

**ORDINANCE NO. \_\_\_\_\_**  
**AN ORDINANCE AMENDING TITLE 4 OF THE VILLAGE CODE - PUBLIC  
HEALTH AND SAFETY - ADDING A NEW CHAPTER 6 - SMOKE-FREE AIR  
REGULATIONS**

WHEREAS, numerous studies have found that tobacco smoke is a major contributor to indoor air pollution and also that breathing secondhand smoke is a cause of disease in healthy nonsmokers, including heart disease, stroke, respiratory disease, and lung cancer; and,

WHEREAS, secondhand smoke is hazardous particularly 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 infant death syndrome, developmental disabilities, and cancer; and,

WHEREAS, the U.S. Surgeon General has determined that there is no safe level of exposure to secondhand smoke, and, 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; and,

WHEREAS, a recently promulgated American Society of Heating, Refrigerating and Air Conditioning Engineers (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, 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, 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, the Mayor and Board of Trustees have determined that smoking should be prohibited within certain 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 park and school grounds to protect the public health, safety, and welfare and to protect the right of nonsmokers to avoid breathing secondhand smoke.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOARD OF TRUSTEES OF THE VILLAGE OF WOODRIDGE, DUPAGE, WILL AND COOK COUNTIES, ILLINOIS, a home rule municipality in the exercise of its home rule powers, as follows:

SECTION ONE: The foregoing recitals are incorporated herein by reference as the findings of the Mayor and Board of Trustees of the Village of Woodridge.

SECTION TWO: That Title 4 of the Village Code of the Village of Woodridge, entitled "Public Health and Safety", is hereby amended by adding thereto a new Chapter 6, entitled "Smoke-Free Air Regulations", as follows:

**"4-6-1: PURPOSE:** This Chapter may be cited as the "Village of Woodridge Smoke-Free Air Ordinance," the purpose of which is to protect public places and places of employment and within 25 feet of all public entrances to such places, to protect open air public dining areas and within 25 feet of such areas, to protect certain unenclosed public places including village grounds, school grounds, parks and outdoor venues to ensure that nonsmokers may breathe air free from the hazardous effects of secondhand smoke.

**4-6-2: 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, or other business entity within the Village, whether formed for profit, non-profit, governmental or religious 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 that consists of bona fide paying members and which owns, leases, or uses a building or portion thereof, the use of which is restricted primarily to those members and their guests.
- C. "Employee" means any person who is employed or retained by a business within the Village, including without limitation the owner or operator of a sole proprietorship or other, similar business entity.
- D. "Employer" means any business within the Village that employs one or more employees.
- 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. "Enclosed Area" shall also include the interior of a taxi or vehicle of public conveyance.
- F. "Open Air Dining Area" means a seating area within the Village open to the air that is accessory to a restaurant, hotel, cafeteria, club, or other public place engaged in the business of purveying food and/or beverage service where members of the public, members, or guests are invited to sit and receive food and/or beverage service for a consideration.
- G. "Outdoor Event" means a scheduled outdoor musical, sporting, dance, theatrical, dramatic, entertainment, or similar performance or event or a scheduled outdoor community fair, parade, event, or market within the Village that is organized, licensed or permitted by the owner of an outdoor venue and to which the public is invited.
- H. "Outdoor Venue" means an outdoor stadium, athletic field, miniature golf facility, theater, amphitheater, plaza, street, or other improved area within the Village 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 that is organized, licensed or permitted by the owner of the outdoor venue.

- I. "Park" means a park or recreation area within the Village that is open to and used by the general public and any park or recreation area under an owners' association or condominium ownership.
  
- J. "Place of Employment" means an area within the Village, under the control of a public or private employer, that the employer's 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, rest rooms, medical facilities, private clubs, and the interior of a taxi or vehicle of public conveyance. "Place of Employment" also includes the home office portion of a private dwelling, but only if the home office is used by more than one or more employees who do not reside in the private dwelling or if the home office is frequented by business invitees. "Place of Employment" further includes that portion of a private dwelling that is used, in whole or in part, as a day care facility for children or adults.
  
- K. "Public Entrance" means the doorway or other entrance to a public place within the Village that is open to and intended for use by the general public for ingress and egress to the public place. "Public Entrance" also means a doorway or other entrance for pedestrian ingress and egress to a place of business or employment:
  - 1. that is open to and intended for use by the general public or business invitees as ingress and egress to the place of business or employment; or,
  - 2. where employees are required to enter or exit the place of employment.
  
- L. "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. Taxies and vehicles of public conveyance; and,
2. Common or public areas (including without limitation lobbies, hallways, reception areas, public restrooms, elevators, laundry rooms, utility rooms, maintenance rooms and staircases) of apartment buildings, condominiums, dormitory buildings, nursing home care facilities, and other multiple family residential structures; and,
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, recreational use clubhouses, libraries, restaurants, bars, polling places, government and Village owned buildings, food stores, liquor stores, gasoline service stations, cafeterias, theaters, auditoriums, train, and bus stations, hotels, motels, and any and all retail and service establishments; and,
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 not by way of limitation any enclosed area under the control of the Village where there is in progress any public meeting, and any vehicle operated, owned or leased by the Village.
5. Parks.
6. School grounds.
7. Outdoor venues.

- 8. Open air dining areas.
- 9. Village grounds.

The term "Public Place" shall not include a private dwelling, unless that private dwelling also is used as a day care facility for children or adults.

