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**VILLAGE OF MELROSE PARK
COOK COUNTY, ILLINOIS**

ORDINANCE NO. 1030

AN ORDINANCE ADDING CHAPTER 8.68 TITLED, "CLEAN AIR REGULATIONS," TO THE VILLAGE OF MELROSE PARK MUNICIPAL CODE TO PROVIDE FOR CLEAN AIR REGULATIONS FOR THE VILLAGE OF MELROSE PARK, COUNTY OF COOK, STATE OF ILLINOIS.

**ADOPTED BY THE
PRESIDENT AND BOARD OF TRUSTEES
OF THE
VILLAGE OF MELROSE PARK**

THIS 26TH DAY OF FEBRUARY 2007

**RONALD M. SERPICO, Village President
MARY ANN PAOLANTONIO SALEMI, Village Clerk**

Board Of Trustees

- JOHN S. CONTEDEUCA**
- CATHLEEN COSSIDENT ITALIA**
- THOMAS KLEIN**
- RUBEN LOMELI**
- ARTURO J. MOTA**
- ANTHONY J. PRIGNANO**

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**Published by authority of the
President and Board of Trustees
Of the Village of Melrose Park,
Cook County, Illinois on
This 27TH day of FEBRUARY 2007**

ORDINANCE NO. 1030

AN ORDINANCE ADDING CHAPTER 8.68 TITLED, "CLEAN AIR REGULATIONS," TO THE VILLAGE OF MELROSE PARK MUNICIPAL CODE TO PROVIDE FOR CLEAN AIR REGULATIONS FOR THE VILLAGE OF MELROSE PARK, COUNTY OF COOK, STATE OF ILLINOIS.

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WHEREAS, the Village of Melrose Park, County of Cook, State of Illinois (the "Village"), is a duly organized and existing municipality and unit of local government created under the provisions of the laws of the State of Illinois, and is now operating under the provisions of the Illinois Municipal Code, as supplemented and amended; and

WHEREAS, the Village President (the "President"), the Honorable Ronald M. Serpico, the Village Clerk, the Honorable Mary Ann Paolantonio Salemi, having taken office on May 2, 2005 and the Board of Trustees of the Village (the "Village Board"), the Honorable John S. Conteduca, Cathleen Cossident Italia, Thomas "TK" Klein, Ruben Lomeli, Arturo J. Mota and Anthony J. Prignano, having taken office on May 2, 2005, respectively, constitute the duly elected, appointed, qualified and acting officials of the Village; and

WHEREAS, pursuant to Section 11-19.1-11 of the Illinois Municipal Code (65 ILCS 5/11-19.1-11 (Ill. Gen. Assembly 2007)), among other matters, the corporate authorities of a village have the authority to prescribe, by ordinance, for the regulation of uses of land connected with the emission of air contaminants and may abate an operation, activity or use causing air contamination; and

WHEREAS, pursuant to Section 11 of the Illinois Clean Indoor Air Act (410 ILCS 80/11 (Ill. Gen. Assembly 2007)) (the "Act"), a unit of local government may

regulate smoking in public places, but that regulation must be no less restrictive than the Act; and

WHEREAS, the abovementioned regulations will be instituted to, among other matters, help reduce the negative consequences of secondhand smoke; and

WHEREAS, secondhand smoke, which contains more than fifty (50) carcinogens, is a known cause of lung cancer, heart disease, low birth-weight births and chronic lung ailments, such as bronchitis and asthma (particularly in children); and

WHEREAS, children exposed to secondhand smoke have an increased risk of asthma, acute respiratory infections, sudden infant death syndrome and middle ear infections; and

WHEREAS, based on the foregoing, the President and the Village Board (collectively, the "Corporate Authorities") considered whether it would be appropriate to amend the Village of Melrose Park Municipal Code (the "Village Code") to provide for certain clean air regulations; and

WHEREAS, the Corporate Authorities find that it is in the best interests of the health, safety and welfare of the residents of the Village to adopt this Ordinance which, among other things, provides certain standards and regulations regarding smoking in public places and outdoor venues within the Village; and

NOW, THEREFORE, BE IT ORDAINED by the President and the Board of Trustees of the Village of Melrose Park, County of Cook, State of Illinois, as follows:

**ARTICLE I.
IN GENERAL**

Section 01. Incorporation Clause.

