

NEVER INTRODUCED

ORDINANCE NO. 77-97

AN ORDINANCE PROHIBITING SMOKING IN SPECIFIED PLACES IN THE CITY

WHEREAS, the City of Bloomington is authorized by 18-1-1.5-6(c) to "regulate, license, and prohibit any act which endangers the public health, safety or welfare...." and

WHEREAS, "...a city shall have power to take action and exercise controls to secure and promote the general public health and welfare...." pursuant to IC 18-1-1.5-7,

THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION 1. Pursuant to such statutory powers, the Common Council of the City of Bloomington authorizes the following ordinance prohibiting smoking in specified places in the City.

SECTION 2. Definitions. For the purposes of this ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein, when not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- (1) "City" is the City of Bloomington.
- (2) "Council" is the Common Council of the City of Bloomington.
- (3) "Fire Inspector" is the Fire Inspector, (Fire Marshal, Chief of the Fire Department or other designated official) of the City of Bloomington.
- (4) "Person" is any firm, person, partnership, association, company, corporation, or organization of any kind.

SECTION 3. Smoking Prohibited in Specified Places. No person shall smoke or carry a lighted cigar, cigarette, pipe or match, or use any spark flame or fire-producing device not specifically authorized for use in such place by the Fire Inspector in any of the following places:

- (1) Municipal Buildings. This shall include: meeting places of City Committees or Commissions, the council chamber of the City Council; any office building under the City's control; and in any recreation building under the City's control. Also any waiting rooms of public buildings of private and public health care facilities.

(a) Exception for Approved Areas. The prohibition of (1) above shall not apply to smoking and rest rooms when specifically approved by the Fire Inspector by written order to the person having control of the premises upon a finding that such use therein is not dangerous to life or property.

(2) Retail Stores. Retail stores designed and arranged to accommodate more than two hundred (200) persons, or in which more than twenty-five persons are employed,

(a) Exception for Approved Areas. The prohibition of (2) above shall not apply to smoking and rest rooms, restaurants, executive offices or beauty parlors in retail stores when specifically approved by the Fire Inspector by written order to the person having control of the premises upon a finding that such use therein is not dangerous to life or property.

(3) Elevators. Elevators, regardless of capacity, in any public place.

(4) Public Theaters. During a performance in public theaters, motion picture houses, or other auditoria used for such purposes.

(a) Exception for Approved Areas. The prohibition of (4) above shall not apply to smoking rooms and areas and rest rooms when specifically approved by the Fire Inspector by written order to the person having control of the premises upon a finding that such use therein is not dangerous to life or property.

(b) Exception for Performers. The prohibition of the above shall not be construed to prohibit smoking by performers upon the stage as part of any theatrical production.

(5) Any projection booth, enclosure or other room in a public place in which any motion picture machine is operated.

(6) Public Conveyances. Street cars, buses, trackless trolleys or other public conveyances, except taxicabs and jitneys.

(7) Dance Floors. Dance floor of any cabaret, restaurant, night-club or other public place offering facilities for dining and dancing.

SECTION 4. Violation By Persons Having Control. It shall be unlawful for any person, or his agent, having control of any premises or place to knowingly permit a violation of this ordinance.

SECTION 5. Authority Of Fire Inspector. The Fire Inspector shall have the authority to order "Smoking Prohibited By Law" signs erected on any place of public assemblage where, in his opinion smoking, or the carrying of a lighted cigar, cigarette, pipe or match, or any use of any spark, flame or fire-producing device

not specially authorized for use in such place would contribute a menace to life or property.

SECTION 6. Placarding Required. Every person or his agent, having control of premises upon which smoking or the carrying of lighted objects is prohibited by or under the authority of this ordinance, shall conspicuously display upon the premises a sign reading, "SMOKING PROHIBITED BY LAW".

SECTION 7. Violation of Sign. No person shall smoke in any properly placarded place, nor shall any person remove any placard required to be erected by or under the authority of this ordinance.

SECTION 8. Penalties. Any person, firm, corporation or organization violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding One Thousand (\$1000) dollars. Each day such violation is committed or permitted to continue, shall constitute a separate offense and shall be punishable as such hereunder.

SECTION 9. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION 10. Ordinance Repealed. All ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 11. This ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor.

PASSED AND ADOPTED by the Common Council upon the _____ day of _____, 1977.

Thomas O Middleton, President
Bloomington Common Council

ATTEST:

Karel Dolnick, City Clerk

Presented by me to the Mayor of the City of Bloomington,
Indiana, this _____ day of _____, 1977, at the hour of
_____ o'clock ____ .m.

Nora M. Connors, Deputy City Clerk

SIGNED AND APPROVED by me upon the _____ day of _____,
1977, at the hour of _____ o'clock ____ .m.

Francis X. McCloskey, Mayor
City of Bloomington

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SYNOPSIS
ORDINANCE 77-97

~~Annexation of Adjacent and Contiguous Territory~~

Prohibit Smoking in Public Places

Indiana law provides that cities may regulate, license and prohibit any act which endangers the public health. The present ordinance, if adopted, would prohibit smoking in municipal buildings, retail stores, elevators, public theatres, public conveyances and dance floors within the City. Exceptions are provided in certain designated areas. The ordinance also requires the posting of placards proclaiming "SMOKING PROHIBITED BY LAW" in regulated areas.

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