

**ORDINANCE NO. 06-6-**

**AN ORDINANCE ADDING CHAPTER 99  
REGULATING SMOKING IN PUBLIC PLACES  
AND PLACES OF EMPLOYMENT TO THE VILLAGE  
CODE OF THE VILLAGE OF LINDENHURST,  
LAKE COUNTY, ILLINOIS**

**WHEREAS**, numerous studies have found that tobacco smoke is a major contributor to indoor air pollution and that breathing secondhand smoke is a cause of disease in healthy non-smokers, including heart disease, stroke, respiratory disease and lung cancer; 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 exposed to secondhand smoke have an increased risk of asthma, respiratory infections and cancer; and,

**WHEREAS**, a significant amount of secondhand smoke exposure occurs in the workplace and 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 U.S. Surgeon General has determined that the simple separation of smokers and non-smokers within the same air space may reduce, but does not eliminate, the exposure of non-smokers to secondhand smoke; and,

**WHEREAS**, the Environmental Protection Agency has determined that secondhand smoke cannot be reduced to safe levels in businesses by high rates of ventilation and that

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

**WHEREAS**, after careful and considerable research, discussion and debate, and after review and consideration of the testimony and written materials presented at public meetings by residents and other interested parties, the President and Board of Trustees of the Village of Lindenhurst have determined that smoking should be prohibited in public places, in places of employment, at the public entrances to such places, in and near open air dining areas and at certain unenclosed public places including municipal, park and school grounds in the Village of Lindenhurst to protect the public health and welfare and to protect the right of non-smokers to avoid breathing secondhand smoke;

**NOW, THEREFORE, BE IT ORDAINED** by the President and Board of Trustees of the Village of Lindenhurst, Lake County, Illinois, as follows:

**SECTION I:** That Chapter 99 be added to the Code of Ordinances of the Village of Lindenhurst as follows:

## **CHAPTER 99**

### **SMOKING REGULATIONS**

- 99.01**      **BACKGROUND.** Smoking creates the hazard of injury to the personal health of those in the environment of such smoke as well as the potential of damage to property that may result from the incendiary nature of such activity. It has been determined that breathing ambient smoke is a health hazard to both smokers and non-smokers. Cigarette smoking also produces several substances that are considered hazardous to health including carbon monoxide, hydrogen cyanide, nitrous oxide and formaldehyde. Secondhand smoke (68% of the total smoke produced by a cigarette) affects the health of the bystander, interfering with respiratory tract defenses, often causing non-smokers to have allergic or irritative reactions, and is a known cause of lung cancer.

Because the hazards of smoking have a potentially harmful effect, material and direct, on the public health, safety, welfare, comfort and property of residents of the Village, it is necessary and desirable to establish regulations that prohibit smoking in all enclosed public places, in all enclosed places of employment, near entrances to all such public places, in all enclosed places of employment, in and near open air public dining areas and within certain unenclosed public places including the Village Hall grounds, the Lindenhurst Sanitary District Sewer Treatment Plant site, school grounds, parks and recreation areas and outdoor venues.

**99.02**           **PURPOSE.** The purpose of this ordinance is to protect the public health, comfort and environment by prohibiting smoking in all enclosed public places and places of employment, within twenty (20) feet of all public entrances to such places, in open air public dining areas and within twenty (20) feet of such areas, and within certain unenclosed public places including the Village Hall grounds, the Lindenhurst Sanitary District Sewer Treatment Plant site, school grounds, parks and recreation areas and outdoor venues in order to ensure that non-smokers may breathe air free from the hazardous effects of secondhand smoke.

**99.03**           **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 to members and their guests and is not open to the public and has no employees.
- 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, bar, banquet facility, 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.
- 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 or 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, bars, banquet

facilities, restaurants, polling places, government and Village-owned buildings, Lindenhurst Park District buildings, Lake County Forest Preserve District buildings, Lake Villa Fire Protection District 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 Lindenhurst where there is in progress any public meeting.
5. Hotel or motel rooms.

"Public place" shall not include 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 and shall not include a club as defined herein.

- 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 Lindenhurst.

**99.04 PROHIBITION OF SMOKING IN ENCLOSED PUBLIC PLACES.**

- A. It is unlawful to smoke in any enclosed area of any public place.
- B. It is 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.

**99.05 PROHIBITION OF SMOKING IN PLACES OF EMPLOYMENT.**

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

**99.06 PROHIBITION OF SMOKING AT ENTRANCES TO PUBLIC PLACES OR PLACES OF EMPLOYMENT.**

- 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 place of employment.

**99.07 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.

**99.08 PROHIBITION IN UNENCLOSED PUBLIC PLACES AND OUTDOOR VENUES.**

It is unlawful to smoke in the following unenclosed public places:

- A. Village property, excluding Village roads and rights-of-way and lakes.
- B. Lindenhurst Park District parks and recreation areas.
- C. School grounds.
- D. Lake County Forest Preserve property located within the Village.
- E. Lindenhurst Sanitary District property.
- F. Lake Villa Fire Protection District property located within the Village.

Notwithstanding the above, smoking is allowed in parking lots and access driveways in all of the above public places and outdoor venues except school grounds.

**99.09 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.

- 99.10 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.
- 99.11 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.
- 99.12 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. It shall be unlawful for any person to remove, deface or obscure any sign posted pursuant to the provisions of this Section.
- 99.13 PENALTIES.**
- A. A person who smokes in an area where smoking is prohibited by the provisions of this Chapter shall be guilty of an infraction, punishable by:
    - 1. A fine not exceeding Fifty and No/100 Dollars (\$50.00) for a first violation.
    - 2. A fine not exceeding One Hundred and No/100 Dollars (\$100.00) for a second violation within one (1) year.
    - 3. A fine not exceeding Two Hundred Fifty and No/100 Dollars (\$250.00) for each additional violation within one (1) year.
  - B. A person, corporation or partnership who owns, manages, operates or otherwise controls a public place or place of employment and who fails to comply with the provisions of this Chapter shall be guilty of an infraction, punishable by:

1. A fine not exceeding One Hundred and No/100 Dollars (\$100.00) for a first violation.
  2. A fine not exceeding Two Hundred and No/100 Dollars (\$200.00) for a second violation within one (1) year.
  3. A fine not exceeding Five Hundred and No/100 Dollars (\$500.00) for each additional violation within one (1) year.
- C. In addition to the fines established by this Section, violation of this Chapter by a person, corporation or partnership who owns, manages, operates or otherwise controls a public place or place of employment may result in the suspension or revocation of any permit or license issued to the person, corporation or partnership for the premises on which the violation occurred.

**SECTION II:** All Ordinances, or parts of Ordinances, in conflict with the terms of this Ordinance be and they are hereby repealed.

**SECTION III:** This Ordinance shall be in full force and effect on November 16, 2006 after its passage and approval as provided by law.

**Passed and Approved** by the President and members of the Board of Trustees of the Village of Lindenhurst, Illinois, this 26th day of June, 2006.

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**VILLAGE PRESIDENT**

**ATTEST:**

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Village Clerk

**APPROVED:**

\_\_\_\_\_  
Village Attorney

**TRUSTEES**

**AYE**

**NAY**

Kenneth Czyzewicz

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Mary McCarthy

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Fred Messmer

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Carl Norlin

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Timothy Wayne

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Carol Zerba

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