

## ORDINANCE NO. 8-2019

### AN ORDINANCE ESTABLISHING “CHAPTER 3-20 SMOKING” OF THE CODE OF THE TOWNSHIP OF ABERDEEN PROHIBITING SMOKING IN DESIGNATED PUBLIC AREAS IN THE TOWNSHIP OF ABERDEEN

**WHEREAS**, pursuant to N.J.S.A. 40:48-2, the governing body of a municipality may make, amend, repeal, and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this state or of the United States, as it may deem necessary and proper for the good of government, order and protection of person and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by this subtitle, or by any law; and

**WHEREAS**, the New Jersey Smoke-Free Air Act (N.J.S.A. 26:3D-55 *et seq.*) (“NJSFAA”) authorizes local restrictions on smoking “equivalent to, or greater than those provided in the [NJSFAA]” for “purposes of protecting the public health”; and

**WHEREAS**, N.J.S.A. 2C:33-13b also provides that the owner and/or operator of a public place, such as public parks and recreational areas, may prohibit smoking on such property; and

**WHEREAS**, the Township Council is aware of the well-known health and safety risks posed by smoking and find that it is within the public interest to prohibit smoking on public property, such as public parks and recreation areas; and

**NOW, THEREFORE, BE IT ORDAINED**, by the Township Council of the Township of Aberdeen that Chapter 3-20 of the Code of the Township of Aberdeen be enacted as follows:

#### SECTION I

##### §3-20.1 PREAMBLE

The following are the purposes of this Chapter:

A. The United States Surgeon General has determined that there is no safe level of exposure to secondhand smoke and that nonsmoking Americans exposed to secondhand smoke in public places are at significantly increased risk of heart disease and lung cancer (See 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, Coordinating Center for Health Promotion, National Center for Chronic Disease prevention and Health Promotion, Office on Smoking and Health, 2006); and

B. Smoking is the leading cause of death in the United States and the United

State Centers for Disease Control and Prevention has determined that reduction of the death and disease caused by tobacco use and exposure to secondhand smoke is one of the six top national healthcare priorities.

C. Pursuant to N.J.S.A. 40:48-1, the Township of Aberdeen is given the authority to adopt ordinances for the public health, safety and welfare of the Township, its citizens, residents and guests; and

D. The New Jersey Smoke-Free Air Act (N.J.S.A. 26:3D-63) specifically authorizes local restrictions on smoking “equivalent to, or greater than” those provided in the NJSFAA for purposes of “protecting public health.”

### **§ 3-20.2 DEFINITIONS.**

As used in this Chapter, the following terms shall have the following definitions:

A. ELECTRONIC SMOKING DEVICE means an electronic device that can be used to deliver nicotine or other substances to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, cigarillo or pipe.

B. MUNICIPAL BUILDING means the Aberdeen Township Municipal Building located at 1 Aberdeen Square, Aberdeen, NJ.

C. PARKS AND RECREATIONAL FACILITIES shall include all public parks, playgrounds, ball fields publicly owned or leased by the Township and all property owned or leased by the Township upon which the public is invited or upon which the public is permitted and where individuals gather for recreational activities, including all areas adjacent to such facilities, including, but not limited to, any parking area, driveway or drive aisle.

D. SMOKING means the burning of, inhaling from, exhaling the smoke from, or the possession of a lighted cigar, cigarette, pipe or other matter or substance which contains tobacco or any other matter that can be smoked, or the inhaling of smoke or vapor from an electronic smoking device.

E. TOWNSHIP means the Township of Aberdeen

### **§ 3-20.3 PROHIBITION OF SMOKING IN PUBLIC PLACES; SIGNS.**

A. Smoking shall be prohibited in all Parks and Recreational Facilities as defined herein. No-smoking signs or the international no-smoking symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a diagonal red line through its cross section) shall be clearly, sufficiently and conspicuously posted at Entrances to Parks and Recreational Facilities and within each area where smoking is prohibited by this chapter. The signs shall be clearly visible to the public and shall contain

letters or a symbol which contrast in color with the sign, indicating that smoking is prohibited therein. The sign shall also indicate that violators are subject to a fine.

B. Smoking shall be prohibited within a fifty-foot radius of the front entrance of the Municipal Building and all Parks and Recreational Facilities. No-smoking signs or the international no-smoking symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a diagonal red line through its cross section) shall be clearly, sufficiently and conspicuously posted at the thirty-five-foot perimeter of the front entrance of all Parks and Recreational Facilities where smoking is prohibited by this chapter. The signs shall be clearly visible to the public and shall contain letters or a symbol which contrast in color with the sign, indicating that smoking is prohibited therein. The sign shall also indicate that violators are subject to a fine.

#### **§ 3-20.4 ENFORCEMENT.**

Whenever the Township Manager, Director of the Recreation Department or his or her designee or park personnel or any law enforcement personnel observes or reasonably believes that there exists a violation of this Chapter, he or she may issue a summons and complaint to the violator. The complaint shall be written and served on the violator. Citizens of the Township may also bring private complaints for violations of this Article.

#### **§ 3-20.5 VIOLATIONS AND PENALTIES.**

Any person who violates any provision of this chapter shall be subject to a fine of not less than \$250.00 for the first offense, \$500.00 for the second offense and \$1,000.00 for each subsequent offense. Any municipal employee found in violation of this chapter may also be subject to discipline in accordance with the provisions of the Township's policies and procedures.

### **SECTION II**

If any section of provision of this ordinance shall be invalid in any court the same shall not affect the other sections or provisions of this ordinance except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

### **SECTION III**

All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

### **SECTION IV**

This ordinance shall take effect following adoption and approval in a time and manner provided by law.