

TOWNSHIP OF UPPER DEERFIELD

ORDINANCE # 744

**ORDINANCE AMENDING CHAPTER 287 TO PROHIBIT SMOKING
IN PUBLIC PARKS AND RECREATION AREAS**

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

WHEREAS, Chapter 287 of the Ordinances of Upper Deerfield Township in its current form prohibits certain activities within the Recreation Areas of the Township but does not address smoking in or on outdoor 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which prohibited municipalities from passing strict local smoking laws that differed from the State standards was repealed and the State now expressly authorizes municipalities to enact strict ordinances regulating smoking under N.J.S.A. 26:3D-63; and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 Upper Deerfield Township Committee 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 Upper Deerfield Township Committee also finds that the appearance of parks and recreation areas can be enhanced and the limited resources of the Township'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 Upper Deerfield Township Committee that the Code of Upper Deerfield Township, Chapter 287 "Parks and Recreation Areas" shall be amended as follows:

A new section §287-9 shall be added to Chapter 287 as follows:

§287-9 SMOKING PROHIBITED IN PUBLIC PARKS AND RECREATION AREAS.

A. As used in this chapter the following words shall have the following definitions:

(1) "Public Park and/or Recreational Area" shall mean all public parks, playgrounds, ball fields, publicly owned or leased by the Township of Upper Deerfield and shall include any such areas where 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 spectator areas, parking areas, driveways or drive aisles.

(2) "Smoking" shall mean 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.

B. Smoking Prohibited; Signs. Except in areas as designated pursuant to sub-section 287-9C below, smoking shall be prohibited in those Public Parks and Recreation Areas designated by resolution of the Upper Deerfield Township from time to time and which have been identified as No-smoking Public Parks and Recreation Areas by the erection and placement of “No-Smoking Signs” 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 such location entrance 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 indicating that smoking is prohibited therein. The sign shall also indicate that violators are subject to a fine.

C. Smoking Permitted Areas. The Upper Deerfield Township Committee may, but shall not be required, to determine and authorize specific designated “smoking permitted areas” within or adjacent to Public Parks and Recreation Areas in which smoking is otherwise prohibited. Such smoking permitted areas shall be specifically defined by location and size but shall under no circumstance be within a 100 foot radius of any area actively used by children or adults for recreation or by spectators. Such smoking permitted areas, if so designated, shall be identified by signs which shall clearly describe the location and boundaries of such areas which shall be conspicuously posted thereon and be clearly visible to the public. The Township Committee shall also be authorized to adopt other reasonable and necessary restrictions or requirements for such areas which may be necessary to protect the health and welfare of the general public.

D. Violations and penalties. Any person who violates any provision of this chapter shall be subject to a fine of not less than \$50.00 for the first offense, \$100.00 for the second offense and \$250.00 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 Upper Deerfield Township policies and procedures.

James Crilley, Chairman

Adopted June 16, 2016

Attested:

Roy J. Spoltore, Township Clerk

First Reading: June 2, 2016

Publication: June 7, 2016

Publication of Final Adoption June 20, 2016