The Corporate Authorities hereby find that all of the recitals hereinbefore stated

as contained in the preambles to this Ordinance are full, true and correct and do hereby, by reference, incorporate and make them part of this Ordinance as legislative findings.

Section 02. Purpose.

The purpose of this Ordinance is to add Chapter 8.68 titled, "Clean Air Regulations" to the Village Code to provide certain regulations regarding smoking in public places and outdoor venues within the Village.

Section 03. Invocation of Authority.

This Ordinance is enacted pursuant to the authority granted to this Village by the Constitution of the State of Illinois and the Illinois Compiled Statutes.

Section 04. State Law Adopted.

All applicable provisions of the Illinois Compiled Statutes, including the Illinois Municipal Code, as may be amended from time to time, relating to the purposes of this Ordinance are hereby incorporated herein by reference.

Sections 05-09. Reserved.

**ARTICLE II.
ADDITION OF CHAPTER 8.68, CLEAN AIR REGULATIONS**

Section 10.00 Addition of Chapter 8.68, Clean Air Regulations.

That Chapter 8.68 is hereby added to the Village Code, notwithstanding any provision, ordinance, resolution, or Village Code section to the contrary, which Chapter shall be titled as follows:

CLEAN AIR REGULATIONS

Section 10.01 Addition of Section 8.68.010, Definitions.

That Chapter 8.68, Section 8.68.010 is hereby added to the Village Code, notwithstanding any provision, ordinance, resolution, or Village Code section to the

contrary, which Section shall read as follows:

For the purpose of this Chapter, certain terms and words shall have the meanings ascribed to them in this Section, unless different meanings are plainly indicated by the context in which the word or term is used.

Where applicable, words used in the present tense include the future tense of the word and words in the singular include the plural form of the word.

“Bar/Tavern” means an establishment whose primary business is the sale of alcoholic liquor for consumption on the premises and that is subject to a license for the sale of such alcoholic liquor.

“Enclosed Indoor Area” means all space between a floor and ceiling that is enclosed or semi-enclosed with: (i) solid walls or windows (exclusive of doorways), which extend from the floor to the ceiling; or (ii) solid walls with half wall partitions and no windows (exclusive of doorways) without limitation to lobbies and corridors.

“Outdoor Venue” means any outdoor theater, amphitheater, plaza, playing field, Park, arena, 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 Village. “Outdoor Venue” does not include any seating area within the Village 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.

“Park” means any public park or recreation area within the Village that is open to the general public and used to host outdoor events.

“Proprietor” means any individual or his or her designated agent who, by virtue of his or her office, position, authority or duties, has legal or administrative responsibility for the use or operation of property.

“Public Place” means any Enclosed Indoor Area used by the public or serving as a place of work including, but not limited to, hospitals, Restaurants, retail stores, offices, commercial establishments, elevators, indoor theaters, libraries, art museums, concert halls, public conveyances, educational facilities, nursing homes, auditoriums, arenas, and meeting rooms. “Public Place” does not include bowling establishments, Bars, Taverns, rooms rented for the purpose of living quarters, sleeping or housekeeping accommodations from a hotel, as defined in the Hotel Operators’ Occupation Tax Act (35 ILCS 145/1, *et seq.*), and private, enclosed offices occupied exclusively by smokers, even though such offices may be visited by nonsmokers.

“Restaurant” means any building, room, enclosure, place or establishment occupied and used as a place of business where food or drink is routinely served for public consumption on the premises, with charge.

“Smoking” means the act of inhaling the smoke from or possessing a lighted cigarette, cigar, pipe, or any other form of tobacco or similar substance used for Smoking.

Section 10.02 Addition of Section 8.68.020, Prohibition of Smoking.

That Chapter 8.68, Section 8.68.020 is hereby added to the Village Code, notwithstanding any provision, ordinance, resolution, or Village Code section to the contrary, which Section shall read as follows:

No person shall smoke in a Public Place, except in that portion of a Public Place which may be established and posted as a Smoking area in accordance with Section 8.68.030 of this Chapter. This prohibition does not apply in cases in which an entire room or hall is used for a private social function and seating arrangements are under the control of the sponsor of the function and not of the Proprietor or person in charge of the place. Furthermore, this prohibition shall not apply to factories, warehouses and similar places of work not usually frequented by the general public.

