

**TOWNSHIP OF MONTGOMERY  
ORDINANCE NO. 10-1374**

**AN ORDINANCE AMENDING THE CODE OF THE  
TOWNSHIP OF MONTGOMERY, IN THE COUNTY OF  
SOMERSET, NEW JERSEY (1984) TO ESTABLISH A  
NEW SECTION, 3-18 "SMOKING PROHIBITED ON  
TOWNSHIP PROPERTY."**

BE IT ORDAINED by the Township Committee of the Township of Montgomery, in Somerset County, New Jersey, as follows:

**Section 1. Section 3-18, "Smoking Prohibited on Township Property," Established.** Chapter 3, "Police Regulations," of the Code of the Township of Montgomery (1984) is hereby amended and supplemented by the addition thereto of a new section 3-18, entitled "Smoking Prohibited on Township Property," to read as follows:

**3-18 SMOKING PROHIBITED ON TOWNSHIP PROPERTY.**

**3-18.1 Findings.**

The Township Committee finds that smoking is one of the leading causes of preventable disease and death in the United States. In addition to the deleterious effects upon smokers, tobacco smoke is a substantial health hazard to the public, and an annoyance and a nuisance to the non-smoking public. Tobacco smoke also creates a substantial health hazard to residents of the Township of Montgomery who may be participating in activities or events in or around buildings owned or leased by the Township.

While it is not the public policy of the Township to deny anyone the right to smoke, a balance must be struck between the right of smokers to smoke and the right of non-smokers to breathe clean air. The Township Committee finds that in public buildings and on the surrounding premises, the right of non-smokers to breathe clean air outweighs the right of smokers to smoke and, therefore, the Township Committee desires to prohibit smoking in Township buildings and on their grounds. This prohibition is consistent with the New Jersey Smoke-Free Air Act, N.J.S.A. 26:3D-55 et seq., which permits municipal ordinances to impose greater prohibitions against smoking than those provided under the Act, and N.J.S.A. 40:48-1, 40:48-2 and 2C:33-13, which provide

that smoking may be prohibited by municipal ordinance in any public place, including, but not limited to, places of public accommodation.

**3-18.2 Purpose.**

The purpose of this section is to protect the health and welfare of the public by ensuring its right to breathe clean air in public buildings and grounds owned or leased by the Township.

**3-18.3 Definitions.**

*Public Building* shall mean the interior of any building, and its exterior grounds, owned or leased by the Township of Montgomery, including the Montgomery Township Municipal Building Complex, the Montgomery Township Kid Connection Building, the Otto Kaufman Community Center, the Montgomery Township Public Works Garage and Container Facility, and all Township wastewater treatment plants. The term *public building* shall not include Township parks, athletic fields and playgrounds.

*Smoking* shall mean the burning of a lighted cigar, cigarette, pipe or any other matter or substance that contains tobacco or a similar substance.

**3-18.4 Smoking Prohibited.**

Smoking is prohibited in all public buildings as defined in subsection 3-18.3 above.

**3-18.5 Posting of Signs.**

“No Smoking” signs or signs bearing the international “No Smoking” symbol shall be clearly, sufficiently and conspicuously posted in all places affected by this section.

**3-18.6 Notice.**

Notice of this section shall be provided to all Township employees and to any employee organization’s duly elected representative.

**3-18.7 Enforcement.**

This section shall be enforced by the Montgomery Township Police Department.

**3-18.8 Violations and Penalties.**

Any person who violates any provision of this section shall be subject to the general penalty provisions stated in section 1-5 of this Code.

**Section 2. Repealer.** All ordinances and resolutions or parts thereof inconsistent with this ordinance are repealed.

**Section 3. Severability.** If any section, paragraph, subsection, clause or provision of this ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudged and the remainder of this ordinance shall be valid and enforceable.

**Section 4. Effective Date.** This Ordinance shall take effect on January 1, 2011 after its passage and publication as required by law.

I, Donna Kukla, Clerk for the Township of Montgomery, hereby certify that Ordinance # 10-1374 was introduced on first reading by the governing body of the Township of Montgomery, County of Somerset, on November 4, 2010.

Public hearing and consideration for adoption was held on December 2, 2010, at which time the Ordinance was finally adopted.



