

WELLS COUNTY ORDINANCE 2021- 10

***An Ordinance Amending Wells County Ordinance No. 2021-08
and the Wells County, Indiana Personnel Policies Handbook
Regarding "No Smoking" in County Buildings Policy***

WHEREAS, the State of Indiana has enacted a ban on smoking under I.C. 7.1-5-12 Prohibition on Smoking for the health and safety of the residents of the State of Indiana; and

WHEREAS, I.C. 7.1-5-12-13(a) permits a county, city, town, or other governmental unit to adopt a smoking nicotine ban that is more restrictive than the State's prohibition; and

WHEREAS, this Ordinance prohibits the use of Electronic cigarettes (e-cigarettes, e-cigs, Electronic water pipes), vaporizers, and vapor products in the same facilities that smoking tobacco and tobacco products are prohibited by I.C. 7.1-5-12; and

WHEREAS, this Ordinance prohibits smoking, as defined by I.C. 7.1-5-12-3, and the use of Electronic cigarettes (e-cigarettes, e-cigs, and Electronic water pipes), vaporizers, and vapor products in and within a greater distance of a public entrance to County buildings; and

WHEREAS, the Wells County Board of Commissioners previously adopted Wells County Ordinance No. 2004-07 to ban smoking in County buildings; and

WHEREAS, the Wells County Board of Commissioners, in consideration of the health implications of the use of Electronic cigarettes (e-cigarettes, e-cigs, and Electronic water pipes), vaporizers, and vapor products, have determined to make revisions to their existing no smoking ordinance, and to expand that ban to include the use of Electronic cigarettes (e-cigarettes, e-cigs, and Electronic water pipes), vaporizers, and vapor products to previously adopted Wells County Ordinance No. 2004-07, and Section 31.02 of the Wells County Code of Ordinances; and

WHEREAS, it is necessary to amend the County's Personnel Policy from time-to-time.

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED BY THE BOARD OF COMMISSIONERS OF WELLS COUNTY, INDIANA, THAT:

§ 31.021 DEFINITIONS. For the purpose of this Section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

(A) COUNTY BUILDINGS. Those structures owned, leased or otherwise occupied by Wells County, including, but not limited to, all areas within said buildings or any additions thereto.

(B) ELECTRONIC CIGARETTE. Electronic cigarette means a device that is capable of providing an inhalable dose of nicotine or any other substance intended for human consumption by delivering a vaporized solution that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the device. The term includes the components and cartridges.

(C) E-CIGS OR E-CIGARETTES. E-cigs or E-cigarettes are other terms used to refer to Electronic cigarettes.

(D) ELECTRONIC WATER PIPE. Electronic water pipe means a device that is capable of providing an inhalable dose of nicotine or any other substance through water intended for human consumption by delivering a vaporized solution that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the device.

(E) E-LIQUID. E-liquid means a substance that: (1) may or may not contain nicotine; and (2) is intended to be vaporized and inhaled using a vapor product.

(F) PERSON. Any man, woman, or child, regardless of age.

(G) SMOKE or SMOKING. Smoking, as defined in I.C. §7.1-5-12-3, means the: (1) carrying or holding of a lighted cigarette, cigar, or pipe or any other lighted tobacco smoking equipment; or (2) inhalation or exhalation of smoke from lighted tobacco smoking equipment. To ignite or cause to be ignited tobacco or a tobacco product or derivative, which includes but is not limited to tobacco, or a derivative thereof, e-cigarettes or other devices utilized for "vaping," such that the product or derivative emits a gas or cloud which is commonly understood to be smoke, which may be or is intended to be inhaled by any person.

(H) TOBACCO. Any of several plants belonging to the genus *Nicotiana*, of the nightshade family, especially one of those species, as *N. tabacum*, whose leaves are prepared for smoking or chewing or as snuff; the prepared leaves, as used in cigarettes, cigars, and pipes, any product or products made from such leaves; any of various similar plants of other genera.

(I) VAPING. Vaping means the process of inhalation or exhalation of the Electronic cigarette, e-cigs, Electronic water pipe, and vaporizers.

(J) VAPOR PRODUCT. Vapor product means a powered vaporizer that converts e-liquid to a vapor intended for inhalation through an Electronic cigarette or an Electronic water pipe.

(K) VAPORIZER. Vaporizer means a device like an Electronic cigarette that is used to inhale the e-liquid.

§ 31.022 SMOKING IN PUBLIC PLACES PROHIBITED.

