

**06-O-  
ORDINANCE**

**Sponsored by**

**THE HONORABLE MIKE QUIGLEY, JERRY BUTLER, FORREST CLAYPOOL,  
EARLEAN COLLINS, JOHN P. DALEY, GREGG GOSLIN, CARL R. HANSEN,  
ROBERTO MALDONADO, JOSEPH MARIO MORENO, ANTHONY J. PERAICA,  
DEBORAH SIMS AND BOBBIE L. STEELE, COUNTY COMMISSIONERS**

**COOK COUNTY CLEAN INDOOR AIR ORDINANCE**

**WHEREAS**, secondhand smoke contains over 4,000 chemical compounds, of which 200 are known poisons including carbon monoxide, arsenic, cyanide, benzene and formaldehyde; and

**WHEREAS**, the U.S. Environmental Protection Agency classifies secondhand smoke as a “Class A Carcinogen”; and

**WHEREAS**, the U.S. Center for Disease Control (CDC) estimates that 3,000 lung cancer deaths and more than 35,000 coronary heart disease deaths occur annually among adult nonsmokers in the United States as a result of exposure to secondhand smoke; and

**WHEREAS**, secondhand smoke is the third leading cause of preventable death in the U.S. and causes cancer, stroke, and heart disease, and has also been linked to Sudden Infant Death Syndrome (SIDS) and exacerbation of asthma symptoms, including triggering asthmas attacks; and

**WHEREAS**, employees who work in smoke-filled businesses suffer a 25-50% higher risk of heart attack and higher rates of death from cardiovascular disease and cancer, as well as increased acute respiratory disease and measurable decrease in lung function; and

**WHEREAS**, the American with Disabilities Act, which requires that disabled persons have access to public places and workplaces, deems impaired respiratory function to be a disability; and

**WHEREAS**, there is no known safe level of exposure to secondhand smoke; 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; 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; and

**WHEREAS**, air cleaners, which are only capable of filtering the particulate matter and odors in smoke, do not eliminate the known toxins in secondhand smoke; and

**WHEREAS**, ASHRAE (American Society of Heating, Refrigerating and Air Conditioning Engineers) bases its ventilation standards on totally smoke-free environments because it cannot determine a safe level of exposure to secondhand smoke, which contains cancer-causing chemicals, and ASHRAE acknowledges that the technology does not exist that can remove chemicals from the air that cause cancer; and

**WHEREAS**, exposure to secondhand smoke costs the nation \$5 billion in direct medical costs and \$5 billion in indirect medical costs annually; and

**WHEREAS**, limiting the exposure to secondhand smoke will result in considerable savings to taxpayers through the reduction of direct and indirect medical costs for Cook County employees and taxpayers utilizing Cook County health facilities; and

**WHEREAS**, the states of California, Massachusetts, Rhode Island, Utah, Vermont, Idaho, Connecticut, South Dakota, Maine, Delaware, Florida, New Jersey and Washington adopted protective clean indoor air laws that eliminate workers', patrons', and visitors' exposure to secondhand smoke; and

**WHEREAS**, since 2002, ninety independent studies have concluded that there is either no economic impact or there is a positive economic impact after the implementation of smoke-free restaurant/bar laws and laws banning smoking in the workplace; and

**WHEREAS**, the Cook County Board of Commissioners finds and declares 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 COOK COUNTY BOARD OF COMMISSIONERS:**

**Section 1: Title**

This Ordinance shall be known as the Cook County Clean Indoor Air Ordinance.

**Section 2: Interpretation with Other Laws**

Nothing in this Ordinance supersedes any existing elimination of smoking that is already covered by fire code restrictions.

**Section 3: Definitions**

The following words and phrases, wherein used in this Ordinance, shall have the following meanings:

“Arcade” means a place of amusement, which contains four or more automatic amusement devices and is not licensed to serve alcoholic liquor.

“Bar/Tavern” means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests and patrons on the premises and does not have an on-site kitchen to prepare food. Food service is limited to providing snack items or commercially prepared or wrapped foods that require no preparation.

“Business” means any sole proprietorship, partnership, joint venture, corporation, limited liability company or other business entity formed for profit-making purposes, including without limitation retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered.

“Employee” means any person who is employed by an employer in consideration for direct or indirect monetary wages or profit and a person who volunteers his or her services for a non-profit entity.

