

50 County building means any building owned, leased, contracted or operated by the
51 County. County building does include space leased to the County in a building
52 which has other tenants but the regulations set forth in this section shall apply
53 only to that part of the leased space which is partitioned off from the remaining
54 space, including common areas, by floor to ceiling walls. County building does
55 not include any building which is both owned by the County and completely
56 leased to another party.

57
58 County vehicle means all self-propelled vehicles owned or leased by Oneida
59 County.

60
61 Educational Facility means any building used principally for educational
62 purposes in which a school is located or course of instruction or training program
63 is offered that has been approved or licensed by a state agency or board.

64
65 Enclosed place means a structure or area that has all of the following: a roof and
66 more than 2 substantial walls. The definition of substantial wall is a wall with no
67 opening or with an opening that either does allow air in from the outside or that is
68 less than 25% or more of the wall's surface area.

69
70 Inpatient health care facility means a hospital, a county home, a county infirmary,
71 a nursing home, a hospice, a Wisconsin veterans home, or a treatment facility.

72
73 Joint use building means a building which is owned by Oneida County, part of
74 which is leased to another party.

75
76 Lodging Establishment means a bed and breakfast establishment, a hotel, motel,
77 or a tourist rooming house,

78
79 Person in Charge means the person or his or her agent who ultimately controls,
80 governs, or directs the activities aboard a public conveyance or at a location
81 where smoking is prohibited or regulated

82
83 Place of employment means any enclosed place that employees normally frequent
84 during the course of employment including an office, work areas, employee
85 lounge, restroom, conference room, meeting room, classroom, elevator, stairway,
86 lobby, common area, vehicle, cafeteria, or hallway.

87
88 Private Club means a facility used by an organization that limits its membership
89 and is organized for a recreational, fraternal, social, patriotic, political,
90 benevolent, or athletic purpose.

91
92 Public Conveyance means a mass transit vehicle, a school bus, or any other
93 device by which persons are transported, for hire, on a highway or by rail, water,
94 air, or guidewire within this state, but does not include such a device while
95 providing transportation in interstate commerce.

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Public place means any enclosed place that is open to the public regardless of whether a fee is charged or a place to which the public has lawful access or may be invited.

Retail establishment means any store or shop in which retail sales is the principal business conducted.

Retail tobacco store means a retail establishment that does not have a “Class B” intoxicating liquor license or a “Class B” fermented malt beverages license and that generates 75 percent or more of its gross annual income from the retail sale of tobacco products and accessories.

Smoking has the meaning set forth in §101.123(1)(h), Wis. Stats.

Sports arena means any stadium, pavilion, gymnasium, swimming pool, skating rink, bowling center, or other building where spectator sporting events are held.

Tavern means an establishment, other than a restaurant, that holds a “Class B” intoxicating liquor license or “Class B” fermented malt beverages license.

Tobacco Bar means a tavern that generates 15 percent or more of its annual gross income from the sale on the tavern premises, other than from a vending machine, of cigars and tobacco for pipes.

(3) PROHIBITED CONDUCT.

(a) It shall be unlawful and a violation of this section for any person, whether employed by Oneida County or a member of the public, to smoke in enclosed public places, places of employment, in any County building, County vehicle or joint use building. Those areas specifically prohibited in 101.123(2). No person may smoke in any of the following enclosed places:

- (1) The state capitol.
- (2) Residence halls or dormitories owned or operated by a college or university.
- (3) Day care centers.
- (4) Educational facilities.
- (5) Inpatient health care facilities.

- 142 (6) Theaters.
143
144 (7) Correctional facilities.
145
146 (8) State institutions.
147
148 (9) Restaurants.
149
150 (10) Taverns.
151
152 (11) Private clubs.
153
154 (12) Retail establishments.
155
156 (13) Common areas of multiple-unit residential properties.
157
158 (14) Lodging establishments.
159
160 (15) State, county, city, village, or town buildings.
161
162 (16) All enclosed places, other than those listed in subds. 1 to 15, that
163 are public places.

