

Village of Vernon Hills
Lake County, Illinois

Ordinance No. 2006-42

AN ORDINANCE AMENDING THE MUNICIPAL CODE
OF THE VILLAGE OF VERNON HILLS TO REGULATE
SMOKING IN PUBLIC PLACES

Passed and Approved by the
President and Board of
Trustees of the Village of
Vernon Hills, Lake
County, Illinois, this
18th day of July, 2006

Published by
authority of the President
and Board of Trustees of the
Village of Vernon Hills, Lake
County, Illinois, this
19th day of July, 2006

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An Ordinance Amending the Municipal Code
of the Village of Vernon Hills to Regulate
Smoking in Public Places

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 #100) 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 health, stroke, respiratory disease, and lung cancer; and

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, (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 chemicals from the air that cause cancer; and

WHEREAS, a significant amount of secondhand smoke exposure occurs in the workplace, and employees who work in smoke-filled businesses suffer a twenty-five to fifty percent (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 a measurable disease 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 studies 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, 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, after careful and considerable research, discussion and debate, after review and consideration of the testimony and written materials presented at public meetings and hearings by residents and other interested parties, the Village of Vernon Hills, finds and declares that smoking should be prohibited in Public Places, at Public Entrances, in Places of Employment, and at certain unenclosed Public Places, and that the purposes of this ordinance, in furtherance thereof, are (1) to protect the public health and welfare by prohibiting smoking in all Public Places and Places of Employment, and (2) to protect the right of nonsmokers to avoid breathing secondhand smoke; now therefore,

BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF VERNON HILLS, LAKE COUNTY, ILLINOIS:

SECTION 1: Recitals. The foregoing recitals are incorporated herein as the findings of the Board of Trustees of the Village of Vernon Hills (“Village”).

SECTION 2: Smoking Regulations. That [article], entitled [name of article], of the [Code of Ordinances] of the Village is hereby amended to add the following as Chapter ___ thereof entitled “Smoke Free Air Regulations”:

Chapter ___. Smoke Free Air Regulations.

X-001. Definitions.

The following words and phrases, whenever used in this Chapter shall have the following meanings:

“Bar/Tavern” means an establishment which is devoted to serving of alcoholic beverages for consumption by members of the public, or members or guests of a Private Club on the premises and in which the serving of food is only incidental to the consumption of such beverages, including without limitation taverns, night clubs, cocktail lounges, and cabarets.

“Business” means any sole proprietorship, partnership, joint venture, corporation, limited liability company, or other business entity formed for profit-making purposes.

“Employee” means any person who is employed or retained by a business in consideration for a direct or indirect monetary wages or profit, and shall include the owner or operator of a sole proprietorship or other similar business entity, and a person who volunteers his or her services for a non-profit entity,

“Employer” means any person, business, partnership, association, corporation, including without limitation a municipal corporation, trust, or non-profit entity that employs the services of one or more individual persons.

“Enclosed Area” means all space in any structure or building that is enclosed or semi-enclosed on all sides by any combination of walls, windows, or doorways extending from floor to ceiling, including without limitation lobbies and corridors.

“Entertainment Facility” means any facility devoted to a musical, dance, theatrical, dramatic, sporting, recreational, or performance event that is organized, licensed, or permitted by the owner of such a facility and to which the public is invited.

“Health care facility” means any office or institution providing care or treatment of disease, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including without limitation hospitals, rehabilitation hospitals, clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists within those professions. This definition shall include all waiting rooms, hallways, private rooms, semi-private rooms, and wards within health care facilities.

“Open Air Dining Area” means a seating area open to the air that is accessory to a Bar/Tavern, Restaurant, hotel, cafeteria, Private Club, or other Public Place engaged in purveying food or beverage service where members of the public, or members or guests of a Private Club are invited to receive food and beverage service.

“Park” means a public park or recreation area that is open to and used by the general public.

