

BURR RIDGE VILLAGE CODE

CHAPTER 44

SMOKING BAN – PUBLIC PLACES

Sec. 44.01	Findings
Sec. 44.02	Definitions
Sec. 44.03	Village-owned Facilities
Sec. 44.04	Prohibition of Smoking in Public Places
Sec. 44.05	Prohibition of Smoking in Unenclosed Public Places and Outdoor Venues
Sec. 44.06	Prohibition of Smoking in Open Air Dining
Sec. 44.07	Reasonable Distance
Sec. 44.08	Declaration of Establishment as Non-smoking
Sec. 44.09	Non-retaliation
Sec. 44.10	Violations and Penalties
Sec. 44.11	Other Applicable Laws
Sec. 44.12	Severability

Chapter 44 added by Ordinance 1067, dated April 10, 2006

Village of Burr Ridge

Chapter 44

SMOKING BAN – PUBLIC PLACES

Sec. 44.01

Findings

- A. Secondhand smoke, which contains 4,000 chemicals, 63 of which cause cancer, is the third leading cause of preventable death in the United States, and the National Cancer Institute determined in 2000 (Monograph #10) that secondhand smoke is responsible for the early deaths of as many as 65,000 Americans annually.
- B. Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution, and that breathing secondhand smoke (also known as environmental tobacco smoke) is a cause of disease in healthy nonsmokers, including heart disease, strokes, respiratory disease, and lung cancer.
- C. The Public Health Service's National Toxicology Program has listed secondhand smoke as a known carcinogen (U.S. DHHS, 2000, citing Cal. EPA, 1997).
- D. The ills of smoking and secondhand smoke are well documented in all of the independent medical studies and secondhand smoke is particularly hazardous to elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease.
- E. Children exposed to secondhand smoke have an increased risk of asthma, respiratory infections, sudden death syndrome, development abnormalities, and cancer.
- F. The Americans With Disabilities Act, which requires that disabled persons have access to public places and workplaces, deems impaired respiratory function to be a disability.
- G. (1) The U.S. Surgeon General has determined that the simple separation of smokers and nonsmokers within the same air space may reduce, but does not eliminate, the exposure of nonsmokers to secondhand smoke; (2) the Environmental Protection Agency has determined that secondhand smoke cannot be reduced to safe levels in businesses by high rates of ventilation; (3) air cleaners, which are only capable of filtering the particulate matter and odors in smoke, do not eliminate the known toxins in secondhand smoke; (4) American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) bases its ventilation standards on totally smoke-free environments because it cannot determine a safe level of exposure to secondhand smoke, which contains cancer-causing chemicals, and ASHRAE acknowledges that the technology does not exist that can remove from the air chemicals that cause cancer.
- H. A recently promulgated ASHRAE Position Document on Environmental Tobacco Smoke concludes that, at present, the only means of eliminating health risks associated with indoor exposure is to ban all smoking activity .
- I. The ASHRAE Position Document further concludes that no current ventilation, air cleaning or other technologies have been demonstrated to control health risks from environmental tobacco smoke exposure in spaces where smoking occurs.

- J. A significant amount of secondhand smoke exposure occurs in the workplace, and employees who work in smoke-filled businesses suffer a 25% to 50% higher risk of heart attack and higher rates of death from cardiovascular disease and cancer, as well as increased acute respiratory disease and a measurable decrease in lung function
- K. Smoke-filled workplaces result in higher worker absenteeism due to respiratory disease, lower productivity, higher cleaning and maintenance costs, increased health insurance rates and increased liability claims for diseases related to exposure to secondhand smoke.
- L. Numerous economic analyses examining restaurant and hotel receipts and controlling for economic variables have shown either no difference or a positive economic impact after enactment of laws requiring workplaces to be smoke-free
- M. Creation of smoke-free workplaces is sound economic policy and provides the maximum level of employee health and safety.
- N. Smoking is a potential cause of fires, cigarette and cigar burns and ash stains on merchandise and fixtures, and contributes to the economic damage of businesses.
- O. The Mayor and Board of Trustees find and declare that the purposes of this Chapter are (1) to protect the public health and welfare by prohibiting smoking in all public places and places of employment, and (2) to guarantee the right of nonsmokers to breathe smoke-free air which shall have priority over the desire to smoke .

Sec. 44.02

Definitions

Open Air Dining Area: Any seating area within the Village open to the air that is accessory to a restaurant, hotel, cafeteria, club, or other public place engaged in purveying commercial food or beverage service where members of the public, members or guests are invited to sit and receive food and beverage service for a consideration.

Outdoor Venue: Any outdoor theater, amphitheater, plaza, street, or other improved area that is used as a public venue or forum to which members of the general public are invited to listen, view or otherwise participate in an outdoor event within the Village.

Park: Any public park or recreation area within the Village that is open to and used by the general public.

Picnic: Any gathering of 6 or more persons, when a permit is issued to the group for such purpose by the Park District.

