

ORDINANCE NO. 892

AN ORDINANCE, WHICH UPON ADOPTION, SHALL BE CODIFIED AS CHAPTER 8.30 OF THE DEVILS LAKE MUNICIPAL CODE.

BE IT ORDAINED, by the City Commission of the City of Devils Lake, North Dakota, pursuant to the Home Rule Charter of the City of Devils Lake, that Ordinance No. 892 shall be codified as Chapter 8.30 of the Municipal Code, shall be adopted to provide as follows:

8.30.010 SMOKING IN PUBLIC INDOOR WORKPLACES PROHIBITED:

A. The provisions of Sections 23-12-09 through 23-12-11 of the North Dakota Century Code as now enacted, are hereby adopted, except as provided in Section B, and shall govern the regulation of smoking in public places and places of employment as if set out in this Chapter.

B. The exemptions from the prohibition of smoking in public places set forth in Section 23-12-10 (2) f, g, and h, as set out below, are deleted, and smoking is also prohibited in those places within the city limits:

- f. Bars.
- g. Any place of public access rented or leased for private functions from which the general public and children are excluded and arrangements for the function are under the control of the function sponsor.
- h. Separately enclosed areas in truck stops which are accessible only to adults.

C. Any business in which smoking is not permitted may construct a smoking shelter for customers or employees to smoke outside the enclosed premises for which smoking is prohibited. Provided, if the smoking shelter has a roof, at least three walls of the smoking shelter must provide an opening of at least 25% of the surface area of each such wall. No other wall, fence, roof overhang or other obstruction of any kind may be located within five feet of the openings if they have the effect of blocking the free flow of air through the required openings. The percentage of the opening is calculated based on the surface area below the ceiling. Combination glass/screen windows or doors that may be "open" or "closed" will not be counted toward the open space of a shelter. If one wall of the shelter is also a wall for the business, that wall must be a solid wall with no openings other than a solid door, which door must be closed at all times except for people entering or exiting the shelter. In addition, if the shelter has a roof and is attached to the business, a power ventilator must be installed in the shelter at its highest point and used whenever smoking is occurring in the shelter. A proper building permit must be obtained for each shelter. If the smoking shelter area is added to the licensed liquor premises, customers may bring alcoholic beverages and food into the shelter, but no service of alcoholic beverages or food will be allowed in the smoking shelter. At least one entrance of a licensed liquor premises must not require a customer to go through a smoking shelter to enter the licensed

premises.

D. Smoking is permitted on outdoor patios, terraces, decks, courtyards, sidewalks, or porches of a bar, provided it is not on public property or right of way, and smoke does not enter any area where smoking is prohibited. The outdoor patio, terrace, deck, courtyard, sidewalk, or porch must comply with all building codes. Alcoholic beverages or food are allowed to be consumed, but not served, on the outdoor patio, terrace, deck, courtyard, sidewalk, or porch, provided it is included as part of the licensed premises of the bar.

8.30.020 Penalty

A. An individual who smokes in an area in which smoking is prohibited by this Chapter is guilty of an infraction.

B. An owner or other person with the general supervisory responsibility over a public place or place of employment who willfully fails to comply with this chapter is guilty of an infraction, subject to a fine not to exceed one hundred dollars for the first violation, to a fine not to exceed two hundred dollars for the second violation within one year, and a fine not to exceed five hundred dollars for each additional violation within one year of a preceding violation.

Passed First Reading: 12/6/10

Passed Second Reading: 12/20/10

Final Passage and Adoption: 12/20/10

CITY OF DEVILS LAKE

By: _____

Richard Johnson, President
Devils Lake City Commission

ATTEST:

Terry L. Johnston
City Auditor