164
165 No person may smoke at any of the following outdoor locations:
166

- 167 (a) In the immediate vicinity of the state capitol.
168
169 (b) Anywhere on the premises of a day care center when
170 children who are receiving day care services are present.
171
172 (c) A location that is 25 feet or less from a residence hall or
173 dormitory that is owned or operated by the Board of
174 Regents of the University of Wisconsin System.
175

176 No person may smoke in any of the following:
177

- 178 (a) a sports arena.
179
180 (b) a bus shelter.
181
182 (c) a public conveyance.
183

- 184
185 (b) No person in charge may allow any person to smoke in violation of (2) at
186 a location that is under the control or direction of the person in charge. A
187 person in charge may not provide matches, ashtrays, or other equipment

188 for smoking at the location where smoking is prohibited. A person in
189 charge shall make reasonable efforts to prohibit persons from smoking at a
190 location where smoking is prohibited by doing all of the following:

191
192 (1) Posting signs setting forth the prohibition and providing other
193 appropriate notification and information concerning the
194 prohibition.

195
196 (2) Refusing to serve a person, if the person is smoking in a restaurant,
197 tavern, or private club.

198
199 (3) Asking a person who is smoking to refrain from smoking and, if
200 the person refuses to do so, asking the person to leave the location.

201
202 (a) If a person refuses to leave a location after being requested
203 to do so as provided in par. (3)., the person in charge shall
204 immediately notify an appropriate law enforcement agency
205 of the violation

206
207
208 (4) EXCEPTIONS. The prohibition against smoking in sub. (3)(a) does not apply to
209 the following:

210
211 (a) A private residence.

212
213 (b) A room used by only one person in an assisted living facility as his or her
214 residence.

215
216 (c) A room in an assisted living facility in which 2 or more persons reside if
217 every person who lives in that room smokes and each of those persons has
218 made a written request to the person in charge of the assisted living
219 facility to be placed in a room where smoking is allowed.

220
221 (d) A retail tobacco store that is in existence on June 3, 2009, and in which
222 only the smoking of cigars and pipes is allowed.

223
224 (e) A tobacco bar that is in existence on June 3, 2009, and in which only the
225 smoking of cigars and pipes is allowed.

226
227
228 (5) PENALTIES.

229
230 (a) Any person who violates sub. (3)(a) be subject to a forfeiture of not less
231 than \$100 nor more than \$250 for each violation.

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233 (b) A violation of this section does not constitute negligence as a matter of

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law.

(c) Except as provided in par. (d) or (e) any person in charge who violates sub. (3)(b) (1) to (3) shall be subject to a forfeiture of \$100 for each violation.

(d) For violations subject to the forfeiture under par. (c) , if the person in charge has not previously received a warning notice for a violation of sub. (3)(b) (1) to (3), the law enforcement officer shall issue the person in charge a warning notice and may not issue a citation.

(e) No person in charge may be required under par. (c) to forfeit more than \$100 in total for all violations of sub. (3)(b) (1) to (3) occurring on a single day.

(f) Second and subsequent violations within one year shall be subject to a forfeiture of \$250 for each violation.

(g) Any County employee found in violation of this section shall be subject to the County's positive disciplinary process.

(5) INJUNCTION. Notwithstanding §165.60, Wis. Stats., State or local officials or any affected party may institute an action in Oneida County Circuit Court to enjoin such conduct where a person has been subject to penalties, as set forth above, on two or more occasions.

25.04 PENALTY PROVISIONS.

Table Inset:

10.06	Smoking in prohibited area	100.00	263.50
	2 nd /Subsequent within 1 year	250.00	452.50

[All other sections of 25.04 and the Table Inset are to remain unchanged

Approved by the Law Enforcement and Judiciary Committee this 2nd day of June, 2010.

Vote Required: Majority = _____ 2/3 Majority = _____ ¾ Majority = _____

The County Board has the legal authority to adopt: Yes _____ No _____ as reviewed by the Corporation Counsel, _____, Date: _____

Offered and passage moved by: _____ Supervisor

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Supervisor

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Supervisor

Supervisor

_____ Ayes

_____ Nays

_____ Absent

_____ Abstain

_____ Enacted

by the County Board of Supervisors this ____ day of _____, 2010.

_____ Defeated

Robert Brusio, Clerk

Ted Cushing, County Board Chair