



An Ordinance Approving  
the Lake County "Smoke Free"  
Clean Indoor Air Ordinance

**WHEREAS**, Public Act 94-917 effective June 26, 2006 (410 ILCS 80/11) amends the Illinois Indoor Clean Air Act to allow non-home rule counties, within the unincorporated territory of the county, and outside the corporate limits of any city, village, or incorporated town, to regulate smoking in public places; and

**WHEREAS**, this County Board finds that exposure to second hand smoke is dangerous to the health and welfare of Lake County residents, persons who work in Lake County and visitors to Lake County, and poses barriers to the use of public facilities and services; and

**WHEREAS**, The Lake County Board of Health and Lake County Board adopted a "Smoke Free Lake County" Resolution on March 8, 2006 and May 9, 2006, respectively, that urged local governments to enact "smoke free" ordinances, and set a goal of a "Smoke Free Lake County" by 2007; and

**WHEREAS**, the 2006 Surgeon General's Report, *The Health Consequences of Involuntary Exposure to Tobacco Smoke*, has concluded that: secondhand smoke is an alarming public health hazard; exposure causes disease and premature death in children and adults who do not smoke; children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory problems, ear infections, and asthma attacks, and that smoking by parents causes respiratory symptoms and slows lung growth in their children; exposure of adults to secondhand smoke has immediate adverse effects on the cardiovascular system and causes coronary heart disease and lung cancer; and

**WHEREAS**, secondhand smoke, contains more than 60 tobacco specific carcinogens, highly addictive nicotine, and carbon monoxide that can be detected in body fluids of a significant majority of surveyed exposed nonsmokers; and

**WHEREAS**, establishing smoke free workplaces is the only effective way to ensure that secondhand smoke exposure does not occur in the workplace, because ventilation and other air cleaning technologies cannot completely control for exposure of nonsmokers to secondhand smoke; and evidence from peer-reviewed studies shows that smoke free policies and laws do not have an adverse economic impact on the hospitality industry.

NOW, THEREFORE, BE IT ORDAINED By this County Board of Lake County, Illinois, that the Lake County "Smoke Free" Clean Indoor Air Ordinance, as attached hereto and made part hereof, is hereby adopted.

DATED, at WAUKEGAN, LAKE COUNTY, ILLINOIS, this 8<sup>th</sup> day of May, A.D., 2007.

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

LAKE COUNTY CLEAN INDOOR AIR ORDINANCE

**WHEREAS**, the Lake County Board finds that tobacco smoke is dangerous to human beings and a hazard to public health and welfare; and

**WHEREAS**, the 2006 U.S. Surgeon General's Report, *The Health Consequences of Involuntary Exposure to Tobacco Smoke*, has concluded that (1) secondhand smoke exposure causes disease and premature death in children and adults who do not smoke; (2) children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory problems, ear infections, and asthma attacks, and that smoking by parents causes respiratory symptoms and slows lung growth in their children; (3) exposure of adults to secondhand smoke has immediate adverse effects on the cardiovascular system and causes coronary heart disease and lung cancer; (4) there is no risk-free level of exposure to secondhand smoke; (5) establishing smoke free workplaces is the only effective way to ensure that secondhand smoke exposure does not occur in the workplace, because ventilation and other air cleaning technologies cannot completely control for exposure of nonsmokers to secondhand smoke; and (6) evidence from peer-reviewed studies shows that smoke free policies and laws do not have an adverse economic impact on the hospitality industry. (U.S. Department of Health and Human Services. *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006); 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, stroke, respiratory disease, and lung cancer. The National Cancer Institute determined in 1999 that secondhand smoke is responsible for the early deaths of approximately 53,000 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 U.S. Centers for Disease Control and Prevention has determined that the risk of acute myocardial infarction and coronary heart disease associated with exposure to tobacco smoke is non-linear at low doses, increasing rapidly with relatively small doses such as those received from secondhand smoke or actively smoking one or two cigarettes a day, and has warned that all patients at increased risk of coronary heart disease or with known coronary artery disease should avoid all indoor environments that permit smoking. (Pechacek, Terry F.; Babb, Stephen, "Commentary: How acute and reversible are the cardiovascular risks of secondhand smoke?" *British Medical Journal* 328: 980- 983, April 24, 2004); 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**, given the fact that there is no safe level of exposure to secondhand smoke, the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) bases its ventilation standards on totally smokefree environments. ASHRAE has determined that there is currently no air filtration or other ventilation technology that can completely eliminate all the carcinogenic components in secondhand smoke and the health risks caused by secondhand smoke exposure, and recommends that indoor environments be smokefree in their entirety. (Samet, J.; Bohanon, Jr., H.R.; Coultas, D.B.; Houston, T.P.; Persily, A.K.; Schoen, L.J.; Spengler, J.; Callaway, C.A., "ASHRAE position document on environmental tobacco smoke," *American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE)*, 2005); 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 restaurants to be smoke free and the 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**, smoking is a potential cause of fires; cigarette and cigar burns and ash stains on merchandise and fixtures causes economic damage to businesses. ("The high price of cigarette smoking," *Business & Health* 15(8), *Supplement A*: 6-9, August 1997); and

