

BOROUGH OF MENDHAM
MORRIS COUNTY, NEW JERSEY

ORDINANCE #12-2021

**ORDINANCE OF THE BOROUGH OF MENDHAM, IN THE COUNTY OF MORRIS
AND STATE OF NEW JERSEY, AMENDING THE BOROUGH CODE
TO ESTABLISH NEW CHAPTER 175, "SMOKING, PROHIBITED ON PUBLIC PROPERTY"**

WHEREAS, pursuant to N.J.S.A. 40:48-1 et seq., the New Jersey Legislature delegated to municipalities the responsibility to promulgate regulations designed to promote the public health, safety, and welfare of its citizens; and

WHEREAS, on February 22, 2021, Governor Murphy signed into law P.L.2021, c.16, the "New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act" (the "Act"), which legalizes the recreational use of marijuana by adults 21 years of age or older and establishes a comprehensive regulatory and licensing scheme for commercial recreational (adult-use) cannabis operations, use and possession, P.L.2021, c.19, which provides for certain criminal and civil justice reforms, and P.L.2021, c.25, amended thereafter by P.L.2021, c.38, which concerns certain regulated substances, with particular emphasis on underage possession or consumption of various forms of cannabis, including legal consequences for such activities; and

WHEREAS, the Mayor and Council of the Borough of Mendham have determined that it is necessary and appropriate, and in the best interest of the health, safety and welfare of the Borough of Mendham's residents and members of the public who visit, travel to, or conduct business in the Borough, to prohibit smoking of tobacco and cannabis, and related products, in public areas, including parks, athletic fields, in and around municipal building facilities and adjacent parking lots, Borough-owned Open Space, and Borough-owned motor vehicles and ride-on equipment, to the extent permitted by law; and

WHEREAS, the Mayor and Council of the Borough of Mendham wish to amend the Borough Code to implement these changes.

THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Borough of Mendham, in the County of Morris and State of New Jersey, as follows:

SECTION 1. Part II, General Legislation, of the Borough Code is hereby amended to establish new Chapter 175, Smoking on Public Property, to read as follows in its entirety:

Chapter 175 SMOKING, PROHIBITED ON PUBLIC PROPERTY

§ 175-1 Definitions.

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

EXTERIOR AREA

An area that is not structurally enclosed.

MUNICIPAL BUILDINGS

All structures owned and/or operated by the Borough of Mendham and/or occupied by Borough employees and used to conduct official business of the Borough of Mendham.

MUNICIPAL VEHICLES

All Borough-owned and -registered motor vehicles and ride-on equipment, including but not limited to, lawn mowers, tractors, and golf carts used to conduct official business of the Borough of Mendham.

PARKS AND RECREATIONAL FACILITIES

All public parks, playgrounds, athletic fields and parking lots publicly owned by the Borough of Mendham and all property owned by the Borough 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.

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 and/or cannabis, and/or any other matter that can be smoked; or the inhaling or exhaling, or aerosolizing, of smoke or vapor from an electronic smoking device.

§ 175-2 Prohibition of smoking on public property; signs.

- a. Smoking shall be prohibited in all Municipal Buildings, Exterior Areas surrounding Municipal Buildings, in accordance with the New Jersey Smoke-Free Air Act (N.J.A.C. 8:6-1.1 et seq.), Municipal Vehicles, and Parks and Recreational Facilities, except areas excluded by the Borough Council.
- b. No-smoking signs referencing the applicable Code provision shall be conspicuously posted where smoking is prohibited, in accordance with law.

§ 175-3 Violations and penalties.

Any person who violates any provision of this section shall be subject to fine of not less than \$250 for the first offense; \$500 for the second offense; and \$1,000 for each subsequent offense. In addition, any municipal employee found in violation of this article may also be subject to disciplinary action in accordance with the Borough's policies and procedures governing discipline.

§ 175-4 Enforcement.

The provisions set forth in this section shall be enforced by the Mendham Borough Police Department.

SECTION 2. Any article, section, paragraph, subsection, clause, or other provision of the Borough of Mendham Code inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

SECTION 3. If any section, paragraph, subsection, clause, or provision of this ordinance shall be adjudged by a court of competent jurisdiction 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 deemed valid and effective.

SECTION 4. This Ordinance shall take effect immediately upon final passage and publication in the manner according to law.

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Introduced, as amended: August 23, 2021
Public Hearing: September 9, 2021