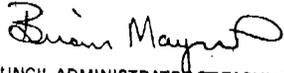


AUG 10 2005

By Tassin
Introduced 7-27-05
RH. 8-10-05

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ORDINANCE 13349 
COUNCIL ADMINISTRATOR TREASURER

AMENDING TITLE 12 (NUISANCES), OF THE
CODE OF ORDINANCES OF THE CITY OF BATON
ROUGE AND PARISH OF EAST BATON ROUGE, SO
AS TO AMEND AND REENACT CHAPTER 9 (CLEAN
AIR ACT) IN ITS ENTIRETY.

NOW, THEREFORE, BE IT ORDAINED by the Metropolitan
Council of the Parish of East Baton Rouge and City of Baton
Rouge that:

Section 1. Title 9 of the Code of Ordinances of the
City of Baton Rouge and the Parish of East Baton Rouge, is
hereby amended and reenacted, which shall read as follows:

"CHAPTER 9. CLEAN AIR ACT

Sec. 12:600. Definitions.

The following words, terms and phrases,
when used in this article, shall have the
meanings ascribed to them in this
section, except where the context clearly
indicates a different meaning:

Business establishment means any sole
proprietorship, partnership, association,
joint venture, corporation or other
entity formed for profit-making purposes,
including professional corporations and
other entities where legal, medical,
dental, engineering, architectural,
financial, counseling, and other
professional or consumer services are
provided.

Enclosed area means all space which is
enclosed on all sides by solid walls,
windows or floor-to-ceiling partitions,
irrespective of the size of such areas
and of any doorway, stairway or
passageway providing means of ingress and
egress to such area.

Limousine has the same meaning as
provided in Section 10:201 of the Code of
Ordinances.

Nonprofit entity means any corporation,
unincorporated association or other
association or other entity created for
charitable, philanthropic, educational,
political, social or other similar
purposes, the net proceeds from the
operations of which are committed to the
promotion of the objects or purposes of
the organizations and not to secure
private financial gain. A public agency
is not a nonprofit entity within the
meaning of this subdivision.

Private function means weddings, parties, testimonial dinners and other similar gatherings in which the seating arrangements are under the control of the organizer or sponsor of the event and not the person who owns, manages, operates or otherwise controls, the use of the place in which the function is held.

Public place means any areas to which the public is invited or permitted, including, but not limited to, banks, educational facilities, health care facilities, shopping malls, property owned, occupied or operated by the City-Parish or an agency thereof, public transportation facilities, reception areas, restaurants, retail stores, theaters, sports arenas and waiting rooms.

Restaurant means any coffee shop, cafeteria, luncheonette, sandwich stand, soda fountain, and any other commercial eating establishment, or part of any organization, club, boardinghouse, or guesthouse, which gives or offers for sale food to the public, guests, or patrons, whether food is customarily consumed on or off the premises, but not an establishment whose primary purpose is to serve food to employees of a common employer.

Retail store means any place which in the regular course of business sells goods or services directly to the public.

Service line or waiting area means a queue, line or other formation of persons, whether seated or standing, in which one or more persons are waiting for, providing or receiving service of any kind, whether or not such service involves an exchange of consideration.

Smoking means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe, or any form of lighted object or device which contains tobacco.

Sports arena means any sports pavilion, stadium(whether or not fully enclosed), gymnasium, health spa, boxing arena, swimming pool, roller and ice skating rink, bowling alley and other similar place where members of the general public assemble either to engage in physical exercise, participate in athletic competition or witness sports, cultural or similar events.

Tobacco business means an enterprise in which the primary activity is the sale, manufacture, or promotion of tobacco, tobacco products and accessories either at wholesale or retail, and in which the

sale, manufacture or promotion of other products is merely incidental.

Sec. 12:601. Construction of article.

- (a) Nothing in this article shall be construed to permit smoking where it is otherwise prohibited by law or regulation.
- (b) Nothing in this article shall be construed to preclude owners, operators, managers, employers or other persons having control of any establishment covered by this article from prohibiting smoking in such establishment to a greater extent than is provided by this article, in accordance with applicable law.

Sec. 12:602. Prohibition of smoking in public places.