“Place of Employment” means any enclosed area under the control of a public or private employer that employees frequent during the course of employment, including without limitation common work areas, private offices, employee lounges, restrooms, conference and meeting rooms, classrooms, cafeterias, elevators, stairwells, hallways, medical facilities, private clubs, and interiors of vehicles used for employment purposes, except as otherwise provided herein. A private residence is not a “Place of Employment” unless it is used as a day care facility for children or adults.

“Private club” means a private non-for-profit, association, corporation, or other entity consisting of persons who are bonafide paying members and which owns, leases or uses a

building or portion thereof, the use of which is restricted primarily to members and their guests and is not intended to be open to the public.

“Public Entrance” means the doorway or other entrance to a Public Place that is (i) open to and intended for use by the general public or business invitees for ingress and egress to the Public Place, and (ii) open to and intended for use by employees to enter or exit the Place of Employment.

“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 limitation:

(1). Vehicles of public conveyance;

(2). Common or public areas (including without limitation lobbies, hallways, reception areas, public restrooms, elevators, and stairwells) 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 stairwells) of any commercial building or structure that is accessible to the public including without limitation business, office, industrial, or manufacturing buildings, except as otherwise provided herein; banks and financial institutions; educational facilities; health care facilities such as hospitals, clinics and doctor’s offices; Restaurants; banquet halls; polling places; Shopping Malls; food stores; cafeterias; auditoriums; sports arenas; Entertainment Facilities with fixed seating; museums; theatres, including Arbor Theatre; vehicles for public conveyance and stations serving the same such as trains and train stations (but not including exterior platform areas), and buses and bus shelters; hotels and motels; and retail and service establishments;

(4). Village Property, such as libraries, Village Hall, and police and public works vehicles.

“Restaurant” means an establishment which is devoted to serving of food for consumption by members of the public, or members or guests of a Private Club on the premises and in which the serving of alcoholic beverages is only incidental to the consumption of such food.

“Retail Tobacco Store” which shall be defined as a store where the predominance of the items for sale or consumption (75% thereof) are tobacco or tobacco related items.

“Shopping Mall” means any enclosed walkway or hall area that serves to connect retail or professional establishments.

“Smoking” means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other tobacco in any manner or in any form.

“Village Property” means all enclosed and unenclosed buildings, property and vehicles owned by the Village, including without limitation buildings, property and vehicles owned, leased, rented, operated by, or under the control of the Village, excepting Entertainment Facilities with fixed seating which are owned, leased, rented, operated by, or under the control of the Village.

X-003. Prohibition in Enclosed Public Places.

It is unlawful to smoke in any enclosed area of any Public Place. It shall be unlawful for the owner, occupant, lessor, lessee, employer, manager, operator, or other person in control of a Public Place to knowingly permit smoking in any enclosed area in a Public Place, except as otherwise provided for in Section X-007.

X-004. Prohibition in Unenclosed Public Places.

It is unlawful to smoke in the following unenclosed Public Places:

(A) The seating areas of all outdoor arenas, stadiums, amphitheaters or similar Entertainment Facilities with fixed seating;

(B) School grounds;

(C) Public sidewalks within fifteen feet (15 ft) of a Public Entrance, but excluding any person who is temporarily in such area for the purpose of walking or traversing through such area.

X-005. Prohibition in Places of Employment.

It is unlawful to smoke in any enclosed area in any Place of Employment, except as otherwise provided herein. It shall be unlawful for any employer to knowingly permit smoking in any enclosed area of any Place of Employment.

X-006. Prohibition at Public Entrances.

It is unlawful to smoke within outdoor areas that are located within fifteen feet (15ft) of an entrance to a Public Place or Place of Employment.

X-007. Places where Smoking is not Regulated.