“Employer” means any person, business, partnership, association, corporation, including without limitation a municipal corporation, trust, or non-profit entity that employs the services of one or more individual persons.

“Enclosed Area” means all space between a floor and ceiling that is enclosed or semi-enclosed with (i) solid walls or windows (exclusive of doorways), which extend from the floor to the ceiling, or (ii) solid walls with half wall partition and no windows (exclusive of doorways) without limitation to lobbies and corridors.

“Health-Care Facility” means any office or institution providing medical care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including without limitation hospitals, clinics, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists and all specialists within these professions. The definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.

“Place of Employment” means any enclosed area under the control of a public or private employer that employees frequent during the course of employment, including without limitation work areas, employee lounges, restrooms, conference rooms, classrooms, employee cafeterias, hallways and vehicles. A private residence is not a “Place of Employment” unless it is used as a childcare, adult day care, health care facility, or home-based business of any kind open to the public.

“Public Place” means any enclosed area to which the public is invited or in which the public is permitted, including without limitation banks, educational facilities, government buildings, health care facilities, laundromats, museums, public transportation facilities, reception areas, restaurants, bars/taverns, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A private residence is not a “Public Place” unless it is used as a childcare, adult daycare, health care facility, or home-based business of any kind open to the public.

“Private Club” or “lodge” means any not-for-profit association that: (i) has been in active and continuous existence for at least three years; and (ii) has a membership roll of more than 50 bona fide members who pay membership dues on an annual or other periodic basis. For purposes of this section “bona fide members” do not include members who pay membership dues at the time of an amusement produced, presented or conducted by the club or lodge or in conjunction with contracting for production, presentation or conduct of an amusement by the club, as a condition to entering the premises where the amusement is produced, presented or conducted.

“Private Function” means a gathering of persons for the purpose of deliberation, education, instruction, entertainment, amusement or dining where membership or specific invitation is a prerequisite to entry and where the event is not intended to be open to the public.

“Restaurant” means an eating establishment, including without limitation coffee shops, cafeterias, sandwich shops, and private and public school cafeterias that gives or offers for sale, food to the public, guests or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term “Restaurant” shall include, if applicable, an attached bar/tavern.

“Restaurant bar area” means an area of a restaurant that is primarily devoted to the serving of alcoholic liquor.

“Retail Tobacco Store” means any retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental and where no one under 18 is permitted.

“Secondhand smoke” or “Involuntary smoking” is a mixture of the smoke given off by the burning ends of a cigarette, pipe, cigar, bidis, and kreteks (sidestream smoke) and the smoke emitted at the mouthpiece and exhaled from the lungs of smokers (mainstream smoke).

“Service Line” means any indoor line at which one (1) or more persons are waiting for or receiving services of any kind, whether or not the service involves the exchange of money.

“Shopping Mall” means any enclosed walkway or hall area that serves to connect retail or professional establishments.

“Smoking” means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, weed, hookah, or other lighted tobacco product in any manner or in any form.

“Enclosed or Semi-Enclosed” “Sports Arena” or “Recreational Area” means any sports pavilion, stadium, gymnasium, health spa, boxing arena, swimming pool, roller and ice rink, bowling alley and other similar places where members of the general public assemble either to engage in physical exercise, or participate in athletic competition or recreational activity, to witness sports, cultural, recreational or other events.

#### **Section 4: Prohibition of Smoking in Public Places**

Smoking shall be prohibited in all enclosed public places and places of employment within the County of Cook, including without limitation the following places:

1. Arcades.
2. Aquariums, galleries, libraries, and museums.
3. Bars/taverns.
4. Bingo facilities.
5. Bowling Alleys.
6. Convention facilities.
7. Facilities primarily used for exhibiting a motion picture, stage, drama, lecture, musical recital, or other similar performance.

