

ORDINANCE
O-2017-02-01

PUBLIC SMOKING ORDINANCE
TOWN OF RICHLANDS

WHEREAS, the Richlands Town Council recognizes the increasing evidence that smoke creates a danger to the health of some citizens and is a cause of annoyance and physical discomfort to those who are in confined spaces where smoke is present; and,

WHEREAS, the purpose and intent of this chapter are to promote the public health, safety and general welfare by prohibiting smoking in public places, except in designated areas, and to strike a reasonable balance between the desires of persons who smoke and the desires of nonsmokers to breathe smoke-free air.

NOW THEREFORE, BE IT ORDAINED by the Council of the Town of Richlands, Virginia that this Ordinance and the contents herein set forth shall set forth regulations on smoking in public within the boundaries of this municipality as follows:

Definitions. The words and phrases set forth in this section shall, for the purposes of this chapter, have the meanings respectively ascribed to them in this section:

BAR or LOUNGE AREA - An area or a room utilized primarily for the sale of alcoholic beverages for consumption by patrons on the premises and in which the sale of food is merely incidental to the sale of alcoholic beverages. Although a restaurant may contain a bar, the term "bar" shall not encompass an entire restaurant or any dining area.

PUBLIC PLACE - An enclosed area available for use by or accessible to the general public during the normal course of business conducted by either private or public entities.

RESTAURANT - Any building, structure or area used as, maintained as, or advertised as, or held out to the public to be an establishment where food is made available to be consumed on the premises.

RETAIL AND SERVICE ESTABLISHMENT - Any establishment which offers goods or services for sale to the general public.

SMOKE or SMOKING - The carrying or holding of a lighted pipe, cigar or cigarette of any kind, or any other lighted smoking equipment, or lighting, inhaling or exhaling the smoke of a pipe, cigar or cigarette of any kind, or any electronic cigarette, handheld electronic vaporizer, or the like.

SMOKING PROHIBITED IN PUBLIC PLACES.

(a) Smoking shall be prohibited in the following public places:

1. Retail and service establishments and financial institutions serving the general public, including but not limited to any department store, grocery store, drugstore, clothing store, shoe store, hardware store, bank, savings and loan, hair salon or barbershop.
2. Indoor service lines, cashier areas and counter service areas.
3. Waiting rooms, lobbies, wards, hallways, exterior areas within 25 feet of entrances and exits, and other public areas of health care facilities, including but not limited to hospitals, clinics, and physicians' and dentists' offices.
4. All rooms in which meetings and/or hearings are open to the public.
5. Museums, libraries and galleries.
6. Places of entertainment, such as theatres, concert halls, gymnasiums, auditoriums, and enclosed arenas; however, smoking may be permitted in those areas commonly known as lobbies.
7. Public restrooms unless separate facilities are provided for smokers and nonsmokers.
8. Elevators in buildings generally used by and open to the public.
9. Elementary and secondary school buildings, whether public or private, in common areas such as classrooms, hallways, auditoriums and public meeting rooms, except when such facility is used as a place of entertainment, in which case Subsection (a)(6) above shall apply.
10. Municipality owned parks and recreation areas (including but not limited to Critterville; The Richlands Recreation Department managed areas such as the gymnasium, bathrooms, weight rooms, and interior rooms; Britt's Park; ball fields, etc.) except in designated smoking areas.

(b) Smoking shall also be prohibited in the following public places; however, permitted designated smoking areas may be established in accordance with the provisions below:

1. Bowling alleys.
2. Bingo halls.
3. Public transportation waiting rooms, including but not limited to waiting rooms of bus, train, airport and other transit terminals and stations.
4. Town-owned or operated buildings in public areas such as lobbies, reception areas and entranceways except when such facility is rented for private use.

5. A separate smoking room or area may be designated in the above places, provided that the establishment maintain a substantial area for nonsmokers. The designated smoking area may not encompass the entire establishment, public service lines, or any area where smoking is otherwise prohibited by this chapter. Existing physical barriers and ventilation systems shall be used to minimize the permeation of smoke from adjacent smoking sections into no-smoking sections.

