

**Ordinance No. 2011-05**

**AN ORDINANCE TO CREATE SECTION 70-7 OF THE  
CODE OF ORDINANCES FOR THE VILLAGE OF UNION GROVE PERTAINING  
TO SMOKING PROHIBITED UNDER CERTAIN CONDITIONS**

The Village Board of the Village of Union Grove do ordain as follows:

1. That Section 70-7 of the Code of Ordinances for the Village of Union Grove shall

be created to read as set forth below:

**“Sec. 70-7. Smoking Prohibited Under Certain Conditions.**

- (a) **Adoption of State Law.** The provisions of s. 101.123, Wis. Stats., as amended from time-to-time, regulating smoking in various enclosed places are hereby adopted and made part of this Section by reference. As prescribed by state statutes, a warning notice shall be issued to the “person in charge” for the first violation.
- (b) **Designation of outside smoking areas.** Notwithstanding any other provision of this section, any person in charge of a restaurant, tavern, private club or retail establishment may designate an outside area that is a reasonable distance from any entrance to the restaurant, tavern, private club or retail establishment where customers, employees, or persons associated with the restaurant, tavern, private club or retail establishment may smoke as provided in s. 101.123(4m), Wis. Stats. governing local authority to regulate smoking on public property. Any person in charge of a restaurant, tavern, private club or retail establishment that designates an area for smoking which is a reasonable distance from any entrance to a restaurant, tavern, private club or retail establishment shall assure that the designated area is kept free of litter including cigarette butts or other tobacco products.
- (c) **Penalties.**
  - (1) Any person violating the prohibition against smoking in enclosed places or upon those unenclosed spaces identified in s. 101.123(d) and (e), Wis. Stats., shall be subject to a forfeiture of not less than \$100 nor more than \$250, and upon failure to pay the forfeiture, may be subject to not less than 2 nor more than 5 days of confinement in the county jail or house of correction.
  - (2) Any person in charge of property as defined in s. 101.123(1)(d), Wis. Stats., who violates the provisions of s. 101.123(2m)(b) to (d), Wis. Stats., shall be subject to a forfeiture of \$100 and, upon failure to pay the forfeiture, may be confined in the county jail or house of correction for a

period of 2 days. No person may be held subject to more than \$100 total forfeiture for violations occurring on the same calendar day. For violations subject to the forfeiture provided in this paragraph, no citation shall be issued to a person in charge who has not received a prior written warning notice.

- (d) **Effect of Future Amendment to Wisconsin Statutes.** In the event that the provisions of s. 101.123, Wis. Stats., are amended to delete the regulation of smoking in various enclosed places or the State removes the authority of municipalities to regulate smoking in enclosed places, this section shall have no effect and shall not be enforced within the Village, regardless of whether the ordinance remains included as a section of the Village's Code of Ordinances.”

2. That this ordinance shall take effect upon adoption and publication as provided by law.

Adopted by the Village Board of the Village of Union Grove, Racine County, Wisconsin, this 9th day of May, 2011.

VILLAGE OF UNION GROVE

BY: \_\_\_\_\_/s/  
Michael Aimone  
Village President

Attest:

\_\_\_\_\_/s/  
Janice K. Winget, WCPC, CMTW  
Village Clerk-Treasurer

Introduced: 05/09/2011  
1st reading: 05/09/2011  
2nd reading: Rules Suspended  
3rd reading: Rules Suspended  
Publication: 05/13/2011