

ORDINANCE NO. 138

City of Moose Lake, Minnesota

AN ORDINANCE PERTAINING TO THE REGULATION OF SMOKING IN RESTAURANTS

BE IT ORDAINED BY THE CITY COUNCIL, CITY OF MOOSE LAKE:

SECTION 1: TITLE

This ordinance shall be know as the City of Moose Lake Smoke Free Restaurant Ordinance.

SECTION 2: FINDINGS OF FACT AND PURPOSE

Tobacco smoke is a major contributor to indoor air pollution, and breathing secondhand smoke is a cause of disease, including lung cancer, in nonsmokers. At special risk are children, elderly people, individuals with cardiovascular disease, and individuals with impaired, respiratory function, including asthmatics and those with obstructive airway disease; and

Health hazards induced by breathing second-hand smoke include, but are not limited to, lung cancer, heart disease, respiratory infection and decreased respiratory function.

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.

Accordingly, the City Council finds and declares that the purposes of this ordinance are to protect the public health and welfare by prohibiting smoking in restaurants and to guarantee the right of nonsmokers to breather smoke-free air, and to recognize that the need to breathe smoke-free air shall have a priority over the desire to smoke.

SECTION 3: DEFINITIONS

The following words and phrases, whenever used in this ordinance shall be construed as defined in this section:

Subdivision 1. **Bar.** 'Bar' means an area, which is devoted to serving alcoholic beverages and in which serving food is only incidental to the consumption of such beverages.

Subd. 2. **Restaurant.** 'Restaurant' means any eating establishment, including without limitation, any coffee shop, cafeteria, take-out deli, cafe, sandwich shop, bakery, or other establishment serving food to members of the public, except that the term 'restaurant' shall not include a 'bar' as defined herein.

Subd. 3. **Smoking.** 'Smoking' means the inhaling, exhaling or combustion of any cigar, cigarette, pipe, tobacco product, weed, plant or any other similar article.

Subd. 4. **Tobacco product.** 'Tobacco product' means any substance containing tobacco leaf, including, but not limited to cigarettes, cigars and smoking tobacco.

SECTION 4. SMOKING PROHIBITED - RESTAURANTS

Smoking is prohibited in all restaurants in the City of Moose Lake

SECTION 5. POSTING OF SIGNS REQUIRED

Wherever this ordinance prohibits smoking, conspicuous signs shall be posted so stating, containing all capital lettering not less than one-inch in height, on a contrasting background. Signs of similar size containing the international 'no smoking' symbol consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it may be used in addition to or in lieu of any signs required hereunder. Such signs shall be placed by the owner, operator, manager, or other persons having control of such room, building, or other place where smoking is prohibited. Signs placed at each entrance of building in which smoking is totally prohibited shall be sufficient. Signs prohibiting smoking shall be posted and maintained at the expense of the owners of restaurants affected hereunder.

SECTION 6. VIOLATION AND PENALTIES

Subdivision 1. It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation under this ordinance to fail to comply with any of its provisions.

Subd. 2. It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this ordinance and where signage required under Section 5. is posted.

Subd. 3. Any person violating this ordinance, shall, upon conviction for the first offense, be guilty of a petty misdemeanor and subject to a fine not to exceed the maximum allowed under State law. Subsequent violations of this ordinance by any person convicted of a first violation shall constitute a misdemeanor, and upon conviction, be punishable by a fine and/or imprisonment in an amount or for a term not to exceed the maximums allowed by State law, plus the costs of prosecution. Each act of violation constitutes a separate offense.

SECTION 7. OTHER APPLICABLE LAWS

This ordinance is intended to complement the Minnesota Clean Indoor Air Act, Minn. Stat. §§ 144.411 to 144.417. This ordinance shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

SECTION 8. SEVERABILITY

If any provision, clause, sentence or paragraph of this ordinance or the application thereof to any person or circumstance 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 severable.

SECTION 9. EFFECTIVE DATE

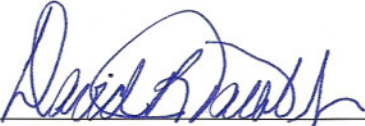
This ordinance shall take effect and be in force August 1, 2000, after its adoption and publication.

Passed by the City Council of the City of Moose Lake, Minnesota this 12th day of July , 2000.



Clayton C. Hartman
Mayor

ATTEST:



David R. Talbot, Jr.
City Administrator

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