

**To:** Council

**From:** Steve Volan, Councilmember, District VI

**Date:** December 1, 2023

**Re: Ordinance 23-31: closed captioning in public accommodations**

This ordinance adds Section 2.23.240 to Bloomington Municipal Code to require that any establishments that display television programming in their places of business for the benefit of customers, clients or patients should have closed captioning active on those TVs whenever they are open to the public.

**"Places of public accommodation"**

BMC 2.23.120 (23) defines a "public accommodation" as "any establishment which offers its services, facilities, or goods to the general public." The most likely place people are likely to think of as a place of public accommodation where this ordinance would apply is a bar or restaurant with TVs showing sporting events, news channels or entertainment programming. But places with televisions in their lobbies, sales floors or waiting rooms also count as public accommodations, like big-box stores with TVs for sale; banks; hotels; entertainment centers like cinemas, bowling alleys or pool halls; hospitals, medical offices, and barber and beauty shops. In short, any place that provides TV programming as a service to their patrons, patients or clients should be turning on the closed captioning feature as a matter of course. (Thanks to the permanent establishment of hybrid meetings through Zoom software, the Common Council already complies with the letter and spirit of this ordinance.)

**Specifics**

The ordinance would require those places of public accommodation with TVs to turn on captioning during their operating hours, whether those be "normal business hours" from 9 to 5 weekdays, whenever waiting rooms or sales floors are open, or 24 hours a day in the case of some medical facilities. Captioning would not need to be on before or after hours if only employees are present. Enforcement would be handled in the same way as any potential Human Rights violation: in response to a complaint, and addressed through the city's adjudication process for such complaints.

While captioning may seem to the casual observer like a requirement too trivial to be deserving of an ordinance, it's significant to those with hearing loss. It removes a barrier, relieves an obligation to request accommodation to be treated equally in public, and relieves the indignity of having to reveal, explain or justify the need for accommodation. And it serves everyone who is temporarily unable to hear TVs in crowded and noisy public environments.

There are also reasonable exceptions to this requirement. An establishment does not need to power a TV on if it is off, or replace, upgrade or modify a TV that does not have captioning ability. In places with a wall of TVs like a bar or big-box store, only one TV in five must have captioning on. These exceptions underscore the very modest obligation the city is placing on public place providers -- once they press a certain button sequence, they can forget about it.

**Origin of the ordinance**

On the heels of working with Michael Shermis, the city's Human Rights Director, on Res. 23-11, earlier this year to enshrine Accessible Transportation and Mobility Principles into the city's Transportation Plan, he brought to my attention the Indiana Association of the Deaf's interest in a closed-captioning ordinance. They have for several years been lobbying for a statewide requirement at the General Assembly without success, and have turned instead toward trying to get local communities to pass ordinances to require closed-captioning.

A very informative August meeting occurred during which I and Christopher Emge of the Chamber of Commerce met with Mike Chin and Stephanie Thorpe of the civil rights office in Seattle where they passed a captioning ordinance, to learn more about their outreach to Seattle-area businesses and other entities to inform them of their ordinance's requirements.

The ordinance before you has been endorsed by the Council for Community Accessibility and the Bloomington/Monroe County Human Rights Commission. I've been working with Holly Elkins, the IAD's Legislative Chair who lives in Bloomington, and Mr. Shermis to get the fine points right. The original draft of the ordinance contemplated a two-year phase-in and education period for local establishments, but the IAD and CCA both recommended a start date of January 1, 2025, which I now also endorse.

I want to thank them and everyone else who has contributed to the discussion for their efforts. This particularly includes Stephen Lucas and Ash Kulak from Council staff, who have done excellent work to research and prepare the language for this final ordinance I'm sponsoring. They've made my final term in office a very satisfying experience, and I'll miss working with them.

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In conclusion, I encourage your support of Ordinance 23-31. It's a reasonable and modest change to city code that has broad support. It also furthers our Comprehensive Plan's goals of inclusivity and resilience in our public spaces by making them more accessible. It would be a positive and constructive final ordinance for this Council to approve.

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