Public Place: Any open air dining area (as defined herein), park (as defined herein), outdoor venue (as defined herein), or enclosed indoor area used by the general public and/or to which the general public is invited or permitted, or which serves as a place of employment, including but not limited to :

- A. Health care facilities, nursing homes, food service establishments, restaurants, taverns/bars, retail food stores, banquet halls, commercial establishments, indoor theatres, libraries, museums, concert halls, public conveyances, educational facilities, auditoriums, arenas, common or public areas of condominium buildings and health care facilities (including nursing home care facilities), Laundromats, public transportation

facilities, marketing establishments, educational facilities, retail stores, convention facilities, bingo facilities, galleries, shopping malls, arenas and meeting rooms, polling places, school or other government buildings, offices and office buildings, factories, warehouses and other places of work.

- B. Restrooms, lobbies, reception areas, hallways, offices, elevators, and other common areas.
- C. Meeting places, meeting or conference rooms, cafeterias, room chambers, places of public assembly, offices used by more than one employee, residences (other than single-family detached homes) used as a day care facility .
- D. Taxis and vehicles of public conveyance .
- E. Facilities used for exhibiting a motion picture, stage, drama, lecture, musical recital or other similar performance .

A public place does NOT include:

- A. Private single-family detached residences used as a day care facility.
- B. Rooms rented for the purposes of living or sleeping quarters.

Sec. 44.03 Village-owned Facilities

All enclosed vehicles and facilities, including without limitation buildings and vehicles owned, leased or operated by the Village of Burr Ridge, shall be subject to the provisions of this Chapter 44

Sec. 44.04 Prohibition of Smoking in Public Places

Smoking shall be prohibited in all enclosed public places and places of employment within the Village of Burr Ridge

Sec. 44.05 Prohibition of Smoking in Unenclosed Public Places and Outdoor Venues

- A. It is unlawful to smoke in the following unenclosed public places and/or events :
 - 1. The seating areas of all outdoor arenas, stadiums and amphitheaters.
 - 2. Public parks and recreation areas within 15 feet of any play area, any playground, or any scheduled activity group of any kind including but not limited to a game, show, party, event or similar activity, but excluding, however, parades and picnics .
 - 3. School grounds.
 - 4. Public sidewalks within 15 feet of a public entrance, but excluding any person who is temporarily in such area for the purpose of walking or traversing through such area.

5. Public sidewalks within 15 feet of an open air dining area, but excluding any person who is temporarily in such area for the purpose of walking or traversing through such area.
 6. At any scheduled outdoor event to which the public is permitted or invited, including but not limited to games, shows, festivals, parties or any similar event or activity, excluding, however, parades and picnics .
- B. It is unlawful to smoke in or within 15 feet of an outdoor venue during the time that an outdoor event is taking place.

Sec. 44.06 Prohibition of Smoking in Open Air Dining.

- A. It is unlawful to smoke in any open air dining area.
- B. It is unlawful for the owner or other person in control of an open air dining area knowingly to permit smoking in that open air dining area.
- C. It is unlawful to smoke within 15 feet of an open air dining area .

Sec. 44.07 Reasonable Distance

Smoking is prohibited within fifteen feet (15') of any entrance to an enclosed area in which smoking is prohibited.

Sec. 44.08 Declaration of Establishment as Non-smoking

Notwithstanding any other provision of this Chapter 44, an owner, operator, manager or other person in control of an establishment, facility or outdoor area may declare that entire establishment, facility or outdoor area as a non-smoking place.

Sec. 44.09 Non-retaliation

No person or employer shall discharge, refuse to hire or in any manner retaliate against an employee, applicant for employment or customer because that employee, applicant or customer exercises any rights afforded by this Chapter or reports or attempts to prosecute a violation of this Chapter.

Sec. 44.10 Violations and Penalties

- A. A person who smokes in an area where smoking is prohibited by this Chapter 44 shall be guilty of an infraction, punishable by a fine not more than twenty-five dollars (\$25.00) for the first violation, fifty dollars (\$50.00) for the second violation and one hundred dollars (\$100) for all subsequent violations.
- B. A person who owns, manages, operates or otherwise controls a public place or place of employment and who fails to comply with the provisions of this Chapter shall be guilty of an infraction, punishable by:
 1. A fine not exceeding one hundred dollars (\$100) for the first violation.
 2. A fine not more than five hundred dollars (\$500) for the second violation within one (1) year of the first violation.

3. A fine not more than two thousand five hundred dollars (\$2,500) for each additional violation within one (1) year and a sixty (60) day suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.

C. Each day on which a violation of this Chapter occurs shall be considered a separate and distinct violation.

Sec. 44.11

Other Applicable Laws

This Chapter shall not be interpreted or be construed to permit smoking where it is otherwise restricted by other applicable laws.

Sec. 44.12

Severability

If any provision, clause, sentence or paragraph of this Chapter or the application thereof to any person or circumstances shall be held invalid by a court of competent jurisdiction, such invalidity shall not affect the other provisions of this Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared to be severable.