

4-17-06

**ORDINANCE NO. 2006-19**

**AN ORDINANCE AMENDING CHAPTER 9.32, SMOKING IN PUBLIC PLACES,  
OF THE VILLAGE OF BUFFALO GROVE MUNICIPAL CODE**

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**WHEREAS**, the Village of Buffalo Grove is a Home Rule Unit pursuant to the Illinois Constitution of 1970; and

**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 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**, a study of hospital admissions for acute myocardial infarction in Helena, Montana before, during, and after a local law eliminating smoking in workplaces and public places was in effect, has determined that laws to enforce smoke free workplaces and public places may be associated with a reduction in morbidity from heart disease. (Sargent, Richard P.; Shepard, Robert M.; Glantz, Stanton A., *Reduced incidence of admissions for myocardial infarction associated with public smoking ban: before and after study*, British Medical Journal 328: 977-980, April 24, 2004.); and

**WHEREAS**, The U.S. Centers for Disease Control has issued a warning that anyone at risk for heart disease should avoid entering smoke-filled environments; and

**WHEREAS**, secondhand smoke is particularly hazardous to elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease; and

**WHEREAS**, children that are exposed to secondhand smoke have been shown to have an increased risk of asthma, respiratory infections, sudden infant death syndrome, developmental abnormalities, and cancer. (California Environmental Protection Agency (Cal EPA), *Health effects of exposure to environmental tobacco smoke*, Tobacco Control 6(4): 346-353, Winter, 1997.); and

**WHEREAS**, local and state governments throughout the country have successfully passed smoke free air laws to protect people against the harmful effects of secondhand smoke; and

**WHEREAS**, numerous economic analyses examining restaurant and hotel receipts and controlling for economic variables have shown either no difference or a positive economic impact after enactment of laws requiring workplaces to be smoke free. Creation of smoke free workplaces is sound economic policy and provides the maximum level of employee health and safety. (Glantz, S.A. & Smith, L., *The effect of ordinances requiring smoke free restaurants on restaurant sales in the United States.*, American Journal of Public Health, 87:1687-1693, 1997; Colman, R.; Urbonas, C.M., *The economic impact of smoke-free workplaces: an assessment for Nova Scotia, prepared for Tobacco Control Unit, Nova Scotia Department of Health*, GPI Atlantic, September 2001.); 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 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**, local and statewide smoke free workplace laws are now in effect for approximately 36% of the U.S. population, leaving another 64% still unprotected from exposure to a known carcinogen. People working in or visiting in smoke-filled hospitality settings like restaurants, bars, and entertainment venues are especially at risk; and

**WHEREAS**, the Village was not preempted by the Illinois Clean Indoor Air Act (410 ILCS 80/1 et seq.) which became effective on July 1, 1990 since the Village had previously enacted Ordinance No. 63-5 which was an ordinance passed “concerning the regulation of smoking prior to October 1, 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 Buffalo Grove 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.

**NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT and BOARD OF TRUSTEES OF THE VILLAGE OF BUFFALO GROVE, LAKE and COOK 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. Chapter 9.32 of the Village of Buffalo Grove Municipal Code is hereby amended to read as follows:

**Chapter 9.32  
Smoking In Public Places**

**9.32.010 Definitions.**

For purposes of this Chapter, the following terms shall have the following meanings:

A. “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.

B. “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.

C. “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.

D. “Employer” means any person or business that employs one or more employees.

E. “Enclosed area” means all space in any structure or building that is enclosed on all sides by any combination of walls, windows, or doorways, extending from floor to the ceiling.

F. “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.

G. “Place of employment” means an 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.

H. “Public Entrance” means every doorway or other entrance to a public place or place of employment.

I. “Public place” means an area that is open to and used by the general public, or any area to which the public is invited or in which the public is permitted, 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 under the control of the Village of Buffalo Grove where there is in progress any public meeting.

“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 ten percent (10%) of the available rooms for rent in any single building shall be designated as smoking rooms.

J. “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.

K. “Village” means the Village of Buffalo Grove.

**9.32.020 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.

**9.32.030 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.

**9.32.040 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 (20) feet of an open air dining area.

**9.32.050 Prohibition of Smoking at Entrances.**

A. It is unlawful to smoke within twenty (20) feet of a public entrance of either a public place or a place of employment.

B. It is unlawful to smoke within twenty (20) feet of an operable window of either a public place or a place of employment.

C. It is unlawful to smoke within twenty (20) feet of a ventilation air intake of either a public place or a place of employment.

### **9.32.060 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.

### **9.32.070 Exemptions.**

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

### **9.32.080 No Retaliation.**

No person, business or employer shall discharge, refuse to hire, or in any manner retaliate against an employee or customer because that employee or customer reports a violation of this Chapter or exercises any rights afforded by this Chapter.

### **9.32.090 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 a white field with the words "No Smoking" 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.

### **9.32.100 Penalties.**

A. Any person who smokes in an area where smoking is prohibited under the provisions of this Chapter shall be guilty of an offense punishable by a fine of fifty dollars (\$50.00).

B. Any person who 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 fifty dollars (\$50.00) 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.

**9.32.110 Other Applicable Laws.**

This Chapter 9.32 shall not be interpreted or be construed to permit smoking where it is otherwise restricted by other applicable laws.

**9.32.120 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.

**9.32.130 Effective Date.**

The prohibitions stated in this Chapter shall be effective on October 1, 2006. 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 October 1, 2006. All premises affected by this Chapter that are established subsequent to the approval date hereof shall cause such signs to be posted as a condition to obtaining applicable business licensing.

Section 3. This ordinance shall be in full force and effect from and after its passage, approval and publication. This ordinance may be published in pamphlet form.

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

NAYES: \_\_\_\_\_

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

PASSED: \_\_\_\_\_, 2006.

APPROVED: \_\_\_\_\_, 2006.

PUBLISHED: \_\_\_\_\_, 2006.

APPROVED:

\_\_\_\_\_  
Village President

ATTEST:

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