



ZIONSVILLE

FOR ALL THE RIGHT REASONS

**ZIONSVILLE TOWN COUNCIL
MEETING AGENDA
FOR**

Monday, March 19, 2018 at 7:30 AM
Zionsville Town Hall Council Chamber
1100 West Oak Street

1. OPENING
 - A. CALL MEETING TO ORDER
 - B. PLEDGE OF ALLEGIANCE
2. APPROVAL OF THE MEMORANDUM OF THE MARCH 5, 2018 REGULAR MEETING (Copy Posted).

Documents:

[MARCH 5 2018 TOWN COUNCIL MEMORANDA.PDF](#)

3. UPDATE ON BOONE EDC ACTIVITIES/PROJECTS - MOLLY WHITEHEAD, EXECUTIVE DIRECTOR.
4. REQUEST TO SPEAK
5. OLD BUSINESS
 - A. Consideration Of Ordinance To Amend Chapter 93 Of The Code Of Ordinances Prohibiting Smoking And Tobacco In Public Places (SECOND READING).

Documents:

[ORDINANCE PROHIBITING SMOKING IN PUBLIC PLACES.PDF](#)

6. NEW BUSINESS
7. OTHER MATTERS
8. ADJOURN

The next regular Town Council meeting is scheduled for Monday April 9, 2018 @ 7:00 PM in the Zionsville Town Hall Council Chambers (note the shift of the meeting to the second Monday of the

month to avoid Zionsville Spring Break).



**ZIONSVILLE TOWN COUNCIL
MEETING AGENDA
FOR**

Monday March 5, 2018 at 7:00 PM
Zionsville Town Hall Council Chamber
1100 West Oak Street

Date of Preparation: 3.05.2018

Members Present: Josh Garrett, President; Bryan Traylor, Vice-President; Elizabeth Hopper, Jason Plunkett, Kevin Spees and Susanna Suarez

Members Absent: Tom Schuler

Also Present: Tim Haak, Mayor; Ed Mitro, Deputy Mayor; Heather Willey, Town Attorney; Amy Lacy, Director of Finance & Records; and Town Department Staff.

1. OPENING

A. Call meeting to order

After opening the meeting, President Garrett spoke in tribute of Boone County Sheriff's Deputy Jacob Pickett who lost his life in the line of duty on Friday, March 2, 2018. President Garrett recognized the life of a man who was a Zionsville resident, a husband and father of two young children, as well as a member of law enforcement serving the Boone County community. President Garrett noted that not only did Deputy Pickett give his life for this community; he continues to help others after his death by the donation of his organs. President Garrett then asked all to stand and join him in a moment of silence in Deputy Pickett's honor.

B. Pledge of Allegiance

2. APPROVAL OF THE MEMORANDUM OF THE FEBRUARY 20, 2018 REGULAR MEETING (copy posted).

COUNCIL ACTION: Vice-President Traylor moved to approve the Memoranda of the February 20, 2018 Town Council Meeting. Councilor Spees seconded the motion.
The Memoranda of the February 20, 2018 meeting was approved by a vote of six in favor, zero opposed.

3. DEPARTMENTAL FEBRUARY MONTHLY REPORTS

Reports are submitted by the Town Management staff for Council review and posted on the Town's website (www.zionsville-in.gov).

Street and Stormwater Superintendent Lance Lantz answered questions from President Garrett regarding information in the Street and Stormwater monthly report.

4. REQUEST TO SPEAK

Joe Hillman agreed to hold his request to speak until Item 6 B was heard.

5. OLD BUSINESS – None

6. NEW BUSINESS

A. Consideration of an Ordinance to Amend Chapter 93 of the Code of Ordinances Prohibiting Smoking and Tobacco in Public Places (**FIRST READING**). **ORDINANCE #2018-01**

Deputy Mayor Mitro reviewed Ordinance #2018-01, explaining that the original Ordinance passed in 2006 only addressed smoking. He explained that Ordinance #2018-01 bans the use of all forms of tobacco, including chewing and snuff as well as e-cigarettes and vaping on Town property, public places and places of employment. Deputy Mayor clarified for the Council that this ban also included use in Town vehicles.

COUNCIL ACTION: Councilor Suarez moved to introduce Ordinance # 2018-01 on first reading. Councilor Traylor seconded the motion. The motion passed with a vote of six in favor, zero opposed. Ordinance 2018-01 was introduced on first reading. No further action taken.