Donna Kukla

Township Clerk

**TOWNSHIP OF MONTGOMERY  
ORDINANCE NO. 13-1451**

**AN ORDINANCE AMENDING THE PENALTY PROVISION OF CHAPTER 3-18, "SMOKING PROHIBITED ON TOWNSHIP PROPERTY," OF THE CODE OF THE TOWNSHIP OF MONTGOMERY, IN THE COUNTY OF SOMERSET, NEW JERSEY (1984).**

**BE IT ORDAINED** by the Township Committee of the Township of Montgomery, in Somerset County, New Jersey, as follows:

**Section 1. Subsection 3-18.1, "Findings," of the Code of the Township of Montgomery (1984) Amended.** Subsection 3-18.1, "Findings," of the Code of the Township of Montgomery (1984)("Code") is hereby amended and supplemented to read as follows (additions are underlined and deletions are [bracketed]):

**3-18.1 Findings.**

[The Township Committee finds that] As determined by the New Jersey Legislature, smoking is one of the leading causes of preventable disease and death in the United States. In addition to the deleterious effects upon smokers, tobacco smoke is a substantial health hazard to the public, and an annoyance and a nuisance to the nonsmoking public. Tobacco smoke also creates a substantial health hazard to residents of the Township of Montgomery who may be participating in activities or events in or around buildings owned or leased by the Township.

While it is not the public policy to deny anyone the right to smoke, a balance must be struck between the right of smokers to smoke and the right of nonsmokers to [breath] breathe clean air. The Township Committee finds that in public buildings and on the surrounding premises, the right of nonsmokers to [breath] breathe clean air outweighs the right of smokers to

smoke and, therefore, the Township Committee desires to prohibit smoking in Township buildings and on their grounds. This prohibition is consistent with N.J.S.A. 40:48-1, 40:48-2 and 2C:33-13, which provide that smoking may be prohibited by municipal ordinance in any public place, including, but not limited to, places of public accommodation, and the New Jersey Smoke-Free Air Act, N.J.S.A. 26:3D-55 et seq., which permits municipal ordinances to impose greater prohibitions against smoking than those provided under the Act[, and N.J.S.A. 40:48-1, 40:48-2 and 2C:33-13, which provide that smoking may be prohibited by municipal ordinance in any public place, including, but not limited to, places of public accommodation].

Since the implementation of this chapter in 2010, the Township has experienced many public benefits from the restrictions set forth herein. For example, in addition to lessening the public's exposure to secondhand smoke, litter in and around Township buildings has decreased. Fire safety on Township property has also increased through the smoking ban. In addition, the Township has received a reduction on its health insurance rates by prohibiting smoking in Township buildings and on their grounds. The Township Committee, therefore, finds that the requirements set forth in this section are in the public interest.

**Section 2. Subsection 3-18.5, "Posting of Signs," of the Code Amended.**

Subsection 3-18.5, "Posting of Signs," of the Code is hereby repealed in its entirety and replaced with the following:

"No Smoking" signs, "Smoke-free" signs, or signs bearing the international "No Smoking" symbol shall be clearly, sufficiently and conspicuously posted in all places affected by this section. Such signs shall also indicate that violators are subject to the penalty provisions set forth in subsection 13-8.8.

**Section 3.**     **Subsection 3-18.8, "Violations and Penalties," of the Code Repealed and Replaced.** Subsection 3-18.8, "Violations and Penalties," of the Code is hereby repealed in its entirety and replaced with the following:

**3-18.8           Violations and Penalties.**

Pursuant to N.J.S.A. 2C:33-13, any person who violates any provision of this section shall be guilty of a petty disorderly persons offense and shall be subject to a fine not exceeding two hundred dollars (\$200.00).

**Section 4**     **Repealer.** All ordinances and resolutions or parts thereof inconsistent with this ordinance are repealed.

**Section 5.**     **Severability.** If any section, paragraph, subsection, clause or provision of this ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudged and the remainder of this ordinance shall be valid and enforceable.

**Section 6.**     **Effective Date.** This ordinance shall take effect upon final adoption, publication, and as otherwise provided by law.

I, Donna Kukla, Clerk for the Township of Montgomery, hereby certify that Ordinance #13-1451 was introduced on first reading by the governing body of the Township of Montgomery, County of Somerset, on August 15, 2013.

Public hearing and consideration for adoption was held on September 5, 2013, at which time the Ordinance was finally adopted.

  
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Donna Kukla, Township Clerk