



Smoking Ordinance Frequently Asked Questions

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General Smoking Ordinance Questions

1. When does the smoking ordinance take effect?

The smoking ordinance will take effect at 6:00 a.m. on June 1, 2012. [Top of page](#)

2. Are any business types exempt from the smoking ban?

Yes. Retail tobacco stores, tobacco specialty bars, satellite facilities (off-track betting facilities) and private/fraternal clubs are exempt but must meet certain requirements. Details can be found in section B of this document, titled [Smoking Ban Exemptions](#). [Top of page](#)

3. Can my business be “grandfathered” in to continue to allow smoking?

No. Businesses that currently allow smoking are required to be smoke-free effective 6:00 a.m. on June 1, 2012, unless exempted in Sec. 616-204. [Top of page](#)

4. Is smoking permitted on the outdoor patio of my business?

Smoking is permitted on unenclosed patios, but must be done more than 8 feet from any public entrance. Smoking is prohibited in all enclosed areas as defined in Sec. 616-202(e) of the Revised Code: “Enclosed area means all space closed in by a roof, ceiling or other overhead covering of any material and walls or other side coverings of any material on at least two sides with appropriate openings for ingress and egress.” Smoking is also prohibited from any area from which smoke enters through entrances, windows, ventilation systems, or other means, where smoking is otherwise prohibited.

Construction or renovation of some outdoor patios requires additional permits to construct. To find out if your new outdoor patio requires any permits, visit www.indy.gov/permits or contact permitquestions@indy.gov.

Placement of large, stand-alone ashtrays: If a smoking area will be included within an existing, licensed café, the ashtrays merely need to be added to the submitted plan at no additional cost to the licensee. If a smoking area will be included on private property, the ashtrays would not be regulated by DCE. If a smoking area will be located on a public street, sidewalk, or alley, no encroachment license would be required so long as the ashtrays were not permanent, e.g., an ashtray that is placed inside the business at the end of the night. Any fencing off of an area, chairs, etc., would still require an encroachment license. [Top of page](#)

5. Is there a license or permit my business can obtain to allow for smoking?

If your business is a [Tobacco Specialty Bar](#) and meets the definition for exemption under the ordinance to allow for smoking of tobacco products other than cigarettes, a license is required to be obtained from the Department of Code Enforcement. [Top of page](#)

6. Where do I obtain a tobacco license?

The Department of Code Enforcement’s [Business Licensing](#) section will administer Tobacco Specialty Bar licenses. DCE is located at 1200 Madison Ave, Suite #100, Indianapolis, IN 46225. Business Licensing can be reached by phone at 317-327-4316 or email at licensing@indy.gov. [Top of page](#)

7. What businesses require a tobacco license?

[Tobacco Specialty Bars](#) require a tobacco license. License applications and additional information will be available at the DCE office and online at www.indy.gov/licensing beginning May 1, 2012. Applications must be received prior to June 1, 2012.

Tobacco Specialty Bars cannot allow for cigarette smoking. For more information on Tobacco Specialty Bars, see [Smoking Ban Exemptions](#) in section B of this document. [Top of page](#)

8. Does this ban affect excluded cities and towns (Beech Grove, Lawrence, Southport, Speedway)?

No. The excluded cities and towns of Beech Grove, Lawrence, Southport and Speedway are not affected by this ordinance. Please contact the respective cities and towns to determine what smoking regulations they have in place. [Top of page](#)

City of Beech Grove
(317) 788-4977
www.beechgrove.com

City of Lawrence
(317) 545-6191
www.cityoflawrence.org

City of Southport
(317) 786-5489
www.southport.in.gov

Town of Speedway
(317) 246-4111
www.townofspeedway.org

9. How do I bring my smoking establishment into compliance with the new ordinance?

No smoking will be permitted indoors beginning at 6:00 a.m. on June 1, 2012 unless you are an [exempt](#) and/or licensed business. Ashtrays and all other smoking paraphernalia must be removed from indoors and owners, management and staff must inform patrons that smoking and e-cigarette use is prohibited. [Top of page](#)

10. How will these regulations be enforced?

The Department of Code Enforcement, Indianapolis Fire Department and Indianapolis Metropolitan Police Department may enforce the provisions of the ordinance. [Top of page](#)

11. How much will a tobacco license cost for an exempted business?

An annual license will cost \$215. [Top of page](#)

12. Are E-Cigarettes included in the smoking ban?

Yes. E-Cigarettes are considered a tobacco product and therefore included in the smoking ban. [Top of page](#)