8. Health care facilities and adult day care facilities.
9. Day care centers, nursery schools, elementary schools, high schools, community colleges, technical training establishments, specialty schools, colleges, and universities.
10. Lobbies, hallways and other common areas in apartment buildings, condominiums and enclosed common areas in trailer parks.
11. Polling places.
12. Public Transportation under the authority of government agencies, including without limitation buses, trains, taxicabs, and limousines, and ticket boarding and waiting areas of public transit stations.
13. Restaurants, including if applicable, a Restaurant bar area.
14. Restrooms, lobbies, reception areas, hallways, and other enclosed common-use areas.
15. Public elevators and all retail stores where merchandise is displayed and offered for sale.
16. Rooms, chambers, places of meeting or public assembly, including without limitation school buildings, under the control of an agency, board, commission, committee or council or a political subdivision of the State, to the extent the place is subject to the jurisdiction of the County.
17. Service lines.
18. Shopping malls.
19. Sports arenas or recreational areas, including without limitation, enclosed places in outdoor areas.
20. Grocery stores.
21. Public meetings.
22. Gymnasiums.
23. Government vehicles used for County business such as maintenance trucks or fleet vehicles.
24. Gaming facilities.
25. Public and private school buildings.

**Section 5: Reasonable Distance**

Smoking is prohibited within fifteen (15) feet of any entrance to an enclosed area in which smoking is prohibited.

## **Section 6: Where Smoking is not Regulated**

Notwithstanding any other provision of this Article to the contrary, the following areas shall be exempt from the provisions of this Ordinance, provided smoking is not limited in such areas under the Illinois Clean Indoor Air Act.

1. Private residences, except when used as a licensed childcare, adult care facility, health care facility, or a home-based business of any kind open to the public.
2. Hotel and motel sleeping rooms that are rented to guests and are designated as smoking rooms provided, however, that not more than twenty-five percent (25%) of the rooms rented to guests in a hotel or motel may be so designated.
3. Private and semi-private rooms in nursing homes and long-term care facilities that are occupied by one or more persons, all of whom are smokers and have requested in writing to be placed or to remain, as the case may be, in a room where smoking is permitted.
4. Private clubs or lodges.

## **Section 7: Declaration of Establishment as Non-smoking**

Notwithstanding any other provision of this Ordinance, an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a non-smoking place.

Smoking shall be prohibited in any place in which a sign conforming to the requirements of this Ordinance is posted.

## **Section 8: Posting of Signs**

- A. Every public place and place of employment where smoking is prohibited by this Ordinance shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.
- B. The operator, manager or other person having control of an area where smoking is prohibited by this Ordinance shall remove all ashtrays and other smoking paraphernalia intended for use where smoking is prohibited.

## **Section 9: Non-retaliation**

No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or customer because that employee, applicant, or customer exercises any rights afforded by this Ordinance or reports or attempts to prosecute a violation of this Ordinance.

## **Section 10: Enforcement**

- A. Any law enforcement agency and certified local public health department with jurisdiction shall be authorized to enforce this Ordinance within its jurisdiction. The certified local public health department is the Cook County Department of Public Health, except within those areas within Cook County which are served by another local health department certified by the Illinois Department of Public Health, in which case said certified local health department shall be authorized to enforce the Ordinance.
- B. Any citizen who desires to register a complaint under this Ordinance may file a complaint with the Cook County Department of Public Health. If it does not have jurisdiction, the Cook County Department of Public Health shall transmit the complaint to the appropriate certified local health department.
- C. The Cook County Department of Public Health or designees shall, while an establishment is undergoing other public health inspections, inspect for compliance with this Ordinance.
- D. Any owner, manager, operator, or employee of an establishment regulated by this Ordinance shall inform persons violating this Ordinance of the appropriate provisions thereof.
- E. In addition to the remedies provided by the provisions of this Ordinance, the applicable certified local health department or any person aggrieved by the failure of the owner, operator, manager of other person in control of a public place or a place of employment to comply with the provisions of this Section may apply for injunctive relief to enforce these provisions in any court of competent jurisdiction.

**Section 11: Violations and Penalties**

- A. A person who smokes in an area where smoking is prohibited by this Ordinance shall be guilty of an infraction, punishable by a fine not more than one hundred dollars (\$100).
- B. A person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the provisions of this Ordinance shall be guilty of an infraction, punishable by:
  - 1. A fine not exceeding one hundred dollars (\$100) for the first violation.
  - 2. A fine not more than five hundred dollars (\$500) for the second violation within one (1) year of the first violation.
  - 3. A fine not more than two thousand five hundred dollars (\$2500) for each additional violation within one (1) year and a sixty (60) day suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.
- C. Each day on which a violation of this Ordinance occurs shall be considered a separate and distinct violation.
- D. Revenues collected pursuant to this Ordinance will be dedicated to enforcement and public education, including the 890-298 account for funding of lung related illness programs.

