

CHAPTER 373. SMOKING

§ 373-1. Definitions.

§ 373-2. Smoking in public buildings prohibited.

§ 373-3. Violations and penalties.

[HISTORY: Adopted by the Borough Council of the Borough of Paramus 12-27-1994 by Ord. No. 94-29. Amendments noted where applicable.]

GENERAL REFERENCES

Tobacco and cigarettes— See Ch. 449.

§ 373-1. Definitions.

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

SMOKING

The inhaling, exhaling or carrying of a lighted cigar, cigarette, pipe or other smoking materials.

§ 373-2. Smoking in public buildings prohibited.

The smoking of any form of cigarette, cigar or pipe is hereby prohibited in all areas of any building owned or operated by the Municipality of Paramus.

§ 373-3. Violations and penalties.

Any person who violates the provisions of this chapter shall be subject to a fine not to exceed \$25.

CHAPTER 373. SMOKING

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CHAPTER 449. TOBACCO AND CIGARETTES

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[HISTORY: Adopted by the Board of Health of the Borough of Paramus as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Smoking — See Ch. 373.
Vending machines — See Ch. 423.

Article I. Sale of Tobacco and Cigarettes
[Adopted 1-25-1999 by Ord. No. 104]

§ 449-1. Sales to minors.

It shall be unlawful to sell tobacco/cigarettes to a person under 18 years of age.

§ 449-2. Identification required.

It shall be unlawful for a tobacco/cigarette retailer to sell or permit to be sold tobacco/cigarettes to any individual without requesting and examining identification from the purchaser positively establishing the purchaser's age as 18 years or greater unless the seller has some conclusive basis for determining the buyer is over the age of 18 years.

§ 449-3. Vending machines; freestanding or attached displays.

It shall be unlawful to offer for sale or to sell tobacco/cigarettes through a tobacco/cigarette machine or from a freestanding or attached display of tobacco/cigarettes in the Borough of Paramus. All tobacco must be dispensed to the customer by the clerk from inventory that is behind the counter and out of the grasp of the public.

§ 449-4. Removal of tobacco/cigarette machines.

All tobacco/cigarette machines made unlawful by the terms of this article shall be removed within 30 days from the effective date of this article; provided, however, that nothing herein contained shall be construed to permit the use or installation of any cigarette vending machine made unlawful pursuant to Ordinance No. 102 of the Board of Health.

§ 449-5. Definitions.

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

BOARD OF HEALTH
The Board of Health of the Borough of Paramus.

FREESTANDING or ATTACHED TOBACCO/CIGARETTE DISPLAY

Any display promotion of tobacco/cigarette products in any area of a store or food establishment or other premises not specifically behind a sales counter and within the grasp of the public so as to be self-service.

HEALTH OFFICER

The administrative officer of the Paramus Board of Health and/or his or her authorized representatives.

PERSON

Any individual, partnership, cooperative, association, corporation, personal representative, receiver, trustee, assignee or any other legal entity.

TOBACCO

Any product made from the tobacco plant for the purpose of smoking, chewing, inhaling and other personal use, including cigars, chewing tobacco, pipe tobacco, snuff and cigarettes in any form.

TOBACCO RETAILER

Any person or entity that operates a store, stand, booth, concession or place from which sales of tobacco are made to purchasers for consumption or use.

VENDING MACHINES or CIGARETTE MACHINES

Any automated machine or device which dispenses cigarettes or other tobacco products in any form, regardless of whether same is operated or activated through remote control device or with or without the insertion of money, token or other form of payment.

§ 449-6. Enforcement.

A. Whenever the Health Officer or his/her designee reasonably believes there exists a violation of this article, he/she may issue a summons and complaint not later than 90 days after discovery of the alleged violation. The complaint shall be written and shall state with reasonable particularity the nature of the violation, including reference to the article and section of this article alleged to have been violated. The complaint shall be delivered by the police or sent certified mail to the alleged violator.

B. The Health Officer, or his/her designee or any other person charged with enforcement of this article, after giving proper identification, may inspect any matter, thing, premises, place, person, record, vehicle, incident or event as necessary.