Smoking Ban Exemptions

1. Private Residences

Except when used as a licensed child care, adult day care or other health facility, private residences are not included in the smoking ban. [Top of page](#)

2. Retail Tobacco Stores

Retail Tobacco Store means a retail store:

- (1) utilized primarily for the sale of tobacco and tobacco-related products including, but not limited to, cigarettes, cigars, tobacco, pipes, cigarette paper, and lighters;
- (2) that is not licensed for the consumption of meals or alcoholic beverages on the premises or operated in conjunction with another business that is licensed for the on-premises consumption of meals or alcoholic beverages; **and**
- (3) in which the sale of tobacco and tobacco-related products accounts for not less than 85% of the store's gross sales.

Retail Tobacco Store does not include a tobacco department of a larger commercial establishment such as a grocery store, department store, or discount store or hotel.

THE DEPARTMENT OF CODE ENFORCEMENT WILL NOT ADMINISTER LICENSES FOR RETAIL TOBACCO STORES. [Top of page](#)

3. Tobacco Specialty Bars

Tobacco Specialty Bar means a business that, as of January 1, 2012:

- (1) Is licensed to sell alcoholic beverages pursuant to a permit issued by the Indiana Alcohol and Tobacco Commission for on-premise consumption and in which the service of food is only incidental to the consumption of such beverages and the sale of cigars or Hookah tobacco;
- (2) Is engaged in the business of selling cigars or Hookah tobaccos and where at least twenty percent (20%) or more of its total annual gross income over the preceding calendar year was derived from the on-site sale of cigars or Hookah tobaccos;
- (3) That is not physically located within a business otherwise required to be smoke free and

(4) That does not sell cigarettes or allow smoking of cigarettes on the premises.

THE DEPARTMENT OF CODE ENFORCEMENT WILL ADMINISTER LICENSES FOR TOBACCO SPECIALTY BARS. [Top of page](#)

4. Satellite Facilities

A Satellite Facility (Off-Track Betting Facility) means that any business, as of April 1, 2012 held a license pursuant to IC 4-31-5.5 to operate a satellite facility in the Consolidated City and County.

THE DEPARTMENT OF CODE ENFORCEMENT WILL NOT ADMINISTER LICENSES FOR SATELLITE FACILITIES. [Top of page](#)

5. Private/Fraternal Clubs

Tax exempt, private and fraternal clubs, as defined by state law, must hold a vote of its general membership either through a meeting or ballot and inform the Health and Hospital Corporation by September 1, 2012 of its intention to be exempt from the smoking ordinance.

State law, which takes effect July 1, 2012, requires Private/Fraternal Clubs to hold vote every two years and limits smoking to enclosed areas that provides adequate ventilation and is off limits to minors.

It is the determination of the City that the state provision which take effect July 1, 2012 is more restrictive and thus will preempt local ordinance, with the exception of notification of the results of its membership vote by September 1, 2012 to Health and Hospital Corporation.

THE DEPARTMENT OF CODE ENFORCEMENT WILL NOT ADMINISTER LICENSES FOR PRIVATE CLUBS.
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Businesses Generally Affected

1. Bars/Taverns

Bars and taverns in Marion County will no longer be able to permit smoking in their business. All ashtrays and other smoking paraphernalia must be removed by 6:00 a.m. on June 1, 2012. [Top of page](#)

2. Hotels/Motels

Hotels and motels in Marion County will no longer be able to permit smoking in their business. All ashtrays and other smoking paraphernalia must be removed by 6:00 a.m. on June 1, 2012. [Top of page](#)

3. Bowling Alleys

Bowling alleys in Marion County will no longer be able to permit smoking in their business. All ashtrays and other smoking paraphernalia must be removed by 6:00 a.m. on June 1, 2012. [Top of page](#)

4. Retail Tobacco Stores

Retail tobacco stores must qualify as an [exemption](#) per Sec. 616-204 in order to retain their smoking status. [Top of page](#)

5. Nursing Homes and Long-Term Care Facilities

There is no longer an exemption for private or semi-private rooms in nursing homes or long-term care facilities. These facilities are now required to be smoke-free by June 1, 2012. [Top of page](#)

6. Family Owned Businesses

There is no longer an exemption for family owned businesses. These facilities are now required to be smoke-free by June 1, 2012. [Top of page](#)

7. Company Vehicles

There is no longer an exemption for company vehicles, even if there is only one (1) occupant in the vehicle. Company vehicles are now required to be smoke-free at all times, beginning June 1, 2012. [Top of page](#)