

CHAPTER 99: SMOKING IN PUBLIC PLACES

Section

§99.01 Definitions

§99.02 Smoking Prohibited in Public Places and Places of Employment

§99.03 Exemptions

§99.04 Designation of Other No-Smoking Areas

§99.05 Responsibilities of Proprietors

§99.06 Enforcement

§99.07 Penalties

§99.01 DEFINITIONS.

As used in this Chapter, the below terms shall have the following ascribed meanings:

BAR: An establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and that derives no more than 10% of its gross revenue from the sale of food consumed on the premises. “Bar” includes, but is not limited to, taverns, nightclubs, cocktail lounges, adult entertainment facilities, and cabarets.

EMPLOYEE: A person who is employed by an employer in consideration for direct or indirect monetary wages or profits or a person who volunteers his or her services for a non-profit entity.

EMPLOYER: A person, business, partnership, association, or corporation, including a municipal corporation, trust, or non-profit entity, that employs the services of one or more individual persons.

ENCLOSED AREA: All space between a floor and a ceiling that is enclosed or partially enclosed with (i) solid walls or windows, exclusive of doorways; or (ii) solid walls with partitions and no windows, exclusive of doorways, that extend from the floor to the ceiling, including, without limitation, lobbies and corridors.

ENCLOSED OR PARTIALLY ENCLOSED SPORTS ARENA: Any sports pavilion, stadium, gymnasium, health spa, boxing arena, swimming pool, roller rink, ice rink, bowling alley, or other similar place where members of the general public assemble to engage in physical exercise or participate in athletic competitions or recreational activities or to witness sports, cultural, recreational, or other events.

GAMING EQUIPMENT OR SUPPLIES: Gaming equipment/supplies as defined in the Illinois Gaming Board Rules of the Illinois Administrative Code.

GAMING FACILITY: An establishment utilized primarily for the purposes of gaming and where gaming equipment or supplies are operated for the purposes of accruing business revenue.

HEALTHCARE FACILITY: An office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including, but not limited to, hospitals, rehabilitation hospitals, weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists within these professions. “Healthcare facility” includes all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within healthcare facilities.

PLACE OF EMPLOYMENT: Any area under the control of a public or private employer that employees are required to enter, leave, or pass through during the course of employment, including, but not

limited to entrances and exits to places of employment, including a minimum distance of 15 feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited; offices and work areas; restrooms; conference and classrooms; break rooms and cafeterias; and other common areas. A private residence or home based business, unless used to provide licensed child care, foster care, adult care, or other similar social service care on the premises, is not a “place of employment.”

PRIVATE CLUB: A not-for-profit association that (i) has been in active and continuous existence for at least 3 years prior to the effective date of this amendatory Act of the 95th General Assembly, whether incorporated or not; (ii) is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times; (iii) is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain; and (iv) only sells alcoholic beverages incidental to its operation. For purposes of this definition, “private club” means an organization that is managed by a board of directors, executive committee, or similar body chosen by the members at an annual meeting, has established bylaws, a constitution, or both to govern its activities, and has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. 501.

PRIVATE RESIDENCE: The part of a structure used as a dwelling, including, without limitation: a private home, townhouse, condominium, apartment, mobile home, vacation home, cabin, or cottage. For the purposes of this definition, a hotel, motel, inn, resort, lodge, bed and breakfast or other similar public accommodation, hospital, nursing home, or assisted living facility shall not be considered a private residence.

