

CHAPTER 95: SMOKE-FREE ENVIRONMENT

Section

95.01	Recitals; findings
95.02	Definitions
95.03	Smoking prohibited in public places and places of employment <u>within unincorporated Lake County</u>
95.04	Reasonable distance
95.05	Exemptions
95.06	Designation of other no-smoking areas
95.07	Responsibilities of proprietors
95.08	Enforcement
95.09	Non-compliance
95.10	Public education
95.11	Effective date
95.99	Penalty

§ 95.01 RECITALS; ~~FINDINGS~~.

The following recitals are incorporated into this chapter ~~as the findings of the County Board of this county.~~

(A) The County Board finds that ~~tobacco smokes~~smoking is dangerous to human beings and a hazard to public health and welfare;

~~(B) The Smoke Free Illinois Act (410 ILCS 82/65) authorizes any non-home rule county to regulate smoking in public places in the unincorporated territory of the county; and~~

~~(B) The 2006 U.S. Surgeon General's Report, *The Health Consequences of Involuntary Exposure to Tobacco Smoke*, has concluded that:~~

~~(C) The County Board enacts this chapter known as the "Smoke-Free Environment Ordinance of the County of Lake", herein referred to as "this chapter", to regulate smoking in public places within unincorporated Lake County.~~

~~(1) Secondhand smoke exposure causes disease and premature death in children and adults who do not smoke;~~

~~(2) Children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory problems, ear infections, and asthma attacks, and that smoking by parents causes respiratory symptoms and slows lung growth in their children;~~

~~(3) Exposure of adults to secondhand smoke has immediate adverse effects on the cardiovascular system and causes coronary heart disease and lung cancer;~~

~~(4) There is no risk-free level of exposure to secondhand smoke;~~

~~(5) Establishing smoke-free workplaces is the only effective way to ensure that secondhand smoke exposure does not occur in the workplace, because ventilation and other air cleaning technologies cannot completely control for exposure of non-smokers to secondhand smoke; and~~

~~—(6) Evidence from peer-reviewed studies shows that smoke-free policies and laws do not have an adverse economic impact on the hospitality industry. (U.S. Department of Health and Human Services. *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006)~~

~~—(C) 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 non-smokers, including heart disease, stroke, respiratory disease, and lung cancer. The National Cancer Institute determined in 1999 that secondhand smoke is responsible for the early deaths of approximately 53,000 Americans annually; (National Cancer Institute (NCI), "Health effects of exposure to environmental tobacco smoke: the report of the California Environmental Protection Agency." *Smoking and Tobacco Control Monograph 10*, Bethesda, MD: National Institutes of Health, National Cancer Institute (NCI), August 1999)~~

~~—(D) The U.S. Centers for Disease Control and Prevention has determined that the risk of acute myocardial infarction and coronary heart disease associated with exposure to tobacco smoke is non-linear at low doses, increasing rapidly with relatively small doses such as those received from secondhand smoke or actively smoking one or two cigarettes a day, and has warned that all patients at increased risk of coronary heart disease or with known coronary artery disease should avoid all indoor environments that permit smoking; (Pechacek, Terry F.; Babb, Stephen, "Commentary: How acute and reversible are the cardiovascular risks of secondhand smoke?" *British Medical Journal* 328: 980-983, April 24, 2004)~~

~~—(E) The U.S. Surgeon General has determined that the simple separation of smokers and non-smokers within the same air space may reduce, but does not eliminate, the exposure of non-smokers to secondhand smoke; (Department of Health and Human Services. *The Health Consequences of Involuntary Smoking: A Report of the Surgeon General*. Public Health Service, Centers for Disease Control, 1986)~~

~~—(F) Given the fact that there is no safe risk-free level of exposure to secondhand smoke, the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) bases its ventilation standards on totally smoke-free environments. ASHRAE has determined that there is currently no air filtration or other ventilation technology that can completely eliminate all the carcinogenic components in secondhand smoke and the health risks caused by secondhand smoke exposure, and recommends that indoor environments be smoke-free in their entirety; (Samet, J.; Bohanon, Jr., H.R.; Coultas, D.B.; Houston, T.P.; Persily, A.K.; Schoen, L.J.; Spengler, J.; Callaway, C.A., "ASHRAE position document on environmental tobacco smoke," American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE), 2005)~~

