

TOWNSHIP OF WASHINGTON
BERGEN COUNTY, NEW JERSEY

ORDINANCE NO. 19-02

**AN ORDINANCE PROHIBITING SMOKING IN DESIGNATED PUBLIC PLACES
AND WITHIN MUNICIPAL FACILITIES IN THE TOWNSHIP OF WASHINGTON**

BE AND IT IS HEREBY ORDAINED by the Township Council of the Township of Washington that Chapter 402 of the Code of the Township of Washington ("Smoking and Tobacco Use") is hereby amended by deleting Sections 402-4 through 402-9, changing the designation of Article II, and substituting the following in its place:

1. "

ARTICLE II

Smoking in Designated Public Places and Within Municipal Facilities

§ 402-4 Definitions.

As used in this article, the following terms shall have the meanings indicated:

ENCLOSED AREA

All areas between a floor and a ceiling, extending to the outer perimeter walls of a structure.

MUNICIPAL BUILDINGS

All structures owned, leased, rented, and/or operated by the Township of Washington, and/or occupied by Township employees and used for official business of the Township of Washington.

NICOTINE DELIVERY PRODUCT

Any product that is designed to deliver nicotine or vapor, including, but not limited to, what are commonly known as "e-cigarettes" or other types of electronic smoking devices, or any cartridge or other component of such device, or related products, including, but not limited to, any substances used in such devices, such as liquids or powders or other forms of tobacco, but excluding United States Food and Drug Administration approved nicotine patches or nicotine chewing gum.

PARKS AND RECREATIONAL FACILITIES

All public parks, playgrounds, and ball fields publicly owned or leased by the Township of Washington and all property owned or leased by the Township of Washington 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.

PERSON

An individual, partnership, cooperative, association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

SMOKING

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

TOBACCO

Any product made from the tobacco plant for the purpose of smoking, chewing, inhaling, and other personal use, including cigars, chewing tobacco, pipe tobacco, snuff, and cigarettes in any form.

TOBACCO RETAILER

Any person or entity that operates a store, stand, booth, concession, or place at which sales of tobacco or nicotine delivery products are made to purchasers for consumption or use. The term shall also mean any person or entity that owns, operates, or uses a tobacco vending machine and/or a tobacco vending machine location as defined herein.

TOBACCO VENDING MACHINE

Any automated, self-service device which, upon insertion of money, tokens, or other form of payment, dispenses nicotine delivery products, cigarettes, or other tobacco products.

TOBACCO VENDING MACHINE LOCATION

The room, enclosure, space, or area where a tobacco vending machine is installed and operated.

§ 402-5 Retail sale of tobacco products.

- A. No person shall sell tobacco or nicotine delivery products in the Township of Washington unless an employee of the establishment controls the sale of such products. A person may only sell tobacco or nicotine delivery products in a direct, face-to-face exchange between the retailer and the consumer. Self-service displays and vending machines of tobacco or nicotine delivery products shall be prohibited.
- B. No person shall sell, distribute, or give tobacco or nicotine delivery products to any person under the age of 21 years or give tobacco or nicotine delivery products to any person under the age of 21.
- C. Tobacco retailers shall conspicuously post and reasonably maintain signs having a minimum size of six inches by eight inches where tobacco or nicotine delivery products are displayed and at all checkout counters notifying customers that proof of age is required to purchase tobacco or nicotine delivery products.

- D. Any person selling tobacco or nicotine delivery products shall verify by means of government-issued photographic identification containing the bearer's date of birth that no person purchasing the tobacco or nicotine-containing products is younger than 21 years of age. No such verification is required for any person over the age of 26. No clerk shall sell tobacco or nicotine delivery products to a person less than 21 years of age who has a note or any form of communication from any person, including an adult.
- E. No person or tobacco retailer selling tobacco or nicotine delivery products shall allow an employee to sell or distribute such products until the employee has read the Township of Washington ordinances and state laws pertaining to the sale or distribution of tobacco and nicotine delivery products and the business owner or manager has signed a statement that the employee has read such ordinances and state laws. Such form statement will be supplied by the Township of Washington, and the signed original statement shall be filed with the Township of Washington, and a copy shall be kept on file by the tobacco retailer and made available for review by the Township of Washington.

§ 402-6 Smoking in public places prohibited; signs.

- A. Smoking shall be prohibited in all municipal buildings 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 municipal buildings. The sign shall be clearly visible to the public and shall contain letters or a symbol which contrasts 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 in all public parks and recreational facilities owned or leased by the Township of Washington and all property owned or leased by the Township of Washington 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, which have been designated with no-smoking signs. 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 all parks and facilities regulated by this article. The signs shall be clearly visible to the public and shall contain letters or a symbol which contrasts in color with the sign, indicating that smoking is prohibited at the designated area. The sign shall also indicate that violators are subject to a fine.
- C. Smoking shall be prohibited in any vehicle registered to the Township of Washington.
- D. No person shall remove or deface any sign erected by the Township of Washington under this article.
- E. It shall be unlawful for any person to smoke in any area where smoking is prohibited under this article.

§ 402-7 Enforcement.

The provisions of this article shall be enforceable by the Police Department, Fire

Department, Recreation Department, Department of Municipal Facilities and Health Department of the Township of Washington, as well as by any other individual who observes a violation and wishes to file a complaint. Any person seeking to enforce the provisions of this article shall be authorized to file a complaint in the Municipal Court of the Township of Washington.

§ 402-8 Violations and penalties.

A. Any person who violates any provision of this article shall be subject to a fine of not less than \$250 for the first offense, \$500 for the second offense, and \$1,000 for each subsequent offense.

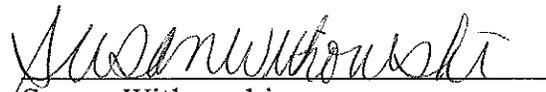
B. Any juvenile adjudicated to have violated the provisions of this article shall be subject to such penalties, fines or other discipline as may be imposed upon an adult pursuant to this article.”

2. If any section, sub-section, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid such decision shall not affect the remaining portions of this Ordinance.

3. All Ordinances or any provisions of any ordinance inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistencies and not otherwise.

4. This Ordinance shall take effect upon final passage and publication and in accordance with the Charter, and subject to such emergency resolution as may be adopted pursuant to Section 17-32 thereof. [R.S. 40:69A-181 (b)].

ATTEST:


 Susan Witkowski,
 Township Clerk

APPROVED:
 TOWNSHIP COUNCIL OF THE
 TOWNSHIP OF WASHINGTON

By 
 Michael DeSena,
 Council President

First Reading of Township Ordinance No. 19-02

Introduction Date: March 4, 2019

MOTION		SECOND		COUNCIL	AYES	NAYES	ABSTAIN	ABSENT
Bruno		Bruno		Bruno	X			
Cascio	X	Cascio		Cascio	X			
Cumming		Cumming	X	Cumming	X			
DeSena		DeSena		DeSena	X			
Ullman		Ullman		Ullman		X		

ATTEST:

APPROVED:
TOWNSHIP COUNCIL OF THE
TOWNSHIP OF WASHINGTON


Susan Witkowski,
Township Clerk

By 
Michael DeSena,
Council President

Second Reading of Township Ordinance No. 19-02

Adoption Date: March 18, 2019

MOTION		SECOND		COUNCIL	AYES	NAYES	ABSTAIN	ABSENT
Bruno		Bruno		Bruno	x			
Cascio	x	Cascio		Cascio	x			
Cumming		Cumming	x	Cumming	x			
DeSena		DeSena		DeSena	x			
Ullman		Ullman		Ullman	x			