- B. Consideration of a Zone Map Change Ordinance to rezone approximately 235.70 acres from the Rural R-1 (Residential) Zoning District and (MRO) Rural Michigan Road Overlay District to a Planned Unit Development (PUD) (forwarded to the Town Council with an Unfavorable Recommendation by the Zionsville Plan Commission) **ORDINANCE #2018-02** President Garrett noted that the ordinance had come from the Plan Commission with an unfavorable recommendation. He clarified for the Council that the first reading of the Ordinance had been heard by the Plan Commission so would require only one vote on the final reading from the Council. President Garrett noted that the petitioners requested the petition be withdrawn before the final vote. He stated he was not in favor of allowing a withdrawal. He explained that the Council had three options:

- Affirm the recommendation of the Plan Commission, thereby denying the Ordinance
- Override the recommendation of the Plan Commission, thereby approving the Ordinance
- Do Nothing – Which affirms the recommendation of the Plan Commission

Stan Burton, petitioner for the development, gave a presentation concerning the Wolf Run PUD and answered questions from the Council.

Zionsville resident Joe Hillman spoke in opposition of the Wolf Run project on behalf of the remonstrators.

Director of Planning and Economic Development Wayne DeLong offered comments from the Town's perspective and answered questions from the Council.

School Board member Shari Alexander Richey provided information regarding the Wolf Run development's impact on the Zionsville schools.

COUNCIL ACTION: Vice-President Traylor made a motion to affirm the Plan Commission's recommendation to deny the petition. Councilor Suarez seconded the motion. The Plan Commission's recommendation to deny the petition was affirmed and the Council voted to deny the Ordinance by a vote of six in favor, zero opposed Ordinance #2018-02 was denied.

7. OTHER MATTERS

8. APPROVAL OF CLAIMS

COUNCIL ACTION: Councilor Spees moved to approve claims as presented. Vice-President Traylor seconded the motion. Claims were approved by a vote of six in favor, zero opposed.

9. ADJOURN

COUNCIL ACTION: Councilor Hopper moved to adjourn the meeting and Councilor Suarez seconded the motion. The motion was approved by a vote of six in favor, zero opposed.

The next regular Town Council meeting is scheduled for Monday March 19, 2018 @ 7:30 AM in the Zionsville Town Hall Council Chambers.

Respectfully Submitted,

Amelia Anne Lacy, Director
Department of Finance & Records
Town of Zionsville

ORDINANCE NO. 2018-_____
OF THE TOWN OF ZIONSVILLE, INDIANA

**AN ORDINANCE AMENDING CHAPTER 93 OF THE
CODE OF ORDINANCES OF THE TOWN OF ZIONSVILLE, INDIANA
PROHIBITING SMOKING AND TOBACCO IN PUBLIC PLACES**

WHEREAS, numerous medical studies have found that tobacco smoke is a major contributor to indoor pollution, and that breathing secondhand smoke is a major cause of disease, including lung cancer, in non-smokers; and

WHEREAS, people at special risk to secondhand smoke include children, the elderly, individuals with cardiovascular disease or impaired respiratory function, including asthmatics, and those with obstructive airway disease; and

WHEREAS, health hazards are induced by breathing secondhand smoke, including lung cancer, heart disease, respiratory infection, decreased respiratory function, and bronchospasm; and

WHEREAS, the Town of Zionsville finds and declares that the purposes of this ordinance are to: 1) protect the public health and welfare by prohibiting smoking in public places, and places of employment; and 2) stating that the need to breathe smoke-free air shall have priority over the desire to smoke.

NOW, THEREFORE, BE IT HEREBY ORDAINED AND ENACTED by the Town Council of the Town of Zionsville, that:

Section 1. Chapter 93 of the Code of Ordinances of the Town of Zionsville, Indiana, is hereby amended by deleting the stricken language and adding the underscored language as follows:

CHAPTER 93. SMOKING AND TOBACCO PROHIBITED IN PUBLIC PLACES

93.01 Purpose

It is hereby declared, as a matter of public policy of the Town of Zionsville, that:

- (a) Numerous medical studies have found that tobacco smoke is a major contributor to indoor pollution, and that breathing secondhand smoke is a major cause of disease, including lung cancer, in non-smokers; and
- (b) People at special risk to secondhand smoke include children, the elderly, individuals with cardiovascular disease or impaired respiratory function, including asthmatics, and those with obstructive airway disease; and
- (c) Health hazards are induced by breathing secondhand smoke, including lung cancer, heart disease, respiratory infection, decreased respiratory function, and bronchospasm; and

- (d) The Town of Zionsville finds and declares as the purposes of this ordinance to: 1) protect the public health and welfare by prohibiting smoking and tobacco in public places and places of employment; and 2) state that the need to breathe smoke-free air shall have priority over the desire to smoke.

