

Ordinance: #1,594
Introduced: 04-23-19
Adopted: 05-6-19
Effective: 05-26-19

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a regular meeting of the Council of the Borough of Lincoln Park held on APRIL 23, 2019, and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Borough Council to be held on May 6, 2019 at 7:30 p.m. or as soon thereafter as the Borough Council may hear this Ordinance at the Municipal Building, 34 Chapel Hill Road, Lincoln Park, New Jersey, at which time all persons interested may appear for or against the passage of said Ordinance.

ORDINANCE OF THE BOROUGH OF LINCOLN PARK AMENDING CHAPTER 178 OF THE BOROUGH CODE ENTITLED "SMOKE-FREE PUBLIC PLACES AND WORKPLACES"

WHEREAS, pursuant to N.J. S. A. 40:48- 2, the 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 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 this subtitle, or by any law; and

WHEREAS, the previous State legislation which prohibited municipalities from passing strict local smoking laws that differed from the State standards was repealed and the State now expressly authorizes municipalities to enact strict ordinances regulating smoking under N.J. S.A. 26: 3D- 63; and

WHEREAS, the Borough of Lincoln Park by and through Chapter 178 of the Code of the Borough of Lincoln Park regulates smoking in and around municipal buildings; and

WHEREAS, the Mayor and Council of the Borough of Lincoln Park wishes to amend Chapter 178 to prohibit smoking on all borough property including parks and recreational areas; and

WHEREAS, N.J.S.A. 2C:33-13(b), N.J.S.A. 40:48-1 and N.J.S.A. 40:48-2 provide that the owner and/or operator of a public place, such as public parks and recreational areas, may prohibit smoking on such property; and

WHEREAS, the Mayor and Council of the Borough of Lincoln Park Council recognize the well-known health and safety risks posed by smoking and have determined that it would be in the best interest of the citizens of the Borough to prohibit smoking on all Borough property including parks and recreational areas.

NOW, THEREFORE BE IT ORDAINED by the Governing Body of the Borough of Lincoln Park that Chapter 178 of the Code of the Borough of Lincoln Park entitled "Smoke-Free Public Places and Workplaces" is hereby amended to provide as follows:

Section 1. Chapter 178, "Smoke-Free Public Places and Workplaces" of the Code of the Borough of Lincoln Park shall be amended to provide as follows:

§ 178.1 "Definitions"

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

BOROUGH BUILDINGS shall include all structures owned or leased by the Borough of Lincoln Park, including, and/ or occupied by Borough employees and used for official business of the Borough of Lincoln Park.

BOROUGH PARKS AND RECREATIONAL FACILITIES shall include all public parks, playgrounds, ball fields, swimming pools, lakes, trails, and plazas publicly owned or leased by the Borough of Lincoln Park, and all property owned or leased by Borough of Lincoln Park 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, sidewalks, any parking areas, driveways or drive aisle.

SMOKING shall mean 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, or the inhaling or exhaling of smoke or vapor from an Electronic Nicotine Delivery System (ENDS) device.

§ 178.2 "Prohibition of Smoking in Public Places"

A. Smoking shall be prohibited in all municipal buildings as defined herein.

B. Smoking shall be prohibited within a thirty-five foot radius of the entrances of all municipal buildings. This exception shall not apply to Borough Buildings located within Borough Parks and Recreational Areas. Smoking shall be prohibited outside of all Borough Buildings located within Borough Parks and Recreational Areas.

C. Smoking shall be prohibited in all Borough Parks and Recreational Facilities including all areas adjacent to such facilities, including, but not limited to, any parking area, driveway or drive aisle and within 35 feet of such areas.

178.3 Notice; Signs; Receptacles

"No Smoking" signs or 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) shall be clearly, sufficiently and conspicuously posted at entrances to all municipal buildings and at all park and recreational facilities where smoking is prohibited by this Chapter. The signs must also indicate that violators are subject to a fine.

§ 178.4 "Enforcement; Penalties"

A. The provisions of this Chapter shall be subject to enforcement by the Borough Health Officer, the Borough Code Enforcement Officer, and the Lincoln Park Police Department.

B. Every person convicted of a violation of this Chapter shall be subject to a fine of (\$100.00) One-Hundred Dollars for the first offense; a fine of (\$250.00) Two-Hundred-Fifty Dollars for a second offense, and of (\$500.00) Five-Hundred Dollars, for a third and subsequent offense.

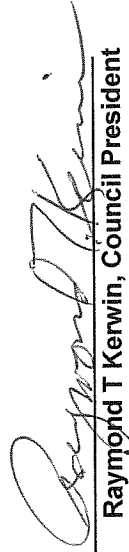
Section 2. All Ordinances, or parts thereof, inconsistent with the provisions of this Ordinance be and the same are hereby repealed to the extent of such inconsistency.

Section 3. Should any section, paragraph clause or any 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 4. This Ordinance shall take effect upon its passage and publication according to law

Cynthia L. Sloane, RMC Municipal Clerk for the Borough of Lincoln Park.

ATTEST:


Raymond T Kerwin, Council President


Cynthia L. Sloane, RMC, Municipal Clerk

INTRODUCED:
PUBLISHED IN DAILY RECORD:
PUBLIC HEARING AND ADOPTION:
PUBLISHED IN DAILY RECORD:
EFFECTIVE DATE:

APRIL 23, 2019
APRIL 24, 2019
MAY 6, 2019
MAY 7, 2019
MAY 27, 2019