

ORDINANCE 2021-11

AN ORDINANCE AMENDING AN ORDINANCE ENTITLED, “CODE OF THE BOROUGH OF SHIP BOTTOM, COUNTY OF OCEAN, STATE OF NEW JERSEY, (_____)” IN CHAPTER 12.24 AND PERTAINING TO SMOKING

STATEMENT OF PURPOSE

This Ordinance amends 12.24 to regulate the use and consumption of cannabis and cannabis items in public places, as discussed in Section 46 of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, and further amends the regulations relating to smoking in public places.

SECTION I

Chapter 12.24 is hereby repealed and replaced as follows.

Chapter 12.24 Smoking in Public Places

§12.24.010 Findings.

- A. Medical and scientific evidence indicates that tobacco use is a leading cause of preventable death in the United States, and, pursuant to Section 46 and N.J.S.A. 26:3D-65(a), a municipality may, by ordinance, fine an individual who smokes or carries lighted cannabis, or consumes cannabis not by smoking, vaping, or aerosolizing in any public place.
- B. In public places, the right of nonsmokers to breathe clean air outweighs the right of smokers to smoke, and the consumption of cannabis in public places is inimical to the public health, safety, and welfare.
- C. The public health of the residents and visitors of the Township shall be promoted by eliminating the exposure of its citizens and visitors to airborne smoke and smoking-related refuse within certain public places and precluding the consumption of cannabis in all public places.

§12.24.020 Definitions.

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

CANNABIS

The meaning given to “marijuana” in section 2 of the “New Jersey Controlled Dangerous Substances Act,” P.L.1970, c. 226 (N.J.S.A. 24:21-2).

ELECTRONIC SMOKING DEVICE

Any electronic product that delivers nicotine or other substances to the person inhaling from the device, including, but not limited to, electronic cigarettes (e-cigarettes), electronic cigars, (e-cigars), electronic pipes (e-pipes), vape pens, or electronic hookahs (e-hookahs) and shall include any component or accessory of such a device, whether sold separately or not, including any filters and liquids used in such devices, but does not include any similar devices approved for sale by the U.S. Food and Drug Administration for medicinal purposes as those items are defined in the Federal Food, Drug, and Cosmetic Act.

PERSON

An individual, partnership, corporation, cooperative association, or any other legal entity.

PARK

All publicly owned parks and preserved public open spaces, including, but not limited to, the Borough Municipal Building, Waterfront Park, Bayside Parks, and the Bay Bathing Beach.

PLAYGROUND AREA

The area of and surrounding the playground equipment.

PUBLIC PLACE

Any place to which the public has access that is not privately owned; or any place to which the public has access where alcohol consumption is not allowed, including, but not limited to, beaches, public streets, roads, thoroughfares, sidewalks, bridges, alleys, plazas, parks, playgrounds, shopping areas, public transportation facilities, vehicles used for public transportation, parking lots, or any other public building, structure, or area.

SMOKE-RELATED REFUSE

Any used or unconsumed or waste material which has been discarded, whether made of aluminum, glass, plastic, rubber, paper or other natural or synthetic material, or any combination thereof, but not limited to any cigarette, cigar, pipe, match, lighting device, paper or plastic packaging or containers, weed, plant or other combustible substance.

SMOKING or SMOKE

The act of inhaling, exhaling, burning, or carrying any lighted cigarette, cigar, pipe, weed, plant, cannabis, or other combustible substance in any manner or in any form, including but not limited to tobacco or similar products and the use of any electronic smoking device.

§12.24.030 Prohibitions.

- A. No person shall engage in smoking, vaping, aerosolizing, the use of an electronic smoking device, or otherwise consuming cannabis in any manner in any public place.
- B. No person shall use any electronic smoking device or vape or smoke, inhale, exhale, burn, or carry any lighted cigarette, cigar, pipe, weed, plant, or other combustible substance in any manner or in any form, including, but not limited to, tobacco, nicotine-based products, or similar products, on any beach, at any park, or at any playground.
- C. There shall be posted in parks, playgrounds, and beaches conspicuous signs clearly stating that smoking is prohibited, either by a sign indicating “No Smoking” or by the international “no smoking” symbol.

§12.24.040 Violations and penalties.

Any person who violates any provision of this Chapter shall be subject to a fine of not more than \$200 for each violation. In addition, a violation of this Chapter shall be punishable as provided in Chapter 1.08, General Penalty, as applicable.

SECTION II

All ordinances, or parts of ordinances, inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

SECTION III

If any word, phrase, clause, section, or provision of this ordinance shall be found by any Court of competent jurisdiction to be unenforceable, illegal, or unconstitutional, such word, phrase, clause, section, or provision shall be severable from the balance of the ordinance and the remainder of the ordinance shall remain in full force and effect.

Effective date.

This ordinance shall take effect after final adoption and publication as required by law.

NOTICE

Public Notice is hereby given that the foregoing Ordinance was introduced and passed on the first reading at a regular meeting of the Mayor and Council of the Borough of Ship Bottom, County of Ocean, State of New Jersey, held on Tuesday, _____, 2021, at 4:00 p.m.

Further public notice is hereby given that said ordinance shall be considered for final passage and adoption at a regular meeting of the Mayor and Council to be held on _____, _____, 2021, at 4:00 p.m. at the Municipal Building, 1621 Long Beach Boulevard, Ship Bottom, New Jersey 08008.

Kristy Davis, RMC
Municipal Clerk

CERTIFICATION

I, KRISTY DAVIS, RMC, Municipal Clerk for the Borough of Ship Bottom do hereby certify that the foregoing Ordinance _____ was duly adopted by the Mayor and Council at the meeting held on _____, _____, 2021, at 4:00 p.m.

Kristy Davis, RMC
Municipal Clerk

Effective: