

PUBLICATION OF:

ORDINANCE NO. 06- 163

AN ORDINANCE PROHIBITING SMOKING IN CERTAIN PLACES

ADOPTED: September 12, 2006

**PUBLISHED IN PAMPHLET FORM PURSUANT TO AUTHORIZATION AND
DIRECTION OF THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE
OF SCHAUMBURG ON September 12, 2006**

ORDINANCE NO. 06-163

AN ORDINANCE PROHIBITING SMOKING IN CERTAIN PLACES

WHEREAS, the Village of Schaumburg 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 prescribe 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 Schaumburg 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 breath 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 SCHAUMBURG:

SECTION ONE:

Title. This Ordinance shall be known as the Village of Schaumburg Clean Indoor Air Ordinance and shall be in addition to and not be limited by the provisions of any state or federal legislation, it being the intent of the President and Board of Trustees to enforce the most restrictive regulations available to curb secondhand smoke.

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SECTION TWO:

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

(A) "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.

(B) "Employee" means a 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.

(C) "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.

(C) "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:

- (1) vehicles of public conveyance;
- (2) 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;
- (3) 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,

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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; 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 Schaumburg where there is, in progress, any public meeting.

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". All smoking rooms shall be on the same floor or contiguous to each other. The status of rooms as smoking or non-smoking may not be changed except to add non-smoking rooms.

(D) "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).

(E) "Smoking" means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, weed, hookah, or other lighted tobacco produce in any manner or in any form.

SECTION THREE:

Prohibition of Smoking in Public Places. Smoking shall be prohibited in all public places and places of employment within the Village of Schaumburg. 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.

SECTION FOUR:

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

SECTION FIVE:

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:

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(a) 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.

(b) A private residences as hereinabove defined.

(c) Hotel and motel sleeping rooms subject to restrictions as hereinabove set forth.

(d) 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.

SECTION SIX:

Posting of Signs. Every public place and place of employment where smoking is prohibited by this Ordinance shall post at every entrance appropriate signs in a fashion acceptable to the Village indicating the facility is smoke free or 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 ordinance. The operator, manager, or other person having control of an area where smoking is prohibited shall remove all ashtrays and other devices associated with smoking.

SECTION SEVEN:

Violations and Penalties. Any person who smokes in an area where smoking is prohibited by this Ordinance shall be punished of a fine of not more than One Hundred Dollars (\$100). Any person who owns, manages, operates, or otherwise controls public place or place of employment who fails to comply with the provisions of this Ordinance shall be fined not exceeding One Hundred Dollars (\$100) for the first violation and Five Hundred Dollars (\$500) for the each subsequent offense within one year of the first violation. Each day on which a violation of this Ordinance occurs shall be considered a separate offense. The Village Manager is hereby further authorized to seek an injunction if he determines intentional and repeated violations of this Ordinance by the owner, manager, or person in control of a public place or place of employment and may commence revocation proceedings for any license issued to a public place subject to licensing by the Village.

SECTION EIGHT. All ordinances inconsistent with this Ordinance be and they are hereby repealed.

SECTION NINE. This ordinance shall be in full force and effect on January 2, 2007. The Village Clerk is hereby authorized and directed to publish this Ordinance in pamphlet form in the manner provided by law.

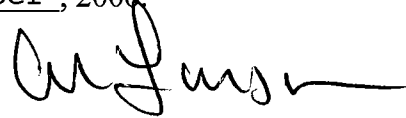
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AYES: (6) Trustees: Curcio, Connelly, Dailly, Dunham, Sullivan, Madej

NAYS: (0) None

ABSENT: (0) None

PASSED & APPROVED this 12th day of September, 2006.



Village President

ATTEST:



Village Clerk

APPROVED:



Assistant Village Attorney