- (a) Smoking is prohibited in all enclosed areas within public places, except as otherwise restricted in accordance with the provisions below. Such public places include, but are not limited to, the following:
 - (1) Public transportation facilities, including, but not limited to, ticketing, boarding and waiting areas of public transit depots;
 - (2) Public means of mass transportation, including, but not limited to, buses, vans, taxicabs and all for-hire vehicles required to be licensed or franchised by the City-Parish; provided that this prohibition shall not apply to limousines.
 - (3) Public restrooms.
 - (4) Retail stores (other than retail tobacco stores.)
 - (5) Restaurants, except as provided in Section 12:603(a).
 - (6) Business establishments including banks, hotels, motels, offices where professional or consumer services are rendered, and nonprofit entities, including religious institutions.
 - (7) Libraries, museums and galleries.

- (8) Motion picture theaters, concert halls, auditoriums and buildings primarily used for, or designed for the primary purpose of exhibiting movies, stage drama, musical recital, dance, lecture or other similar performance.
 - (9) Convention halls.
 - (10) Sports arenas.
 - (11) Places of meeting or public assembly during such time as a meeting open to the public is being conducted for educational, religious, recreational or political purposes, but not including meetings conducted in private residences.
 - (12) Health care facilities including, but not limited to, hospitals, clinics, physical therapy facilities, convalescent homes, and homes for the aged.
 - (13) All pre-primary, primary, and secondary schools, community colleges, technical training establishments, specialty schools, colleges and universities.
 - (14) Elevators.
 - (15) In any waiting area, or portion thereof, in an enclosed area within a public place during the times in which the public is invited or permitted.
 - (16) All enclosed areas of public buildings or public facilities occupied or operated by the City-Parish or any of its agencies. This prohibition shall include private offices and other areas in City-Parish public buildings as well as areas open to the public.
- (b) Smoking is prohibited in the following public places, whether or not in an enclosed area:
- (1) Within twenty-five (25) feet of the entrance or exit to any public building or public facility occupied or operated by the City-Parish or any of its agencies.

(2) In any service line in a public place during the times in which the public is invited or permitted.

(3) City-Parish playgrounds and parks.

Sec. 12:603. Areas where smoking is not regulated.

The following places shall not be subject to the smoking restrictions of this article:

- (a) Restaurants and alcoholic beverage establishments holding an alcoholic beverage dealer's permit, license, or certificate issued pursuant to the provisions of R.S. 26:71(A)(3)(a), 71.1, 72, 73, 271(A)(2) 271.1, 271.2, and 272 and/or the Wine, Beer and Liquor ordinance of East Baton Rouge Parish.
- (b) Private residences, except when a child care or health care facility is operated therein.
- (c) Hotel and motel rooms occupied by or available for occupancy by guests.
- (d) Tobacco businesses.
- (e) Any property where gaming operations are conducted.

Sec. 12:604. Posting of signs.

"Smoking" or "No Smoking" signs, or the international symbols indicating the same, and any other signs necessary to comply with the provisions of this article shall be prominently and conspicuously posted at all major entrances to, and appropriate locations within, each enclosed area where smoking is either prohibited, permitted or otherwise regulated by this article, by the owner, operator, manager or other person having control of such area.

Sec. 12:605. Penalties.

Any person who violates the provisions of this chapter shall be subject to a fine of up to five hundred dollars (\$500.00) or up to thirty days in jail, or both."

Section 2. BE IT FURTHER ORDAINED that if any provision or item of this Ordinance or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of this Ordinance which can be given affect without the invalid provisions, items or

applications and to this end the provisions of this Ordinance are hereby declared severable.

Section 3. BE IT FURTHER ORDAINED that all Ordinances or parts thereof in conflict herewith are hereby repealed.

In accordance with Section 2.15 of Chapter 2 of the Plan Of Government, I certify this to be the original ordinance adopted by the Mayor Council at a Regular meeting on August 10, 2005 Council Administrator.

APPROVED: [Signature] Mayor - President
DISAPPROVED: _____ Mayor - President
Received from the Mayor - President on the 15th day of August, 2005
[Signature] Council Administrator.