

ORDINANCE 1835

AN ORDINANCE AMENDING THE SMOKE-FREE AIR REGULATIONS FOR WORKPLACES AND PUBLIC PLACES WITHIN THE TOWN OF MUNSTER

WHEREAS, the Town Council of the Town of Munster is the municipal legislative body of the unit; and

WHEREAS, The Town of Munster, its Staff, and consultants have reviewed and recommended various changes to the Munster, Indiana Code regarding the Smoke-Free Air Regulations for Workplaces and Public Places; and

WHEREAS, based on those recommendations, the Munster Town Council has conducted a public hearing after due notice as required by law on the proposed amendments; and

WHEREAS, The Town of Munster, after said public hearing and after due deliberation, has concluded that amendments to Chapter 18 - Environment, Article III - Smoke-Free Air Regulations for Workplaces and Public Places, §§ 18-51, 18-52, 18-56, and 18-61 are appropriate; and

WHEREAS, The Munster Town Council deems it to be in the best interest of the general health, safety, and welfare of the citizens of the Town of Munster to amend Chapter 18 - Environment, Article III - Smoke-Free Air Regulations for Workplaces and Public Places, §§ 18-51, 18-52, 18-56, and 18-61 of the Munster Code of Ordinances;

Now, therefore, be it **ORDAINED** by the Town Council of the Town of Munster, Lake County, Indiana as follows:

1. § 18-51 of Chapter 18 - Environment, Article III - Smoke-Free Air Regulations for Workplaces and Public Places, of the Munster Code of Ordinances, is hereby repealed and deleted in its entirety and replaced with the following:

Sec. 18-51. - Definitions.

The following words and phrases, whenever used in this article, shall be construed as defined in this article:

Ashtray means any receptacle that is used for disposing of smoking materials, including, but not limited to ash and filters.

Bar means an establishment used primarily for the sale of alcoholic beverages for consumption by patrons on the premises and which holds a retailer's permit under the laws of the State of Indiana. The term includes, but is not limited to, taverns, nightclubs, and cocktail lounges.

Business means a sole proprietorship, partnership, joint venture, corporation, or other business entity, either for-profit or not-for-profit, including, but not limited to, retail establishments where goods or services are provided to the public, and other entities where accounting, counseling, legal, medical, dental, engineering, architectural, or other professional services are delivered.

Electronic smoking device means any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, stig, dab pen, vape pen, or under any other product name or descriptor.

Employee means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and a person who volunteers his or her services.

Employer means a person, business, association, municipal corporation, trust, or nonprofit entity that employs the services of one or more individual employees.

Enclosed area means all space between a floor and a 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, whether temporary or permanent and whether or not containing openings of any kind.

Health care facility means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals, addiction treatment hospitals and facilities, weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, psychiatrists, dentists, and all specialists within these professions. The term "health care facility" shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within healthcare facilities.

Hookah means a water pipe and any associated products and devices which are used to produce fumes, smoke, and/or vapor from the burning of material including, but not limited to, tobacco, shisha, or other plant matter.

Place of employment means an area under the control of a public or private employer including, but not limited to, work areas, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, and vehicles.

Playground means the area within a park or recreational area designed, in part, to be used by children that has play or sports equipment installed or that has been designated or landscaped for play or sports activities, or any similar area located on public or private school grounds or on Town of Munster grounds.

Private club means an organization, whether incorporated or not, which is the owner, lessee, or occupant of a building or portion thereof, used exclusively for club purposes at all times, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and which only sells alcoholic beverages incidental to its operation. The affairs and management of the organization are conducted by a board of directors, executive committee, or similar body chosen by the members at an annual meeting. The organization has established bylaws and/or a constitution to govern its activities. The organization has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. Section 501.

Public place means an area to which the public is invited or in which the public is permitted, including but not limited to, banks, bars, educational facilities, gaming facilities, health care facilities, hotels and motels, laundromats, public transportation vehicles and facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A private residence is not a "public place" unless it is used as a childcare, adult day care, or health care facility.

Restaurant means an eating establishment, including but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" shall include a bar area within the restaurant.

Service line means an indoor or outdoor line in which one or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money, including but not limited to, ATM lines, concert lines, food vendor lines, movie ticket lines, and sporting event lines.

Shopping mall means a public walkway or hall area that serves to connect retail or professional establishments.

Smoking means 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 hookah and marijuana, in any manner or in any form. "Smoking" also includes the use of an e-cigarette which creates a vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this article.

Sports arena means an indoor or outdoor place where people assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events, including sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, and bowling alleys.

