



Board of Commissioners
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First District - Thomas Clifford, M.D.
 Second District - Derrick Goutermont
 Third District - Scott Larson
 Fourth District - Paul Bergman
 Fifth District - Lenore Johnson

LAKE COUNTY ORDINANCE #20

**LAKE COUNTY SMOKE-FREE PUBLIC PLACES AND PLACES OF WORK
 ORDINANCE**

The County Board of Lake County, Minnesota hereby ordains:

Whereas, in a 2006 Report of the United States Surgeon General, U.S. Surgeon General Carmona concluded that "exposure to secondhand smoke remains an alarming public health hazard" and that "more than 126 million nonsmokers are still exposed;" and

Whereas, numerous nationally recognized medical and scientific authorities, including the American Medical Association, the Surgeon General, the National Institute on Occupational Safety and Health, the National Cancer Institute, the Environmental Protection Agency, the National Academy of Sciences, the National Toxicology Program, and the World Health Organization have issued reports and health advisories addressing adverse effects of exposure to secondhand smoke; and

Whereas, tobacco smoke is a leading cause of disease in nonsmokers and a major source of indoor air pollution and secondhand smoke causes heart disease, lung cancer, respiratory infections, decreased respiratory function, and other health problems; and

Whereas, it is estimated that in the U.S., secondhand smoke causes about 46,000 (a range of 22,700 to 69,600) deaths per year from cardiac-related illnesses (including 700 to 1,240 deaths among Minnesotans), and 3,400 deaths per year from lung cancer; and

Whereas, it is estimated that between 24,300 and 71,900 low birth-weight or pre-term deliveries, about 202,300 episodes of childhood asthma (new cases and exacerbations), between 150,000 and 300,000 cases of lower respiratory illnesses in children, and about 789,700 cases of middle ear infections in children occur in the United States each year as a result of exposure to secondhand smoke; and

Whereas, there is no known safe level of exposure to secondhand smoke and neither the separation of smokers and nonsmokers nor the introduction of new ventilation systems can eliminate the health hazards it causes; and

Wilma H. Rahn
 Administrative Clerk of the Board

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Whereas, many millions of Americans, including Lake County residents, both minors and adults, are still exposed to secondhand smoke in their workplaces and homes, despite substantial progress in tobacco control; and

Whereas, objective evidence does not support fears that restricting smoking in enclosed, indoor areas will harm a community's economy, and many independent economic studies drawn from the experiences of hundreds of communities that have successfully eliminated smoking in workplaces and public places have shown that the elimination of smoking has no material economic impact on a community; and

Whereas, restricting smoking in places of work and public places can help to reduce youth exposure to secondhand smoke and model smoke-free behavior, and

Whereas, public health policies, ordinances, and other laws are part of the system by which people learn behaviors, guide youth, reduce health threats, and reinforce community norms that support the public's health; and

Whereas, the Lake County Board of Commissioners is also this County's Board of Health: and

Whereas, Minnesota Statutes, Chapter 145A, Sections 145A.04 and 145A.05 of the Local Public Health Act, establish the powers and duties of a Board of Health to:
(a) Adopt ordinances to regulate actual or potential threats to the public health;
(b) define public health nuisances; and (c) provide for their prevention; and

Whereas, due public notice has been provided, public informational meetings have been held, and a public hearing was conducted by the Lake County Board of Commissioners on May 24, 2007, pursuant to Minnesota Statutes, Section 375.51;

NOW, THEREFORE, BE IT RESOLVED that the Lake County Board of Commissioners hereby adopts the "Lake County Smoke-Free Public Places and Places of Work Ordinance" as on file in the County Administrator's office on this May 24, 2007:

SECTION I. TITLE

This Ordinance shall be known as the Lake County Smoke-Free Public Places and Places of Work Ordinance.

SECTION II. PURPOSE AND JURISDICTION

Subsection A.

The purpose of this Ordinance is to:

1. Protect the public health, welfare and safety of the people of Lake County from the adverse effects of secondhand smoke by better ensuring their ability to breathe safe and uncontaminated air;
2. Affirm that the right to breathe clean air has the priority over the desire to smoke; and

3. Protect vulnerable populations, including children, employees, the elderly, and those with chronic health conditions from the adverse effects of secondhand smoke pursuant to the powers granted under Minnesota Statute, Chapters 145A and 375.

Subsection B.

This Ordinance applies throughout all of Lake County, including the municipalities therein.

Subsection C.

Nothing in this Ordinance shall prevent other local levels of government from adopting more restrictive measures to protect citizens from secondhand smoke.

SECTION III. DEFINITIONS

Subsection A.