C. It shall be unlawful for any person to molest, willfully oppose, verbally abuse or otherwise obstruct the Health Officer or his/her designee, who may request the assistance of the Paramus Police Department or other police agency or peace officer when necessary to execute his or her official duty in the manner prescribed by law.

D. Citizens may bring complaints against violators of this article through the Health Department or the Paramus Police Department.

§ 449-7. Severability; construal of provisions.

A. If any chapter, section, subsection or paragraph of this article is declared to be unconstitutional, invalid or inoperative, in whole or in part, by a court of competent jurisdiction, such chapter, section, subsection or paragraph shall, to the extent that it not unconstitutional, invalid or inoperative, remain in full force and effect and no such determination shall be deemed to invalidate the remaining chapters, sections, subsections or paragraphs of this article.

B. This article shall be liberally construed for the protection of the health, safety and welfare of the people of the Borough of Paramus.

§ 449-8. Repealer.

This article repeals and replaces in its entirety Paramus Board of Health Ordinance No. 102, said repeal to be effective upon the effective date of this article; provided, however, that nothing contained in this article or the repeal of Ordinance No. 102 shall authorize or allow, as of the effective date of this article, the installation, use or maintenance of any cigarette vending machine rendered unlawful pursuant to Ordinance No. 102.

§ 449-9. Violations and penalties.

A. Unless otherwise provided by law, statute or ordinance, any person violating any of the provisions of this article shall upon conviction thereof, pay a fine of \$250 for the first offense, \$500 for the second offense and \$1,000 for a third and each consecutive offense. Complaint shall be made in Municipal Court of the Borough of Paramus or before such other judicial officer having authority under the laws of the State of New Jersey.

B. Each sale of tobacco/cigarettes to a minor shall constitute a separate violation.

C. Each day on which each such cigarette machine and/or freestanding or attached tobacco/cigarette display is owned, operated, rented or permitted on the premises shall result in an additional fine of \$250.

D. The Board of Health may suspend the retail food establishment license of any person convicted of violation of this article, for a period of not more than three days in addition to a fine pursuant to the authority of the Board of Health to license and regulate food establishments as provided by N.J.S.A. 26:3-31c.

E. In addition to the foregoing fines and penalties, the Board of Health may, pursuant to N.J.S.A. 2A:170-51, following a hearing, recommend to the New Jersey Division of Taxation that the license of a tobacco retailer to sell cigarettes or tobacco in this state be suspended or, after a second or subsequent violation, be revoked should such tobacco retailer sell, give or furnish tobacco to a minor under the age of 18 years or otherwise violate any of the provisions of N.J.S.A. 2A:170-51 prohibiting the sale or furnishing of cigarettes or tobacco in any form to minors.

Article II. Electronic Cigarettes

[Adopted 11-23-2009 by Ord. No. 118]

§ 449-10. Definitions.

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

ELECTRONIC CIGARETTE

A battery-operated device that contains a cartridge filled with nicotine, flavor and other chemicals, which may be inhaled by the user, and other similar products, including, but not limited to, products marketed as smokeless cigarettes and electronic nicotine inhalers.

INDOOR PUBLIC PLACE

A structurally enclosed place of business, commerce or other service-related activity, whether publicly or privately owned or operated on a for-profit or nonprofit basis, which is generally accessible to the public.

PERSON OR ENTITY HAVING CONTROL OF AN INDOOR PUBLIC PLACE

The owner or operator of a commercial or other office building or other indoor public place from whom a workplace or space within the building or indoor public place is leased.

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, including electronic cigarettes.

WORKPLACE

A structurally enclosed location or portion thereof at which a person performs any type of service or labor.

§ 449-11. Smoking of electronic cigarettes prohibited.

The smoking of electronic cigarettes is prohibited in an indoor public place or workplace.

§ 449-12. Violations and penalties; fines; enforcement.

