

ARTICLE III. SMOKING IN PUBLIC PLACES*

***Cross references:** Smoking in places of amusement, § 14-38; sale of tobacco products to underage persons, § 26-276; streets, sidewalks and other public places, ch. 90.

State law references: Clean Indoor Air Act, 410 ILCS 80/1 et seq.

Sec. 54-61. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bar means an establishment which is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages, including but not limited to, taverns, nightclubs, and cabarets.

For purposes of this article, an establishment is a bar if the sales of food consumed on-premises is twenty-five (25) percent or less of the gross sales from all food and beverages consumed on-premises.

Bar area of a restaurant means the area of a restaurant in which there is a physical bar primarily used to serve alcoholic beverages to patrons and includes tables or floor space that may be adjacent to said physical bar. Food may be served in the bar area of a restaurant. For the purposes of this definition, "physical bar" or "Bar area" as used in this definition does not have the same meaning as "Bar" as defined above.

Business means a sole proprietorship, partnership, joint venture, corporation, or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered.

Dining area means any enclosed area containing a counter or tables upon which meals are served.

Employee means any person who is employed by any employer in consideration for direct or indirect monetary wages or profit, and any person who volunteers such person's services for a nonprofit entity.

Employer means any person, business, association, trust, limited liability company, limited liability partnership, general or limited partnership, corporation, or other entity, including, but not limited to, a municipal corporation, or nonprofit entity that employs the services of 1 or more individual persons.

Enclosed area means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of doors or passageways) which extends from the floor to the ceiling.

Health Care Facility means 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 or other clinics, including 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. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.

Place of employment means any enclosed area under the control of a public or private employer that employees normally frequent during the course of employment, including but not limited to work areas, employee lounges and restrooms, conference rooms and employee cafeterias and hallways. A private residence is not a place of employment unless it is used as a child care facility.

Private function means a gathering of persons for the purpose of deliberation, education, instruction, entertainment, amusement, or dining, where membership or specific invitation is a prerequisite to entry and where the event is not intended to be open to the public.

Public place means any enclosed area to which the public is invited or in which the public is permitted, including but not limited to: (i) banks, educational facilities, health care facilities, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, convention facilities, bingo facilities, aquariums, galleries, libraries, museums, shopping malls, elevators, polling places, convention facilities, sports arenas, school buildings, theaters and waiting rooms; (ii) room chambers, places of meeting or public assembly; (iii) lobbies, hallways and other common areas in apartment buildings, condominiums, retirement facilities, nursing homes and other multiple residential facilities; (iv) restrooms, lobbies, reception areas, hallways and other common areas; (v) public buses, taxis and vehicles of public conveyance, licensed by the Village or operating solely within the Village boundaries; and (vi) facilities primarily used for exhibiting a motion picture, stage, drama, lecture, musical recital or other similar performance. A private residence is not a public place unless it is used as a childcare, adult day care, or health care facility.

Restaurant means any coffee shop, cafeteria, luncheonette, sandwich stand, soda fountain, private and public school cafeteria or eating establishment, and any other eating establishment, organization, club, including veterans' club, boardinghouse, or guesthouse, which gives or offers for sale food to the public, guests, patrons or employees, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities .

Retail tobacco store means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

Service line means an indoor line in which one (1) or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money.

Shopping mall means an enclosed area used for the sale of goods or services and any public walkway or hall area that serves to connect retail or professional establishments.

Smoking means inhaling, exhaling, burning or carrying any lighted cigar, pipe, cigarette, weed, plant or other combustible substance in any manner or in any form.

Sports arena means sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events.

Work area means the immediate area in which an employee spends the majority of the workday.

(Code 1979, § 55.271; Ord. No. 03-7-C-3188, § 2, 7-7-2003; Ord. No. 04-7-C-3289, § 1, 7-19-2004)

Cross references: Definitions generally, § 1-2.

Sec. 54-62. Penalties.

Any person or entity who violates any provision of this Article shall be subject to the penalties provided in Section 1-6, Chapter 1 of the Skokie Village Code. In addition to the penalties and fines established in Section 1-6, a violation of this article by any employer, or any person or entity that owns, manages, operates or otherwise controls a place of employment, public place, shopping mall, sports arena, restaurant or health care facility, may result in the suspension or revocation of any permit or license issued for the premises on which the violation occurred, pursuant to the procedures established in Chapter 26, Division 2, Sections 26-1397 through 26-1399, of the Skokie Village Code.

(Code 1979, § 55.276; Ord. No. 00-10-C-2947, § 8(55.38), 10-16-2000; Ord. No. 03-7-C-3188, § 2, 7-7-2003)

Sec. 54-63. Notice of violation.