Smoking is prohibited in any portion of the living quarters including, but not limited to, sleeping rooms, dining areas, restrooms, laundry areas, lobbies and hallways, of a building used in whole or in part as a student dormitory that is owned and operated or otherwise utilized by a public or private institution of higher education. The foregoing does not apply to any commercial area within the building.

Section 10.03 Addition of Section 8.68.030, Designation of Smoking Area.

That Chapter 8.68, Section 8.68.030 is hereby added to the Village Code, notwithstanding any provision, ordinance, resolution, or Village Code section to the contrary, which Section shall read as follows:

The elected officials of the Village, elected officials of any school district, or their respective designees, who have control over the property of the Village or of a school district, which includes a Public Place, and the Proprietor of a structure, which includes a Public Place, may establish an area on the premises as a Smoking area where Smoking shall be permitted, unless otherwise prohibited by law or ordinance. When establishing an area as a Smoking area, a person

establishing such area shall utilize existing physical barriers, ventilation systems and other physical elements of the premises to minimize the intrusion of smoke into areas where Smoking is not permitted. When a Public Place is a single room or enclosure, a person establishing such an area may satisfy the purposes and provisions of this Section by establishing a reasonable portion of the room or enclosure as a Smoking area.

Restaurants located within the Village that allow Smoking shall establish areas where Smoking is permitted and areas where Smoking is not permitted, in accordance with the abovementioned requirements.

The Village, school district officials or their respective designee(s) or a Proprietor and the Proprietor's agents in control of a place, which includes a Public Place, shall make reasonable efforts to prevent Smoking in a Public Place outside of established Smoking areas by posting appropriate signs, contacting law enforcement or by other appropriate means.

Section 10.04 Addition of Section 8.68.040, Enforcement.

That Chapter 8.68, Section 8.68.040 is hereby added to the Village Code, notwithstanding any provision, ordinance, resolution, or Village Code section to the contrary, which Section shall read as follows:

A person, corporation, partnership, association or other entity, who violates Section 8.68.020 of this Chapter is guilty of a petty offense. Any designee of the Village or police officer who witnesses a person whom the Village designee or police officer reasonably believes to be in violation of this Chapter may stop and detain the person for the purpose of verifying the person's identity and age, and the Proprietor of the premises. If the Village designee or police officer determines that the person is in violation of this Chapter, the Village designee or police officer shall issue a citation to the person and the Proprietor. Any person or Proprietor who knowingly or willfully permits a person to violate the provisions of this Chapter or any Proprietor who fails to take reasonable steps to ensure compliance with this Chapter shall be fined not less than twenty-five and no/100 U.S. dollars (\$25.00) nor more than seven hundred fifty and no/100 U.S. dollars (\$750.00) for a first offense; not less than one hundred and no/100 U.S. dollars (\$100.00) nor more than seven hundred fifty and no/100 U.S. dollars (\$750.00) for a second offense; and not less than two hundred fifty and no/100 U.S. dollars (\$250.00) nor more than seven hundred fifty and no/100 U.S. dollars (\$750.00) for a third or subsequent offense within a one (1) calendar year period. A rebuttable presumption shall exist that a Proprietor has failed to take reasonable steps to ensure compliance with this Chapter, upon a finding that two (2) or more persons have violated the provisions of this Chapter simultaneously, or upon a third or subsequent violation within the premises within a one (1) calendar year

period. The foregoing presumption may be overcome by clear and convincing evidence to the contrary.

A local board of health or any individual personally affected by repeated violations of this Chapter may institute, in circuit court, an action to enjoin violations of this Chapter and may seek such other relief deemed necessary to ensure compliance with this Chapter.

Section 10.05 Addition of Section 8.68.050, Nondiscrimination.

That Chapter 8.68, Section 8.68.050 is hereby added to the Village Code, notwithstanding any provision, ordinance, resolution, or Village Code section to the contrary, which Section shall read as follows:

No individual may be discriminated against in any manner because of the exercise of any rights afforded by this Chapter or the Illinois Clean Indoor Air Act (410 ILCS 80/1, *et seq.*)

Section 10.06 Addition of Section 8.68.060, Prohibition of Smoking in Outdoor Venues.