**WHEREAS**, Public Act 94-917 effective June 26, 2006 (410 ILCS 80/11) amends the Illinois Indoor Clean Air Act to allow non-home rule counties, within the unincorporated territory of the county, to regulate smoking in enclosed indoor areas used by the public or serving as a place of work; and

**NOW THEREFORE, BE IT ORDAINED** by the County Board of Lake County, Illinois as follows:

**Section 1. Recitals**

The foregoing recitals are incorporated into this Ordinance as the findings of the County Board of Lake County, Illinois.

**Section 2 Definitions**

For the purpose of this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

A. *Bar*. An establishment that is devoted to the serving of alcoholic beverages for consumption by guests and patrons on the premises and in which the serving of food is either not done or is only incidental to the consumption of

- those beverages, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.

*B. Business.* Any sole proprietorship, partnership, joint venture, corporation, whether for-profit or not-for-profit, or any other business entity, including but not limited to, retail businesses and service businesses where goods or services are sold to the public; and professional corporations, partnerships or other business entities wherein legal, medical, dental, engineering, architectural or other professional services are provided. A business shall include a private club, as defined in this section, and any government entity subject to Lake County ordinances.

*C. Employee.* Any person who is employed or contracted by a business in consideration for direct or indirect monetary wages or profit, the owner or operator of a sole proprietorship or other similar business entity, and any person who volunteers his or her services for a non-profit entity.

*D. Employer.* Any person, business, partnership, association, corporation, trust, or non-profit entity that employs the services of one or more individual persons.

*E. Enclosed Area.* All space in any structure, or portion thereof, located between a floor and ceiling that is enclosed on all sides by walls, windows, doorways or combinations thereof that extend from the floor to the ceiling.

*F. Health care facility.* An office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.

*G. Place of employment.* Any Enclosed Area of a business within Lake County where one or more employees are required or permitted by an employer to work in the course of their employment, including without limitation the generality of the foregoing work areas, private offices, auditoriums, classrooms, conference and meeting rooms, cafeterias, employee lounges, stairs, elevators, hallways, restrooms. A place of employment shall include Enclosed Areas of a private club.

*H. Private club.* An organization, whether incorporated or not, which is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and which only sells alcoholic beverages incidental to its operation.

*I. Public Entrance.* Every doorway or other entrance to a Public Place or a Place of Employment.

-J. *Public place.* (a) Any Enclosed Area in a building or structure within unincorporated Lake County which members of the public are invited or permitted to visit or use, including lobbies, hallways, stairways, elevators and other common Enclosed Areas of businesses or apartment buildings, condominiums, cooperatives, congregate housing, and other multiple-unit residential structures, including without limitation the following:

- (1) Arcades.
- (2) Aquariums, galleries, libraries, and museums.
- (3) Bars.
- (4) Bingo facilities.
- (5) Bowling alleys.
- (6) Convention facilities.
- (7) Day care centers, nursery schools, elementary schools, high schools, community colleges, technical training establishments, specialty schools, colleges and universities.
- (8) Facilities primarily used for exhibiting a motion picture, stage, drama, lecture, musical recital, or other similar performance.
- (9) Gaming facilities.
- (10) Vehicles owned, leased, or operated by the County for County business.
- (11) Grocery stores.
- (12) Health care facilities, adult care facilities and nursing homes.
- (13) Lobbies, hallways and other common areas in apartment buildings, condominiums and enclosed common areas in trailer parks.
- (14) Polling places.
- (15) Private clubs.
- (16) Public elevators and all retail stores where merchandise is displayed and offered for sale.
- (17) Public conveyances and transportation facilities, including without limitation buses, trains, taxicabs, and limousines as well as Enclosed Areas for ticketing, boarding and waiting areas at public transit stations.
- (18) Restaurants, including, a bar attached to or within a restaurant.
- (19) Restrooms, lobbies, reception areas, hallways, and other enclosed common-use areas.
- (20) Rooms, chambers, places of meeting or public assembly, including without limitation school buildings, under the control of an agency, board, commission, committee or council.
- (21) Service lines.

- (22) Shopping malls.

(23) Sports arenas, gymnasiums, or recreational areas, including without limitation Enclosed Areas within outdoor arenas.

*K. Restaurant.* An eating establishment, including but not limited to, coffee or sandwich shops, cafeterias, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" shall include a bar attached to or within the restaurant.

*L. Retail tobacco store.* A retail store with the primary business being the sale of tobacco products and accessories and in which the sale of other products is incidental, does not hold a liquor license, and where no one under the age of 18 is permitted.

*M. Service line.* An indoor line in which one (1) or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money.