~~—(G) 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 restaurants to be smoke-free and the creation of smoke-free workplaces is sound economic policy and provides the maximum level of employee health and safety; (Glantz, S.A. & Smith, L., "The effect of ordinances requiring smoke free restaurants on restaurant sales in the United States," *American Journal of Public Health*, 87:1687-1693, 1997; Colman, R.; Urbonas, C.M., *The economic impact of smoke-free workplaces: an assessment for Nova Scotia, prepared for Tobacco Control Unit*, Nova Scotia Department of Health, GPI Atlantic, September 2001)~~

~~—(H) Smoking is a potential cause of fires; cigarette and cigar burns and ash stains on merchandise and fixtures causes economic damage to businesses; and ("The high price of cigarette smoking," *Business & Health* 15(8), Supplement A: 6-9, August 1997) —(I) P.A. 94-917, effective June 26, 2006 (410 ILCS 8/11), amends the Illinois Indoor Clean Air Act to allow non-home rule counties, within the unincorporated territory of the county, to regulate smoking in enclosed indoor areas used by the public or serving as a place of work.~~

(1977 Code, § 1:4-5A) (Ord. passed 5-8-2007)

§ 95.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply.

BAR. An establishment that is devoted to the serving of alcoholic beverages for consumption by guests and patrons on the premises and in which the serving of food is either not done or is only incidental to the consumption of those beverages, including but not limited to taverns, nightclubs, cocktail lounges, and cabarets.

BUSINESS. Any sole proprietorship, partnership, joint venture, corporation, whether for-profit or not-for-profit, or any other business entity within unincorporated Lake County, including but not limited to retail businesses and service businesses where goods or services are sold to the public; and professional corporations, partnerships, or other business entities wherein legal, medical, dental, engineering, architectural, or other professional services are provided. A **BUSINESS** shall include a private club, as defined in this section, and any government entity subject to county ordinances.

ELECTRONIC CIGARETTE. Any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person in any manner for the purpose of inhaling vapor or aerosol from the product. **ELECTRONIC CIGARETTE** includes any such product, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen or under any other product name or descriptor.

EMPLOYEE. Any person who is employed or contracted by a business in consideration for direct or indirect monetary wages or profit, the owner or operator of a sole proprietorship or other similar business entity, and any person who volunteers his or her services for a non-profit entity.

EMPLOYER. Any person, business, partnership, association, corporation, trust, or non-profit entity that employs the services of one or more individual persons.

ENCLOSED AREA. All space in any structure, or portion thereof, located between a floor and ceiling that is enclosed on all sides by walls, windows, doorways, or combinations thereof that extend from the floor to the ceiling.

HEALTH CARE 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 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, semi-private rooms, and wards within **HEALTH CARE FACILITIES**.

PLACE OF EMPLOYMENT. Any enclosed area of a business within unincorporated Lake County~~the county~~ where one or more employees are required or permitted by an employer to work in the course of their employment, including without limitation the generality of the foregoing work areas, private offices, auditoriums, classrooms, conference and meeting rooms, cafeterias, employee lounges, stairs, elevators, hallways, restrooms. A **PLACE OF EMPLOYMENT** shall include enclosed areas of a private club.

PRIVATE CLUB. An organization, whether incorporated or not, which is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and which only sells alcoholic beverages incidental to its operation.

PUBLIC ENTRANCE. Every doorway or other entrance to a public place or a place of employment.

PUBLIC PLACE. Any enclosed area in a building or structure within unincorporated Lake County which members of the public are invited or permitted to visit or use, including lobbies, hallways, stairways, elevators, and other common enclosed areas of businesses or apartment buildings, condominiums, cooperatives, congregate housing, and other multiple-unit residential structures, including without limitation the following:

- (1) Arcades;
- (2) Aquariums, galleries, libraries, and museums;
- (3) Bars;
- (4) Bingo facilities;
- (5) Bowling alleys;
- (6) Convention facilities;
- (7) Day care centers, nursery schools, elementary schools, high schools, community colleges, technical training establishments, specialty schools, colleges and universities;
- (8) Facilities primarily used for exhibiting a motion picture, stage, drama, lecture, musical recital, or other similar performance;
- (9) Gaming facilities;
- (10) Vehicles owned, leased, or operated by the county for county business;
- (11) Grocery stores;
- (12) Health care facilities, adult care facilities, and nursing homes;
- (13) Lobbies, hallways, and other common areas in apartment buildings, condominiums, and enclosed common areas in trailer parks;
- (14) Polling places;
- (15) Private clubs;
- (16) Public elevators and all retail stores where merchandise is displayed and offered for sale;
- (17) Public conveyances and transportation facilities, including without limitation buses, trains, taxicabs, and limousines as well as enclosed areas for ticketing, boarding, and waiting areas at public transit stations;
- (18) Restaurants, including a bar attached to or within a restaurant;
- (19) Restrooms, lobbies, reception areas, hallways, and other enclosed common-use areas;
- (20) Rooms, chambers, places of meeting or public assembly, including without limitation school buildings, under the control of an agency, board, commission, committee or council;
- (21) Service lines;
- (22) Shopping malls; and

