

Ordinance No. 1951

AN ORDINANCE AMENDING SECTION 3 OF ORDINANCE NO. 1946, OF THE CITY OF DERBY, KANSAS, PROHIBITING SMOKING IN PUBLIC PLACES AND PLACES OF EMPLOYMENT IN THE CITY; AND REPEALING ORIGINAL SECTION 3 OF SAID ORDINANCE.

WHEREAS, Ordinance no. 1946, prohibiting smoking in public places and places of employment within the City of Derby, Kansas, will become effective on September 1, 2008; and

WHEREAS, such ordinance provides a limited exception for outdoor patios, dining areas, and courtyards located at least 20 feet from the main entrance of a business and posted as a designated smoking area; and

WHEREAS, operators of several licensed premises, as defined in ordinance no. 1946, have stated their intent to construct an outdoor patio, dining area, or courtyard but find it infeasible to complete construction thereof before September 1, 2008;

NOW THEREFORE, BE IT ORDAINED by the Governing Body of the City of Derby, Kansas:

Section 1. Section 3 of ordinance no. 1946 of the City of Derby, Kansas, is hereby amended to read as follows:

Section 3. Smoking prohibited in public places and places of employment.

a. No person shall smoke in any public place or place of employment within the City of Derby; provided that no outdoor patio, dining area, or courtyard which is located at least 20 feet from the main entrance of the business and posted as a designated smoking area shall be considered to be a public place or place of employment.

b. A licensed premises shall not be a public place or place of employment if, on or before August 29, 2008:

1. The owner or operator thereof has applied to the City Manager for an extension of time within which to construct an outdoor patio, dining area, or courtyard; and

2. The City Manager has (a) determined that the applicant has in good faith initiated design or construction of an outdoor patio, dining area, or courtyard, and (b) extended the time for completion thereof until December 31, 2008.

c. An extension granted pursuant to subsection (b) of this section shall terminate upon written notice to the applicant of the Building Official's determination that construction of such outdoor patio, dining area, or courtyard is substantially complete, and may be terminated at any time upon written notice to the applicant if the City Manager finds that design or construction thereof is not being diligently and continuously prosecuted.


d. Upon expiration or termination of an extension granted pursuant to subsection (b) of this section, the licensed premises shall be a public place or place of employment.

e. Nothing in this ordinance shall be construed to relieve the owner or operator of a licensed premises from compliance with applicable City building trade regulations and contractor licensing requirements.

Section 2. Except as otherwise expressly provided herein, ordinance no. 1946 of the City of Derby, Kansas, shall be in full force and effect from and after September 1, 2008, and its publication in the official City newspaper.

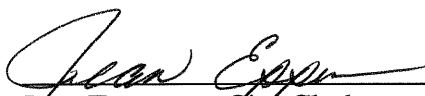
Section 3. This ordinance shall be effective from and after September 1, 2008, and its publication in the official city newspaper; provided that section 16 hereof shall be effective immediately upon publication.

PASSED BY THE GOVERNING BODY this 12th day of August, 2008.




Dion P. Avello, Mayor

Attest:



Jean Epperson, City Clerk

Approved as to form:



Philip H. Alexander, City Attorney