That Chapter 8.68, Section 8.68.060 is hereby added to the Village Code, notwithstanding any provision, ordinance, resolution, or Village Code section to the contrary, which Section shall read as follows:

- A. It is unlawful to smoke in the following unenclosed Public Places and/or events:
1. The seating areas of all outdoor arenas, stadiums, playing fields and amphitheaters during events. Despite the foregoing, it shall not be unlawful to smoke at parades, festivals and picnics;
 2. Public Parks and recreation areas within fifty feet (50') of any play area, playground or scheduled activity for a group of any kind including, but not limited to, a show, party, sporting event or similar event or activity. Despite the foregoing, it shall not be unlawful to smoke at parades, festivals and picnics;
 3. School grounds; and
 4. At any scheduled outdoor event to which the public is permitted or invited including, but not limited to, shows, parties, sporting events or similar events

or activities. Despite the foregoing, it shall not be unlawful to smoke at parades, festivals and picnics.

- B. It is unlawful to smoke in or within fifty feet (50') of an Outdoor Venue during the time that an outdoor event is taking place. Despite the foregoing, it shall not be unlawful to smoke at parades, festivals and picnics.

Section 10.07 Addition of Section 8.68.070, Violation for Smoking in Unenclosed Public Places and Outdoor Venues.

That Chapter 8.68, Section 8.68.070 is hereby added to the Village Code, notwithstanding any provision, ordinance, resolution, or Village Code section to the contrary, which Section shall read as follows:

A violation of Section 8.68.060 shall be punishable by a fine of not less than twenty-five and no/100 U.S. dollars (\$25.00) nor more than seven hundred fifty and no/100 U.S. dollars (\$750.00) per incident.

Section 11.00 Other Actions Authorized.

The officers, employees and/or agents of the Village shall take all action necessary or reasonably required to carry out, give effect to and consummate the additions contemplated by this Ordinance and shall take all action necessary in conformity therewith including, without limitation, the execution and delivery of any and all documents required to be delivered in connection with this Ordinance. The Village Clerk or her designee shall cause a certified copy of this Ordinance to be filed with any agency or department of the State of Illinois or Cook County that requires the same.

**ARTICLE III.
HEADINGS, SAVINGS CLAUSES,
PUBLICATION, EFFECTIVE DATE**

Section 12.00 Headings.

The headings for the articles, sections, paragraphs, and sub-paragraphs of this Ordinance are inserted solely for the convenience of reference and form no substantive

part of this Ordinance nor should they be used in any interpretation or construction of any substantive provisions of this Ordinance.

Section 13.00 Severability.

The provisions of this Ordinance are hereby declared to be severable and should any provision, clause, sentence, paragraph, sub-paragraph, section, or part of this Ordinance be determined to be in conflict with any law, statute or regulation by a court of competent jurisdiction, said provision, clause, sentence, paragraph, sub-paragraph, section, or part shall be excluded and deemed inoperative, unenforceable, and as though not provided for herein, and all other provisions shall remain unaffected, unimpaired, valid and in full force and effect. It is hereby declared to be the legislative intent of the Corporate Authorities that this Ordinance would have been adopted had not such unconstitutional or invalid provision, clause, sentence, paragraph, sub-paragraph, section, or part thereof been included.

Section 14.00 Superseder.

All code provisions, ordinances, resolutions and orders, or parts thereof, in conflict herewith are, to the extent of such conflict, hereby superseded.

Section 15.00 Publication.

A full, true and complete copy of this Ordinance shall be published in pamphlet form or in a newspaper published and of general circulation within the Village as provided by the Illinois Municipal Code, as amended.

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Section 16.00 Effective Date. This Ordinance shall be in full force and effect upon passage, approval and publication, as provided by law.

On The Individual Poll And Voice Vote Of The Board Of Trustees:

AYE VOTES: Trustee Conteduca, Trustee Italia, Trustee Klein,
Trustee Lomeli, Trustee Mota, Trustee Prignano

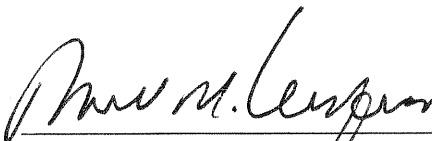
NAY VOTES:

ABSTAIN:

ABSENT:

SO PASSED, ADOPTED, APPROVED AND ENACTED IN AND AT THE
VILLAGE OF MELROSE PARK, COUNTY OF COOK, STATE OF ILLINOIS, THIS
TWENTY-SIXTH DAY OF FEBRUARY, 2007, A.D.

APPROVED:



RONALD M. SERPICO,
VILLAGE PRESIDENT

ATTEST:



Mary Ann Paolantonio Salemi
Village Clerk

(SEAL)

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