PUBLIC PLACE: That portion of any building or vehicle used by and open to the public, regardless of whether the building or vehicle is owned in whole or in part by private persons or entities, the State of Illinois, the Village of Deer Park, or any other public entity and regardless of whether a fee is charged for admission, including a minimum distance of 15 feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited. A “public place” does not include a private residence unless the private residence is used to provide licensed child care, foster care, or other similar social service care on the premises. A ‘public place’ includes, but is not limited to, hospitals, restaurants, retail stores, offices, commercial establishments, elevators, indoor theaters, libraries, museums, concert halls, public conveyances, educational facilities, nursing homes, auditoriums, enclosed or partially enclosed sports arenas, meeting rooms, schools, exhibition halls, convention facilities, polling places, private clubs, gaming facilities, all government-owned vehicles and facilities, healthcare facilities or clinics, enclosed shopping centers, retail service establishments, financial institutions, educational facilities, ticket areas, public hearing facilities, public restrooms, waiting areas, lobbies, bars, taverns, bowling alleys, skating rinks, reception areas, and no less than 75% of the sleeping quarters within a hotel, motel, resort, inn, lodge, bed and breakfast, or other similar public accommodation that are rented to guests, but excludes private residences.

RESTAURANT: An eating establishment, including, but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, that gives or offers for sale food to the public, guests, or employees, and a kitchen or catering facility in which food is prepared on the premises for serving elsewhere. ‘Restaurant’ includes a bar area within the restaurant.

RETAIL TOBACCO STORE: A retail establishment that derives more than 80% 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, “retail tobacco store” does not include a tobacco department or section of a larger commercial establishment or any establishment with any type of liquor, food, or restaurant license. “Smoke” or “smoking” means the carrying, smoking, burning, inhaling, or exhaling of any kind of lighted pipe, cigar, cigarette, hookah, weed, herbs, or any other lighted smoking equipment.

SMOKE OR SMOKING: Inhaling, exhaling, burning or carrying any lighted or burning cigarette, cigar, pipe, hookah pipe, pipe weed, or other lighted tobacco product in any manner or in any form.

§99.02 SMOKING PROHIBITED IN PUBLIC PLACES AND PLACES OF EMPLOYMENT.

- (1) It shall be unlawful for any person to smoke in any public place or place of employment within the Village of Deer Park.
- (2) It shall be unlawful for any person to smoke in any place designated as a “No Smoking Area,” as provided in Section 99.05 of this Chapter.
- (3) It shall be unlawful for an employer to knowingly permit smoking in any enclosed area in any place of employment.
- (4) It shall be unlawful for an employer, owner, occupant or lessee in control of a public place to knowingly permit smoking in any enclosed area in said public place.
- (5) It shall be unlawful for an employer, owner, occupant or lessee in control of a public place to fail to post signage or remove ash trays, as provided in Section 99.05 of this Chapter.

§99.03 EXEMPTIONS.

The prohibitions on smoking set forth in this Chapter shall not apply to:

- (1) Hotel and motel sleeping rooms that are rented to guests and are designated as smoking rooms; provided that all smoking rooms on the same floor must be contiguous and smoke from these rooms must not infiltrate into nonsmoking rooms or other areas where smoking is prohibited under the provisions of this Chapter. Not more than 25% of the rooms rented to guests in a hotel or motel may be designated as rooms where smoking is permitted. The status of rooms as smoking or nonsmoking may not be changed, except to add additional non-smoking rooms.
- (2) Private vehicles, not including public transportation facilities or government vehicles.
- (3) Private residences or dwelling places except when used as a child care, adult day care, health care facility, or any other home-based business open to the public.
- (4) Private and semi-private rooms in nursing homes and long-term care facilities that are occupied by one or more persons, all of whom are smokers and have requested in writing to be placed in a room where smoking is permitted.
- (5) Any public place or place of employment that is a tobacco dealer, whose principal business is the sale of retail of tobacco and tobacco-related products; provided that smoke generated by smoking on the premises of the tobacco dealer does not infiltrate into enclosed areas where smoking is otherwise prohibited; and no food or liquor license has been granted.

§99.04 DESIGNATION OF OTHER NO-SMOKING AREAS.