93.02 Definitions.

As used in this Chapter, the following terms are defined as follows:

"Enclosed Area" means all space lying between a floor and a ceiling that is enclosed on all sides by solid walls or windows (exclusive of doorways), which extend from the floor to the ceiling.

"Municipal Building". Any and all structures owned, leased, operated, or otherwise occupied by the town (in whole or in part), including all areas within said buildings and all additions thereto.

"Municipal Property". Any and all real property owned or leased by the town (in whole or in part) or the Zionsville Board of Parks and Recreation.

"Person" means any individual, firm, partnership, association, corporation, company or organization of any kind.

"Public place" means any Enclosed Area used by or open to the general public, including, but not limited to, schools, private clubs, retail stores, financial institutions, department stores, laundromats, beauty, barber and nail shops, retail food production and marketing establishments, restaurants, retail service establishments, and other commercial establishments, regardless of whether a fee is charged for admission to such place.

"Place of Employment" means any Enclosed Area under the control of a public or private employer in which employees normally work or frequent during the course of their employment, including, but not limited to, work areas, private offices, employee lounges and restrooms, conference, meeting and classrooms, employee cafeterias, auditoriums, elevators, hallways and all other Enclosed Areas.

~~"Smoke" or "smoking" means the act of lighting, carrying, inhaling from, or leaving a lighted or smoldering cigar, cigarette, or pipe of any kind.~~ "Smoke or Smoking". 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 may be or is intended to be inhaled by any person.

"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 or other genera.

93.03 Application of Chapter to Town-owned Facilities

All Municipal Property, and all Enclosed Areas, including buildings and vehicles owned, leased, or operated by the Town of Zionsville, shall be subject to the provisions of this Chapter.

93.04 Smoking and Tobacco prohibited in Public Places.

Smoking and tobacco shall be prohibited in all Public Places within the Town of Zionsville.

93.05 Prohibition of Smoking and Tobacco in Places of Employment.

Smoking and Tobacco shall be prohibited in all Enclosed Areas within Places of Employment within the Town of Zionsville.

93.06 Where Smoking and Tobacco ~~is~~ are Not Regulated.

The prohibitions of Sec. 9-85 shall not apply to the following:

- (a) Private residences, except when used as a licensed childcare, adult day care, or health care facility.
- (b) Hotel and motel rooms that are rented to guests and are designated as smoking rooms.
- (c) Designated rooms in nursing homes and other long-term care facilities in which residents only may smoke.
- (d) Except as noted in Section 93.03 above, any outdoor area.

93.07 Declaration of Establishment as Nonsmoking.

Notwithstanding any other provision of this Chapter, an owner, operator, manager, or other person in control of a Public Place, Place of Employment, establishment, facility, or outdoor area may declare that such Place, or outdoor area as a nonsmoking area. Smoking and Tobacco shall be prohibited in any place in which a sign conforming to the requirements of Sec. 9-90 is posted.

93.08 Posting of Signs.

Every Public Place and Place of Employment where smoking and tobacco ~~is~~ are prohibited by this Chapter shall have posted at every entrance a conspicuous sign clearly stating that smoking and tobacco ~~is~~ are prohibited in such Place.

93.09 Enforcement.

- (a) This Chapter shall be enforced by the ~~Town Marshal~~ Chief of Police or a duly authorized representative of the ~~Marshal~~ Chief or the Town.

- (b) Any person who desires to register a complaint under or violation of this Chapter may initiate enforcement with the Zionsville Police Department.
- (c) The Health Department, Fire Department, or their designees shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this Chapter.
- (d) An owner, manager, operator, or employee of an establishment regulated by this Chapter shall inform persons violating this Chapter of the appropriate provisions thereof.

93.10 Non-retaliation.

No person or employer shall discharge, refuse to hire or in any manner retaliate against any employee, applicant for employment, or customer because such employee, applicant, or customer exercises the right to a smoke-free environment afforded by this Ordinance.

93.11 Other applicable laws.

This Chapter shall not be interpreted to permit smoking and tobacco where it is otherwise restricted by other applicable laws or to supercede any local laws which are more restrictive.

93.12 Interpretation.

This Chapter shall be broadly construed to effectuate the purposes described in 93.01 of this Ordinance.