- A. The person or entity having control of an indoor public place or workplace shall order any person smoking an electronic cigarette in violation of this article to comply with the provisions of this article.
- B. A person, after being so ordered, who smokes an electronic cigarette in violation of this article is subject to a fine of not less than \$250 for the first offense, \$500 for the second offense and \$1,000 for each subsequent offense.
- C. The Health Officer, upon written complaint or having reason to suspect that an indoor public place or workplace covered by the provisions of this article is or may be in violation of the provisions of this article, shall, by written notification, advise the person or entity having control of the place accordingly, and order the person or entity to comply with the provisions of this article. A person or entity receiving that notice who fails or refuses to order a person or persons smoking an electronic cigarette in violation of this article is subject to a fine of not less than \$250 for the first offense, \$500 for the second offense and \$1,000 for each subsequent offense.

Article III. Smoking in Parks and Recreational Areas

[Adopted 6-27-2011 by Ord. No. 125; amended in its entirety 7-28-2014 by Ord. No. 125]

§ 449-13. Definitions.

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

SMOKING

The inhaling, exhaling, burning, or carrying of any lighted cigarette, cigar, pipe, electronic cigarette or other similar devices that contain tobacco and/or other similar devices that burn tobacco or similar materials.

§ 449-14. Smoking prohibited.

No person shall smoke within the boundary of the following parks, playgrounds, ball fields, swimming pools, recreational areas and Board of Education buildings:

- A. Paramus Municipal Pool.
- B. Band Shell.
- C. Besen Park.
- D. DiMaggio Park.
- E. Faber Park.
- F. Madison Park.
- G. McEllen Park.
- H. Mele Park.
- I. Petruska Park.
- J. Reid Park.
- K. Sirianni Park.
- L. Gennarelli Sports Complex.
- M. Fairway Oaks Park.
- N. Parkway Sports Complex.
- O. Paramus Golf Club mini-golf course.

P. School grounds.

§ 449-15. Signage.

A "Smoke Free Zone" sign shall be clearly, sufficiently and conspicuously posted at every property where smoking is prohibited by this article. The sign(s) shall have the words "Smoke Free Zone" in lettering that is not less than two inches in height, and shall contain the international no smoking sign or symbol.

§ 449-16. Enforcement.

This article shall be enforced by the Chief of Police and his/her designee and/or the Health Officer and his/her designee of the Borough of Paramus.

§ 449-17. Violations and penalties.

Any person observed to be in violation of the provisions of this article shall be issued a court summons and may be subject, at the discretion of the court, to the following penalties:

- A. A fine of not less than \$50 but not exceeding \$100 for the first violation.
- B. A fine of not less than \$100 but not exceeding \$200 for the second violation.
- C. A fine of not less than \$200 but not exceeding \$500 for the third and subsequent violation.

Article IV. Smoking on Municipal Property
[Adopted 7-22-2013 by Ord. No. 128]

§ 449-18. Definitions.

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

MUNICIPAL PROPERTY – All publicly owned or leased buildings or structures and all Borough Vehicles.

SMOKING – The inhaling, exhaling, burning or carrying of any lighted cigarette, cigar, pipe, electronic cigarette or other similar devices that contain tobacco and/or other similar devices that burn tobacco or similar products.

§ 449-19. Smoking prohibited.

Smoking is prohibited on any municipal property, or within 35 feet thereof, except in designated smoke areas. A sign indicating that such property is a designated smoke-free zone shall be clearly and conspicuously posted at all locations where smoking is prohibited by this article.

§ 449-20. Designated smoke area.

- A. The designated smoke area for Borough Hall will be at the gazebo located in between Borough Hall and the Police Department.
- B. The designated area for DPW and PEMMS will be located across from the fire simulator/burn building by the bench at the flag pole.

§ 449-21. Enforcement.

This article shall be enforced by the Chief of Police and his/her designee and/or the Health Officer and his/her designee of the Borough of Paramus.

§ 449-22. Violations and penalties.

Any person observed to be in violation of the provisions of this article shall be issued a court summons and may be subject, at the discretion of the Court, to the following penalties:

- A. A fine of not less than \$50 but not exceeding \$100 for the first violation.
- B. A fine of not less than \$100 but not exceeding \$200 for the second violation.
- C. A fine of not less than \$200 but not exceeding \$500 for the third and subsequent violations.
- D. Borough employees in violation of this article are subject to disciplinary action in addition to the stated fines.

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