Notwithstanding any other provision in this Chapter to the contrary, the following areas shall be exempt from the provisions of this Chapter:

(1). A private dwelling unit unless it is used as a day care facility for children or adults;

(2). Hotel and motel sleeping rooms designated as smoking rooms, provided that no more than twenty-five percent (25%) of the rooms rented to guests in a single building shall be designated as smoking rooms;

(3). Rooms in nursing homes or long-term care facilities occupied by one (1) or more persons who have requested in writing a room in which smoking is permitted;

(4). Retail Tobacco Store, which shall be defined as a store where the predominance of the items for sale or consumption (75% thereof) are tobacco or tobacco related items, and in house HVAC system is totally isolated from all other HVAC systems if located in a multi-tenant structure;

(5). Parks and recreational areas, except as otherwise provided herein;

(6). Golf Courses, except as otherwise provided herein;

(7). Entertainment Facilities provided that a live musical, dance, theatrical or dramatic performance is underway and such smoking is limited to the performers, and to that which is necessary for the portrayal of characters in the context of the plot or storyline of the musical, dance, theatrical, or dramatic performance.

(8). Open Air Dining Area designated as a smoking area, provided that there is a minimum of fifteen feet (15 ft) from the designated smoking area and any Public Entrance, and provided that said open air dining area which has been designated as a smoking area is adequately signed as such, including but not limited to individual table signs.

(9). An outdoor covered shelter so long as it is
(i) open to the elements except for temporary flexible roll down windows (not glass);
(ii) does not have permanent seating;
(iii) is located at least fifteen feet (15 ft) from a public entrance;
(iv) if located on site at a restaurant, no wait service is provided; and

(10). Village Property, including municipal golf courses, the Arbor Theatre, and the Vernon Hills athletic facility, and excepting enclosed buildings, vehicles, and unenclosed buildings where smoking is specifically prohibited.

X-008. Declaration of Non-Smoking Establishment.

Nothing in this Chapter shall be deemed to limit the owner, occupant, lessor, lessee, employer, manager, operator, or other person in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a non-smoking place.

X-09. Non-retaliation or Discrimination.

No person, business, 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 reports or attempts to report a violation of this Chapter, or exercise any rights afforded by this Chapter.

X-010. Signs.

(A) Each owner, occupant, lessor, lessee, employer, manager, operator, or other person in control of a Public Place shall post conspicuous “No smoking” signs in the enclosed area of any Public Place 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. It shall be unlawful for any person to remove, deface or obscure any sign posted pursuant to the provisions of this ordinance.

(B) Each owner, occupant, lessor, lessee, employer, manager, operator, or other person in control of a Park, recreation area, or school grounds, shall cause signs to be posted at appropriate locations advising persons that smoking is prohibited within the Park, recreation area, or school grounds.

(C) All premises affected by this Chapter shall cause such signs to be posted in a conspicuous location. All premises affected by this Chapter that are established subsequent to the effective date hereof shall cause such signs to be so posted as a condition to obtaining applicable business licensing.

X-011. Enforcement.

A. Notice of the provisions of this Chapter shall be given to all applicants for a business license in the Village.

B. The Building Commissioner or his designees shall, during the course of otherwise mandated inspections, inspect for compliance with this Chapter.

X-012. Penalties.

A. Any person who violates any provision of this Chapter shall be fined not less than \$100 nor more than \$500 for each and every offense; and each day shall constitute a separate offense.

B. Any owner, occupant, lessor, lessee, employer, manager, operator, or other in control of an establishment, facility, or outdoor area who violators or allows patrons, guests, or other persons to violate any provision of this Chapter shall be fined not less than \$100 for each and every offense; and each day a violation continues shall constitute a separate offense.

X-014. Severability.

If any provision or part of this Chapter or the application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, the remainder of this Chapter

and the application thereof shall be given effect and enforced without the invalid provision or application; and to this end, the provisions of this Chapter are declared to be severable.

SECTION 3: Effective Date.

This ordinance shall be in full force and effect on October 1, 2006.

Passed this 18th day of July, 2006.

Ayes: 6-Schwartz, Williams, Hebda, Koch, Marquardt, Schultz

Nays: 0-None

Absent: 0-None

Abstain: 0-None

Approved this 18th day of July, 2006.

Published in pamphlet form this 19th day of July, 2006

Roger L. Byrne, Village President

Attest:

Linda Pelletier, Deputy Village Clerk