*N. Smoke or Smoking.* Inhaling, exhaling, burning or carrying any lighted or burning cigarette, cigar, pipe, hookah pipe, pipe weed, or other lighted tobacco or similar product in any manner or in any form.

*O. Sports Arena.* A sports pavilion, stadium, gymnasium, health spa, boxing arena, swimming pool, roller or ice rink, and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events.

*P. Tobacco.* Any item, product, or substance containing tobacco leaf, including specifically but without limitation cigarettes, cigars, snuff, and pipe, chewing, or dipping tobacco

**Section 3 Smoking Prohibited in Public Places and Places of Employment.**

(a) It shall be unlawful for any person to smoke in any Public Place or Place of Employment within the unincorporated area of Lake County.

(b) It shall be unlawful for an employer to permit smoking in any Place of Employment.

(c) It shall be unlawful for an employer, owner, occupant or lessee, as the case may be, in control of a Public Place to permit smoking in said Public Place.

(d) It shall be unlawful for an employer, owner, occupant or lessee, as the case may be, in control of a Public Place to fail to post signage or remove ash trays, as provided in Section 6 of this Ordinance.

**Section 4 Reasonable Distance.**

(a) It shall be unlawful to smoke within twenty (20) feet of a public entrance of either a Public Place or a Place of Employment.

(b) It shall be unlawful to smoke within twenty (20) feet of an operable window of either a Public Place or Place of Employment.

(c) It shall be unlawful to smoke within twenty (20) feet of a ventilation air intake of either a Public Place or a Place of Employment.

**Section 5 Exemptions.** The prohibitions on smoking set forth in this Ordinance shall not apply to:

(a) Personal vehicles, other than such vehicles used for public conveyance or owned or leased by the County.

(b) Private residences or dwelling places, including a private residence or dwelling place that is used for home occupation purposes pursuant to the Lake County Unified Development Ordinance provided there are no nonresident employees or clients/customers during the posted hours of business in that portion of the dwelling used for the home occupation. This exemption shall not apply to a private residence or dwelling place used as a child care, adult day care, or health care facility open to the public.

(c) An established smoking area incidental to the sale of tobacco in retail tobacco stores, provided that such smoking area is in existence and operational as of the adoption date of this Ordinance, and provided that smoke does not infiltrate into an area where smoking is otherwise prohibited under this Ordinance.

**Section 6 Designation of other no smoking areas.** This Ordinance does not limit the existing right of any employer, owner, occupant, lessee, manager or other person in control of any Public Place or Place of Employment to designate any non-Enclosed Area, including outdoor areas, as an area where smoking is prohibited.

**Section 7 Responsibilities of Proprietors** Each owner, lessee, occupant, employer or other person in control of a Public Place or a Place of Employment shall be responsible for all the following:

(a) Post conspicuous signs in the entrance or vestibule to the Public Place, Place of Employment or the building wherein they are located, as the case may be, bearing the text "No Smoking" or the international "No Smoking" symbol, which consists of a pictorial representation of a cigarette enclosed in a circle with a bar across it.

(b) Remove ash trays or other similar containers intended for the deposit of tobacco ash, cigarettes, cigars or other tobacco products from the Public Place.

(c) Notify employees regarding the requirements of this Ordinance.

**Section 8 Enforcement.**

This Ordinance shall be enforced by the Lake County Sheriff's Office.

**Section 9 Noncompliance and penalties.**

(a) Any person who violates Section 3(a) or any of the provisions of Section 4 of this Ordinance shall be fined \$50 for each violation.

(b) Any person who violates Sections 3(b), 3(c), or 3(d) of this Ordinance shall be fined \$100 for each violation. Each day during which a violation of Section 3(b), 3(c), or 3(d) continues shall constitute a separate violation.

(c) In addition to the fines established by this Section, violation of any of the provisions or requirements of this Ordinance by a person who owns, manages, operates, or otherwise controls a Public Place or Place of Employment is hereby declared a public nuisance and the County may, in addition to or in lieu of any other remedies set forth in this Ordinance, commence an action to enjoin or abate such nuisance in any manner provided by law.

**Section 9 Public Education.** The Lake County Board may engage in a continuing program to explain and clarify the purposes and requirements of this Ordinance to citizens affected by it, and to guide owners, lessees, occupants, operators, and managers in their compliance with it. The program may include publication of a brochure for affected businesses and individuals explaining the provisions of this Ordinance. The failure of the County Board to take such steps, however, shall not be a defense or excuse for noncompliance with the provisions of the Ordinance.

**Section 10 Severability.** If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

**Section 11 Effective Date.** This Ordinance shall become effective on January 1, 2008; provided however, that the provisions of this Ordinance shall not be effective until January 1, 2009, as to any business that both: 1) holds a valid Class A Liquor License from the Lake County Liquor Commission as of the adoption date of this Ordinance and 2) does not hold and is not required to obtain a food service facility permit pursuant to Article III of the Lake County Board of Health Ordinance.

APPROVED:

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Chairman

Lake County Board

ATTEST:

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Lake County Clerk