~~SMOKING IN MUNICIPAL BUILDINGS AND ON MUNICIPAL PROPERTY~~

~~§ 93.25 DEFINITIONS.~~

~~—For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~—MUNICIPAL BUILDINGS. Any and all structures owned, leased, operated, or otherwise occupied by the town (in whole or in part), including all areas within said buildings and all additions thereto.~~

~~—MUNICIPAL PROPERTY. Any and all real property owned or leased by the town (in whole or in part) on which a municipal building is located.~~

~~—SMOKE or SMOKING. The carrying, holding, inhalation or exhalation of a lighted cigarette, cigar, or pipe.
(1996 Code, § 9-3) (Ord. 94-05, passed — ; Ord. 96-07, passed — ; Ord 99-6, passed —)~~

~~§ 93.26 SMOKING PROHIBITED IN ALL MUNICIPAL BUILDINGS.~~

~~—Due to the adverse health consequences of smoke and smoking and the potential fire safety hazard of discarded cigarettes, cigars and lighted tobacco, smoking is hereby prohibited in any and all municipal buildings.~~

~~(1996 Code, § 9-3) (Ord. 94-05, passed —; Ord. 96-07, passed —; Ord 99-6, passed —) Penalty, see~~

~~§ 93.99~~

~~§ 93.27 SMOKING PROHIBITED ON ALL MUNICIPAL PROPERTY.~~

~~—Due to the potential fire safety hazard of discarded cigarettes, cigars and lighted tobacco and the need to maintain an appropriate public image and aesthetic appearance for municipal property, smoking is hereby prohibited on any and all municipal property; provided, however, smoking shall be permitted in areas designated by the president of the Town Council as designated smoking areas. No designated smoking area may be located within a municipal building.~~

~~(1996 Code, § 9-3) (Ord. 94-05, passed —; Ord. 96-07, passed —; Ord 99-6, passed —) Penalty, see~~

~~§ 93.99~~

93.99 Penalty.

- (a) A person who smokes or uses tobacco in an area where smoking and tobacco is are prohibited by the provisions of this Chapter shall be guilty of an infraction, punishable by a fine not exceeding two hundred fifty dollars (\$250) per infraction.
- (b) A person who owns, manages, operates, or controls a Public Place or Place of Employment and who fails to comply with the provisions of this Chapter shall be guilty of an infraction, punishable by:
 - (1) A fine not exceeding one hundred dollars (\$100) for a first violation.
 - (2) A fine not exceeding two hundred dollars (\$200) for a second violation within one (1) year of the first violation.
 - (3) A fine not exceeding five hundred dollars (\$500) for each additional violation after the second within one (1) year.
- (c) Each day on which a violation of this Chapter occurs shall be considered a separate and distinct violation.

Section 2. Savings Clause. If any title, section, subsection, phrase, clause, sentence, or word of this Ordinance shall for any reason be held invalid or unconstitutional by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby and shall remain in full force and effect.

Section 3. Construction of Clause Headings. The clause headings appearing herein have been provided for convenience and reference and do not purport and shall not be deemed to define, limit or extend the scope or intent of the clause to which they appertain.

Section 4. Repeal of Conflicting Ordinances. The provisions of all other Town ordinances in conflict with the provisions hereof, if any, are of no further force or effect and are hereby repealed.

Section 5. Severability. If any part of this Ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remainder of this Ordinance.

Section 6. Duration and Effective Date. The provisions of this Ordinance shall become and remain in full force and effect thirty (30) days from and after the date of its adoption and until its repeal by ordinance.

Introduced and filed on the ____ day of _____, 2018.

DULY PASSED AND ADOPTED this ____ day of _____, 2018, by the Town Council of the Town of Zionsville, Boone County, Indiana, having been passed by a vote of _____ in favor and _____ opposed.

**TOWN COUNCIL OF THE TOWN OF ZIONSVILLE,
BOONE COUNTY, INDIANA**

	YEA Signature	NAY Signature
Josh Garrett, President		
Bryan Traylor, Vice-President		
Kevin Spees, Member		
Elizabeth Hopper, Member		
Thomas Schuler, Member		
Jason Plunkett, Member		
Susana Suarez, Member		

I hereby certify that the foregoing Resolution was delivered to Town of Zionsville Mayor Timothy R. Haak on the _____ day of _____ 2018, at _____ m.

ATTEST: _____ Amelia Anne Lacy, Director,
Department of Finance and Records

MAYOR'S
APPROVAL

Timothy R. Haak, Mayor

DATE

MAYOR'S
VETO

Timothy R. Haak, Mayor

DATE