

ORDINANCE 11-15-11-113

**VILLAGE OF SHARON
WALWORTH COUNTY, WISCONSIN**

**AN ORDINANCE CREATING SECTION 9.76
SMOKING PROHIBITED IN CERTAIN AREAS
TO CHAPTER 9 PEACE AND ORDER OF THE
MUNICIPAL CODE OF THE VILLAGE OF SHARON
WALWORTH COUNTY, WISCONSIN**

The Village Board of the Village of Sharon, Walworth, Wisconsin does hereby ordain that Section 9.76 be created in Chapter 9 Peace and Order of the Code of Ordinance for the Village of Sharon to read as follows:

SECTION 9.76 SMOKING IN CERTAIN AREAS

9.76 Intent and Purpose. (1) To protect the public health, safety, benefit and welfare of the residents and visitors to the Village of Sharon.

(2) To educate citizens affected by this ordinance and to assist owners, operators and managers of affected facilities in maintaining compliance.

(3) Definitions.

- (a) Village Property means all real estate, buildings, structures and vehicles owned, leased or operated by the Village of Sharon.
- (b) Concession area means a place where food, drink or other refreshments are purchased directly from a concession stand.
- (c) Employee means a person who may be required or directed by any employer, in consideration of direct or indirect gain or profit, to engage in any employment, or to go or work or be at any time in any place of employment.
- (d) Employer means any person, business, partnership, association, trust, firm, corporation, for-profit or non-profit entity, or governmental agency under the Village's authority that has control over a place of employment.
- (e) Enclosed Area means all space between a floor and ceiling that is enclosed on all sides by permanent or temporary walls or windows (exclusive of doorways), which extend from the floor to the ceiling.
- (f) Place of Employment means any area under the control of an employer including but not limited to, work areas, private offices, employee lounges, restrooms, conference rooms,

meeting rooms, classrooms, employee cafeterias, hallways, and vehicles. A private residence shall not be considered a place of employment unless it is used as a child care, adult day care or health care facility.

- (g) Private Residence means premises owned, rented or leased for temporary or permanent habitation, not including lobbies, hallways and other common areas in any apartment building, condominium, retirement facility, nursing home or other multiple-unit residential facility.
- (h) Public Place means any area into which the public is invited or permitted, including elevators, reception areas, cafeterias, restrooms, lobbies, hallways and other common areas in any retail building, mixed-use commercial building, apartment building, condominium, retirement facility, nursing home or other multiple-unit residential facility. A private residence located within a mixed-use commercial building is not a public place unless it is used as a child care, adult day care or health care facility.
- (i) Service Line means an indoor or outdoor 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, including but not limited to ATM lines, concert lines or waiting for public transportation. The term “service line” does not include lines in which people wait in their vehicle such as a drive-through or car wash line.
- (j) Smoking means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe or other lighted tobacco product in any manner or in any form.

(4) Prohibition of Smoking.

(a) Public Places. Smoking is prohibited in any enclosed area of a public place or designated Village Property. Nothing in this Ordinance shall be interpreted as a limitation on the right of a property owner to prohibit smoking in any area where smoking is not prohibited by the Ordinance.

(b) Places of Employment. It shall be unlawful for any person to smoke cigarettes or tobacco products in any enclosed area of a place of employment.

(c) Entrances. Smoking is prohibited within fifteen (15) feet of the main entrance, of an enclosed public place or enclosed place of employment. If a public place or place of employment has more than one entrance, the main entrance shall be such entrance as designated by the Building Inspector.

(d) Prohibited Areas. Smoking is prohibited in concession areas of restaurants, bleachers or outdoor auditoriums for spectators of sports events, or similar areas used by spectators at other public events.

(e) Village Parks. Smoking is prohibited in Village Parks.

(5) Exceptions. The following areas shall not be subject to the smoking restrictions of this ordinance:

- (a) Private residences, unless it is used as a child care, adult day care or health care facility.

(6) Posting of Signs.

(a) Every public place, place of employment, or any other area where smoking is prohibited by the Ordinance shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited. Every vehicle that constitutes a place of employment shall post a conspicuous sign likely to be seen by any occupant clearly stating that smoking is prohibited. Use of the international “No Smoking” symbol, a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across the cigarette, shall be construed as a clear statement that smoking is prohibited. The posting of signs is an affirmative duty upon the owner or operator of a public place, but failure of the owner or operator of a public place to post signs shall not be a defense to prosecution of a violation of this ordinance. All such signs shall reference Village of Sharon. Every vehicle that constitutes a place of employment under this Ordinance shall have at least one conspicuous sign, visible from the exterior of the vehicle, clearly stating that smoking is prohibited.

(b) It shall be unlawful for any person to remove, deface, or destroy any sign required by the Ordinance, or to smoke in any place where any such sign is posted.

(7) Penalty.

(a) Any person who violates any provision of this chapter shall be subject to a penalty as provided in Chapter 25, Section 25.04 of this Code.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

This ordinance shall be effective the day following publication.

Dated this 15th day of November, 2011.

Diana Dykstra, Village President

ATTEST:

Dawn Redenius, Village Clerk

ADOPTED: November 15, 2011
PUBLISHED: November 25, 2011