

CITY OF PASSAIC

ORDINANCE # 1907-12

**ORDINANCE AMENDING CHAPTER 251 OF THE CODE OF THE CITY OF  
PASSAIC TO PROHIBIT 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**, Chapter 251, "Smoking," of the City Code of the City of Passaic in its current form only prohibits smoking within the Council Chambers and does not address smoking in any other public building or on public property, such as public parks and recreation areas; 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which prohibited municipalities from passing strict local smoking laws that differed from the State standards was repealed and the State now expressly authorizes municipalities to enact strict ordinances regulating smoking under N.J.S.A. 26:3D-63; and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:33-13b 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**, the City 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 City Council has determined that the public interest is especially implicated in preventing the youth of Passaic from being exposed and succumbing to the temptations of experimenting with tobacco products; and

**WHEREAS**, the City Council also finds that the appearance of parks and recreation areas can be enhanced and the limited resources of the City'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 RESOLVED**, by the City Council of the City of Passaic that the Code of the City of Passaic, Chapter 251 "Smoking" shall be deleted in its entirety and replaced as follows:

**SECTION I**

**NEW SECTIONS ARE UNDERLINED**

§251-1. Definitions. As used in this chapter, 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 City of Passaic and all property owned or leased by the City of Passaic 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 City of Passaic, and/or occupied by City employees and used for official business of the City of Passaic.

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.

§251-2. 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 City of Passaic and all property owned or leased by the City of Passaic 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 City of Passaic.

§251-3. Enforcement.

The enforcement authority of this chapter shall be the Police Department, Fire Department, Recreation Department, Public Works Department and Health Department of the City of Passaic.

§251-4. 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 City of Passaic'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 upon publication as provided by law.

INTRODUCED BY COUNCILPERSON: Hector Lora

SECONDED BY COUNCILPERSON: Zaida Polanco

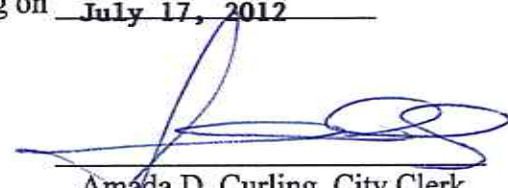
Record of Council Vote on Final Passage	Aye	Nay	Abstain	Absent
GARCIA, J.				X
LORA, H	X			
LOVE, T				X
MUNK, C.	X			
POLANCO, Z.	X			
SCHAER, G.	X			
SCHWARTZ, D.	X			

Adopted on first reading at a meeting of the Council of the City of Passaic, N.J. on July 3, 2012.

Adopted on second and final reading after a hearing on July 17, 2012

Adopted on: July 17, 2012

  
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Gary S. Schaer, Council President

  
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Amada D. Curling, City Clerk

APPROVED:   
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Dr. Alex D. Blanco, Mayor

DATE: July 18, 2012