

ORDINANCE NO. 3865 - 2006**AN ORDINANCE AMENDING
SECTION 7-10-4, SMOKING PROHIBITED
IN DESIGNATED AREAS, OF THE
HOFFMAN ESTATES MUNICIPAL CODE**

WHEREAS, the Village of Hoffman Estates is a home rule unit pursuant to the provisions of Article VII, §6 of the Constitution of the State of Illinois; and

WHEREAS, the Village has authority and power to regulate for the protection of the public health and welfare; and

WHEREAS, pursuant to the provisions of 65 ILCS 5/11-19.1-11, the corporate authorities of the Village have the authority to proscribe by ordinance the regulation of the use of lands connected with the emission of air contaminants and may abate operations activities or uses causing air contamination; and

WHEREAS, the President and Board of Trustees have found and determined that based upon the United States Environmental Protection Agency's classification, secondhand smoke is a "class A carcinogen"; and

WHEREAS, secondhand smoke is the third leading cause of preventable death in the United States and causes cancer, stroke and heart disease; and

WHEREAS, employees who work in smoke filled businesses suffer a substantially 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 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, the President and Board of Trustees of the Village of Hoffman Estates 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 non-smokers 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 Hoffman Estates, Cook and Kane Counties, Illinois, as follows:

Section 1: That Section 7-10-4, SMOKING PROHIBITED IN DESIGNATED AREAS, of the Hoffman Estates Municipal Code be amended by amending the Section to be SMOKING PROHIBITED IN PUBLIC PLACES, to read as follows:

Section 7-10-4. SMOKING PROHIBITED IN PUBLIC AREAS

A. Definitions. The following words and phrases used in this ordinance shall have the following meanings:

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

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2. "Place of employment" means any enclosed area under the control of a public or private employer where one or more employees are required or permitted by an employer to work in the course of their employment and includes without limitation, work areas, private offices, auditoriums, classrooms, conference and meeting rooms, cafeterias, elevators, employee lounges, stairs, hallways, restrooms, medical facilities, private clubs, and the interior of a vehicle of public conveyance. A private residence is not a "place of employment" unless the dwelling is also used partially or exclusively as a day care facility for children or adults, a health care facility or a home-based business of any kind open to the public provided that rooms in nursing homes or long-term care facilities occupied by one or more persons who have requested in writing a room where smoking is permitted shall be considered private dwelling units.

3. "Public place" means any 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 limitations:

- a. Vehicles of public conveyance;
- b. Common or public areas (including without limitation, lobbies, hallways, reception areas, public restrooms, storage, laundry, and elevators) of apartment buildings, condominiums, dormitory buildings, nursing home care facilities, and other multiple family residential structures;
- c. Common or public areas (including without limitation, lobbies, hallways, reception areas, public restrooms, and elevators) or any building or structure that is accessible to the public including without limitation office, commercial and industrial buildings, banks and financial institutions, education 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, shopping malls, sports arenas, theaters, auditoriums, public transportation facilities, hotels, motels and retail and service establishments;
- d. 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 Hoffman Estates where there is, in progress, any public meeting.

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Provided, however, that "Public Place" shall not include 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".

4. "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).

5. "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.

B. Prohibition of Smoking in Public Places. Smoking shall be prohibited in all enclosed public places and places of employment within the Village of Hoffman Estates. The prohibition shall also extend to any enclosed or semi-enclosed sports arena or recreational area, including sports pavilion, stadium, gymnasium, health spa, boxing arena, swimming pool, roller or ice rink, bowling alley, and other similar places where members of the general public assemble. It shall be unlawful for the owner, occupant or lessee in control of the public place to permit smoking in any such public place.

C. Prohibition Within Distance of Public Places. Smoking is prohibited within fifteen feet (15') of any entrance to an enclosed area in which smoking is prohibited and also within fifteen feet (15') of any outdoor eating establishment or facility.

D. Exemptions. Notwithstanding any other provision of this ordinance, the following areas shall be exempted from its provision provided smoking is not limited or prohibited in such areas under the Illinois Clean Indoor Air Act or federal legislation:

1. Smoking areas incidental to the sale of tobacco in businesses where smoking is confined to the premises by water pipe or other smoking devices, provided, however, that said smoking shall take place wholly within such enclosed premises and that any smoke generated by smoking on the premises does not infiltrate any other enclosed public place or place of employment.

2. A private residence as hereinabove excepted in the definitions of "Public Place" and "Place of Employment".

3. Hotel and motel sleeping rooms subject to restrictions as hereinabove set forth in the definition of "Public Places".

4. Private and semi-private rooms in nursing homes and long-term care facilities 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.

E. Posting of Signs. Every public place and place of employment where smoking is prohibited by this ordinance shall have posted at every entrance a conspicuous sign indicating "No Smoking". Such "No Smoking" signs shall have a white field with the words "No Smoking" printed in red letters four inches (4") high with a one-half inch (1/2") 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. It shall be unlawful for any person to remove, deface or obscure any sign posted pursuant to the provisions of the ordinance. The operator, manager or other person having control of an area where smoking is prohibited shall remove all ashtrays and other smoking paraphernalia intended for use where smoking is prohibited.

Section 2: That any person, firm or corporation guilty of violating any of the provisions of this ordinance shall be fined not less than Ten Dollars (\$10.00) nor more than Five Hundred Dollars (\$500.00).

Section 3: That the Village Clerk is hereby authorized to publish this ordinance in pamphlet form.

Section 4: That this Ordinance shall be in full force and effect on January 2, 2007 and after its passage and approval.

PASSED THIS 25th day of September, 2006

APPROVED THIS 25th day of September, 2006

VOTE	AYE	NAY
Trustee Mills	<u>x</u>	_____
Trustee Boester	<u>x</u>	_____
Trustee Rusakiewicz	_____	<u>x</u>
Trustee Collins	<u>x</u>	_____
Trustee Kincaid	_____	<u>x</u>
Trustee Crespo	<u>x</u>	_____

APPROVED:

William B. McLeod
Village President

ATTEST:

Virginia Mary Beante
Village Clerk

Published in pamphlet form this 28th day of September, 2006.