

Chapter 18

Smoking Prohibited

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18.01 Authority. The provisions of this Chapter are enacted pursuant to the authority granted by Chapters 61, 66 and s. 101.123 of the Wisconsin Statutes and are an exercise of police power for protecting the public welfare, health and safety of the citizens of the Village and visitors who attend and patronize public places in this Village.

18.02 Intent and Purpose. This ordinance is adopted for the purpose of protecting the public health, safety, comfort and general welfare of the people of the Village of Lake Delton and to regulate smoking of tobacco products in the Village in accordance with the laws of the State of Wisconsin.

18.03 Definitions. Except as set forth herein, the definitions set forth in s.101.123 (1) Wis. Stats. as amended are hereby adopted and incorporated hereinafter as if set forth in full.

A. Enclosed indoor area: All space between a floor and a ceiling that is bounded by walls, doors, or windows, whether open or closed, covering more than fifty (50) percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent. A 0.011 gauge screen with an 18 by 16 mesh count is not a wall.

B. Opening: An open window, door, or portion of an exterior wall allowing the free flow of outside air.

C. Public building: As defined in s. 101.01 (12), Wis. Stats.

18.04 Prohibition of Smoking. Except as otherwise provided, it shall be unlawful for any person to smoke or use tobacco products in any of the following enclosed places:

- A. Day care centers, including outdoor areas on the premises when children are present.
- B. Educational facilities.
- C. Inpatient health care facilities.
- D. Theaters.
- E. Restaurants.
- F. Taverns.
- G. Private clubs.
- H. Retail establishments.
- I. Common areas of multiple-unit residential properties.

- J. Lodging establishments.
- K. Government buildings.
- L. All enclosed places, in addition to those listed above, that are places of employment, or that are public places.
- M. All outdoor places located within the Village that are identified in s.101.123 (2) (d) Wis. Stats.
- N. All places located within the Village that are identified in s. 101.123 (2) (e) Wis. Stats.

18.05 Exceptions. The prohibition against smoking does not apply in the following places:

- A. All outdoor places not identified in s.101.123 (2)(d) Wis. Stats.
- B. A private residence.
- C. A room used by only one person in an assisted living facility as his or her residence.
- D. A room in an assisted living facility in which two (2) or more persons reside if every person who lives in that room smokes and each of those persons has made a written request to the person in charge of the assisted living facility to be placed in a room where smoking is allowed.
- E. A retail tobacco store that is in existence on June 3, 2009, and in which only the smoking of cigars and pipes is allowed.
- F. A tobacco bar that is in existence on June 3, 2009, and in which only the smoking of cigars and pipes is allowed.
- G. Designated outside areas located on the premises of a restaurant, tavern, private club, or retail establishment.

18.06 Responsibility of persons in charge.

- A. No person in charge may allow any person to smoke in violation of §18.04 at a location that is under the control or direction of the person in charge.
- B. No person in charge may provide matches, ashtrays, or other equipment for smoking at any location where smoking is prohibited.
- C. A person in charge shall make reasonable efforts to prohibit persons from smoking at a location where smoking is prohibited by doing all of the following:
 - 1) Posting signs setting forth the prohibition and providing other appropriate notification and information concerning the prohibition.
 - 2) Refusing to serve a person, if the person is smoking in a restaurant or tavern.
 - 3) Asking a person who is smoking to refrain from smoking and, if the person refuses to do so, asking the person to leave the location.
 - 4) If a person refuses to leave a location after being requested to do so, the person in charge shall immediately notify an appropriate law enforcement agency of the violation.
- D. Designated Outside smoking areas. A person in charge of a restaurant, tavern, private club, or retail establishment may designate an outside area located a reasonable distance from any entrance where smoking is permitted.

18.07 Uniform signs. All properties and establishments regulated by this Chapter are required to post no smoking signs in accordance with the rules and regulations of the Wisconsin Department of Commerce to notify all persons of this ordinance. No smoking signs shall include

the international “No Smoking” symbol, consisting of a pictorial burning cigarette enclosed in a red circle with a red bar across the cigarette. The signs shall include reference to Village Municipal Code §18.09 and the penalty for first offense.

18.08 Enforcement. The Village of Lake Delton Police Department and Building Inspector, and their designees, are authorized to enforce this Chapter and issue citations for any violation.

18.09 Penalties.

A. **Forfeiture.** Any person, agent, firm or corporation violating §18.04 shall, upon conviction thereof, forfeit as follows:

	<u>Forfeiture</u>	<u>Deposit</u>
<u>First offense</u>	\$ 100-250	\$ 100
<u>Second offense</u>	\$ 100-250	\$ 100
<u>Third offense</u>	\$ 100-250	\$ 100

B. **Forfeiture.** Any person, agent, firm or corporation violating §18.06 shall, upon conviction thereof, forfeit as follows:

	<u>Forfeiture</u>	<u>Deposit</u>
<u>First offense</u>	Warning	\$ 0
<u>Second offense</u>	\$ 100-250	\$ 100-250
<u>Third offense</u>	\$ 200-500	\$ 200-500

C. **Maximum Forfeiture.** For violations of §18.06, no person in charge may be required to forfeit more than \$100 in total for all violations occurring on a single day.

D. **Restitution.** That if the court finds the violation resulted in damage to the property of another, the court may order restitution in accordance with the provisions of s. 66.0113 (1) (b)7.e. and s. 800.093 Wis Stats.

18.10 Nuisance, injunction. The repeated violation of this Chapter is hereby declared to be a nuisance. In addition to any other relief provided by this Chapter, or the Village code, the Village attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this Chapter. Such application for relief may include seeking a temporary restraining order, temporary injunction, or permanent injunction.