

**THE CITY OF OAK FOREST**  
COOK COUNTY, ILLINOIS

**ORDINANCE**  
**NUMBER \_\_\_\_\_**

**AN ORDINANCE AMENDING THE  
OAK FOREST MUNICIPAL CODE  
TO RESTRICT SMOKING IN PUBLIC PLACES**

**ADOPTED BY THE MAYOR AND CITY COUNCIL  
OF THE CITY OF OAK FOREST,  
COOK COUNTY, ILLINOIS,  
THIS 28th DAY OF NOVEMBER, 2006**

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on \_\_\_\_\_, 2006

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING THE  
OAK FOREST MUNICIPAL CODE  
TO RESTRICT SMOKING IN PUBLIC PLACES**

WHEREAS, the City of Oak Forest is an Illinois municipal corporation organized and operated under the laws of the State of Illinois; and

WHEREAS, the City of Oak Forest is a home rule municipality as defined by Article VII of the Illinois Constitution; and

WHEREAS, the City seeks to amend the Municipal Code to restrict smoking in public places; and

WHEREAS, secondhand smoke, which contains 4,000 chemicals, 63 of which cause cancer, is the third leading cause of preventable death in the United States, and the National Cancer Institute determined in 2000 (Monograph #10) that secondhand smoke is responsible for the early deaths of as many as 65,000 Americans annually; 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, strokes, respiratory disease, and lung cancer; and

WHEREAS, the Public Health Service's National Toxicology Program has listed secondhand smoke as a known carcinogen (U.S. DHHS, 2000, citing Cal. EPA, 1997).

WHEREAS, the ills of smoking and secondhand smoke are well documented in all of the independent medical studies and 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, sudden death syndrome, developmental abnormalities, and cancer, and.

WHEREAS, the Americans 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, (1) 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; (2) the Environmental Protection Agency has determined that secondhand smoke cannot be reduced to safe levels in businesses by high rates of ventilation; (3) air cleaners, which are only capable of filtering the particulate matter and odors in smoke, do not eliminate the known toxins in secondhand smoke; (4) American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) 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 from the air chemicals that cause cancer; and

WHEREAS, a recently promulgated ASHRAE Position Document on Environmental Tobacco Smoke concludes that, at present, the only means of eliminating health risks associated with indoor exposure is to ban all smoking activity; and.

WHEREAS, the ASHRAE Position Document further concludes that no current ventilation, air cleaning or other technologies have been demonstrated to control health risks from environmental tobacco smoke exposure in spaces where smoking occurs; and.

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

WHEREAS, smoke-filled workplaces result in higher worker absenteeism due to respiratory disease, lower productivity, higher cleaning and maintenance costs, increased health insurance rates and increased liability claims for diseases related to exposure to 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; and

WHEREAS, smoking is a potential cause of fires, cigarette and cigar burns and ash stains on merchandise and fixtures, and contributes to the economic damage of businesses; and

WHEREAS, that the purposes of Chapter 8.05 as hereinafter set forth 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 CITY COUNCIL OF THE CITY OF OAK FOREST, COOK COUNTY, ILLINOIS, as follows:**

**SECTION 1:** The foregoing recitals are incorporated as substantive portions hereof as though fully set forth herein.

**SECTION 2:** That a new Chapter 8.05 of the Oak Forest Municipal Code shall be adopted as follows:

***Chapter 8.05 Smoking Ban - Public Places.***

***1. Definitions.***

*Main Entrance: Any public entryway into or out of an enclosed indoor area used by the general public and/or to which the general public is invited or permitted or which serves as a place of employment. A Main Entrance does not include an entryway to or from an outdoor dining area, a delivery/storage entrance or an entryway limited only to employees working within the enclosed indoor area.*

*Open Air Dining Area: Any seating area within the City open to the air that is accessory to a restaurant, hotel, cafeteria, club, or other 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 and beverage service for a consideration.*

*Festival. An outdoor event sponsored by a governmental body, charitable organization or other not-for-profit entity that may consist of cultural performances, musical entertainment, exhibitions, athletic competition, carnival rides or other activities deemed to be of community interest. A festival shall have a fixed time period, and shall be open to members of the general public.*

*Outdoor Venue: Any outdoor theater, amphitheater, plaza, street, or other improved area that is used as a public venue or forum to which members of the general public are invited to listen, view or otherwise participate in an outdoor event within the City.*

*Park: Any public park or recreation area within the City that is open to and used by the general public.*

Public Place: Park (as defined herein), outdoor venue (as defined herein), or enclosed indoor area used by the general public and/or to which the general public is invited or permitted, or which serves as a place of employment, including but not limited to:

(1) Health care facilities, nursing homes (except as hereinafter provided), food service establishments, restaurants, taverns/bars, retail food stores, banquet halls, commercial establishments, indoor theatres, libraries, museums, concert halls, public conveyances, educational facilities, auditoriums, arenas, common or public areas of condominium buildings and health care facilities (including nursing home care facilities, except as hereinafter provided), laundromats, public transportation facilities, marketing establishments, educational facilities, retail stores, convention facilities, bingo facilities, galleries, shopping malls, arenas and meeting rooms, polling places, school, City of Oak Forest or other government buildings, offices and office buildings, factories, warehouses and other places of work.