(23) Sports arenas, gymnasiums, or recreational areas, including without limitation enclosed areas within outdoor arenas.

RESTAURANT. An eating establishment, including but not limited to coffee or sandwich shops, cafeterias, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term **RESTAURANT** shall include a bar attached to or within the **RESTAURANT**.

RETAIL TOBACCO STORE. A retail [establishment within unincorporated Lake County that derives more than 80% of its gross revenue from the sale of loose tobacco, plants, or herbs and cigars, electronic cigarettes, 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** includes an enclosed workplace that manufactures, imports, or distributes tobacco, electronic cigarettes, or tobacco products, when, as a necessary and integral part of the process of making, manufacturing, importing, or distributing a tobacco product or electronic cigarette for the eventual retail sale of that tobacco, electronic cigarette, or tobacco product, tobacco is heated, burned, or smoked, or a lighted tobacco product is tested, provided that the involved business entity: (1) maintains a specially designated area or areas within the workplace for the purpose of the heating, burning, smoking, or lighting activities, and does not create a facility that permits smoking throughout; (2) satisfies the 80% requirement related to gross sales; and (3) delivers tobacco products or electronic cigarettes to consumers, retail establishments, or other wholesale establishments as part of its business. **RETAIL TOBACCO STORE** does not include a tobacco or electronic cigarette department or section of a larger commercial establishment or any establishment with any type of liquor, food, or restaurant license, ~~store with the primary business being the sale of tobacco products and accessories and in which the sale of other products is incidental, does not hold a liquor license, and where no one under the age of 18 is permitted.~~

SERVICE LINE. An indoor line in which one or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money.

SMOKE or SMOKING. [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** includes the use of an electronic cigarette. **SMOKE or SMOKING** does not include smoking that is associated with a native recognized religious ceremony, ritual, or activity by American Indians that is in accordance with the federal American Indian Religious Freedom Act, 42 U.S.C. 1996 and 1996a. ~~Inhaling, exhaling, burning, or carrying any lighted or burning cigarette, cigar, pipe, hookah pipe, pipe weed, or other lighted tobacco or similar product in any manner or in any form.~~

SPORTS ARENA. A sports pavilion, stadium, gymnasium, health spa, boxing arena, swimming pool, roller or ice rink, 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.

TOBACCO. Any item, product, or substance containing tobacco leaf, including specifically but without limitation cigarettes, cigars, snuff, and pipe, chewing, or dipping tobacco. (1977 Code, § 1:4-5A) (Ord. passed 5-8-2007)

§ 95.03 SMOKING PROHIBITED IN PUBLIC PLACES AND PLACES OF EMPLOYMENT WITHIN UNINCORPORATED LAKE COUNTY.

(A) It shall be unlawful for any person to smoke in any public place or place of employment ~~within the unincorporated area of the county.~~

(B) It shall be unlawful for an employer to permit smoking in any place of employment.

(C) It shall be unlawful for an employer, owner, occupant, or lessee, as the case may be, in control of a public place to permit smoking in ~~the a~~ public place.

(D) It shall be unlawful for an employer, owner, occupant, or lessee, as the case may be, in control of a public place to fail to post signage or remove ashtrays, as provided in § [95.07](#). (1977 Code, § 1:4-5A) (Ord. passed 5-8-2007) Penalty, see § [95.99](#)

§ 95.04 REASONABLE DISTANCE.

(A) It shall be unlawful to smoke within 20 feet of a ~~n public~~ entrance of ~~either~~ a public place or a place of employment.

(B) It shall be unlawful to smoke within 20 feet of an operable window of ~~either~~ a public place or place of employment.

(C) It shall be unlawful to smoke within 20 feet of a ventilation air intake of either a public place or a place of employment. (1977 Code, § 1:4-5A) (Ord. passed 5-8-2007) Penalty, see § [95.99](#)

§ 95.05 EXEMPTIONS.

