

**ORDINANCE 46-2013**

**ORDINANCE OF THE BOROUGH OF MADISON AMENDING CHAPTER 163 OF THE BOROUGH CODE ENTITLED "SMOKING" TO PROHIBIT SMOKING ON ALL BOROUGH PROPERTY INCLUDING PUBLIC PARKS AND RECREATIONAL AREAS**

**WHEREAS**, the Borough of Madison by and through Chapter 163 of the Code of the Borough of Madison regulates smoking in and around municipal buildings; and

**WHEREAS**, the Mayor and Council of the Borough of Madison wishes to amend Chapter 163 to prohibit smoking on all borough property including parks and recreational areas; and

**WHEREAS**, N.J.S.A. 2C:33-13(b), N.J.S.A. 40:48-1 and N.J.S.A. 40:48-2 provide 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 Mayor and Council of the Borough of Madison have determined that it would be in the best interest of the citizens of the Borough to prohibit smoking on all borough property including parks and recreational areas.

**NOW, THEREFORE BE IT ORDAINED** by the Governing Body of the Borough of Madison that Chapter 163 of the Code of the Borough of Madison entitled "Smoking" is hereby amended to provide as follows:

**Section 1.** Chapter 163, "Smoking" of the Code of the Borough of Madison shall be amended to provide as follows:

§ 163-1 "Policy"

A totally smoke-free workplace policy is hereby adopted and the following sections shall be applied in accordance with and in addition to this policy.

§ 163-2 "Definitions"

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

**BOROUGH BUILDINGS** shall include all property owned or leased by the Borough of Madison, including, but not limited to the Hartley Dodge Memorial building, Public Safety Complex, Department of Public Works, Water and Light Plant and Civic Center. Any borough buildings acquired hereafter shall be included in this definition.

**BOROUGH PARKS AND RECREATIONAL FACILITIES** shall include all public parks, playgrounds, ball fields, swimming pools, plazas publicly owned or leased by the Borough of Madison, and all property owned or leased by Borough of Madison 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, sidewalks, any parking areas, driveways 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.

§ 163-3 "Smoking Prohibited on all Borough Property"

- A. Smoking shall be prohibited in all Borough Buildings, including private offices and within thirty (30) feet of the exterior of all Borough Buildings.
- B. The Borough Administrator shall designate areas outside the Borough Buildings where smoking will be permitted. This exception shall not apply to Borough Buildings located within Borough Parks and Recreational Areas and smoking shall be prohibited outside of all Borough Buildings located within Borough Parks and Recreational Areas.
- C. Smoking shall be prohibited in all Borough Parks and Recreational Facilities.

**Section 2.** All Ordinances, or parts thereof, inconsistent with the provisions of this Ordinance be and the same are hereby repealed to the extent of such inconsistency.

**Section 3.** Should any section, paragraph clause or any other portion of this Ordinance be adjudged by a Court of competent jurisdiction to be invalid, such judgment shall not affect or impair the remainder of this Ordinance.

**Section 4.** This Ordinance shall take effect upon its passage and publication according to law.

