

ORDINANCE NO. 2005 - 55

**AN ORDINANCE ESTABLISHING STANDARDS FOR CONSTRUCTION AND
USE OF SMOKING SHELTERS AND REGULATING THE LOCATION OF
RECEPTACLES FOR CIGARETTES, CIGARS AND OTHER SMOKING
EQUIPMENT**

The City Council of the City of Bloomington ordains:

Section 1. That Chapter 12 of the City Code is hereby amended to read as

follows:

CHAPTER 12

PUBLIC PEACE AND SAFETY

ARTICLE II. PROHIBITED CONDUCT

Division O. Smoking Prohibited

SEC. 12.81. PROHIBITIONS.

- (a) Except as provided in subsection (c), no person shall smoke in public places and places of work, including outdoor and bar areas of restaurants. The proprietor of an outdoor dining area or outdoor bar area of a restaurant may designate for smoking up to fifty percent (50%) of the outdoor seating capacity of the restaurant provided this location is appropriately signed as a smoking area.
- (b) To ensure that tobacco smoke does not enter public places and places of work and that persons entering such places are not exposed involuntarily to tobacco smoke, smoking is prohibited within twenty-five (25) feet of entrances, exits, open windows and ventilation intakes of public places and places of work.
- (c) The prohibitions of this Section do not apply to:
 - (1) Private residences.
 - (2) Motor vehicles.
 - (3) The use of tobacco as part of a traditional Indian spiritual or cultural ceremony.
 - (4) Sleeping rooms of hotels and motels which are rented to guests.
 - (5) Smoking shelters. Smoking shelters must comply with the performance standards for accessory buildings set forth in Section 19.50.02 of the City Code, provided that the maximum size of smoking shelters shall be 200 square feet and smoking shelters may be located in side yards.

Smoking shelters must be detached from principal buildings, be located more than twenty-five (25) feet from entrances, exits, open windows and ventilation intakes of public places and places of work and be no more than seventy-five (75) percent enclosed at any time. The percentage of enclosure is calculated based on the elevation area below the roof of all elevations. For calculation purposes, screens are not considered to be enclosures but louvers, windows and other solid materials qualify as enclosures. Consumption and service of food and alcoholic and nonalcoholic beverages is prohibited in smoking shelters. A proprietor may apply for a variance to the twenty-five (25) foot distance requirement or maximum size requirement for smoking shelters in accordance with Section 2.98.01 of the City Code.

SEC. 12.82. RESPONSIBILITIES OF PROPRIETORS.

The proprietor or other person in charge of a public place or place of work where smoking is prohibited shall:

- (a) Post "nonsmoking" signs that comply with the Minnesota Clean Indoor Air Act Rules, Minnesota Rules Part 4620.0500;
- (b) Ensure that ashtrays, lighters and matchbooks are not provided in areas where smoking is prohibited[; and]. Receptacles for the deposit of cigarettes, cigars and other smoking equipment that have been extinguished may be located outdoors within twenty-five (25) feet of entrances to public places and places of work, provided that such receptacles are also located beyond twenty-five (25) feet from entrances, exits, open windows and ventilation intakes of public places and places of work; and
- (c) Ask any person who smokes in an area where smoking is prohibited to refrain from smoking and, if the person does not refrain from smoking after being asked to do so, ask the person to leave and use any other means which may be appropriate to obtain compliance.

Passed and adopted this 19th day of December 2005.

/s/ Gene Winstead

Mayor

ATTEST:

/s/ Barbara A. Clawson

Secretary to the Council

APPROVED:

/s/ David R. Ornstein

City Attorney