

**BOROUGH OF PEAPACK AND GLADSTONE
ORDINANCE NO. 1072-2019**

**AN ORDINANCE OF THE BOROUGH OF PEAPACK AND GLADSTONE PROHIBITING
SMOKING IN BOROUGH PARKS, OPEN SPACES AND RECREATIONAL AREAS**

WHEREAS, pursuant to N.J.S.A. 40: 48-1 and N.J.S.A. 40:48-2, a 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 the 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 these subtitles, or by any law; and

WHEREAS, N.J.S.A. 2C:33-13 of the New Jersey Code of Criminal Justice, entitled "Smoking in Public", expressly authorizes a municipality to enact ordinances strictly regulating smoking in public places; and

WHEREAS, the governing body of the Borough of Peapack and Gladstone recognizes the well-known health and safety risks posed by smoking as set forth by the State Legislature in N.J.S.A. 26:3D-56; and

WHEREAS, based on the foregoing, the governing body finds that it is within the public interest to prohibit smoking on certain public property, such as public parks, open spaces and recreational areas;

NOW THEREFORE BE IT ORDAINED by the Mayor and Council of the Borough of Peapack and Gladstone, in the County of Somerset and State of New Jersey, as follows:

1. A new Chapter 13 of the Borough of Peapack and Gladstone Municipal Code entitled "Smoking Prohibited in Certain Public Places" is hereby added to read as follows:

§ 13-1. Findings and Intent

The Borough Council finds that:

A. Numerous studies have found that tobacco smoke is a major contributor to outdoor pollution and breathing secondhand smoke is a cause of disease in healthy non-smokers.

B. Secondhand smoke is particularly hazardous to children, the elderly, individuals with cardiovascular disease and individuals

with impaired respiratory function, including asthmatics and those with obstructed airway disease.

C. The smoking of tobacco products is also a form of air pollution, a danger to health and a material public nuisance.

D. Electronic smoking devices have not been approved as to safety and efficacy by the federal Food and Drug Administration, and their use may pose a health risk to persons exposed to their smoke or vapor because of a known irritant contained therein and other substances that may, upon evaluation by that agency, be identified as potentially toxic to those inhaling the smoke or vapor.

E. As a result, the governing body of the Borough of Peapack and Gladstone hereby adopts the foregoing as justification for this Chapter with the purpose of protecting the public health and welfare by prohibiting smoking in certain smoke-free public places, which are more specifically defined below, to guarantee the right of non-smokers to breathe smoke-free air and to recognize the public's need to breathe smoke-free air as a priority over an individual's desire to smoke.

§ 13-2. Definitions

The following words and phrases, whenever used in this Chapter, shall be construed as defined in this Section:

A. "PUBLIC PARK, OPEN SPACE AND RECREATIONAL AREA" shall mean all public parks, playgrounds, ball fields, and open land which are open to the public, and which are publicly owned or leased by the Borough of Peapack and Gladstone, and all property owned or leased by the Borough of Peapack and Gladstone 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.

B. "SMOKING" shall mean inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe or other lighted tobacco product or any other lighted substance, or the inhaling, exhaling, burning or carrying of smoke or vapor from an electronic smoking device, whether otherwise legally possessed or consumed, in any manner or in any form.

§ 13-3. Smoking Prohibited

Smoking is hereby prohibited in all public parks, open spaces or recreational areas.

§ 13-4. Signage

A conspicuous sign clearly stating that smoking is prohibited shall be posted at each park, open space and recreational area. The international "No Smoking" symbol may also be used, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it.

§ 13-5. Enforcement

This Chapter shall be enforced by the Peapack and Gladstone Police Department, Code Enforcement Officer, and Public Health Officer.

§ 13-6. Violations and Penalties

Any person who violates any provision of this chapter shall be 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.

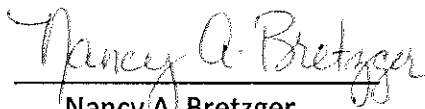
2. All ordinances or parts of ordinances inconsistent with or in conflict with this Ordinance are hereby repealed to the extent of such inconsistency.

3. If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

4. This Ordinance shall take effect immediately upon (i) adoption, and (ii) publication in accordance with the laws of the State of New Jersey.

Introduced: April 23, 2019
Adopted: May 14, 2019

Attest:



Nancy A. Bretzger
Borough Clerk



Gregory Skinner
Mayor