

BOROUGH OF PARAMUS

BOARD OF HEALTH

ORDINANCE NO. 118

NOTICE IS HEREBY GIVEN that the following proposed Ordinance No. 118 was introduced and passed on first reading at a regular meeting of the Board of Health of the Borough of Paramus, County of Bergen, State of New Jersey, held on the 26th day of October, 2009, and that said Ordinance will be taken up for further consideration for final passage at a meeting of said Board of Health to be held at Paramus Borough Hall, Jockish Square, Paramus, New Jersey, on the 23rd day of November, 2009 at 8:00 PM or as soon thereafter as said matter can be reached and that at such time and place, all persons who may be interested will be given the opportunity to be heard concerning this Ordinance.

BY ORDER OF THE BOARD OF HEALTH

JOHN HOPPER
Secretary

BOARD OF HEALTH
BOROUGH OF PARAMUS
ORDINANCE NO. 118

AN ORDINANCE TO PROHIBIT THE SMOKING OF ELECTRONIC CIGARETTES
IN INDOOR PUBLIC PLACES AND WORKPLACES IN THE BOROUGH OF
PARAMUS

WHEREAS, the U.S. Food and Drug Administration (FDA) has announced that laboratory analysis of electronic cigarette samples has found that they contain carcinogens and toxic chemicals such as diethylene glycol, an ingredient used in antifreeze, and

WHEREAS, electronic cigarettes, also called “e-cigarettes”, are battery-operated devices that generally contain cartridges filled with nicotine, flavor and other chemicals. The electronic cigarette turns nicotine, which is highly addictive, and other chemicals into a vapor that is inhaled and exhaled by the user, and

WHEREAS, these products are marketed and sold to young people and are readily available online and in shopping malls. In addition, these products do not contain any health warnings comparable to FDA-approved nicotine replacement products or conventional cigarettes. They are also available in different flavors, such as chocolate and mint, which may appeal to young people, and

WHEREAS, public health experts have expressed concern that electronic cigarettes could increase nicotine addiction and tobacco use in young people, and the FDA is concerned about the safety of these products and how they are marketed to the public, and

WHEREAS, electronic cigarettes have not been submitted to the FDA for evaluation or approval, and at this time the FDA has no way of knowing, except for the limited testing it has performed, the levels of nicotine or the amounts or kinds of other chemicals that the various brands of these products deliver to the user, and

WHEREAS, the FDA’s Division of Pharmaceutical Analysis analyzed the ingredients in a small sample of cartridges from two leading brands of electronic cigarettes. In one sample, the FDA’s analyses detected diethylene glycol, a chemical used in antifreeze that is toxic to humans, and in several other samples, the FDA analyses detected carcinogens, including nitrosamines. These tests indicate that these products contained detectable levels of known carcinogens and toxic chemicals to which users could potentially be exposed, and

WHEREAS, the Paramus Board of Health is concerned about the potential health hazard to the non-smoking public, who may inhale vapors containing carcinogens and toxic chemicals generated by the smoking of electronic cigarettes in indoor public places and

workplaces, and therefore, it is clearly in the public interest to prohibit the smoking of electronic cigarettes in all enclosed indoor places of public access and workplaces.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Board of Health of the Borough of Paramus, County of Bergen, State of New Jersey, as follows:

Section 1. Definitions

- a. "Electronic Cigarette" means a battery operated device that contains a cartridge filled with nicotine, flavor and other chemicals, which may be inhaled by the user, and other similar products, including, but not limited to, products marketed as smokeless cigarettes and electronic nicotine inhalers.
- b. "Indoor Public Place" means a structurally enclosed place of business, commerce or other service-related activity, whether publicly or privately owned or operated on a for-profit or nonprofit basis, which is generally accessible to the public.
- c. "Person or entity having control of an indoor public place" means the owner or operator of a commercial or other office building or other indoor public place from whom a workplace or space within the building or indoor public place is leased.
- d. "Smoking" means 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, including electronic cigarettes.
- e. "Workplace" means a structurally enclosed location or portion thereof at which a person performs any type of service or labor.

Section 2. Smoking of Electronic Cigarettes Prohibited

- a. The smoking of electronic cigarettes is prohibited in an indoor public place or workplace.

Section 3. Violations, Fines, Penalties, Enforcement

- a. The person or entity having control of an indoor public place or workplace shall order any person smoking an electronic cigarette in violation of this Ordinance to comply with the provisions of this Ordinance.
- b. A person, after being so ordered, who smokes an electronic cigarette in violation of this Ordinance is 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.
- c. The Health Officer, upon written complaint or having reason to suspect that an indoor public place or workplace covered by the provisions of this Ordinance is or may be in violation of the provisions of this Ordinance, shall,

by written notification, advise the person or entity having control of the place accordingly, and order the person or entity to comply with the provisions of this Ordinance. A person or entity receiving that notice who fails or refuses to order a person or persons smoking an electronic cigarette in violation of this Ordinance is 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.

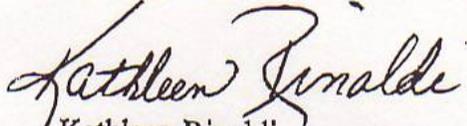
Section 4. Severability and Savings

- a. All Ordinances and Resolutions or parts thereof, inconsistent with the provisions of this Ordinance, are hereby repealed as to such inconsistencies.
- b. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Ordinance.

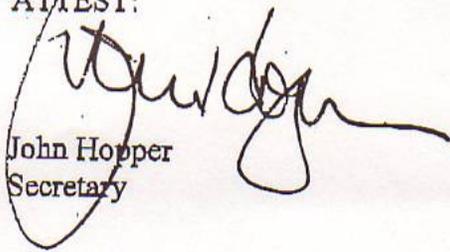
Section 5. Effective Date

- a. This Ordinance shall take effect thirty days after first publication and final passage in accordance with law (NJSA 26:3-69).

APPROVED:


Kathleen Rinaldi
President

ATTEST:


John Hopper
Secretary