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11/28/06  
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12/08/06

Agenda Item 5a

VILLAGE OF BARRINGTON

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ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING THE  
VILLAGE OF BARRINGTON VILLAGE CODE

(RE: New Chapter 7, "Clean Indoor Air", of Title 4, "Public Health and Safety")

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ADOPTED BY THE  
CORPORATE AUTHORITIES  
OF THE VILLAGE OF BARRINGTON

THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2006

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Published in pamphlet form by the Corporate Authorities of the Village of Barrington, Cook and Lake Counties, Illinois this \_\_\_\_ day of \_\_\_\_\_, 2006.

AN ORDINANCE AMENDING  
THE VILLAGE OF BARRINGTON VILLAGE CODE

(RE: New Chapter 7, “Clean Indoor Air”, of Title 4, “Public Health and Safety”)

WHEREAS, numerous studies have found that tobacco smoke is a major contributor to indoor air pollution, and that breathing secondhand smoke (also known as environmental tobacco smoke) is a cause of disease in healthy nonsmokers, including heart disease, stroke, respiratory disease, and lung cancer. The National Cancer Institute determined in 1999 that secondhand smoke is responsible for the early deaths of up to 65,000 Americans annually. (National Cancer Institute (NCI), *Health effects of exposure to environmental tobacco smoke: the report of the California Environmental Protection Agency*. Smoking and Tobacco Control Monograph 10, Bethesda, MD: National Institutes of Health, National Cancer Institute (NCI), August 1999.); and

WHEREAS, the U.S. Public Health Service’s National Toxicology Program (NTP) has listed secondhand smoke as a known carcinogen. (Environmental Health Information Service (EHIS), *Environmental tobacco smoke: first listed in the Ninth Report on Carcinogens*, U.S. Department of Health and Human Services (DHHS), Public Health Service, NTP, 2000; reaffirmed by the NTP in subsequent reports on carcinogens, 2003, 2005.); and

WHEREAS, the U.S. Surgeon General has determined that the simple separation of smokers and nonsmokers within the same air space may reduce, but does not eliminate, the exposure of nonsmokers to secondhand smoke. (Department of Health and Human Services. *The Health Consequences of Involuntary Smoking: A Report of the Surgeon General*. Public Health Service, Centers for Disease Control, 1986.); and

WHEREAS, the U.S. Environmental Protection Agency has determined that secondhand smoke cannot be reduced to safe levels in businesses by high rates of ventilation. Air cleaners, which are only capable of filtering the particulate matter and odors in smoke, do not eliminate the known toxins in secondhand smoke. (Environmental Protection Agency (EPA), *Indoor air facts no. 5: environmental tobacco smoke*, Washington, D.C.: Environmental Protection Agency (EPA), June, 1989.); and

WHEREAS, Cook County, Illinois, on March 15, 2006, enacted an ordinance entitled “Cook County Clean Indoor Air Ordinance”, which ordinance shall not be applicable within the corporate limits of the Village; and

WHEREAS, the Corporate Authorities of the Village of Barrington find and declare that the purposes of this Ordinance are: (1) to protect the public health and welfare by prohibiting smoking in all public places and places of employment, and (2) to guarantee the right of nonsmokers to breathe smoke-free air which shall have priority over the desire to smoke; and

WHEREAS, the Illinois Clean Indoor Air Act, 410 ILCS 80/1, et seq. (the “Illinois Clean Indoor Air Act”) was amended by Public Act 94-517 which became effective on January 1, 2006 to provide that no municipality may enact an ordinance regulating smoking in a public place which is less restrictive than the Illinois Clean Indoor Air Act; and

WHEREAS, it is in the best interests of the residents of the Village to amend the Village Code to be consistent with the Illinois Clean Indoor Air Act, as amended, and the amendments contained herein have been considered by one or more committees of the Board of Trustees of the Village of Barrington at duly called regular or special meetings of such committee(s); and

WHEREAS, it is in the best interests of the Village, its residents, and guests who frequent public places within the Village of Barrington and necessary for the protection of the public health

and safety that regulations consistent with the Illinois Clean Indoor Air Act relating to smoking in public places within the Village of Barrington be in force and effect:

NOW THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Barrington, Cook and Lake Counties, Illinois, as follows:

SECTION 1: The foregoing recitals are hereby adopted and incorporated into and made a part of this Ordinance as if fully set forth herein.