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

(A) Personal vehicles, other than vehicles used for public conveyance or owned or leased by the county;

(B) Private residences or dwelling places, including a private residence or dwelling place that is used for home occupation purposes pursuant to the Lake County Unified Development Ordinance (codified at [Chapter 151](#), §§ [151.001](#) through [151.285](#)) provided there are no non-resident employees or clients/customers during the posted hours of business in that portion of the dwelling used for the home occupation. This exemption shall not apply to a private residence or dwelling place used as a child care, adult day care, or health care facility open to the public; or

(C) An established smoking area incidental ~~to the sales of tobacco~~ in retail tobacco stores, provided that the smoking area is in existence and operational as of the adoption date of this chapter, and provided that smoke does not infiltrate into an area where smoking is otherwise prohibited under this chapter. (1977 Code, § 1:4-5A) (Ord. passed 5-8-2007)

§ 95.06 DESIGNATION OF OTHER NO-SMOKING AREAS.

This chapter does not limit the existing right of any employer, owner, occupant, lessee, manager, or other person in control of any public place or place of employment to designate any non-enclosed area, including outdoor areas, as an area where smoking is prohibited. (1977 Code, § 1:4-5A) (Ord. passed 5-8-2007)

§ 95.07 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:

(A) Post conspicuous signs in 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;

(B) Remove ashtrays or other similar containers intended for the deposit of tobacco ash, cigarettes, cigars, or other tobacco products from the public place; and

(C) Notify employees regarding the requirements of this chapter.
(1977 Code, § 1:4-5A) (Ord. passed 5-8-2007)

§ 95.08 ENFORCEMENT.

Violations of this chapter shall be enforced within unincorporated Lake County by the Lake County Sheriff or ~~his or her~~ their designees(s), or by the Executive Director of the Lake County Health Department or their designee(s). ~~and, at his or her discretion, The~~ pursuit enforcement of violations may proceed either through a notice to appear before the 19th Judicial Circuit Court or through administrative adjudication pursuant to the Lake County Administrative Adjudication Ordinance. (§§ 94.50 - 94.66).
(1977 Code, § 1:4-5A) (Ord. passed 5-8-2007; Ord. 15-0376, passed 4-14-2015)

§ 95.09 NON-COMPLIANCE.

In addition to the fines established by § 95.99, violation of any of the provisions or requirements of this chapter by a person who owns, manages, operates, or otherwise controls a public place or place of employment is hereby declared a public nuisance and the county may, in addition to or in lieu of any other remedies set forth in this chapter, commence an action to enjoin or abate the nuisance in any manner provided by law.
(1977 Code, § 1:4-5A) (Ord. passed 5-8-2007)

§ 95.10 PUBLIC EDUCATION.

The County Board may engage in a continuing program to explain and clarify the purposes and requirements of this chapter to citizens affected by it, and to guide owners, lessees, occupants, 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 chapter. The failure of the County Board to take these steps, however, shall not be a defense or excuse for non-compliance with the provisions of this chapter.
(1977 Code, § 1:4-5A) (Ord. passed 5-8-2007)

§ 95.11 EFFECTIVE DATE.

This chapter shall become effective on January 1, 2008; provided however, that the provisions of this chapter shall not be effective until January 1, 2009, as to any business that both:

(A) Holds a valid Class A liquor license from the County Liquor Commission as of the adoption date of this chapter; and

(B) Does not hold and is not required to obtain a food service facility permit pursuant to §§ 173.01 through 173.11.
(1977 Code, § 1:4-5A) (Ord. passed 5-8-2007)

 **§ 95.99 PENALTY.**

(A) ~~Lake County Sheriff's Office~~ *Citation filed in Circuit Court.* If the ordinance violation is cited for enforcement before the 19th Judicial Circuit, the fine amount shall be as follows:

(1) Any person who violates § [95.03](#)(A) or any of the provisions of § [95.04](#) shall be fined \$50 for each violation.

(2) Any person who violates § [95.03](#)(B), (C), or (D) shall be fined \$100 for each violation. Each day during which a violation of § [95.03](#)(B), (C), or (D) continues shall constitute a separate violation.

(B) *Lake County Administrative Adjudication Citation of violation.* If the ordinance violation is cited for enforcement through the Lake County Administrative Adjudication Process, the minimum fine amount shall be \$115 for each violation.

(1977 Code, § 1:4-5A) (Ord. passed 5-8-2007; Ord. 15-0376, passed 4-14-2015)