REGULATION OF SMOKING IN RESTAURANTS.

(a) Any restaurant having a seating capacity of 50 or more persons shall have a designated no-smoking area sufficient to meet customer demand. Restaurants may not determine that no such demand exists. Restaurants with a seating capacity of 50 or fewer persons are encouraged, but not required, to designate no-smoking areas.

(b) In determining whether a restaurant is subject to the requirements of Subsection (a), the following shall not be included:

1. Seats in the bar or lounge area of a restaurant.
2. Seats in any separate room of a restaurant which is used exclusively for private functions.
3. Seats in any room of a restaurant which is closed and not available for seating.

(c) Any restaurant required to have a designated no-smoking area shall post signs, conspicuous to ordinary public view, at each entrance to the establishment indicating that a no-smoking area is available.

WHERE SMOKING NOT REGULATED.

This chapter is not intended to regulate smoking in the following places and under the following conditions:

1. Bars and lounge areas.
2. Retail tobacco stores.
3. Restaurants, conference/meeting rooms, and public and private assembly rooms while these places are being used for private functions.
4. Offices or work areas not entered by the public in the normal course of business or use of the premises. Employers are nevertheless encouraged to adopt and implement smoking policies to protect and accommodate employees from the hazards and discomfort of passive smoke in the workplace.
5. (Reserved)
6. Areas of enclosed shopping centers or malls that are external to the retail stores and are used by customers as a route of travel from one store to another, and that consist primarily of walkways and seating arrangements.

7. Lobby areas of theaters, auditoriums, concert halls and similar places of entertainment.

8. Convenience stores.

POSTING REQUIREMENTS.

Any person who owns, manages or otherwise controls any building, facility, room, area or place in which smoking is prohibited shall post or cause to be posted conspicuously signs stating "NO SMOKING by Town Ordinance."

PUBLIC EDUCATION.

The Town Manager or his designated representative shall engage in a program to inform and clarify the purposes of this chapter to citizens affected by it, and to guide owners, operators and managers in their compliance.

GOVERNMENTAL COOPERATION.

The Town Manager or his designated representative shall request other governmental and educational agencies having offices within the Town to establish local operating procedures in cooperation and compliance with this chapter. In federal, state and special governmental offices within the Town, the Town Manager or his designated representative shall urge the enforcement of their existing smoking prohibitions and request voluntary compliance with this chapter.

Violations and penalties.

(a) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to the prohibitions or restrictions of this chapter to fail to comply with its provisions.

(b) It shall be unlawful for any person to smoke in any area prohibited or restricted by the provisions of this chapter.

(c) Any person violating any provision or failing to comply with any of the requirements of this chapter shall be guilty of a Class 4 misdemeanor.

Enforcement.

(a) The provisions of this chapter shall be enforced by the Department of Police, or any other department or person duly designated.

(b) Any citizen who desires to register a complaint under this chapter may initiate enforcement with the Department of Police.

(c) The Department of Police or other duly designated department shall perform an evaluation for compliance with all requirements of this chapter while an establishment is undergoing otherwise mandated inspections.

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

Validity; severability. The provisions of the chapter are hereby declared to be severable. If any part, section, provision, exception, sentence, clause, phrase, or the application thereof to any person or circumstance for any reason be adjudged to be invalid, the remainder of the chapter shall remain in full force and effect and its validity shall not be impaired, it being the legislative intent now hereby declared that this chapter would have been adopted even if such invalid matter had not been included therein, or if such application had not been made.

A motion was made by _____ and seconded by _____ that the second reading of this Ordinance be dispensed with. This motion passed by a _____ vote of the Council.

A motion was made by _____ and seconded by _____ that this Ordinance be adopted. The same was passed by a _____ vote of the Council of the Town of Richlands, at a regular meeting held on the _____ day of _____, 2017, to become effective _____.

Jannis R. White, Mayor

Attest:

Town Clerk

Ayes:	
Nays:	
Absent:	