"Food establishment" means any establishment, however designated, engaged in the preparation of food or beverages for consumption either on or off the premises, or anywhere consumption of food occurs on the premises. This term includes any establishment that has an on-sale non-intoxicating malt liquor license, an on-sale intoxicating liquor license, an on-sale wine license, and/or a strong beer liquor license issued by the State of Minnesota, the municipality within which it is located, or Lake County.

Subsection B.

"Other Person in Charge" means the agent of the Proprietor authorized to provide administrative direction to, and general supervision of, the activities within a public place or place of work at any given time.

Subsection C.

"Place of Work" means any enclosed, indoor location at which two or more individuals perform any type of service for consideration of payment under any type of contractual relationship including, but not limited to, an employment relationship with or for a private corporation, partnership, individual, or government agency. This term includes any enclosed, indoor location where two or more individuals gratuitously perform services for which individuals are ordinarily paid. Examples of a "place of work" include enclosed, indoor areas of an office, a public conveyance, a factory, a warehouse, a hotel or motel, and other locations where services are performed under an employment relationship. Enclosed, indoor areas of private clubs and rooms used for private meetings or social functions are "places of work" if two or more persons acting under a contractual relationship provide cleaning, catering, food and beverage service, maintenance, or other support services in the location.

Subsection D.

"Proprietor" has the meaning specified by the Minnesota Clean Indoor Air Act Rules, part 462.0 100, subd.13, as amended from time to time.

Subsection E.

"Public Place" means any enclosed, indoor area used by the general public or serving as a place of work, including, but not limited to, food establishments, retail stores, offices and other commercial establishments, public conveyances, educational facilities other than public schools, hospitals, auditoriums, arenas, meeting rooms, and common areas of apartment buildings, condominiums or similar buildings.

Subsection F.

"Smoking" means inhaling or exhaling smoke from any lighted cigarette, cigar, pipe, or any other lighted tobacco or plant product. Smoking includes possessing or carrying of a lighted cigarette, cigar, pipe or any other lighted tobacco or plant product intended for inhalation.

SECTION IV. PROHIBITIONS

Subsection A.

Except as provided in subsection (C), no person shall smoke in public places and places of work, including outdoor dining or bar areas of food establishments. The proprietor of an outdoor dining or bar area of a food establishment may designate for smoking up to 50% of the outdoor seating capacity of the restaurant provided this location is appropriately signed as a smoking area.

Subsection 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 ten (10) feet of entrances, exits, open windows and ventilation intakes of public places and places of work.

Subsection C.

The prohibitions of this section do not apply to:

1. **Scientific study participants.** Smoking by participants in peer reviewed scientific studies related to the health effects of smoking may be allowed in a separated room ventilated at a rate of 60 cubic feet per minute per person pursuant to a policy that is approved by the commissioner and is established by the administrator of the program to minimize exposure of nonsmokers to smoke.
2. **Traditional Native American ceremonies.** Smoking by a Native American as part of a traditional Native American spiritual or cultural ceremony is allowed. For purposes of this section, a Native American is a person who is a member of an Indian tribe as defined in Minn. Stat. # 260.755, subdivision 12.
3. **Private places.** This ordinance does not prohibit smoking in:

- a) private homes, private residences, or private automobiles when they are not in use as a place of employment, or
 - b) sleeping rooms of hotels and motels which are rented to guests and which are designated as smoking-permitted rooms by the proprietor or other person in charge.
4. **Tobacco products shop.** This ordinance does not prohibit the lighting of tobacco in a tobacco products shop by a customer or potential customer for the specific purpose of sampling tobacco products. For the purposes of this subdivision, a tobacco products shop is a retail establishment with an entrance door opening directly to the outside that derives more than 90 percent of its gross revenue from the sale of loose tobacco, plants, or herbs and cigars, cigarettes, pipes, and other smoking devices for burning tobacco and related smoking accessories and in which the sale of other products is merely incidental. "Tobacco products shop" does not include a tobacco department or section of any individual business establishment with any type of liquor, food, or restaurant license.
5. **Heavy commercial vehicles.** Smoking in the cabs of motor vehicles registered under Minn. Stat. # 168.013, subdivision 1e, with a total gross weight of 26,001 pounds or greater.
6. **Farm vehicles and construction equipment.** This ordinance does not prohibit smoking in farm trucks, as defined in Minn. Stat. # 168.011, subdivision 17; implements of husbandry, as defined in Minn. Stat. # 168A.01, subdivision 8; and special mobile equipment, as defined in Minn. Stat. # 168.011, subdivision 22. This subdivision applies to farm trucks, implements of husbandry, and special mobile equipment, when being used for their intended purposes.
7. **Family farms.** This ordinance does not prohibit smoking in the house, garage, barns, and other buildings on a family farm that meets the following criteria: a) the family farm is engaged in farming, as defined in Minn. Stat. # 500.24, subdivision 2, paragraph (a); b) the family farm meets the definition of family farm under Minn. Stat. # 500.24, subdivision 2, paragraph (b), (c), (j), or (l); and c) the family farm employs two or fewer persons who are not family members.
8. **Theatrical productions.** This ordinance does not prohibit smoking by actors and actresses as part of a theatrical performance conducted in compliance with Minn. Stat. # 366.01. Notice of smoking in a performance shall be given to theater patrons in advance and shall be included in performance programs.