**Section 12: Public Education**

The Cook County Department of Public Health within its jurisdiction shall engage in a continuing program to explain and clarify the purposes and requirements of this Ordinance to citizens affected by it, and to guide owners, operators, and managers in their compliance with it. Within their jurisdictions, local health departments certified by the Illinois Department of Public Health are authorized to provide the same continuing programs.

**Section 13: Other Applicable Laws**

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

**Section 14: Severability**

If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid by a court of competent jurisdiction, such invalidity shall not affect the other provisions of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

**Section 15: Applicability of this Ordinance**

This Ordinance shall apply to all areas within Cook County, Illinois except those areas which are governed by an ordinance of another governmental entity (which by law may not be superseded by this Ordinance).

**Section 16: Effective Date**

This Ordinance shall take effect three hundred sixty five (365) days from its passage.

Approved and adopted this 15th day of March 2006.

**06-O-  
ORDINANCE**

**Sponsored by**

**THE HONORABLE MIKE QUIGLEY, FORREST CLAYPOOL, EARLEAN COLLINS,  
JOHN P. DALEY, GREGG GOSLIN, ROBERTO MALDONADO,  
JERRY BUTLER, ELIZABETH ANN DOODY GORMAN, CARL R. HANSEN,  
JOSEPH MARIO MORENO, ANTHONY J. PERAICA, DEBORAH SIMS  
AND BOBBIE L. STEELE, COUNTY COMMISSIONERS**

**SMOKING POLICY FOR COOK COUNTY FACILITIES**

**WHEREAS**, in 1988, the City of Chicago enacted the “Clean Indoor Air Ordinance” that requires all employers located within Chicago to enact a smoking policy; and

**WHEREAS**, on August 22, 1988, in response to the City of Chicago Ordinance, the Cook County Board of Commissioners adopted a resolution setting forth a smoking policy for County facilities, referred to as the “Cook County Government Smoking Policy”; and

**WHEREAS**, since that time there has been new research as to the effects of secondhand smoke; and

**WHEREAS**, because of increasing evidence of the dangers of secondhand smoke, the City of Chicago has repealed its “Clean Indoor Air Ordinance” and replaced it with the “Chicago Clean Indoor Air Ordinance of 2005,” which is more stringent in regulating smoking than its predecessor ordinance; and

**WHEREAS**, secondhand smoke contains over 4,000 chemical compounds, of which 200 are known poisons including carbon monoxide, arsenic, cyanide, benzene and formaldehyde; and

**WHEREAS**, the U.S. Environmental Protection Agency classifies secondhand smoke as a “Class A Carcinogen”; and

**WHEREAS**, secondhand smoke is the third leading cause of preventable death in America and causes cancer, stroke, and heart disease, and has also been linked to Sudden Infant Death Syndrome (SIDS) and the exacerbation of asthma symptoms, including triggering asthma attacks; and

**WHEREAS**, there is no known safe level of exposure to secondhand smoke; 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; 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; and

**WHEREAS**, ASHRAE (American Society of Heating, Refrigerating and Air Conditioning Engineers) bases its ventilation standards on totally smoke-free environments because it cannot determine a safe level of exposure to secondhand smoke, which contains cancer-causing chemicals, and ASHRAE acknowledges that the technology does not exist that can remove chemicals from the air that cause cancer; and

**WHEREAS**, persons conducting business in any enclosed facility or any portion thereof, owned or operated by the County (“County Facility” or “County Facilities”) should not be required to subject themselves to smoke in order to conduct business in those County Facilities; and

**WHEREAS**, employees who work in smoke-filled businesses suffer a 25-50% higher risk of heart attack and higher rates of death from cardiovascular disease and cancer, as well as increased acute respiratory disease and measurable decrease in lung function; and

**WHEREAS**, in response to the risks associated with smoking, the Sheriff of Cook County has banned smoking throughout the Department of Corrections; and

**WHEREAS**, providing a healthful and safe work place for all employees and member of the public using County Facilities should be given priority over providing a convenient place for persons to smoke; and

**WHEREAS**, both the “Chicago Clean Indoor Air Ordinance of 2005” and the “Illinois Clean Indoor Air Act” permit the banning of smoking in enclosed public places and places of employment.