Notwithstanding any other provision of this Chapter, any employer, owner, occupant, lessee, operator, manager, or other person in control of any public place or place of employment may designate a non-

enclosed area of said public place or place of employment, including outdoor areas, as an area where smoking is also prohibited, provided that such employer, owner, lessee or occupant shall conspicuously post signs prohibiting smoking in the manner described in Section 99.05 of this Chapter.

§99.05 RESPONSIBILITIES OF PROPRIETORS.

Each owner, lessee, occupant, employer or other person in control of a public place or a place of employment shall be responsible for all the following:

- (1) Post conspicuous signs in enclosed areas and the entrance or vestibule to the public place, place of employment or the building wherein they are located, as the case may be, bearing the text “No Smoking” or the international “No Smoking” symbol, which consists of a pictorial representation of a cigarette enclosed in a circle with a bar across it. Such signs shall also be posted outside of the main entrance to the public place or place of employment, and shall reference the fifteen foot buffer zone in which smoking is prohibited.
- (2) Remove ash trays or other similar containers intended for the deposit of tobacco ash, cigarettes, cigars or other tobacco products from public places.
- (3) Request any person who smokes in an area where smoking is prohibited to refrain from smoking, and if the person continues to smoke, request the person to leave.
- (4) Notify employees regarding the requirements of this Chapter.

§99.06 ENFORCEMENT.

- (1) This Chapter shall be enforced by the Village of Deer Park and the Lake County Sheriff’s Office.
- (2) Notice of the provisions of this Chapter shall be given to all applicants for a business license in the Village of Deer Park.
- (3) Any citizen who desires to register a complaint under this Chapter may initiate enforcement by contacting the Lake County Sheriff’s Office.
- (4) An employer, owner, lessee, manager, operator, or employee of an establishment regulated by this Chapter shall inform persons violating this Chapter of the appropriate provisions thereof and request that the violator cease smoking in a prohibited area and, if the person continues to smoke, request the person to leave.

§99.07 PENALTIES.

- (1) Any person who shall violate Section 99.03 or 99.04 of this Chapter shall, on conviction thereof, be punished by a fine of \$100 for a first violation and \$250 for any subsequent violations within one year and shall be responsible for the Village’s cost of prosecution, including but not limited to attorney fees, court costs and other costs and expense incurred by the Village thereto. Each day in which a violation occurs constitutes a separate and distinct violation.
- (2) Any person who shall violate Section 99.02 of this Chapter shall, on conviction thereof, be punished by a fine of \$500.00 upon conviction for the first violation and \$750.00 for each subsequent conviction stemming from a violation within one year of the initial violation and shall be responsible for the Village’s cost of prosecution, including but not limited to attorney fees, court costs

and other costs and expense incurred by the Village thereto. Each separate instance of a violation or each day on which a continuing violation of Section 99.02 occurs constitutes a separate and distinct violation.

- (3) Any person who shall violate Section 99.05 of this Chapter shall, on conviction thereof, be punished by a fine of \$250 for each violation and shall be responsible for the Village's cost of prosecution, including but not limited to attorney fees, court costs and other costs and expense incurred by the Village thereto. Each day during which a violation of Section 99.05 continues beyond the specified time for correction shall constitute a separate punishable offense, although owners, operators, managers or other controllers of public places and places of employment shall be given a reasonable time to come in to compliance with Section 99.05 following issuance of a notice of violation, but such period shall not, in any event, exceed one week.
- (4) In addition to the fines established by this Section, violation of this Chapter by a person who owns, manages, operates, or otherwise controls a public place or place of employment may result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.
- (5) Violation of this Chapter is hereby declared to be a public nuisance, which may be abated by an action in the Circuit Court for injunctive relief or other means provided for by law, and the Village may take action to recover the costs of the nuisance abatement.

(Ord. 07-25, passed 10/22/07) (Amd. Ord. 15-02 passed 3/16/15, 12-06 passed 3-19-12)

Z:\D\DEER PARK\Code\TTL IX-Chapt 99-Smoking in Public Places-3-15.docx