SECTION 2: The Village of Barrington Village Code, as amended, shall be further amended to add a new Chapter 7, “Clean Indoor Air”, to Title 4, “Public Health and Safety”, which new Chapter 7 shall read as follows:

“CHAPTER 7  
CLEAN INDOOR AIR

- 4-7-1: Short Title
- 4-7-2: Findings
- 4-7-3: Definitions
- 4-7-4: Prohibition of Smoking in Enclosed Public Places
- 4-7-5: Prohibition of Smoking in Places of Employment
- 4-7-6: Prohibition of Smoking in Open Air Dining Areas
- 4-7-7: Prohibition of Smoking at Entrances
- 4-7-8: Designation of Other No-Smoking Areas
- 4-7-9: Exemptions
- 4-7-10: Signs
- 4-7-11: Penalties
- 4-7-12: Injunctions
- 4-7-13: Discrimination Prohibited
- 4-7-14: Severability
- 4-7-15: Effective Date

4-7-1: **SHORT TITLE:** This Chapter shall be known and may be cited as the “Village of Barrington Clean Indoor Air Ordinance”.

4-7-2: **FINDINGS:** The Corporate Authorities of the Village of Barrington find that tobacco smoke is harmful and dangerous to human beings and a hazard to public health.

4-7-3: DEFINITIONS: For purposes of this Chapter, the following terms shall have the meanings ascribed to them in this Chapter unless different meanings are plainly indicated by the context:

**BUSINESS** means any sole proprietorship, partnership, joint venture, corporation, association, limited liability partnership, limited liability company, or other business entity, whether formed for profit or non-profit purposes. "Business" includes a "club" as defined in this Section.

**CLUB** means a private not-for-profit association, corporation or other entity, which is the owner, lessee or occupant of a building or a portion of a building consisting of persons who are bona fide paying members and which owns, leases, or uses a building or portion thereof, the use of which is restricted primarily to members and their guests.

**DEPARTMENT** means the Village of Barrington Police Department.

**EMPLOYEE** means any person who is employed or retained by a business, and shall include the owner or operator of a sole proprietorship or other similar business entity.

**ENCLOSED AREA** means all space in any structure, including without limitation, any building, shelter, tent, or trailer, that is enclosed or partially enclosed by one or more of the following: a roof, walls, windows, and/or doorways.

**OPEN AIR DINING AREA** means a seating area open to the air that is accessory to a restaurant, hotel, cafeteria, club or other enclosed public place engaged in purveying commercial food or beverage service where members of the public, members or guests are invited to sit and receive food or beverage service.

**PLACE OF EMPLOYMENT** means an enclosed area under the control of a public or private employer within the Village that employees normally frequent during the course of employment, and includes, without limitation, common work areas, private offices, auditoriums, classrooms, conference and meeting rooms, cafeterias, elevators, employee lounges, staircases, hallways, restrooms, medical facilities, clubs, and the interior of a vehicle of public conveyance. "Place of employment" does not include

a private dwelling unit, unless the dwelling is also used as a day care facility for children or adults or a health care facility. "Place of employment" does not include that part of a private dwelling used as a home office by a single employee only who resides in that dwelling.

**PUBLIC ENTRANCE**

means every doorway or other entrance to a public place or place of employment.

**PUBLIC PLACE**

means any enclosed area, public entrance, or open air dining area, which is open to and used by the general public, or into which the public is invited or permitted, whether or not admission is charged, including without limitation:

1. vehicles of public conveyance;
2. common or public areas (including without limitation lobbies, hallways, reception areas, public restrooms, elevators and staircases) of apartment buildings, condominiums, dormitory buildings, nursing home care facilities, and other multiple family residential structures;
3. common or public areas (including without limitation lobbies, hallways, reception areas, public restrooms, elevators and staircases) 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, health care facilities such as hospitals, clinics and doctor's offices, museums, libraries, restaurants, polling places, government and Village-owned buildings, food stores, cafeterias, theaters, auditoriums, train and bus stations, hotels, motels, and retail and service establishments;
4. 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, public entrance, or open air dining area, under the control of the Village of Barrington.

“Public place” shall not include:

1. a private dwelling unit, unless the dwelling is also used as a licensed childcare, adult care facility, health care facility, nursing, long term care or assisted living facility; or
2. hotel or motel rooms designated as smoking, provided that no more than twenty percent (20%) of the available rooms for rent in any single building shall be designated as smoking rooms.

**SMOKE OR SMOKING** means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other lighted tobacco product in any manner or in any form.

**VILLAGE** means the Village of Barrington, Cook and Lake Counties, Illinois

**4-7-4: PROHIBITION OF SMOKING IN ENCLOSED PUBLIC PLACES:**

- A. It is unlawful to smoke in any enclosed area of any public place.
- B. It shall be unlawful for the owner, occupant, or lessee, as the case may be, in control of a public place to knowingly permit smoking in any enclosed area in a public place.

**4-7-5: PROHIBITION OF SMOKING IN PLACES OF EMPLOYMENT:**

- A. It is unlawful to smoke in any enclosed area of any place of employment.
- B. It shall be unlawful for any employer to knowingly permit smoking in any enclosed area of any place of employment.

**4-7-6: PROHIBITION OF SMOKING IN OPEN AIR DINING AREAS:**

- A. It is unlawful to smoke in any open air dining area.
- B. It is unlawful to smoke within twenty feet (20') of an open air dining area.