**NOW, THEREFORE, BE IT ORDAINED BY THE COOK COUNTY BOARD OF COMMISSIONERS:**

#### **Section 1: Prohibition of Smoking in County Facilities**

Smoking by inhaling, exhaling, burning or carrying any lighted cigarette, cigar, pipe or other lighted tobacco product in any other form (“smoking”) is not permitted in any areas of any County Facility, including, without limitation, those County Facilities housing administrative offices, courthouses, detention facilities or jails. This ban on smoking applies to all public areas of Cook County Facilities as well as all areas used only by County employees or officials, including without limitation individual offices.

#### **Section 2: Prohibition of Smoking in County Vehicles**

Smoking is prohibited in all vehicles owned or leased by the County of Cook.

#### **Section 3: Reasonable Distance**

Smoking is prohibited within 15 feet of an enclosed area of any County Facility, so as to prohibit congestion at exits that could constitute a fire hazard in the event of an emergency evacuation of the County Facility. However, if the County operates County Facilities within buildings owned by third parties and the County’s use in those buildings is not exclusive, this Section 3 shall apply only insofar as it restricts the conduct of County employees.

#### **Section 4: Implementation**

All appropriate County representatives, including the Director of Facilities Management and the Chief Administrative Officer, and all elected officials shall implement the foregoing policy.

**Section 5: Effect of Ordinance**

This Ordinance supersedes and replaces any and all earlier resolutions and ordinances pertaining to the subject of a smoking policy for County Facilities. It is intended for this Ordinance to apply to County Facilities. However, to the extent that any provision of this Ordinance is less restrictive in regulating smoking than another ordinance, the more restrictive provision shall apply. This ordinance shall take effect immediately upon passage.

Approved and adopted this 15th day of March 2006.

**06-O-  
ORDINANCE**

**AN ORDINANCE GRANTING A SPECIAL USE FOR  
UNIQUE USE LOCATED IN STICKNEY TOWNSHIP AS AUTHORIZED  
BY THE COOK COUNTY ZONING ORDINANCE**

**WHEREAS**, the owner of certain property located in Stickney Township described in Section 1, herein, has petitioned the Cook County Board of Commissioners for a Special Use for Unique Use permit in the C-5 Commercial Transition District; and

**WHEREAS**, the said petition was received by the Zoning Board of Appeals of Cook County as Docket #7972 and a public hearing was held in regard to said request after due notice, all in accordance with the Cook County Zoning Ordinance and the Statutes of the State of Illinois; and

**WHEREAS**, the Zoning Board of Appeals entered detailed findings in accordance with the standards set forth in the Ordinance recommending that the Cook County Board of Commissioners grant said applications for a Special Use for Unique Use permit; and

**WHEREAS**, it is the determination that said request be granted in accordance with the recommendations of the Zoning Board of Appeals.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of Commissioners of Cook County, Illinois:

**Section 1:** That a Special Use for Unique Use to retain an existing three-flat residential building and its improvements in the C-5 Commercial Transition District be granted.

**LEGAL DESCRIPTION**

Lots 34, 35 and 36, in Block 5 in Crane View Archer Ave. Home Addition to Chicago in Section 9 Township 38 North, Range 13, East of the Third Principal Meridian.

commonly described as approximately .216 acre, located on the East side of South Central Ave., approximately 297 ft. South of 48th St. in Stickney Township.

**Section 2:** That the Special Use for Unique Use located in the C-5 Commercial Transition District, as mentioned in Section 1 of this Ordinance is hereby authorized.

**Section 3:** That this Ordinance under the provisions of Section 13.8.9 of the Cook County Zoning Ordinance be in full force and effect from and after its passage and approval, except that if said use is not established within one year as provided in Section 13.8.14 said Special Use for Unique Use shall be null and void. That said property be developed and constructed pursuant to the detailing set forth in the testimony and contained in the exhibits and Findings of the Cook County Zoning Board of Appeals hereby incorporated by reference into this Ordinance, as provided by law.

Approved and adopted this 15th day of March 2006.

