

ORDINANCE

AN ORDINANCE AMENDING CHAPTER 20 ("PUBLIC HEALTH"), ARTICLE 9 ("VILLAGE INDOOR CLEAN AIR POLICY"), SECTION 20-9-1 ("DEFINITIONS") OF THE OAK PARK VILLAGE CODE

WHEREAS, the Village of Oak Park ("Village") as a home rule unit of local government as provided by Article VII, Section 6 of the Illinois Constitution of 1970 has the authority to exercise any power and perform any function pertaining to its government and affairs except as limited by Article VII, Section 6 of the Illinois Constitution of 1970; and

WHEREAS, as a home rule unit, the Village of Oak Park's powers shall be construed liberally as held by the Illinois Supreme Court in the case of *Scadron v. City of Des Plaines*, 153 Ill.2d 164 (1992); and

WHEREAS, the Village has determined to amended Chapter 20 ("Public Health"), Article 9 ("Village Indoor Clean Air Policy"), Section 20-9-1 ("Definitions") of the Oak Park Village Code ("Village Code") to eliminate the language that only allowed smoking in a retail tobacco store from the definition of a "public place" that was in existence at the time of the original adoption of that definition on June 5, 2006; and

WHEREAS, the definition of a "retail tobacco store" found in the Smoke Free Illinois Act (the "Act"), 410 ILCS 82/10, allows for smoking in such stores and the amendment contained herein is consistent with the Act; and

WHEREAS, pursuant to the Village's home rule authority and the Act, the Village has determined to adopt this Ordinance amending Section 20-9-1 of the Village Code.

NOW THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Oak Park, Cook County, Illinois, in the exercise of their home rule powers, as follows:

Section 1. Recitals Incorporated. The above recitals are incorporated herein by reference as though fully set forth.

Section 2. Village Code Amended. Chapter 20 ("Public Health"), Article 9 ("Village Indoor Clean Air Policy"), Section 20-9-1 ("Definitions") of the Oak Park Village Code is amended by deleting the overstricken language to read as follows:

20-9-1: DEFINITIONS:

For the purpose of this article, the following words or combination of words are defined as follows:

EMPLOYEE: Any person who is employed by any employer in consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services for a nonprofit

entity.

EMPLOYER: Any person, partnership, corporation, including a Municipal corporation, or nonprofit entity, who employs the services of one or more individual persons or supervises volunteers.

ENCLOSED AREA: All space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of door or passage ways) which extend from the floor to the ceiling, even though such space may be internally divided by partitions which do not extend to the ceiling or are not solid, "office landscaping" or similar structures.

PLACE OF EMPLOYMENT: Any enclosed area under the control of a public or private employer which employees are normally required or permitted by the employer to frequent during the course of employment, including, but not limited to, common work areas, private offices, employee lounges and restrooms, conference areas, employee cafeterias, elevators, stairways and hallways.

A private dwelling unit is not a "place of employment" unless it is used as a daycare facility for children or adults; provided that rooms in nursing homes or long term care facilities, occupied only by a person or persons who have requested in writing a room where smoking is permitted, shall be considered private dwelling units.

PUBLIC PLACE: Any enclosed area that is open to and used by the general public, or any enclosed area to which the public is invited or in which the public is permitted, including, without limitation:

A. Vehicles of public conveyance;

B. Common or public areas (including, without limitation, lobbies, hallways, reception areas, public restrooms, and elevators) of apartment buildings, condominiums, dormitory buildings, nursing home care facilities, and other multiple-family residential structures;

C. Common or public areas (including, without limitation, lobbies, hallways, reception areas, public restrooms, and elevators) of any building or structure that is accessible to the public including, without limitation, office, commercial, and industrial buildings, banks and financial institutions, educational institutions, healthcare facilities such as hospitals, clinics and doctors' offices, museums, libraries, bowling alleys, laundromats, sport arenas, restaurants, polling places, government and Village owned buildings, food stores, cafeterias, theaters, auditoriums, public transportation facilities, hotels, motels, retail stores (except tobacco stores), service establishments, service lines and waiting rooms; and

D. Rooms, chambers, halls or other locations within which meetings, hearings or gatherings are held, to which the public is invited or in which the public is permitted, including specifically, but

without limitation, any enclosed area under the control of the Village where there is in progress any public meeting.

"Public place" shall not include:

A. A private dwelling unit, unless said dwelling is also used as a daycare facility for children or adults; provided that rooms in nursing homes or long term care facilities, occupied only by a person or persons who have requested in writing a room where smoking is permitted, shall be considered private dwelling units;

B. Hotel or motel rooms designated as smoking rooms, provided that no more than twenty percent (20%) of the available rooms for rent in any single building shall be designated as smoking rooms; or

C. An established smoking area incidental to the sale of tobacco in a retail tobacco store, ~~provided such smoking area is in existence on the date of approval of this article~~ is in compliance with the requirements of the Smoke Free Illinois Act, 410 Illinois Compiled Statutes 82/1 et seq., as amended.

20-9-2: SMOKING PROHIBITED IN PUBLIC PLACES:

Smoking shall be prohibited in any "public place" as defined in section 20-9-1 of this article.

Section 3. Severability and Repeal of Inconsistent Ordinances. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this Ordinance. All ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. Effective Date. This Ordinance shall be in full force and effect after its approval, passage and publication as provided by law.

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ADOPTED this day 3rd of September, 2019, pursuant to a roll call vote as follows:

Voting	Aye	Nay	Abstain	Absent
President Abu-Taleb				
Trustee Andrews				
Trustee Boutet				
Trustee Buchanan				
Trustee Moroney				
Trustee Taglia				
Trustee Walker-Peddakotla				

APPROVED this 3rd of September, 2019.

Anan Abu-Taleb, President

ATTEST

Vicki Scaman, Village Clerk

Published in pamphlet form this 3rd day of September, 2019.

Vicki Scaman, Village Clerk