

**TOWNSHIP OF EDGEWATER PARK
ORDINANCE NO. 2011-3**

**AN ORDINANCE REGULATING SMOKING
IN AND UPON PUBLIC BUILDINGS AND PUBLIC PROPERTIES, AND
CREATING CHAPTER 12.50 OF THE EDGEWATER PARK TOWNSHIP
MUNICIPAL CODE ENTITLED "SMOKING"**

BE IT ORDAINED AND ENACTED by the Township Committee of the Township of Edgewater Park, County of Burlington, State of New Jersey that the Code of the Township of Edgewater Park is hereby amended by adding the following:

§ 12.50 Smoking

§ 12.50-1 Findings.

The Township Committee of the Township of Edgewater Park hereby finds and determines that:

- A. The smoking of tobacco products is a major contributor to indoor air pollution and breathing second hand smoke is a cause of disease to non-smokers;
- B. The United State Department of Environmental Protection (EPA) has designated second hand smoke as a Class A carcinogen as well as a significant cause of respiratory problems in children;
- C. In 1986 the U.S. Surgeon General found that the active smoking of tobacco products and the passive inhalation of environmental tobacco smoke are the most prevalent causes of preventable death, disease and disability;
- D. The U.S. Surgeon General found that separating smokers from non-smokers within the same air space does not eliminate the exposure of non-smokers to environmental tobacco smoke;
- E. The State of New Jersey has acknowledged that careless smoking is the leading cause of death from fire;
- F. Smoking leads to the inevitable discard of tobacco products and a source of litter by those who fail to properly dispose of cigar, cigarette, pipe or other combustible tobacco product in any manner or in any form.
- G. The State of New Jersey has entered into litigation against various tobacco product manufacturers and others for the purpose of improving the public's health and adopting policies and programs to achieve a

significant reduction in smoking by its citizens and, in particular, by youth;

- H. As part of a settlement, the State of New Jersey will receive significant funding for the advancement of public health, including the implementation of important tobacco-related public health measures and restrictions; and
- I. The Legislature has deemed the control of smoking to be a necessary and proper exercise of municipal authority pursuant to N.J.S.A. 40:48-1 et seq., 40:48-2 et seq., N.J.S.A. 26:3D-46 et seq. and N.J.S.A. 2C:33-13 for the preservation of public health, safety and welfare of the community.

§ 12.50-2. Definitions.

As used in this chapter only, the following words and terms shall be defined as set forth below. All other terms, words and phrases not defined herein shall be given their customary meaning.

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

PUBLIC BUILDING - Any building, structure, facility or complex, including appurtenant parking areas; parks, playgrounds and recreation areas owned, leased, operated or under the ownership control of the Township of Edgewater Park to which the general public is invited.

SMOKING - The inhaling, exhaling, burning or possession of any lighted cigar, cigarette, pipe or other combustible tobacco product in any manner or in any form.

§ 12.50-3. Smoking Prohibited.

- A. Except as otherwise provided herein, smoking shall be prohibited in the following places:
 - 1. Every room, chamber, lobby, hallway and other common areas in and upon any public building.
 - 2. Any entrance or exit areas of any public buildings where smoke may enter the air people breathe through such entrances, exits, windows or ventilation systems.
 - 3. Any vehicles owned and/or leased, in part or entirely, by the Township of Edgewater Park.

4. On any public property including parks, recreation areas and playgrounds. This prohibition on smoking shall not apply to individuals in privately owned vehicles, provided that all debris is retained within the vehicle.
- B. Smoking optional areas. Notwithstanding the prohibitions contained in the foregoing provisions, outdoor smoking areas may be designated upon application and approval by the Township Committee. Smoking areas, once approved, shall bear signs specifically designating that they are smoking areas. Smoking areas shall be clear of any public entrance or exit areas of any public buildings where smoke may enter the air people breath through such entrances, exits, windows or ventilation systems.

§ 12.50-4. Signs.

"Smoking" or "No Smoking" signs, as appropriate, or the international, "No Smoking" symbol (a picture of a burning cigarette inside a red circle with a red bar across it) shall be clearly and conspicuously posted by the owner, operator, manager, employer or such other person in control of every public building where smoking is controlled by this chapter. The color of such signs, when not of the international type, shall have letters that are distinct, contrasting to the background and easily read. Letters shall have a minimum height of three-quarters of an inch and should be posted in English and such other languages as the Township Committee approves. The "No Smoking" signs shall be posted, at a minimum, on every doorway which provides an entry to the building. The "Smoking" signs shall be posted only in those areas so designated by the Township Committee as provided by this chapter.

§ 12.50-5. Enforcement.

The provisions of this article shall be enforceable by a police officer, employee or elected official of the Township of Edgewater Park, as well as by any other individual. Any person seeking to enforce the provision of this ordinance shall be authorized to file a complaint in the Municipal Court of the Township of Edgewater Park.

§ 12.50-6. Violations and Penalties.

- A. It shall be unlawful for any person to smoke in any area where smoking is prohibited under this chapter.
- B. Unless a greater fine is permitted under N.J.S.A. 26:3D-56 et seq., for smoking in specific areas defined therein, in which case such higher level of fine shall be utilized, any person who smokes in an area in which smoking is prohibited shall be guilty of a disorderly persons offense and subject to a maximum fine of \$200 for each violation pursuant to N.J.S.A. 2C:33-13.
- C. Any person found guilty defacing, tampering with or removing "No Smoking" signs which are required by this chapter shall be guilty of a disorderly persons

offense and subject to a maximum fine of \$200, plus the cost of replacing the sign.

- D. Any juvenile adjudicated to have violated the provisions of this article shall be subject to such penalties, fines or other discipline as may be imposed upon an adult pursuant to this chapter.

§ 12.50-7. Construal of Provisions.

No provision of this chapter shall be construed or interpreted to allow smoking where it is otherwise restricted or prohibited by other laws.

§ 12.50-6. Repealer, Severability and Effective Date.

- A. Repealer. Any and all Ordinances inconsistent with the terms of this Ordinance are hereby repealed to the extent of any such inconsistencies.
- B. Severability. In the event that any clause, section, paragraph or sentence of this Ordinance is deemed to be invalid or unenforceable for any reason, then the Township Committee hereby declares its intent that the balance of the Ordinance not affected by said invalidity shall remain in full force and effect to the extent that it allows the Township to meet the goals of the Ordinance.
- C. Effective Date. This Ordinance shall take effect upon proper passage in accordance with the law.

NOTICE

The foregoing was introduced by the Edgewater Park Township Committee at its meeting held on April 5, 2011. This ordinance will be consider for adoption of final reading and public hearing to be held on April 19, 2011 at 7:00 PM, or shortly thereafter, and place to which such meeting may be adjourned, in the Municipal Building, 400 Delanco Road, Edgewater Park, New Jersey. At which time and place all persons interested will be given an opportunity to be heard concerning said Ordinance. During the week prior to and up to and including the date of such meeting, copies of said ordinance will be made available at the Clerk's office to the members of the general public who shall request the same.

Linda M. Dougherty, R.M.C.,
Municipal Clerk/Administrator