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**JOHN H. STROGER, JR.**, President  
Cook County Board of Commissioners

(S E A L)

Attest:   

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**DAVID ORR**, County Clerk

**06-O-  
ORDINANCE**

**Sponsored by**

**THE HONORABLE JOHN H. STROGER, JR., PRESIDENT, LARRY SUFFREDIN  
AND ROBERTO MALDONADO, COUNTY COMMISSIONERS**

**DISPLACED BUILDING SERVICE WORKERS PROTECTION ORDINANCE**

**WHEREAS**, Cook County is a home rule unit of local government pursuant to Article 7, Section 6a of the Illinois Constitution of 1970 with power to regulate those matters which pertain to its government and affairs; and

**WHEREAS**, as part of their findings, the Mikva Commission vocalized the need for coordinated and uniform evacuation policies in event of an emergency; and

**WHEREAS**, the federal government encourages increased awareness by personnel working in office and industrial buildings in order to combat potential terrorist activity; and

**WHEREAS**, building service workers are trained and knowledgeable in building safety procedures and are alert to any suspicious activity which they may encounter in the performance of their jobs; and

**WHEREAS**, a period of review and retention before a successor employer can terminate a position ensures that the safety of building occupants will not be compromised during the transitory phase of building service contracts; and

**WHEREAS**, nothing in this Ordinance abrogates a successor employer's rights to discharge an employee for "cause" or conduct employee background checks.

**NOW, THEREFORE BE IT ENACTED** by the People of the County of Cook, Illinois, represented by the Cook County Board of Commissioners:

**Section 1: Title.** This Ordinance may be cited as the Displaced Building Service Workers Protection Ordinance.

**Section 2: Definitions.** In this Ordinance:

**"Building"** means a structure, or part thereof, enclosing any occupancy including residential, institutional, assembly, business, mercantile, industrial, storage, hazardous and miscellaneous uses. When separated by fire walls, each unit so separated shall be deemed a separate building.

**"Building service"** means work performed in connection with the care or maintenance of an existing building and includes, but is not limited to, work performed by a watchman, security officer, door staff, building cleaner, maintenance technician, handyman, janitor, elevator operator, window cleaner, building engineer and groundskeeper.

**"Building service contract"** means a contract let to any covered employer for the furnishing of building services and includes any subcontract for such services.

**"Building service contractor"** means any person who enters into a building service contract.

**"Building service employee"** means any person employed as a building service employee by a covered employer who has been regularly assigned to a building on a full or part-time basis for at least 25 days immediately preceding any transition in employment subject to this Section except for (i) persons who are managerial, supervisory, or confidential employees, provided that this exemption shall not apply to building engineers for existing properties, (ii) persons earning in excess of \$25 per hour from a covered employer, and (iii) persons regularly scheduled to work fewer than 6 hours per week at a building.

**"County of Cook"** means any city, township, administration, department, division, bureau, board or commission, or a corporation, institution, or agency of government, the expenses of which are paid in whole or in part from the County treasury.

**"Covered employer"** means any person who owns or manages real property, either on its own behalf or for another person, or any person who contracts or subcontracts with an owner or manager of real property within the County of Cook for real estate, including, but not limited to, housing cooperatives, condominium associations, building managing agents, and any building service contractor provided, however, that the requirements of this Ordinance shall not apply to (i) residential buildings under 50 units, (ii) commercial office, institutional, or retail buildings of less than 75,000 square feet, (iii) any building owned by any government entity, or (iv) any building that is owned or operated by a hospital or hospital affiliate as defined in the Hospital Licensing Ordinance.

**"Person"** means any individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association, or other entity that may employ persons or enter into service contracts, but shall not include the City of Chicago, the County of Cook, and the federal government or any other entity, or any individual or entity managing real property for a governmental entity.

**"Successor employer"** means a covered employer that (i) has been awarded a building service contract to provide, in whole or in part, building services that are substantially similar to those provided under a service contract that has recently been terminated, or (ii) has purchased or acquired control of property in which building service employees were employed.

### **Section 3: Protection for building service employees.**

(a) No less than 25 calendar days before terminating any building service contract, any covered employer shall request the terminated contractor to provide the successor employer and any collective bargaining representative of any of the affected employees where there is a collective bargained contract for the site, a full and accurate list containing the name, address, date of hire, and employment occupation classification of each building service employee employed on the notice date at the site or sites covered by the terminated contract.

(b) No less than 25 calendar days before transferring a controlling interest in any covered building in which building service employees are employed, any covered employer shall provide to the successor employer and any collective bargaining representative of any of the affected employees where there is a collective bargained contract for the site, a full and accurate list containing the name, address, date of hire, and employment occupation classification of each building service employee currently employed at the site or sites covered by the transfer of controlling interest.

