ORDINANCE 87-17

To Amend Chapter 6.12 of the Bloomington Municipal Code Entitled Smoking in Public Places

WHEREAS, reliable scientific studies have shown that the health risks associated with smoking are also significantly increased by involuntary exposure to tobacco smoke; and

WHEREAS, studies have also shown that exposure to secondary smoke aggravates the health conditions of persons already suffering from allergies or from cardiovascular or respiratory diseases; and

WHEREAS, the 1986 Report of the Office on Smoking and Health of the U.S. Department of Health and Human Services and the Surgeon General of the United States concluded "Involuntary smoking is a cause of disease, including lung cancer, in healthy nonsmokers; The children of parents who smoke compared with the children of nonsmoking parents have an increased frequency of respiratory infections, increased respiration symptoms, and slightly smaller rates of increase in lung function as the lung matures; and the simple separation of smokers and nonsmokers within the same air space may reduce, but does not eliminate, the exposure of nonsmokers to environmental tobacco smoke"; and

WHEREAS, secondary tobacco smoke contains numerous toxic chemicals, and the EPA has determined that smoking in enclosed places, even with normal ventilation, produces air pollution above federal safety standards; and

WHEREAS, in the interests of preserving the public health, it is desirable for individuals who do not smoke to be protected from the hazards of secondary smoke during the course of their normal daily activities in their places of work and in commercial or other spaces frequented by the public:

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

SECTION I. Section 6.12.010 Definitions of Chapter 6.12 of the Bloomington Municipal Code shall be amended to add the following:

(~~h~~) "Public Place" means any enclosed indoor area used by the general public, including, but not limited to, retail stores and financial institutions, department stores, banks, laundromats and beauty and barber shops, retail food production and marketing establishments, retail service establishments, and other commercial establishments, regardless of whether a fee is charged for admission to the place.

(i) "Enclosed" means closed in by a roof and four walls with appropriate openings for ingress and egress and is not intended

SECTION II. Section 6.12.020 Smoking prohibited in certain public places shall be amended to add the following:

(h) Public places as defined herein, including, but not limited to, public places which are part of shopping centers, provided that smoking may be allowed in the common areas of shopping malls.

SECTION III. Section 6.12.030 Exceptions shall be repealed and reenacted to read as follows:

6.12.030 Exceptions. The prohibitions of Section 6.12.020 shall not apply to the following:

(a) Lawfully designated smoking areas of restaurants, health care facilities, public meetings, public places, theaters, libraries, museums and galleries;
(b) During the hours in which the particular business or institution is not open to the public;
(c) Restaurants when used for private functions;
(d) Lobbies of theaters;
(e) Bars;
(f) Retail tobacco stores;
(g) Property owned or leased by federal, state, or other government entities, except that the provisions of this Chapter shall apply to property owned or occupied by the City of Bloomington.

SECTION IV. Section 6.12.040 Designated smoking areas shall be repealed and reenacted to read as follows:

(a) Separate rooms or areas in which smoking is permitted may be designated in restaurants, health care facilities, public meetings, public places, theaters, libraries, musesum and galleries provided that:
(1) such rooms or areas shall be reasonably separated from those rooms or areas where smoking is prohibited; and
(2) In designated smoking areas, physical barriers, ventilation systems, or open spaces shall be used to minimize the effect of smoke in adjacent nonsmoking areas.
(b) No public place covered by this chapter other than a bar or theater lobby shall be designated as a smoking area in its entirety; provided further that in restaurants, a "smoking area" may not exceed seventy-five percent (75%) of total available seating, unless a sign, conspicuously posted at all public entrances of the restaurant states "____% of available seating in this restaurant has been designated non-smoking." If a bar is designated as a smoking area in its entirety, this designation shall be posted conspicuously on all entrances normally used by the public.

SECTION V. Section 6.12.050 Posting of signs required shall be amended to add the following:

It shall be a violation of the provisions of this Chapter for any person to remove or deface a sign posted as required herein, and such person shall be subject to the penalty provisions contained in Section 6.12.060 of this Chapter.

SECTION VI. Section 6.12.060 Penalty. shall be repealed and reenacted to add the following:

Any person who violates any of the provisions of this chapter, or any person who removes or defaces any sign lawfully posted as required herein, shall be fined not less than ten dollars nor more than one hundred dollars. Each day a violation of this chapter shall continue constitutes a separate violation.

SECTION VII. If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

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

PASSED and ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 15 day of April, 1987.

TIMOTHY MAYER, President
Bloomington Common Council

ATTEST:

PATRICIA WILLIAMS, City Clerk

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 16 day of April, 1987.

PATRICIA WILLIAMS, City Clerk

SIGNED and APPROVED by me upon this 20 day of April, 1987.

TOMILEA ALLISON, Mayor
City of Bloomington

SYNOPSIS

This Ordinance, sponsored by Councilmember Service, amends Chapter 6.12 of the Bloomington Municipal Code entitled "Smoking in Public Places." The Ordinance would prohibit smoking in all public places in the City, except in lawfully designated smoking areas; restaurants would be required to set aside a minimum of 25% of seating space as a non-smoking section. Exceptions to the non-smoking prohibition include restaurants when used for private functions, bars, retail tobacco stores, public lobbies, and the common areas of shopping malls. The Ordinance also adds a provision that any person who removes or defaces a sign posted as required by the Chapter is subject to a fine of not less than $10 nor more than $100.

AMENDMENT FORM

ORDINANCE # 87-17 RESOLUTION #_____ APPROPRIATION ORDINANCE #_____

SUBMITTED BY: some restaurant owners

COMMITTEE ACTION: _____

PROPOSED AMENDMENT:

SECTION IV of Ordinance 87-17 shall be amended so that "Designated smoking areas" (b) shall read:

No public place covered by this chapter other than a bar or theater lobby shall be designated as a smoking area in its entirety; provided further that in restaurants, a "smoking area" may not exceed seventy-five percent (75%) of total available seating unless a sign, conspicuously posted at all public entrances of the restaurant, states "____% of available seating in this restaurant has been designated non-smoking." If a bar is designated as a smoking area in its entirety, this designation shall be posted conspicuously on all entrances normally used by the public.

SYNOPSIS

This amendment would permit a restaurant owner to set aside less than 25% of the restaurant as a non-smoking section, but would require that a sign stating the actual percentage of seats available to non-smokers be posted at all public entrances to the restaurant.