Whenever any person violates any provision of this article, such person shall be served with a violation notice providing for an opportunity to appear before the Administrative Hearing Officer for administrative adjudication pursuant to Chapter 2 of the Skokie Village Code, or, if appropriate, in court to answer the charge of such violation.

(Ord. No. 00-10-C-2947, § 8(55.38), 10-16-2000; Ord. No. 03-7-C-3188, § 2, 7-7-2003)

Sec. 54-64. Stipulated settlements.

The Village Manager or designee is authorized to accept the amounts specified in Section 1-7 in settlement for violations of the specified Code sections and to establish settlement dates for each such violation. For violations where a showing of compliance is applicable, settlement as provided for this section shall only be authorized upon a showing of compliance.

(Ord. No. 00-10-C-2947, § 8(55.38), 10-16-2000; Ord. No. 03-7-C-3188, § 2, 7-7-2003)

Sec. 54-65. Authority to establish additional regulations.

The Village Manager is authorized to establish rules, regulations and procedures for the implementation of this article.

(Code 1979, § 55.275; Ord. No. 03-7-C-3188, § 2, 7-7-2003)

Sec. 54-66. Smoking prohibited in enclosed public places.

- (a) Smoking shall be prohibited in all public places.
- (b) Smoking in the following public places may be permitted:
 - (1) Bars.
 - (2) Private residences (except when used as a child care facility, adult day care or health care facility).
 - (3) Retail tobacco stores.
 - (4) Bowling alleys. In the event a bowling alley decides to host a tournament, party or other event or occasion whereby persons under the age of eighteen (18) years of age are invited or allowed to attend without the attendance of their parents or legal guardians, then the bowling alley must: (i) maintain a total smoking ban for its entire premises, including any area that serves alcoholic beverages, throughout the duration of the tournament, party or other event or occasion and until such time as all persons under the age of eighteen (18) years of age have left the premises; and (ii) ensure that no smoking has taken place in the premises for at least three hours prior to the tournament, party or other event or occasion.
 - (5) Hotel and motel rooms that are rented to guests and are designated as smoking rooms and have completely separate heating, ventilation and air conditioning systems that prevent the infiltration of environmental tobacco smoke into nonsmoking rooms or other areas where smoking is prohibited.
 - (6) Restaurant, hotel and motel conference or meeting rooms, and public and private assembly rooms when these places are being used for private functions; provided that smoke does not infiltrate into areas where smoking is prohibited.
 - (7) 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.

(8) Outdoor area of places of employment except those covered by Section 54-69 of this Article.

(9) When smoking is part of a theatrical production.

(10) Bar area of a restaurant, subject to the conditions in this Section 54-66(b)(10)(i)-(vi):

(i) The restaurant must have a physical bar where alcoholic beverages are served for immediate consumption.

(ii) The physical bar and the area adjacent to it shall be separated from the nonsmoking areas of the restaurant by a floor-to-ceiling solid wall or other barrier that does not allow smoke and other airborne particles to pass through to the nonsmoking area of the restaurant. Entrances and exits between smoking and nonsmoking areas must remain closed at all times except when in immediate use by a patron or employee.

(iii) The bar area of a restaurant shall have a heating, ventilation and air conditioning ("HVAC") system separate from the nonsmoking area of the restaurant.

(iv) The bar area of restaurant shall not include any common area of the premises to which a nonsmoker may need access, including but not limited to entrances, exits, waiting areas, restrooms and access routes thereto. A bar area of a restaurant may have separate entrances, exits, waiting rooms and restrooms wherein smoking is allowed.

(v) The bar area of a restaurant shall not exceed 50% or more of the of the restaurant's floor space available for use by the restaurant's patrons. For the purposes of calculating the 50% threshold, a restaurant shall not include the kitchen, storage areas or other areas not available to the public.

(vi) In the event a bar area of a restaurant is not in compliance with all of the conditions stated in this Section 54-66(10)(i)-(vi) no later than July 7, 2004, then no smoking shall be allowed in the bar area of a restaurant.

(c) Any bar, retail tobacco store, bowling alley or bar area of a restaurant where smoking is allowed shall be clearly and conspicuously identified by signs that advise patrons that smoking is allowed on the premises and warns that environmental tobacco smoke is dangerous to a person's health.

