

PLAINFIELD TOWN COUNCIL

ORDINANCE NO. 01-2016

**AN ORDINANCE PROHIBITING SMOKING, USE OF
E-CIGARETTES AND RELATED ACTIVITIES IN DEFINED PLACES**

WHEREAS, numerous studies have found that tobacco smoke is a major contributor to indoor pollution, and that breathing secondhand smoke is a cause of disease, including lung cancer in non-smokers; and

WHEREAS, people at special risk to secondhand smoke include children, the elderly, individuals with cardiovascular disease or impaired respiratory function, including asthmatics, and those with obstructive airway disease; and

WHEREAS, health hazards induced by breathing secondhand smoke including lung cancer, heart disease, respiratory infection, decreased respiratory function, and bronchospasm; and

WHEREAS, E-Cigarettes (hereinafter defined) are entirely unregulated by the U.S. Food and Drug Administration (FDA) and there are no safety checks or requirements for what can go into an e-cigarette; and while e-cigarettes do not produce smoke they do expose others to secondhand emissions of unknown potential harm; and

WHEREAS, the Town of Plainfield (hereinafter "Town") finds and declares that the purposes of this ordinance are: 1) to protect the public health and welfare by prohibiting smoking in public places, and places of employment; 2) to guarantee the right of persons to breathe smoke-free air, and to recognize that the need to breathe smoke-free air shall have priority over the desire to smoke; and 3) to protect the public health and welfare of persons in Town owned properties.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PLAINFIELD, INDIANA as follows:

Section 1. Definitions

As used in this Ordinance, the following words and phrases have the following meanings unless otherwise designated:

- a. "Bar" means any establishment used primarily for the sale of alcoholic beverages for consumption by guests on the premises and in which the sale of food is merely incidental to the sale of alcoholic beverages, including but not limited to taverns, nightclubs, and cocktail lounges.
- b. "E-Cigarette" includes, but not limited to, e-cig, e-cigarette, personal vaporizer (PV), and electronic nicotine delivery system (ENDS).

- c. "Enclosed Area" means all space between a floor and ceiling that is enclosed on all sides by solid walls or windows (exclusive of doorways), which extend from the floor to the ceiling.
- d. "Health Care Facility" means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, homes for the aging or chronically ill.
- e. "Person" means any individual, firm, partnership, association, corporation, company or organization of any kind.
- f. "Place of Employment" means any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including but not limited to, work areas, private offices, employee lounges and restrooms, conference and class rooms, employee cafeterias and hallways.
- g. "Private Club" means a facility:
 - 1. owned or operated by an association or corporation which shall:
 - (i) not be operated for pecuniary gain; and
 - (ii) consists of a membership:
 - a. formed as a lodge, local chapter, or corresponding unit of a fraternal order recognized on a national basis; or
 - b. comprised of persons who have served in the armed forces of the United States; or
 - c. formed as a recognized, exclusive association of persons organized for a joint or common purpose for which application for membership, the payment of dues, and self-governance by the membership are distinguishing characteristics; and
 - 2. where entry into and use of the facility is restricted to members and guests of members.
- h. "Public place" means any enclosed area used by the general public, including, but not limited to, retail stores and financial institutions, department stores, banks, laundromats and beauty and barber shops, retail food production and marketing establishments, retail service establishments, and other commercial

establishments, regardless of whether a fee is charged for admission to the place.

- i. "Restaurant" means any establishment used as or held out to the public as having food available for payment to be consumed on the premises, including coffee shops, cafeterias, cafes, luncheonettes sandwich stands and soda fountains. The term "restaurant" shall include a bar area within the restaurant.
- j. "Smoke" or "smoking" means the act of lighting, carrying, inhaling from, or leaving a lighted or smoldering cigar, cigarette or pipe, of any kind.
- k. "Retail Tobacco Store" means retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental. The term does not include retail stores where food or beverages are sold for consumption on the premises or where an area has been set-aside on the premises for customers to consume food or beverages.
- l. "Theater" means any enclosed facility, open to the public, which is primarily used for or designed for the purpose of exhibiting any motion picture, stage drama, musical recital, dance, lecture or other similar performance.

Section 2. Smoking and E-Cigarettes prohibited in and on Town Properties.

Smoking and use of E-Cigarettes shall be prohibited in and on all properties owned by the Town except public rights-of-way and easements, including buildings and vehicles owned, leased, or operated by the Town.

Section 3. Smoking prohibited in public places.

Smoking shall be prohibited in all enclosed public places within the Town of Plainfield, including but not limited to, the following places:

- a. Aquariums, galleries, libraries, and museums.
- b. Areas available to and customarily used by the general public in businesses and nonprofit entities patronized by the public, including but not limited to, professional offices, banks, laundromats, hotels, and motels.
- c. Bars.
- d. Bingo facilities.
- e. Convention facilities.
- f. Elevators.
- g. Facilities primarily used for exhibiting a motion picture, stage, drama, lecture,

musical recital, or other similar performance.

- h. Health care facilities.
- i. Licensed childcare and adult day care facilities.
- j. Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities.
- k. Polling places.
- l. Private Club during any period of time that the public is invited and present on the premises.
- m. Public transportation facilities, including buses and taxicabs, under the authority of the Town of Plainfield and ticket, boarding, and waiting areas of public transit depots.
- n. Restaurants.
- o. Restrooms, lobbies, reception areas, hallways, and other common-use areas.
- p. Retail stores.
- q. 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 or a political subdivision of the State when a public meeting is in progress, to the extent the place is subject to the jurisdiction of the Town.
- r. Schools
- s. . Service lines
- t. Enclosed shopping malls
- u. Sports arenas, including enclosed place in outdoor arenas.

Section 4. Prohibition of Smoking in Places of Employment.

Smoking shall be prohibited in all enclosed areas within places of employment. This includes, but is not limited to, 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.

Section 5. Reasonable Distance

Smoking shall be prohibited within a reasonable distance from an enclosed area where smoking is prohibited by this Chapter, so as to insure tobacco smoke does not enter into establishments designated as smoke-free under this Chapter through entrances, windows, ventilation intakes or other means.

Section 6. Where Smoking is Not Regulated.

The prohibitions of Section 3 shall not apply to the following:

- a. Private residences except when used as a licensed childcare, adult day care, or health care facility.
- b. Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided however, that not more than twenty five (25%) of rooms rented to guests in a hotel or motel may be so designated. The status of rooms as smoking or nonsmoking may not be changed, except to add additional nonsmoking rooms.
- c. Retail tobacco stores; provided that smoke from these places does not infiltrate into areas where smoking is prohibited under the provisions of this Ordinance.
- d. Private and semi-private rooms in nursing homes and long-term care facilities that are occupied by one or more persons, all of whom are smokers and have requested in writing to be placed in a room where smoking is permitted; provided that smoke from these places does not infiltrate into areas where smoking is prohibited under the provisions of this Ordinance.
- e. Outdoor areas of places of employment.
- f. Private Club as defined herein.

Section 7. Declaration of Establishment as Nonsmoking.

Notwithstanding any other provision of this Chapter, an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area may declare the entire establishment, facility, outdoor area or parking lot as a nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of Section 8 is posted.

Section 8. Posting of Signs.

Every public place and place of employment where smoking is prohibited by this Ordinance shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.

Section 9. Enforcement.

- A. This Chapter shall be enforced by the Plainfield Metropolitan Police Department and the Plainfield Community Service Officers.
- B. Any citizen who desires to register a complaint under this Chapter may initiate enforcement with the Plainfield Metropolitan Police Department or the Plainfield Community Service Officers.
- C. The Fire Department, Building Inspector, or their designees may, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this Ordinance.
- D. An owner, manager, operator, or employee of an establishment regulated by this Ordinance shall inform persons violating this Ordinance of the appropriate provisions thereof.

Section 10. Violations and Penalties.

- A. A person who smokes in an area where smoking is prohibited by the provisions of this Ordinance shall be guilty of an infraction, punishable by a fine not exceeding fifty dollars (\$50).
- B. A person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the provisions of this Ordinance shall be guilty of an infraction punishable by:
 - 1. A fine not exceeding One Hundred Dollars (\$100.00) for a first violation.
 - 2. A fine not exceeding Two Hundred Dollars (\$200.00) for a second violation within one (1) year.
 - 3. A fine not exceeding Five Hundred Dollars (\$500.00) for each additional violation within one (1) year.
- C. Each day on which a violation of this Ordinance occurs shall be considered a separate and distinct violation.

Section 11. Non-retaliation.

No person or employers shall discharge, refuse to hire or in any manner retaliate against any employee, applicant for employment, or customer because such employee, applicant, or customer exercises any right to a smoke-free environment afforded by this Ordinance.

Section 12. Other applicable laws.

This Ordinance shall not be interpreted to permit smoking where it is otherwise restricted by other applicable laws or to supersede any local laws which are more restrictive.

Section 13. Chapter to be broadly interpreted.

This Ordinance shall be construed broadly to effectuate the purposes described in the preamble of this ordinance.

Section 14. Severability.

If any section or sentence or provision of this Ordinance, or the application thereof to any person or circumstances shall be declared unconstitutional or invalid, such invalidity shall not affect any of the other sections, sentences, provisions or application of this ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are declared to be severable.

Section 15.

All ordinances and parts of ordinances including, but not limited to, Ordinance No. 31-2006 entitled *No Smoking in Public Places and Places of Employment* in conflict with the provisions of this ordinance are hereby repealed upon the effective date of this Ordinance insofar as they conflict with the provisions of the Ordinance.

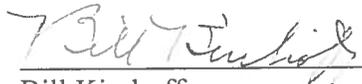
Section 16. Effective Date.

This Ordinance shall be effective after being passed and adopted by the Town Council and publication as required by law.

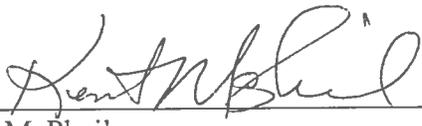
ADOPTED by the Town Council of the Town of Plainfield, Indiana, this 11th day of January, 2016.

TOWN COUNCIL, TOWN OF PLAINFIELD,
HENDRICKS COUNTY, INDIANA:

Robin G. Brandgard



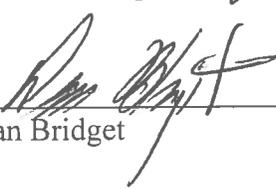
Bill Kirchoff



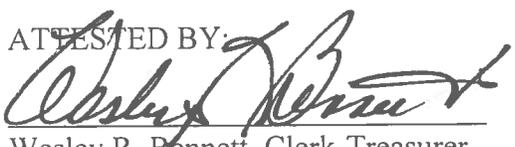
Kent McPhail



Lance K. Angle



Dan Bridget

ATTESTED BY:


Wesley R. Bennett, Clerk-Treasurer
of the Town of Plainfield, Indiana