Denied: 3 (TM, TP, PS)
5
Sherman absent

ORDINANCE 99-52

TO AMEND CHAPTER 6.12 OF THE BLOOMINGTON MUNICIPAL CODE ENTITLED "SMOKING IN PUBLIC PLACES"
(Furthering the Intent of Ordinance 93-24 to Gradually Eliminate Designated Smoking Areas That Continued To Exist After November 15, 1993)

WHEREAS, prior to 1993 Chapter 6.12 of the Bloomington Municipal Code prohibited smoking in bars, restaurants, and other public places, except in certain locations and in designated smoking areas; and

WHEREAS, in 1993 the Common Council adopted Ordinance 93-24, which eliminated designated smoking areas in all public places, except those that were in operation or had commenced construction before November 15, 1996; and

WHEREAS, that ordinance also removed existing designated smoking areas in public places when those public places changed ownership, changed location, or ceased operation for more than six months; and

WHEREAS, by adopting that ordinance the City intended to prohibit smoking in public places over time by tying the elimination of designated smoking areas to important, discernable events in the life of an enterprise; and

WHEREAS, the City desires to prevent enterprises from using certain forms of ownership to retain designated smoking areas long after the time when these areas were to be eliminated; and

WHEREAS, the City desires to make a change in name another circumstance that removes designated smoking areas in a public place; and

WHEREAS, the City desires to reaffirm the policy that smoking is not permitted in bars; and

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

SECTION 1. Section 6.12.010 "Definitions", shall be amended to add Part (k) entitled "Change of ownership" which shall read as follows:

(k) "Changes ownership"; "Changed ownership"; "Change in ownership" all shall mean and include:

(1) Any change in ownership from a sole proprietor to a different sole proprietor, partnership, corporation or other legal entity; or
(2) Any change in ownership from a partnership to a sole proprietor, different partnership, corporation or other legal entity; or
(3) Any change in the majority interest or control of a partnership; or
(4) Any change in the majority interest or control of a corporation, specifically including, but not limited to, transfers of capital stock of a corporation; or
(5) Any change in the majority interest of a partnership, corporation or other legal entity that directly or indirectly owns a public place.

SECTION 2. Section 6.12.020 "Smoking prohibited in certain public places", shall be amended to add Part (j) which shall read as follows:

(j) Bars.

SECTION 3. Section 6.12.030 "Exceptions", Part (a) shall be amended to add the words "or changes names" after the words "or changes location".

FAILED

SECTION 4. Section 6.12.030 "Exceptions", Part (e) shall be amended to add the words "or changed names" after the words "changed location".

SECTION 5. This ordinance shall be in full force and effect upon its passage by the Common Council of the City of Bloomington and approval by the Mayor of the City of Bloomington.

SECTION 6. Severability. If any section, sentence or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid section, sentence, provision or application, and to this end the provisions of this ordinance are declared to be severable.

PASSED and ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this ____ day of _____, 1999.

_____
TIMOTHY MAYER, President
Bloomington Common Council

ATTEST:

_____
PATRICIA WILLIAMS, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this ____ day of _____, 1999.

_____
PATRICIA WILLIAMS, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this ____ day of _____, 1999.

_____
JOHN FERNANDEZ, Mayor
City of Bloomington

FAILED

SYNOPSIS

This ordinance is sponsored by Council Members Service and Sherman, and amends Chapter 6.12 of the Bloomington Municipal Code entitled "Smoking in Public Places. The amendments carry out the intent of the Council when it adopted Ordinance 93-24 by assuring the gradual elimination of designated smoking areas that continued to exist after November 15, 1993. In so doing, this ordinance reaffirms the prohibition against smoking in bars, clarifies the term "change of ownership," and adds a change of name as an event that causes loss of designated smoking areas in a public place.