SECTION V. RESPONSIBILITIES OF PROPRIETORS

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

Subsection A. Post "No Smoking" signs that comply with the Minnesota Clean Indoor Air Act Rules, Minnesota Rules part 4620.0500, as amended from time to time;

Subsection B. Ensure that no ashtrays, lighters, matchbooks, smoking papers or water pipes, including hookahs or similar water pipes, are provided in any area where smoking is prohibited as specified in this Lake County Ordinance; and

Subsection C. Ask any person who smokes in an area where smoking is prohibited, to refrain from smoking and, if the person does not comply with this request, ask the person to leave and, if the person refuses to leave, contact the appropriate law enforcement authorities.

SECTION VI. PRIVATE PROHIBITIONS

Nothing in this Ordinance prevents the proprietor or other person in charge of any place, including, without limitation, any residence, motor vehicle, hotel, motel, or other lodging place, or any outdoor space, from prohibiting or further restricting smoking in any such place.

SECTION VII. RETALIATION PROHIBITED

No person or employer shall discharge, refuse to hire, penalize, discriminate against, or in any manner retaliate against any employee, applicant for employment or customer because the employee, applicant, or customer exercises any right to a smoke free environment provided by this Ordinance or other current law.

SECTION VIII. OTHER APPLICABLE LAWS

This Ordinance is intended to complement the Minnesota Clean Indoor Air Act, Minnesota Statute # 114.411 to # 144.17, as amended from time to time. Nothing in this Ordinance authorizes smoking in any location where smoking is prohibited or restricted by other laws.

SECTION IX. VIOLATION AND PENALTIES

Subsection A. Smoking where prohibited.

It is a violation of this Ordinance for any person to smoke in an area where smoking is prohibited by this Ordinance or by a private policy established by the proprietor or other person in charge of the area, as authorized by SECTION VI.

Subsection B. Proprietors.

It is a violation of this Ordinance for the proprietor or other person in charge of any premises subject to this Ordinance to fail to comply with the requirements of SECTION V, or to retaliate against an employee, applicant for employment, or customer, as prohibited in SECTION VII.

Subsection C. Penalties.

A person who violates any provision of this Ordinance shall be guilty of a petty misdemeanor and subject of a fine of up to three hundred dollars (\$300.00) for the first offense. Any subsequent violation of any provision of this Ordinance shall be a misdemeanor. Each day of violation constitutes a separate offense.

Subsection D. Enforcement.

Responsibility for enforcement of this Ordinance is with law enforcement agencies.

Subsection E. Injunctive Relief.

In addition to the penalties provided in Subsection C, the City or County Attorney may bring a civil action against a proprietor or other person in charge of public place or place of work to enjoin repeated or continuing violations of this Ordinance.

SECTION X. SEVERABILITY

If any portion of this Ordinance, or its application to any circumstances, is held invalid, the remaining provisions shall be considered severable, and shall be given effect to the maximum extent possible.

SECTION XI. EFFECTIVE DATE

This Ordinance shall take effect October 1, 2007.

SECTION XII. ADOPTION OF ORDINANCE

Passed by the County Board of Commissioners this 24th day of May, 2007.

Commissioner Larson moved the adoption of the foregoing resolution and the same was declared adopted upon unanimous yea vote of all members present.
Absent: None


State of Minnesota)

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County of L A K E)

I, Wilma H. Rahn, Clerk of the Board, Lake County, Minnesota, do hereby certify that I have compared the foregoing resolution with the original filed in my office on the 24th day of May, 2007, and that the same is a true and correct copy of the whole thereof.

WITNESS my hand and seal of office at Two Harbors, Minnesota this 20th day of June, 2007.



Wilma H. Rahn
Clerk of the Board



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OFFICE OF THE
REGISTRAR OF TITLES
LAKE COUNTY, MINNESOTA

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RECORDED ON
06/20/2007 04:15PM

ERICA KOSKI
REGISTRAR OF TITLES

BY Gori Ekstrom Deputy

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OFFICE OF THE
COUNTY RECORDER
LAKE COUNTY, MINNESOTA

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ERICA KOSKI
LAKE COUNTY RECORDER

BY NK Nolan Deputy