2. § 18-52 of Chapter 18 - Environment, Article III - Smoke-Free Air Regulations for Workplaces and Public Places, of the Munster Code of Ordinances, is hereby repealed and deleted in its entirety and replaced with the following:

Sec. 18-52. - Prohibition of smoking in enclosed public places. Except as provided in section 18-55, smoking shall be prohibited in all enclosed public places within the Town of Munster including, but not limited to, the following places:

- (a) Aquariums, galleries, libraries, and museums;
- (b) Areas available to the general public in businesses and non-profit entities patronized by the public, including but not limited to, banks, laundromats, professional offices, and retail service establishments;
- (c) Bars;

- (d) Bingo facilities;
- (e) Child care and adult day care facilities;
- (f) Convention facilities;
- (g) Educational facilities, both public and private;
- (h) Elevators;
- (i) Gaming facilities;
- (j) Health care facilities;
- (k) Hotels and motels;
- (l) Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities;
- (m) Polling places;
- (n) Private clubs;
- (o) Public transportation vehicles, including buses and taxicabs, under the authority of the Town of Munster, and ticket, boarding, and waiting areas of public transportation facilities, including bus, train, and airport facilities;
- (p) Restaurants;
- (q) Restrooms, lobbies, reception areas, hallways, and other common-use areas;
- (r) Retail stores;
- (s) Rooms, chambers, places of meeting or public assembly, including school buildings, under the control of an agency, board, commission, committee or council of the Town of Munster, Indiana or a political subdivision of the state, to the extent the place is subject to the jurisdiction of the Town of Munster, Indiana;
- (t) Service lines;
- (u) Shopping malls;
- (v) Sports arenas;
- (w) Theaters and other facilities primarily used for exhibiting motion pictures, stage dramas, lectures, musical recitals, or other similar performances;
- (x) Tobacco specialty bars; and

- (y) Tobacco retail stores.

3. § 18-56 of Chapter 18 - Environment, Article III - Smoke-Free Air Regulations for Workplaces and Public Places, of the Munster Code of Ordinances, is hereby repealed and deleted in its entirety and replaced with the following:

Sec. 18-56. - Prohibition of smoking in outdoor public places.

Smoking shall be prohibited in the following outdoor places:

- (a) Outdoor seating areas of restaurants, bars, private clubs, and businesses, except those seating areas restricted to individuals over the age of 18 years of age;
- (b) Outdoor sports arenas, stadiums, amphitheaters, and on all bike paths;
- (c) On and within 15 feet of outdoor bleachers, grandstands, and designated areas (temporary and/or permanent) for use by spectators at sporting and other public events;
- (d) On and within 15 feet of all outdoor playgrounds; and
- (e) Outdoor common areas of apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multi-unit residential facilities, except in designated smoking areas, not to exceed 25 percent of the total outdoor common area, which must be located at least 15 feet outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited.

4. § 18-61 of Chapter 18 - Environment, Article III - Smoke-Free Air Regulations for Workplaces and Public Places, of the Munster Code of Ordinances, is hereby repealed and deleted in its entirety and replaced with the following:

Sec. 18-61. - Penalties for violations.

- (a) Any owner, manager, operator, or other person in control of an enclosed public place set forth in section 18-52, an enclosed place of employment set forth in section 18-53, or an outdoor public place set forth in section 18-56 (a) and (e), only, who fails to comply with the requirements imposed by this article is in violation of this Code and shall be fined as follows:
 - (1) A fine of \$100.00 for the first violation;
 - (2) A fine of \$200.00 for the second violation within the same calendar year;
 - (3) A fine of \$400.00 for the third violation within the same calendar year;
 - (4) A fine of \$800.00 for the fourth violation within the same calendar year;

- (5) A fine of \$1,500.00 for the fifth violation and every additional violation thereafter within the same calendar year.
- (b) Any person who smokes in an area where smoking is prohibited by this article is in violation of this Code and shall be fined as set forth in subsection (a) (1) through (5).
- (c) Repeated violations of this article are declared to be a public nuisance, which may be abated by the Town of Munster seeking a restraining order, preliminary and permanent injunction, or other means provided for by law, and may bring action to recover the costs of the nuisance abatement;
- (d) The Town of Munster is authorized to bring civil actions against any alleged violator of this article for all unpaid fines and any and all expenses incurred by the Town to enforce the provisions of this article to seek compliance from the alleged violator.
- (e) Each day on which a violation of this article occurs shall be considered a separate and distinct violation. Each violation of this article shall constitute a separate offense.

This Ordinance shall take effect upon the date of its publication which shall occur within thirty (30) days after passage.

Now, therefore, be it **ORDAINED** that the above-referenced Ordinance is hereby enacted.

ORDAINED and ADOPTED by the Town Council of the Town of Munster, Indiana, on the ____ day of September 2021, by a vote of ____ in favor and ____ opposed.

**TOWN COUNCIL OF THE TOWN OF MUNSTER,
LAKE COUNTY, INDIANA**

Dr. Andy Koultourides, President

ATTEST:

Wendy Mis, Clerk-Treasurer