

VILLAGE OF LONG GROVE

ORDINANCE NO. 2006-O-21

**AN ORDINANCE AMENDING TITLES 9 AND 10 OF THE
VILLAGE OF LONG GROVE VILLAGE CODE TO RESTRICT
SMOKING IN PUBLIC PLACES, PLACES OF EMPLOYMENT,
AND OTHER AREAS WITHIN THE VILLAGE**

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; and

WHEREAS, 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; and

WHEREAS, 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; 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. (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 percent of the U.S. population, leaving another 64 percent still unprotected from exposure to a known carcinogen; and

WHEREAS, people working in or visiting in smoke-filled hospitality settings like restaurants, bars, and entertainment venues are especially at risk; and

WHEREAS, the President and Board of Trustees of the Village of Long Grove find and declare that the purposes of this Ordinance are to protect (1) the public health, safety, and welfare by prohibiting smoking in all public places, places of employment, public entrances to such places, and in and near open air dining areas within the Village and (2) the right of nonsmokers to avoid breathing second hand smoke;

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT and BOARD OF TRUSTEES OF THE VILLAGE OF LONG GROVE, COUNTY OF LAKE, ILLINOIS, as follows:

SECTION ONE: **Recitals.** The foregoing recitals are hereby incorporated into and made a part of this Ordinance as if fully set forth.

SECTION TWO: **Amendment.** Title 10, entitled "Police Regulations," of the Village of Long Grove Village Code is hereby amended to add a new Chapter 12, entitled "Smoking in Public Places and Other Places," which new Chapter 12 shall hereafter be and read as follows:

CHAPTER 12

SMOKING IN PUBLIC PLACES AND OTHER PLACES

10-12-1: 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 within the Village, 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 within the Village, consisting of persons who are bona fide paying members and which owns, leases, occupies, 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 within the Village, and shall include the owner or operator of a sole proprietorship or other similar business entity.

(D) "Employer" means any person or business within the Village that employs one or more employees, including Clubs.

(E) "Enclosed area" means all space in any structure or building within the Village 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 within the Village 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 within the Village under the control of a public or private employer 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 within the Village.

(I) "Public place" means an area within the Village 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 Long Grove where there is in progress any public meeting.

"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.

(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.

10-12-2: 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.

10-12-3: 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.

10-12-4: 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.
- (C) It shall be unlawful for the owner or other person in control of an open air dining area to knowingly permit smoking in that open air dining area.

10-12-5: 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.

10-12-6: 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.

10-12-7: EXEMPTIONS:

The prohibitions on smoking set forth in this Chapter shall not apply to the following:

1. a private dwelling unit, unless the dwelling is also used as a day care facility for children or adults or a health care facility.
2. a fully contained and separate smoking room in a restaurant, provided that (a) the smoking room maintains a separate ventilation system and (b) adequate signage is posted at the entrance of the smoking room notifying individuals that smoking is restricted to the smoking room.

10-12-8: 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.

10-12-9: 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.

10-12-10: 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.

10-12-11: OTHER APPLICABLE LAWS:

This Chapter 12 shall not be interpreted or be construed to permit smoking where it is otherwise restricted by other applicable laws.

10-12-12: 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.

10-12-13: EFFECTIVE DATE:

The prohibitions stated in this Chapter shall be effective beginning January 1, 2007; provided, however, that the provisions of this Chapter shall not take effect until January 1, 2008, for any restaurant or bar existing and operating as of the approval date of this Ordinance. 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 the effective date as noted above. 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 its business license or certificate of occupancy, as appropriate.

SECTION THREE: Amendment. Section 9-2-19, entitled "Smoking," of Chapter 2, entitled "Nursing, Convalescent and Old Age Homes; Life Safety," of Title 9, entitled "Fire Regulations," of the Village of Long Grove Village Code is hereby amended to delete Section 9-2-19 in its entirety.

SECTION FOUR: Effective Date. This ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form in the manner provided by law.

PASSED this 10th day of October, 2006.

AYES: (5) Barry, Borawski Hannon, Klein, Lazakis

NAYS: (1) Schmitt

ABSTAIN: (0)

ABSENT: (0)

APPROVED this 10th day of October, 2006.

Village President

ATTEST:

Village Clerk

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