- M. "School Grounds" means all public or private outdoor school grounds within the Village.
- N. "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.
- O. "Unenclosed Area" means all space in any structure or building within the Village that is open to the outdoors on at least one side including the ceiling side.
- P. "Village Grounds" means those parcels of land, or portions thereof, owned by the Village of Woodridge, identified as follows:

Smoking is prohibited in Town Centre in its entirety, including the Library property, with the following exclusions: 1) The designated smoking area at Village Hall 2) The designated smoking area outside of the Public Works garage 3) The designated smoking area behind the Police Department 4) Within a vehicle in the parking lots at Town Centre 5) The Post Office property (because this is Federal property)
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**4-6-3: PROHIBITION IN ENCLOSED PUBLIC PLACES:**

- A. It shall be unlawful to smoke in any enclosed area of any public place.
- B. It shall be unlawful for the owner, lessee, manager, operator or other person, as the case may be, in control of a public place to knowingly permit smoking in any enclosed area in such public place.

#### **4-6-4: PROHIBITION IN UNENCLOSED PUBLIC PLACES:**

- A. It shall be unlawful to smoke in the following unenclosed areas of public places:
  - 1. Outdoor venues when an outdoor event is taking place.
  - 2. Parks.
  - 3. School grounds.
  - 4. Village grounds.
  - 5. Public or private sidewalks within 25' feet of a public entrance, but excluding any person who is temporarily in such area for the purpose of walking or traversing through such area.
  - 6. Public or private sidewalks within 25' feet of an open air dining area, but excluding any person who is temporarily in such area for the purpose of walking or traversing through such area.

#### **4-6-5: PROHIBITION IN PLACES OF EMPLOYMENT:**

- A. It shall be unlawful to smoke in any enclosed area of any place of employment.
- B. It shall be unlawful for any employer including any manager, operator or other person in control of a place of employment to knowingly permit smoking in any enclosed area of that place of employment.

#### **4-6-6: PROHIBITION IN OPEN AIR DINING AREAS:**

- A. It shall be unlawful to smoke in any open air dining area.
- B. It shall be unlawful for the owner, lessee, manager, operator or other person, as the case may be, in control of an open air dining area to knowingly permit smoking in that open air dining area.

- C. It shall be unlawful to smoke within 25' feet of an open air dining area.

**4-6-7: PROHIBITION AT PUBLIC ENTRANCES:**

- A. It shall be unlawful to smoke within 25' feet of a public entrance to a public place or to a place of employment.

**4-6-8: DESIGNATIONS OF OTHER NON SMOKING**

**AREAS:** Nothing in this Chapter shall be deemed to limit the owner or other person in control of a public place or a place of employment from further prohibiting smoking by designating outdoor areas not subject to the restrictions in this Chapter as a place where smoking is prohibited, provided that the owner or such other person shall cause signs to be posted at appropriate locations advising persons that smoking is prohibited within the designated outdoor area.

**4-6-9: 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 or asserts any rights afford by this Chapter.

**4-6-10: SIGNS:**

- A. Each owner, lessor, lessee, employer, manager, operator or other person in control of public place or place of employment shall post conspicuous "No Smoking" signs in the area of any public place or place of employment where smoking is prohibited. Such "No Smoking" signs shall have a white field with 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.
- B. It shall be unlawful for any person to remove, deface or obscure any sign posted pursuant to the provisions of this Chapter.

**4-6-11: EXCEPTIONS:** The prohibitions on smoking set forth in this Chapter shall not apply to retail tobacco stores whose principal business is the retail sale tobacco and tobacco related products, provided that smoke generated by smoking on the premises of the retail tobacco store shall not infiltrate into enclosed areas where smoking is otherwise prohibited; and further provided this exception shall not apply to any retail tobacco store which also holds a liquor and/or food dealer license issued by any governmental agency.

**4-6-12: 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:
1. A fine of not less than \$30 dollars for a first violation.
  2. A fine of not less than \$50 dollars for a second violation.
  3. A fine of not less than \$100 dollars for a third and subsequent violation(s).
- B. Any person who owns, leases, manages, operates, or otherwise controls a public place or a place of employment that knowingly permits smoking in an area where smoking is prohibited under the provisions of this Chapter, shall be guilty of an offense punishable by:
1. A fine of not less than \$100 dollars for a first violation.
  2. A fine of not less than \$500 dollars for a second and subsequent violation(s).
- C. Any person who violates any provision of Section 4-6-9 or Section 4-6-10 of this Chapter shall be guilty of an offense punishable by a fine of not less than fifty dollars (\$50.00) nor more than seven hundred fifty dollars (\$750.00).

- D. In addition to the penalties provided for the offenses set forth in B. and C. above, any such violation may result in the imposition of a fine, suspension or revocation of any business or liquor licensee issued for the premises on which the violation occurred.
- E. Each day that any violation of this Chapter shall continue shall constitute a separate offense.

**4-6-13: APPLICABILITY OF THIS CHAPTER TO THE WOODRIDGE PARK DISTRICT:** The provisions of this Chapter shall not be applicable to property, buildings or structures owned by the Woodridge Park District.

**4-6-14: SEVERABILITY:** If any provision of this Chapter or the application any provision of this Chapter to any person or circumstance, is held to be invalid by a court of competent jurisdiction, then the remainder of this Chapter or the application of the provision or part thereof to any other person or circumstance shall not be affected thereby. "

SECTION THREE: That all ordinances and resolutions, or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, expressly repealed.

SECTION FOUR: That this Ordinance shall be in full force and effect ten (10) days from and after its passage, approval and publication in pamphlet form by law.

SECTION FIVE: That the regulations and prohibitions set forth in this Ordinance shall take effect on \_\_\_\_\_, 2007. All premises subject to this Ordinance that were in existence on \_\_\_\_\_, 2007, and which are required to post signs in accordance with the provisions of this Ordinance shall do so on or before \_\_\_\_\_, 2007. All other premises required to post signs in accordance with the provisions of this Ordinance shall do so as a condition of obtaining its business license, certificate of occupancy or opening for business, which ever occurs first.