

ORDINANCE NO. 2012-22

An Ordinance for the Enforcement of State of Indiana Prohibition on Smoking

WHEREAS, the General Assembly of the State of Indiana has a prohibition on smoking, Indiana Code 7.1-5-12, prohibiting smoking in places of employment or public places; and

WHEREAS, it has been the policy and expressed desire of Huntington County, State of Indiana to promote healthy living for the residents of Huntington County, Indiana.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of Huntington County, Indiana, that:

1. This Ordinance shall be effective August 1, 2012.
2. All of the statutory provisions contained in IC 7.1-1-2-2 and IC 7.1-5-12 et. seq., as amended and effective July 1, 2012, are hereby adopted and shall apply to all municipal and unincorporated lands within the boundaries of Huntington County.
3. The Huntington County Department of Health (the "Department") and the County Health Officer are specifically granted the authority to enforce the provisions of IC 7.1-5-12 et. seq. and this Ordinance.
4. The provisions of this Ordinance and IC 7.1-5-12 et. seq. shall be applied as the minimum requirements necessary to protect public health, safety, and welfare through prohibitions on smoking. Where the requirements or conditions imposed by any provision of this Ordinance or IC 7.1-5-12 et. seq. are either more restrictive or less

restrictive than comparable provisions imposed by an ordinance or resolution of any Huntington County municipality, the provisions which are more restrictive or which impose higher standards or requirements shall apply.

5. All acts and omissions of government units and their respective employees acting within the scope of their employment in the administration and enforcement of this Ordinance and IC 7.1-5-12 et. seq. shall be entitled to and receive all applicable common law and statutory limitations and immunities from liability, including but not limited to those contained in IC 34-30-7, IC 34-31-3, and IC 34-13-3.

6. The County Health Officer or any person acting under the Huntington County Department of Health or County Health Officer may inspect premises that are subject to this Ordinance or IC 7.1-5-12 et. seq. to ensure that the person responsible for the premises complies with this Ordinance or IC 7.1-5-12 et. seq. as it relates to the subject premises.

7. The Department and/or the County Health Officer may issue an order to a person or persons responsible for or in charge of any premises that is subject to this Ordinance or IC 7.1-5-12 et. seq. to comply with the provisions of this Ordinance or IC 7.1-5-12 et. seq..

8. The Department or County Health Officer may enforce this Ordinance or IC 7.1-5-12 et. seq. or any order of the Department or County Health Officer in a civil action in the Huntington County Circuit Court or Huntington County Superior Court.

9. A person who violates this Ordinance or IC 7.1-5-12 et. seq. or fails to comply with an order of the Department or County Health Officer relating thereto is liable for costs, expenses, and fees paid, incurred, or established by the Department in that enforcement, which costs, expenses, or fees may be recovered in a civil action brought by the Department or County Health Officer who is entitled to recover attorney fees incurred by legal counsel employed by the County Executive in the representation of the Department or County Health Officer.

10. Fees, costs, and expenses for the administration and enforcement of this Ordinance or IC 7.1-5-12 et. seq. may be established and amended periodically from time to time by the Department, upon approval of the Huntington County Board of Commissioners.

11. An owner, manager, operator, or official in charge of a premises subject to this Ordinance or IC 7.1-5-12 et. seq. who fails to comply with the requirements of IC 7.1-5-12 et. seq. commits a Class B infraction. Such failure is a Class A infraction if said owner, manager, operator, or official has been adjudged to have committed at least three (3) prior unrelated infractions under IC 7.1-5-12 et. seq..

12. If any section or portion of this Ordinance shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve as an invalidation of, or affect the validity or enforceability of any other section or provision of this ordinance.

This Ordinance is effective from and after its adoption and approval by the Commissioners and any publication as required by law, and as otherwise stated herein .

Dated this 16th day of July , 2012.

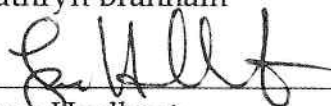
THE BOARD OF COMMISSIONERS OF
HUNTINGTON COUNTY, INDIANA



Tom Wall President

-absent-

Kathryn Branham



Leon Hurlburt

ATTEST:



Cindy Yeiter, Auditor , Huntington County