

ORDINANCE NO. 2021-16

**AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE
TOWNSHIP OF MANALAPAN PROHIBITING SMOKING IN
PUBLIC LOCATIONS IN THE TOWNSHIP AND AMENDING PART
II, "GENERAL LEGISLATION", OF THE CODE OF THE TOWNSHIP
OF MANALAPAN TO ADD THERETO A NEW CHAPTER
"SMOKING REGULATIONS"**

WHEREAS, The Township Committee hereby finds and determines that:

- a. The smoking of tobacco products is a major contributor to air pollution and that breathing in secondhand smoke is a cause of disease to nonsmokers;
- b. The United States Department of Environmental Protection (EPA) has designated secondhand smoke as a Class A carcinogen, as well as a significant cause of respiratory problems in children;
- c. In 1986 the United States 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 New Jersey Legislature found and declared that tobacco is the leading cause of preventable disease and death in the State of New Jersey and the nation and tobacco smoke constitutes a substantial health hazard to the nonsmoking majority of the public;
- e. The Township Committee has determined that the public interest is especially implicated to prevent the youth of Manalapan Township from being exposed to harmful smoke and being near the temptations of experimental tobacco and cannabis products;
- f. In 2006, the Legislature enacted the New Jersey Smoke Free Air Act, N.J.S.A. § 26:3D-55 et seq., creating an outright ban on smoking in virtually all public indoor facilities and extending such ban to the grounds of any public or

nonpublic elementary or secondary school, regardless of whether the area is an indoor or outdoor public place and expanded same in 2019 to include public beaches and parks; and

- g. 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., and N.J.S.A. 2C:33-13 for the preservation of public health, safety and welfare of the community.

NOW, THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Manalapan, County of Monmouth, in the State of New Jersey, as follows:

SECTION ONE. The Code of the Township of Manalapan, Part II, "General

Legislation", be and the same is hereby amended and supplemented to add thereto the following Chapter:

"Chapter 188. SMOKING REGULATIONS.

§ 188-1 Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- A. "Electronic smoking device" means an electronic device that can be used to deliver nicotine or other substance such as cannabis product to the person

inhaling from the device, including, but not limited to, an electric cigarette, cigar, cigarillo, or pipe.

B. "Enclosed area" shall mean all areas between a floor and a ceiling, extending to the outer perimeter walls of a structure.

C. "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, including, but not limited to: a commercial or other office building; office or building owned, leased or rented by the State or by a county or municipal government; public and nonpublic elementary or secondary school building; board of education building; theater or concert hall; public library; museum or art gallery; bar; restaurant or other establishment where the principal business is the sale of food for consumption on the premises, including the bar area of the establishment; garage or parking facility; any public conveyance operated on land or water, or in the air, and passenger waiting rooms and platform areas in any stations or terminals thereof; health care facility licensed pursuant to P.L.1971, c. 136 (C.26:21-1-1 *et seq.*); patient waiting room of the office of a health care provider licensed pursuant to Title 45 of the Revised Statutes; child care center licensed pursuant to P.L.1983, c. 492 (C.30:5B-1 *et seq.*); race track facility; facility used for the holding of sporting events; ambulatory recreational facility; shopping mall or retail store; hotel, motel

or other lodging establishment; apartment building lobby or other public area in an otherwise private building; or a passenger elevator in a building other than a single-family dwelling.

- D. "Park and recreational facilities" shall include any and all athletic fields, public parks, playgrounds, ball fields and other active and passive recreation areas primarily of service to youth, owned, leased, operated or under the ownership control of the Township of Manalapan to which the general public is invited and youth under the age of 18 may gather for recreational activities, including all areas adjacent to such facilities, including, but not limited to, any parking area, driveway or drive aisle.
- E. "Person" means any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee or any other legal entity.
- F. "Public Building" means any building, structure, facility or complex, including but not limited to appurtenant parking areas, public street, roadway, thoroughfare, sidewalk, bridge, alley, plaza, swimming pool, shopping mall, plaza, public transportation facility, public library, vehicle used for public transportation owned, leased, operated or under the ownership control of the Township of Manalapan to which the general public is invited.
- G. "Smoking" means burning of, inhaling from, exhaling the smoke from, or the possession of a lighted cigar, cigarette, pipe, hookah or similar device,

or any other device which contains tobacco, cannabis, or any other matter that can be smoked, or the inhaling or exhaling of smoke or vapor from an electronic smoking device.

- H. "Workplace" means a structurally enclosed location or portion thereof at which a person performs any type of service or labor.

§ 188-2. Restrictions.

- A. Smoking shall be prohibited by any person, regardless of age, in all public parks, playgrounds and recreation facilities owned or leased by the Township, including that land upon which the public is invited or upon which the public is permitted and where individuals gather for recreation activities and all areas adjacent to such facilities, including, but not limited to, parking areas, driveways or drive aisles, which have been designated by no-smoking signs and which are hereafter designated as "Smoke and Tobacco Free Places."
- B. Smoking shall be prohibited by any person, regardless of age, in any indoor public place, public building or workplace within the Township and all areas adjacent to such facilities, including, but not limited to, parking areas, driveways or drive aisles, which have been designated by no-smoking signs and which are hereafter designated as "Smoke and Tobacco Free Places."

§ 182-3. Signs.

Signs shall be clearly, sufficiently, and conspicuously posted where smoking is prohibited by this Chapter. The signs shall state "NO SMOKING," and/or contain 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). The signs shall be clearly visible to the public and shall contain letters or a symbol which contrasts in color with the sign, indicating that smoking is prohibited in the designated area. The sign shall also indicate that violators are subject to a fine.

§ 182-4. Enforcement.

The Manalapan Police Department, Fire Department, Recreation Department, Public Works Department, Health Department and any municipal officer charged with code enforcement is hereby charged with enforcement of this Article. Further, the person having control over an indoor public place or workplace shall order any person smoking in violation of this section to comply with the ordinance. “

SECTION TWO. All Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION THREE. Should any section, paragraph, clause or other portion of this Ordinance be adjudged by a Court of competent jurisdiction to be invalid, such judgment shall not affect or impair the remainder of this Ordinance.

SECTION FOUR. This Ordinance shall take effect upon its passage and publication according to law.

NOTICE OF PUBLIC HEARING

The Ordinance published herewith was introduced and approved at a meeting of the Township Committee of the Township of Manalapan held on [September 1, 2021](#) and will be further considered for final passage after a Public Hearing thereon before the Township Committee of the Township of Manalapan during a meeting to be held on [September 22, 2021](#) at the Municipal Complex, 120 Route 522 and Taylors Mill Road, Manalapan, New Jersey at [7:30 p.m.](#) or as soon thereafter as the matter may be reached, or at any meeting to which that meeting may be adjourned, at which time any and all persons who may be interested therein will be given an opportunity to be heard.

The proposed Ordinance in its entirety is on file in the Municipal Clerk's Office and copies may be obtained without charge between the hours of 8:30 a.m. and 4:30 p.m. Monday through Friday. A complete copy may also be obtained from the Manalapan Township web-site www.mtnj.org by clicking on the Ordinance title listed on the Agenda posted for the Township Committee meeting of [September 22, 2021](#).

SHARI ROSE, RMC
Municipal Clerk

I HEREBY CERTIFY this to be a true and correct Ordinance of the Mayor and Township Council of the , introduced on _____, 2021 and will be further considered after a Public Hearing held on _____, 2021.

INTRODUCED:

PUBLIC HEARING:

ADOPTED:

Witness

TOWNSHIP OF MANALAPAN

SHARI ROSE, CLERK

JACK McNABOE, MAYOR