(c) Any covered employer shall provide to the successor employer and any collective bargaining representative of any of the affected employees where there is a collective bargained contract for the site, a full and accurate list containing the name, address, date of hire, and employment occupation classification of each building service employee currently employed at the site or sites covered by the terminated building service contract no more than 7 calendar days after notice that its building service contract has been terminated.

(d) When providing the notice required under this Section, each covered employer shall ensure that a notice to building service employees is posted setting forth the rights provided under this Section and which includes a copy of the list provided under the preceding Sections, and that such notice is also provided to the employees' collective bargaining representative where there is a collective bargained contract for the site. The notice and list shall be posted in the same location and manner that other statutorily required notices to employees are posted at the affected site or sites.

(e) A successor employer shall retain for a 25 day transition employment period at the affected site or sites those building service employees of the terminated building service contractor and its subcontractors, or other covered employer, employed at the site or sites covered by the terminated building service contract.

(f) If at any time the successor employer determines that fewer building service employees are required to perform building services at the affected building than had been performing such services under the former employer, the successor employer shall retain the predecessor building service employees by seniority within job classification; provided that during such a 25 day transition period, the successor employer shall maintain a preferential hiring list of those building service employees not retained at the building who shall be given a right of first refusal to any jobs within their classification that becomes available during that period.

(g) Except as provided in subsection (f), (i) and (j) during such 25 day period, the successor contractor shall not discharge without cause an employee retained pursuant to this Section.

(h) At the end of the 25 day transition period, the successor employer shall perform a written performance evaluation for each employee retained pursuant to this Section. If the employee's performance during such 25 day period is satisfactory, the successor contractor shall offer the employee continued employment under the terms and conditions established by the successor employer or as required by law.

(i) Nothing in this Ordinance shall restrict an existing or successor employer from obtaining a background check on an employee as may be required by a federal, state or local governmental agency or from requiring that an employee undergo appropriate testing and investigation consistent with the existing or successor employer's personnel policies.

(j) Nothing in this Ordinance shall restrict an existing or successor Employer from complying with requirements of the Illinois Department of Financial and Professional Regulation.

#### **Section 4: Violation.**

(a) A building service employee who has been discharged or not retained in violation of this Ordinance may bring an action in court against a successor contractor and covered employer for violation of any obligation imposed pursuant to this Ordinance.

(b) The following are appropriate remedies for violations of this ordinance, as a court deems just and proper:

(1) Injunctive Relief;

(2) Back pay for each day during which the violation continues, which shall be calculated at a rate of compensation not less than the higher of (i) the average regular rate of pay received by the employee during the last 3 years of the employee's employment in the same occupation classification; or (ii) the final regular rate received by the employee.

(3) Costs of benefits the successor employer would have incurred for the employee under the successor contractor's or employer's benefit plans.

(4) The building service employee's reasonable attorney's fees and costs.

(5) An award requiring the terminated contractor or former employer to provide the successor employer with the information required pursuant to Section 3(c) of this Ordinance.

(6) Any additional relief the court deems just and proper.

### **Section 5: Exemptions.**

The provisions of this Ordinance do not apply:

(1) To any successor employer that, on or before, the effective date of the transfer of control from a predecessor covered employer to the successor employer to the commencement of services by a successor building service contractor, agrees to assume, or to be bound by, the collective bargaining agreement of the predecessor covered building service employees, provided that the collective bargaining agreement provides terms and conditions for the discharge or laying off of employees.

(2) Where there is no existing collective bargaining agreement as described in subdivision (1), to any successor employer that agrees, on or before the effective date of the transfer of control from a predecessor covered employer to the successor employer or the commencement of services by a successor building service contractor, to enter into a new collective bargaining agreement covering its building service employees, provided that the collective bargaining agreement provides terms and conditions for the discharged or laying off of employees.

(3) To any successor employer whose building service employees will be accredited to a bargaining unit with a pre-existing collective bargaining agreement, provided that the collective bargaining agreement provides terms and conditions for the discharged or laying off of employees.

(4) To any covered employer that obtains a written commitment from a successor employer that the successor employer's building service employees will be covered by a collective bargaining agreement falling within subdivision (1), (2), or (3).

### **Section 6: Effective date.**

This Ordinance shall take effect on May 1, 2006.

Approved and adopted this 15th day of March 2006.