

Introduced	<u>J. CURVILLO</u>	Date of Introduction	<u>April 10, 2014</u>
Seconded	<u>M. SARGENT</u>	Public Hearing	<u>May 8, 2014</u>
		Date of Adoption	<u>May 8, 2014</u>

BOROUGH OF FORT LEE

ORDINANCE # 2014-17

**AN ORDINANCE ESTABLISHING "CHAPTER 350  
SMOKING" PROHIBITING SMOKING IN PUBLIC PARKS  
AND RECREATIONAL FACILITIES IN THE BOROUGH OF  
FORT LEE**

**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**, currently, the Code of the Board of Health Borough of Fort prohibits smoking at recreational bathing facilities within the Borough of Fort Lee ("Borough"), which includes five existing wading pools within the Borough, and fenced areas of public tennis courts; and

**WHEREAS**, State statutes prohibited municipalities from passing strict local smoking laws that differed from the State standards has been repealed and the State now expressly authorizes municipalities to enact strict ordinances regulating smoking under N.J.S.A. 40:48-2 and N.J.S.A. 26:3D-63; and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**, pursuant to regulations adopted by the Commissioner of the New Jersey Department of Health (N.J.A.C. 8:6-7.2(b)(3), smoking is prohibited from taking place during school-sponsored activities that occur off school property, including public parks and recreation areas; and

**WHEREAS**, on February 11, 2014 the Fort Lee Board of Health passed a resolution supporting, and recommending to the Mayor and Council, the adoption of an ordinance designating, all outdoor Borough public parks and recreation areas as 100% smoke-free and

**WHEREAS**, the Mayor and Council are 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

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

**WHEREAS**, the Mayor and Council also find that the appearance of parks and recreation areas can be enhanced and the resources of the Borough'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 Mayor and Council of the Borough of Fort Lee that Chapter 350 of the Borough Code be enacted as follows:

#### **SECTION I**

\$350-1. Definitions. As used in this chapter, the terms below shall have the following meanings:

"Borough" shall mean the Borough of Fort Lee.

"Parks and Recreational Facilities" shall include all public parks, playgrounds, ball fields, publicly owned or leased by the Borough and all property owned or leased by the Borough 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.

"Smoking" shall mean 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.

§350-2. 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 thirty-five-foot radius of the front entrance of 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.

§350-3. Enforcement.

Enforcement of this chapter shall be within the authority of the Police Department, Fire Department, Recreation Department, Public Works Department and Health Department of the Borough.

§350-4. 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 Borough'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 to inconsistent herewith are hereby repealed to the extent of such inconsistency.

**SECTION IV**

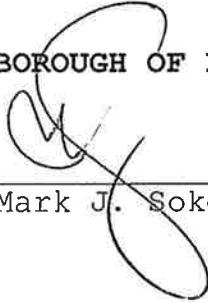
This ordinance shall take effect following adoption and approval in a time and manner provided by law.

**ATTEST:**

*Neil Grant*

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Neil Grant

**BOROUGH OF FORT LEE**

  
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Mark J. Sokolich, Mayor