(d) A bar that does not prohibit smoking shall file reports with the Village Manager, certified by a Certified Public Accountant, on a quarterly basis, together with such supporting information as may be required by the Village Manager or designee. The reports shall specify the monthly and quarterly sales of food consumed on-premises, and the gross sales of all food and beverages consumed on-premises, and the ratio of such food sales to gross sales. In the event the total sales of food consumed on-premises exceeds twenty-five (25) percent of the gross sales of food and beverages consumed on-premises for a period of six (6) consecutive months, then such establishment shall no longer be deemed to be a bar. A bar is not required to file the aforementioned reports if it serves food that is only: (i) pre-packaged snack foods, i.e. package is served directly to the customer or pre-packaged snack foods from an approved source that are opened and served in bowls to customers; or (ii) provided from a commercially approved processing plant and requires no direct handling and preparation by the bar staff.

(Code 1979, § 55.272; Ord. No. 03-7-C-3188, § 2, 7-7-2003; Ord. No. 04-7-C-3289, § 1, 7-19-2004)

Sec. 54-67. Smoking prohibited in places of employment.

(a) This section shall apply to places of employment employing one or more employees.

(b) Smoking in all enclosed facilities at places of employment shall be prohibited. This includes

common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles, and all other enclosed facilities.

(c) Each employer and place of employment shall adopt, implement, make known and maintain a written smoking policy, prohibiting smoking in all enclosed places. This prohibition on smoking shall be communicated to all existing employees and to all prospective employees upon their application for employment.

(d) All enclosed facilities, including buildings and vehicles owned, leased, or operated by the Village of Skokie shall be subject to the provisions of this article.

(Code 1979, § 55.273; Ord. No. 03-7-C-3188, § 2, 7-7-2003)

Sec. 54-68. Posting of no smoking signs.

Signs indicating "No Smoking" shall be posted in all public places and all non-smoking areas, including but not limited to places of employment, where smoking is prohibited. Every public place and place of employment where smoking is prohibited by this Article shall have posted at every entrance or vestibule a conspicuous sign clearly stating that smoking is prohibited. All ashtrays and other smoking paraphernalia shall be removed from any area where smoking is prohibited by this article by the owner, operator, manager, or other person having control of the area.

(Code 1979, § 55.274; Ord. No. 03-7-C-3188, § 2, 7-7-2003)

Sec. 54-69. Reasonable distance.

Smoking is prohibited within a reasonable distance of an enclosed area where smoking is prohibited, so as to insure that tobacco smoke does not enter the enclosed area through entrances, windows, ventilation systems, or other means.

(Ord. No. 03-7-C-3188, § 2, 7-7-2003)

Sec. 54-70. Declaration of establishment as nonsmoking.

Notwithstanding any other provision of this article, 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 nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of Section 54-68 is posted.

(Ord. No. 03-7-C-3188, § 2, 7-7-2003)

Sec. 54-71. Retaliation prohibited.

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 article or reports or attempts to prosecute a violation of this article.

(Ord. No. 03-7-C-3188, § 2, 7-7-2003)

Sec. 54-72. Enforcement.

- (a) This Article shall be enforced by the Village Manager or designee.
- (b) Notice of the provisions of this Article shall be given to all applicants for a certificate of occupancy or a business license in the Village of Skokie.
- (c) Any citizen who desires to register a complaint under this Article may initiate enforcement with the Village Manager or designee.
- (d) The Public Health Department, Community Development Department, Fire Department, or their designees shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this Article.
- (e) Notwithstanding any other provision of this article, an employee or private citizen may bring legal action to enforce this article.
- (f) In addition to the remedies provided by the provisions of this section, the Village Manager or designee, or any person aggrieved by the failure of the owner, operator, manager, or other person in control of a public place or a place of employment to comply with the provisions of this article, may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction.

(Ord. No. 03-7-C-3188, § 2, 7-7-2003)

Sec. 54-73. Public education.

The Department of Public Health or Village Manager shall engage in a continuing program to explain and clarify the purposes and requirements of this article to citizens affected by it, and to guide owners, operators, and managers in their compliance with it. The program may include publication of a brochure for affected businesses and individuals explaining the provisions of this article.

(Ord. No. 03-7-C-3188, § 2, 7-7-2003)

Sec. 54-74. Minors not allowed.

No one under the age of eighteen (18) years of age shall enter, or shall be allowed to enter, any of the public places listed in Section 54-66(b)(1), (3), (4), (6), (8) and (10) of this Article where smoking is allowed.

(Ord. No. 03-7-C-3188, § 2, 7-7-2003)

Sec. 54-75. Other applicable laws.

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

(Ord. No. 03-7-C-3188, § 2, 7-7-2003)

Secs. 54-76--54-90. Reserved.