**4-7-7: PROHIBITION OF SMOKING AT ENTRANCES:**

- A. It is unlawful to smoke within twenty feet (20') of a public entrance of either a public place or a place of employment.
- B. It is unlawful to smoke within twenty feet (20') of an operable window of either a public place or a place of employment.
- C. It is unlawful to smoke within twenty feet (20') of a ventilation air intake of either a public place or a place of employment.

**4-7-8: DESIGNATION OF OTHER NO-SMOKING AREAS:** Nothing in this Chapter shall be deemed to limit the owner, occupant, or lessee of a public place or a place of employment to further prohibit smoking by designating outdoor areas not subject to the restrictions in this Chapter as a place where smoking is also prohibited, provided that the owner, occupant, or lessee shall cause signs to be posted at appropriate

locations advising persons that smoking is prohibited within the designated outdoor area.

4-7-9: EXEMPTION: The prohibitions on smoking set forth in this Chapter shall not apply to any private dwelling unit, unless said dwelling is also used as a day care facility for children or adults.

4-7-10: SIGNS: Each owner, lessor, lessee, employer, or other person in control of a public place or place of employment shall post conspicuous “No Smoking” signs in the enclosed area and at every public entrance of any public place or place of employment where smoking is prohibited. Such “No Smoking” signs shall have the words “No Smoking” legibly printed in red letters, four inches high with a one-half inch face, or shall bear the international “No Smoking” symbol, which consists of a pictorial representation of a cigarette enclosed in a circle with a bar across it or such other sign, approved by the Village, that clearly states that smoking is prohibited. It shall be unlawful for any person to remove, deface or obscure any sign posted pursuant to the provisions of this Section.

4-7-11: PENALTIES:

- A. Any person who smokes in an area where smoking is prohibited under the provisions of this Chapter shall be guilty of a petty offense punishable by a fine of not less than fifty dollars (\$50.00) nor more than seven hundred fifty dollars (\$750.00).
- B. Any person, corporation, partnership, association, or other entity who or which is an employer or who or which owns, manages, operates or otherwise controls a public place, a place of employment or an open air dining area that permits smoking in an area where smoking is prohibited under the provisions of this Chapter, shall be guilty of an offense punishable by a fine of not less than fifty dollars (\$50.00) nor more than seven hundred fifty dollars (\$750.00) and such violation may result in the suspension or revocation of any permit or license issued for the premises on which the violation occurred.
- C. Each day that any violation of this Chapter shall continue shall constitute a separate offense.

4-7-12: INJUNCTIONS: The Village may institute, in a circuit court, an action to enjoin violations of this Chapter.

4-7-13: DISCRIMINATION PROHIBITED: No individual may be discriminated against in any manner because of the exercise of any rights afforded by this Chapter.

4-7-14: SEVERABILITY: If any provision or part of this Chapter or application thereof to any person or circumstance is held to be invalid, the remainder of the Chapter and the application of the provision or part thereof to other persons not similarly situated or to other circumstances shall not be affected thereby.

4-7-15: EFFECTIVE DATE: The prohibitions stated in this Chapter shall be effective on March 1, 2007. All premises affected by this Chapter that are in existence on the

approval date hereof shall cause signs to be posted, pursuant to the requirements of this Chapter, in a conspicuous location within the public place or place of employment on or before March 1, 2007. All premises affected by this Chapter that are established subsequent to the effective date hereof shall cause such signs to be posted as a condition to obtaining applicable business licensing.”

SECTION 3: All parts of the Village of Barrington Village Code in conflict with the terms or provisions of this Ordinance shall be and the same are hereby amended or repealed to the extent of such conflict, and said Village Code and all other existing ordinances shall otherwise remain in full force and effect.

SECTION 4: If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance or any part thereof is, for any reason, held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance, or any part thereof. The Corporate Authorities hereby declare that they would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

SECTION 5: This Ordinance shall not affect any prosecution pending or any penalty, punishment, forfeiture incurred, cause of action, or rights, powers, or remedies accrued under any ordinance in effect immediately prior to the effective date hereof.

SECTION 6: This Ordinance shall be published in pamphlet form and shall be in full force and effect on March 1, 2007 from and after its passage, approval and publication as provided by law.

SECTION 7: The Village Clerk is directed to immediately publish this Ordinance in pamphlet form.

PASSED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2006, BY ROLL CALL VOTE AS FOLLOWS:

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_

RECUSE: \_\_\_\_\_

APPROVED THIS \_\_\_\_ OF \_\_\_\_\_, 2006

\_\_\_\_\_  
Karen Y. Darch, Village President

ATTESTED AND FILED THIS  
\_\_\_\_ DAY OF \_\_\_\_\_, 2006

\_\_\_\_\_  
Village Clerk

(SEAL)

PUBLISHED IN PAMPHLET FORM THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2006.