(A) Prohibition of Smoking. Smoking, as defined in I.C. §7.1-5-12-3, and the use of Electronic cigarettes (e-cigarettes, e-cigs, and Electronic water pipes), vaporizers and vapor products are prohibited in all buildings owned and operated by the County or any of its agencies; except that the use of Electronic cigarettes (e-cigarettes, e-cigs, and Electronic water pipes), vaporizers and vapor products is permitted by inmates at the Wells County Jail pursuant to the policies adopted by the Wells County Sheriff. The buildings where this Ordinance applies includes, but is not limited to the following:

COURTHOUSE

located at 102 W. Market Street, Bluffton, IN

COUNTY GARAGE, SALT SHED and STORAGE BUILDING

located at 1600 W. Washington Street, Bluffton, IN

COURTHOUSE ANNEX

located at 225 W. Washington Street, Bluffton, IN

COUNTY EXTENSION OFFICE

located at the 4-H Park, Bluffton, IN

SENIOR CENTER

located at 225 Water Street, Bluffton, IN

BARGAIN HUT

located at 128 W. Spring Street, Bluffton, IN

EMS BUILDING

located at 140 W. Spring Street, Bluffton, IN

Notwithstanding the foregoing prohibition, the Commissioners, in their discretion, may provide a location for smoking outside County-owned buildings and on County-owned grounds that shall be a designated smoking area to be used only by employees of the County during a permissible work break. Such a designated location shall meet the conditions of division (B) below. An appropriate container shall be provided by the

County at such location in order to avoid the accumulation of trash and debris and cigarette residue.

(B) Reasonable distance. Smoking shall occur at a reasonable distance outside any area where smoking is prohibited to insure that tobacco smoke does not enter the area through entrances, windows, ventilation systems, or any other means. It shall be a violation for smoke to be detected in any area where smoking is prohibited.

(C) Posting of signs - removing of paraphernalia.

(1) "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly, sufficiently, and conspicuously posted in every building or other area where smoking is prohibited by this section, by the owner, operator, manager, or other person having control of such building or other area.

(2) Every public place where smoking and tobacco is prohibited by this section shall have posted at every entrance, a conspicuous sign clearly stating that smoking and tobacco is prohibited.

(3) All ashtrays and other smoking paraphernalia shall be removed from any area where smoking is prohibited by this section, by the person having control of such area.

(D) Other applicable laws. This section shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

§ 31.023 Enforcement.

(A) The County Executive, County Sheriff or designated representatives are authorized to enforce the provisions of this Section.

(B) Any person may file a complaint under this Section with the County Executive or County Sheriff and request enforcement of the alleged violation.

§ 31.024 Violations and penalties.

(A) Penalty for Violation. A person who violates this ordinance commits a Class C infraction. In addition, any person violating a provision of this Section shall be deemed guilty of an offense and fined not less than Fifty Dollars (\$50.00) for a first offense, not less than One Hundred Dollars (\$100.00) for a second offense and not less than Two Hundred Dollars (\$200.00) for all subsequent offenses, with the fine to go into the County's General Fund, but no fine for any individual offense shall exceed Two Thousand Five Hundred Dollars (\$2,500.00), plus costs and attorney's fees where a judgment has been entered.

§ 31.025 An action under this Ordinance may be brought by the Wells County Attorney or the Wells County Prosecuting Attorney.

§ 31.026 This Ordinance shall become effective upon its adoption by The Board of Commissioners of the County of Wells, and publication as required by law.

§ 31.027 It is further ordained that any other provision of the Wells County Code of Ordinances not specifically amended by this ordinance shall remain in full force and effect.

§ 31.028 ¶ 5.3 of the Wells County, Indiana, Personnel Policies Handbook is amended in accordance with the provisions of this Ordinance.

PASSED AND ADOPTED by the Board of Commissioners of Wells County, Indiana on this 16th day of August, 2021, by the following vote:

WELLS COUNTY COMMISSIONERS:


Aye Nay

Aye Nay

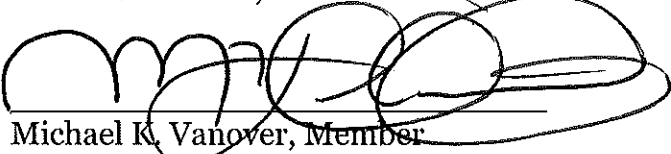
Aye Nay



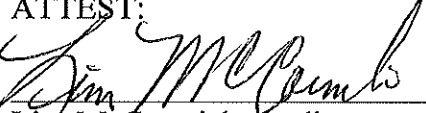
Blake Gerber, President



Kevin Woodward, Vice-President



Michael K. Vanover, Member

ATTEST:


Lisa McCormick, Auditor

This instrument was prepared by the Wells County Attorney, Roy R. Johnson, Attorney No. 4937-90, 116 South Main St., Bluffton, IN 46714. *I affirm, under penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.* Lisa McCormick