

**TOWNSHIP OF CEDAR GROVE  
ESSEX COUNTY, NEW JERSEY**

**AGENDA ITEM # 3 (b)**

**FEBRUARY 6, 2017**

**Passed Ordinance No. 17-804**

**AN ORDINANCE AMENDING PART II ENTITLED "GENERAL  
LEGISLATION," CHAPTER 224 ENTITLED "SMOKING," TO ADD  
ARTICLE II ENTITLED "SMOKING ON PUBLIC PROPERTY"**

**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 previous State legislation which prohibited municipalities from passing strict local smoking laws that differed from the State standards was repealed and the State now expressly authorizes municipalities to enact strict ordinances regulating smoking under N.J.S.A. 26:3D-63; and

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

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

**WHEREAS**, the Township Council has determined that the public interest is especially implicated in preventing the youth of Cedar Grove from being exposed and succumbing to the temptations of experimenting with tobacco products; and

**WHEREAS**, the Township Council also finds that the appearance of parks and recreation areas can be enhanced and the limited resources of the Township's Department of Public Works can be conserved if smoking were to be banned from such areas, thereby keeping such areas free of the litter typically generated by the smoking of cigarettes, such as cigarette butts, ashes, and packaging.

**NOW, THEREFORE, BE IT ORDAINED**, BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF CEDAR GROVE, Part II of *The Township of Cedar Grove Municipal Code* entitled "General Legislation," Chapter 224 entitled "Smoking" is hereby amended to add Article II entitled "Smoking on Public Property," to read as follows:

## **Section 1.**

### **Article II: Smoking on Public Property**

#### **§ 224-7 Definitions.**

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

**ENCLOSED AREA** shall mean all areas between a floor and a ceiling, extending to the outer perimeter walls of a structure.

**PARKS AND RECREATIONAL FACILITIES** shall include all public parks, playgrounds, ball fields, publicly owned or leased by the Township of Cedar Grove and all property owned or leased by the Township of Cedar Grove 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.

**MUNICIPAL BUILDINGS** shall include all structures owned, leased, rented and/or operated by the Township of Cedar Grove, and/or occupied by Township employees and used for official business of the Township of Cedar Grove.

**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 device.

#### **§ 224-8 Prohibition of smoking in public places; 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 each Municipal Building entrance and within each closed 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 thirty-five-foot radius of the front entrance of all Municipal Buildings. 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 both on the building and at the thirty-five-foot perimeter of the front entrance of all Municipal Buildings 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.

C. Smoking shall be prohibited in all public parks and recreation facilities owned or leased by the Township of Cedar Grove and all property owned or leased by the Township of Cedar Grove 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 in all areas regulated by this chapter. 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.

D. Smoking shall be prohibited in any vehicle registered to the Township of Cedar Grove.

#### **§ 224-9 Enforcement.**

The enforcement authority of this chapter shall be the Police Department, Fire Department, Recreation Department, Public Works Department and Health Department of the Township of Cedar Grove.

#### **§ 224-10 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 of Cedar Grove's policies and procedures.

#### **Section 2:**

All ordinances of the Township of Cedar Grove which are inconsistent with the provisions of this Ordinance are hereby repealed as to the extent of such inconsistency.

#### **Section 3.**

Should any section, clause, sentence, phrase or provision of this Ordinance be declared unconstitutional or invalid by a Court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

#### **Section 4.**

This Ordinance shall take effect upon final passage, adoption, and publication in the manner prescribed by law.