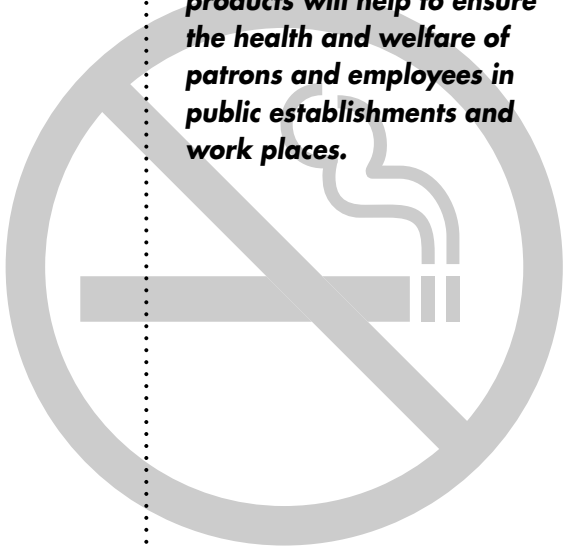


**CHAPTER 95 of the Municipal Code was amended in December 2006 by the Fort Wayne Common Council to prohibit smoking of tobacco products in nearly all Public Places and Places of Employment within the city limits. The ordinance takes effect June 1, 2007.**

**This new ordinance takes the place of the previous law restricting smoking. It comes as a result of the Surgeon General's report showing there is no safe level of second-hand smoke which contributes to indoor pollution, respiratory disease and lung cancer. Prohibition of smoking tobacco products will help to ensure the health and welfare of patrons and employees in public establishments and work places.**



**FAQ'S** (continued)

Yes. Retail tobacco stores that have at least 60% of gross sales from tobacco and tobacco-related products and are not licensed for consumption of food or alcoholic beverages. Twenty percent of hotel/motel rooms for rent. Some nursing home rooms.

**Is there a "grandfather" clause for some existing businesses?**

No. All places of employment, enclosed public places, restaurants, bars and private clubs within the city limits must adhere to the law set forth in this ordinance.

**Is smoking prohibited at an outdoor event or in a city park?**

There is no language in this ordinance that prohibits smoking in outdoor arenas, sports stadiums or other outdoor venues or in city parks. Smoking is prohibited at the Fort Wayne Children's Zoo. For more complete information on city park policies call 427.6000.

**Is smoking allowed somewhere near a public building or workplace?**

Yes. Smoking can occur at a reasonable distance of not less than 20 feet from any entrance, window or ventilation system of a building; and not less than 200 feet from a healthcare facility that prohibits smoking on its campus.

**Will a citation/ticket be written for a violation of the ordinance?**

Yes. A ticket can be written that carries a civil fine of up to \$2,500.00.



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# An Introduction to the City of Fort Wayne's New No Smoking Ordinance



**Effective June 1, 2007**



# REGULATION OF SMOKING—Chapter 95: Health, Safety & Sanitation

This is not the full language of the law, but a condensed version to give the reader a basic understanding of the law.\*

## DEFINITIONS

**Business.** Any business entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where professional services are delivered.

**Employee.** Any person employed by an employer for monetary wages or profit and any person who volunteers service for a non-profit entity.

**Place of Employment.** Any enclosed area, whether in a public or private entity, where employees frequent during the course of employment. A private residence is a place of employment if used as a licensed care facility.

**Public Place.** Any enclosed area, including vehicles, to which the public is invited or permitted or is generally open to the public regardless of whether such building or vehicle is under private or public ownership. A private residence is a public place if used as a licensed care facility.

**Restaurant.** Any enclosed structure being used to provide food for payment to be consumed on the premises including bars, coffee shops, cafeterias, cafes, luncheonettes, soda fountains and taverns.

**Retail Tobacco Store.** Any store utilized primarily for the sale of tobacco and tobacco-related products that is not licensed for consumption of meals or alcoholic beverages and where the sale of such tobacco products is not less than 60% of the store's gross sales.

## REGULATION OF SMOKING IN PLACES OF EMPLOYMENT

It shall be the responsibility of employers to provide for all employees a place of employment where smoking is prohibited in the entire place of employment.

## EXEMPTIONS

Hotel/Motel rooms with not greater than 20% of the rooms for rent

Private/semi-private rooms in a nursing home where all residents have requested in writing that they be placed in a room for smoking as long as smoke does not infiltrate other areas of the facility.

Retail Tobacco Stores

## REQUIREMENTS

**Reasonable distance** shall mean no smoking not less than twenty (20) feet from any door or other opening of a public building or government building. If a healthcare facility prohibits smoking on its campus, the reasonable distance shall mean not less than two hundred (200) feet from its nearest property line.



**Posting of signs** shall mean that the international no smoking sign must be conspicuously posted on entrances of every building that is regulated by this subchapter. All letters shall be at least one inch in height and 3/4 inch in width.

All smoking paraphernalia must be removed from all building interiors regulated by this subchapter.

## ENFORCEMENT

Enforcement shall be implemented by the Fort Wayne Fire Department. Complaints can be registered by calling 427.7665. If there is no higher priority activity, the agency will respond immediately.

Owners/operators/managers of businesses shall not be held responsible for violations if patrons and employees have been adequately informed of the law and if they do not allow violators to continue to smoke in violation of the law.

## VIOLATIONS

It shall be unlawful for any person, owner, operator or employee to smoke or allow smoking in any building or area that is regulated by this subchapter.

### Non-retaliation

No person shall be retaliated against for exercising the right to be in an environment where smoking is prohibited.

### Penalty

A business entity that allows a violation is subject to a civil fine of up to \$2,500.00 per day per violation.

Any person, except in a dining area, violating the law is subject to a civil fine of \$25.00 for first, \$100.00 for second and \$250.00 for all subsequent violations.

Any person violating the law in a dining area or violating the Clean Indoor Air Law is subject to the penalties set forth in IC 16-41-37-4

\*Access the entire Ordinance on the city's website at [www.cityoffortwayne.org](http://www.cityoffortwayne.org) under Special Features

## FAQ'S

**Is there a special number to call to initiate a complaint?**

Yes. The special number is 427.7665.

**Who is responsible for turning in a violation?**

Owners/operators/managers of a business and patrons or citizens may initiate a complaint. The owner/operator/manager of a business or establishment is responsible for placing signage, informing employees and not allowing a person to smoke where smoking is prohibited.

**Exactly where must signs be posted?**

Signs must be posted at every entrance of a building. Other internal signage may be used, but is not a requirement of the law.

**Are there any exemptions/exceptions to this law?**

...continued see back