

## 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, §§ 18-52, 18-53, 18-54, 18-55, 18-56, 18-57, and 18-59 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. § 18-52 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Article III - Smoke-Free Air Regulations for Workplaces and Public Places, of the Munster Code of Ordinances, is hereby repealed and deleted in its entirety and replaced with the following: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~~59, 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.

2. § 18-53 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. 18-53. - Prohibition of smoking in enclosed places of employment.**

- (a) Except as provided in § 18-59, Ssmoking shall be prohibited in all enclosed areas of places of employment. ~~without exception.~~ This includes, without limitation, common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles, and all other enclosed facilities.
- (b) The prohibition on smoking shall be communicated to all existing employees by the effective date of this article and to all prospective employees upon their application for employment.

3. § 18-54 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. 18-54. – Reasonable distance.**

Except as provided in section 18-59, smoking shall be prohibited within a reasonable distance of 15 feet outside entrances, open windows, and ventilation systems of enclosed areas where smoking is prohibited, so as to prevent tobacco smoke from entering those areas.

43. § 18-55 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. 18-55. - Prohibition of smoking in outdoor public places.**

Except as provided in section 18-59, Ssmoking 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~~ twenty-one (21) years of age and older;
- (b) Outdoor sports arenas, stadiums, amphitheaters, and on all bike paths;
- (c) On and within (fifteen) 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 (fifteen) 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 ~~twenty-five percent (25%) percent~~ of the total outdoor common area, which must be located at least ~~fifteen (15)~~ feet outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited.

5. § 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. – Non-Retaliation ~~and non-waiver of rights~~**

- (a) No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, customer, or resident of a multiple-unit residential facility because that employee, applicant, customer, or resident exercises any rights afforded by this article or reports or attempts to prosecute a violation of this article. Notwithstanding section 18-61, violation of this subsection shall be punishable by a fine not to exceed \$1,000.00 for each violation.

~~(b) An employee who works in an outdoor area restricted to individuals over the age of 18 years of age where an employer allows smoking does not waive or otherwise surrender any legal rights the employee may have against the employer or any other party.~~

6. § 18-57 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. 18-57. - Removal of smoking paraphernalia and signage requirement.**

- (a) All ashtrays shall be removed from any area where smoking is prohibited by this article by the owner, operator, manager, or other person having control over the area.
- (b) Except as provided in section 18-59, an owner, operator, manager, or official in charge of a public place or place of employment, except vehicles, shall post conspicuous signs at each entrance that read "The Town of Munster Prohibits Smoking Withing 15 feet of this Entrance."

75. § 18-59 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. 18-59. - Exemptions.

(a) Notwithstanding the smoking prohibitions in ~~section 18-53~~ this article, smoking is permitted in the following locations:

1. The premises of a business located in the business owner's Pprivate residence if the only employees of the business who work in the residence are the owner and other individuals who reside in the residence and unless the private residence is not used as a licensed childcare, adult day care or health care facility.

2. An establishment owned or leased by a business that meets the following requirements:

a. The business prohibits entry by an individual who is less than twenty-one (21) years of age.

b. The owner or operator of the business holds a beer, liquor, or wine retailer's permit.

c. The business limits smoking in the establishment to cigar smoking.

d. During the preceding calendar year, at least ten percent (10%) of the business's annual gross income was from the sale of cigars and the rental of onsite humidors.

a.—The person in charge of the business posts in the establishment conspicuous signs that display the message that "The Town of Munster Prohibits Cigarette Smoking in this Establishment."

b.—The person in charge of the business posts in the establishment conspicuous signs that display the message that "The Town of Munster Allows ONLY Cigar Smoking in this Establishment."

~~(a)(b)~~ None of the areas set forth in this article shall be exempt from the provisions of this article if smoke from any area enters, either directly or indirectly, through entrances, windows, ventilation systems, or other means, where smoking is otherwise prohibited by this article. Smoking in the exempt locations set forth in this section, as permitted, shall apply to all people, including patrons, employees, and guests, while inside or outside so long as the person is lawfully on the property of or within the leased space of the exempt business/residence.

(c) This section does not allow smoking of any kind in the following enclosed areas of an establishment or premises described in subsection (a)2 above:

1. Any hallway, elevator, or other common area where an individual who is less than twenty-one (21) years of age is permitted.

2. Any room that is intended for use by an individual who is less than twenty-one (21) years of age.

(d) The requirement to post signs at each public entrance prohibiting smoking within fifteen (15) feet of the public entrance per section 18-57(b), or within eight (8) feet of

the public entrance per IC 7.1-5-12-4, does not apply to an owner, operator, manager, or official in charge of a public place or place of employment in which smoking is allowed under this section.

(e) The owner, operator, or manager of an establishment or premises described in subsection 2(a) that allows smoking shall provide a verified statement to the Alcohol and Tobacco Commission that states that the establishment or premises qualifies for an exemption, as required by IC 7.1-5-12-5(d).

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 \_\_\_\_\_ 2022, by a vote of \_\_\_\_ in favor and \_\_\_\_ opposed.

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

\_\_\_\_\_  
Chuck Gardiner, President

ATTEST:

\_\_\_\_\_  
Wendy Mis, Clerk-Treasurer