(2) Restrooms, lobbies, reception areas, hallways, offices, elevators, and other common areas.

(3) Meeting places, meeting or conference rooms, cafeterias, room chambers, places of public assembly, offices used by more than one employee, residences used as a licensed child care facility, adult day care facility, health care facility or a home-based business of any kind open to the public.

(4) Taxis, vehicles of public conveyance and vehicles owned, leased or operated by the City of Oak Forest.

(5) Facilities used for exhibiting a motion picture, stage, drama, lecture, musical recital or other similar performance.

A Public Place does NOT include:

(1) Private residences, except when used as a licensed childcare facility, adult day 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) A sheltered area, located no closer than 15 feet from the entrance to a public place, that may be constructed specifically to provide an area to allow smoking external to a building or structure. Such a sheltered area shall not be wholly enclosed.

Smoke or Smoking: The carrying or holding of a lighted pipe, cigar or cigarette of any kind or any other lighted smoking equipment or the lighting or emitting or exhaling of the smoke of a pipe, cigar or cigarette of any kind. "Smoke" also means the gaseous products and particles created by the use of a lighted pipe, cigar or cigarette of any kind or any other lighted smoking equipment.

## **2. Prohibition of Smoking in Public Places.**

Smoking shall be prohibited in all Public Places within the City of Oak Forest. The owner or other person in control of a Public Place shall post a clear and conspicuous sign, in form and content approved by the City, at every Main Entrance to the Public Place stating that smoking therein is prohibited. Such owner or other person in control shall also remove all ashtrays and other smoking paraphernalia from within the Public Place.

## **3. Prohibition of Smoking in Outdoor Venues and Events.**

(1) It is unlawful to smoke in the following Outdoor Venues and/or events:

a. Public parks and recreation areas within 15 feet of any play area, any playground, or any scheduled activity group of any kind including but not limited to a game, show, party, event or similar activity, but excluding, however, parades and picnics.

b. Public or private school grounds.

c. Public sidewalks within 15 feet of a Main Entrance to a Public Place, but excluding any person who is temporarily in such area for the purpose of walking or traversing through such area.

d. At any scheduled outdoor event to which the public is permitted or invited, including but not limited to games, shows, parties or any similar event or activity, excluding, however, parades and picnics.

(2) It is unlawful to smoke in or within 15 feet of an Outdoor Venue during the time that an outdoor event (as described in 4 (1) d, above) is taking place.

## **4. Prohibition of Smoking at Festivals Except as Designated**

(1) It is unlawful to smoke at any Festival except in an instance where smoking is specifically authorized by the City Council.

(2) If the sponsor of a Festival shall seek to allow smoking at such an event, a written request shall be provided to the City Clerk thirty (30) days prior to the event. The City Clerk shall submit this request to the City Council for consideration. The request shall include an indication of the location of where smoking may be designated.

*(3) If the sponsor of a Festival hosts multiple events, the sponsor may submit a single request with details pertaining to the events.*

### **5. Prohibition of Smoking in Open Air Dining Areas Except as Designated**

*(1) It is unlawful to smoke in any Open Air Dining Area except such area, or portion thereof, designated for smoking by the owner or other person in control of the Open Air Dining Area.*

*(2) It is 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 unless such area or portion thereof has been designated for smoking.*

*(3) The owner or other person in control of an Open Air Dining Area who has designated all or a portion thereof for smoking must clearly display signage, in form and content approved by the City, indicating the portion of the Open Air Dining Area where smoking is permitted.*

### **6. Reasonable Distance.**

*Smoking is prohibited within fifteen feet (15') of any Main Entrance to a Public Place.*

### **7. 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 Section or reports or attempts to prosecute a violation of this Section.*

### **8. Violations and Penalties.**

*(1) A person who smokes in an area where smoking is prohibited by this Chapter shall be guilty of an infraction, punishable by a fine not more than one hundred dollars (\$100.00) for the first violation, one hundred fifty dollars (\$150.00) for the second violation and two hundred dollars (\$200.00) for each subsequent violation.*

*(2) A person who owns, manages, operates or otherwise controls a Public Place and who fails to comply with the provisions of this Section shall be guilty of an infraction, punishable by:*

*a. A fine not exceeding one hundred dollars (\$100.00) for the first violation.*

*b. A fine not exceeding five hundred dollars (\$500.00) for the second violation occurring within one (1) year of the first violation.*

c. A fine not exceeding two thousand five hundred dollars (\$2,500.00) for each additional violation occurring within one (1) year of a prior violation 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.

(3) Each day on which a violation of this Section occurs shall be considered a separate and distinct violation.

**9. Other Applicable Laws.**

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

**10. Severability.**

If any provision, clause, sentence or paragraph of this Section 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 Section which can be given effect without the invalid provision or application, and to this end the provisions of this Section are declared to be severable

**SECTION 3:** All Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION 4:** If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity thereof shall not affect any of the provisions of this Ordinance. All Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION 5:** If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity thereof shall not affect any of the provisions of this Ordinance.

**SECTION 6:** This Ordinance shall be in full force and effect from and after January 2, 2007.

ALDERMAN	YES	NO	ABSENT	PRESENT

TOTAL				

APPROVED by the Mayor on \_\_\_\_\_, 2006:

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK