penalty.

- **How many tickets can be issued to one person or business in one day?**

Normally only one ticket is issued per day if the business is in violation of a city code. If the business is allowing smoking, and there are various persons smoking within the facility, an inspector could issue both the smoker and the business owner a ticket for each violation.

- **What should I do if a patron/employee smokes in my establishment?**

The owner/manager or designee has the responsibility to ensure that employees and patrons are in compliance with this ordinance. If a person is found violating the ordinance within your establishment, you should ask that person to cease the behavior in violation of the ordinance. If the person refuses, you should ask that person to leave the premises. If the person refuses to leave the premises, the owner/manager, operator, or employee shall contact law enforcement.

- **Are e-cigarettes allowed in the smoke-free ordinance?**

No. Any kind of smoking is prohibited in all enclosed areas of places of employment. The definition of smoking used in the ordinance includes the use of an e-cigarette. E-cigarettes are not allowed in order to eliminate confusion for individuals and businesses. These products have caused confusion, as they are similar in appearance to an actual cigarette. In addition to the confusion, they are not FDA regulated. Without FDA regulation, there is no data to support the use of these products.

- **Whom should I contact if I have a question or a complaint?**

Questions and complaints related to the smoke-free ordinance should be directed to the City of Branson Public Information Office at 417-334-3345.

- **Where can I find more information about the definitions in the smoke-free ordinance?**

The ordinance in its entirety is available to view on the city's website at [www.bransonmo.gov](http://www.bransonmo.gov).