

**TOWN OF BOONTON  
ORDINANCE #24-21**

**AN ORDINANCE OF THE TOWN OF BOONTON, IN THE COUNTY OF MORRIS AND STATE OF NEW JERSEY, PROHIBITING SMOKING IN AND ON TOWN OF BOONTON MUNICIPAL BUILDINGS, PROPERTY, PARKS AND RECREATION AND OTHER AREAS.**

**WHEREAS**, the Legislature of the State of New Jersey, through N.J.S.A. 40:48-2, provides that the governing body of a municipality may make, amend, repeal, and enforce such 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 persons 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 any law; and said Legislature in N.J.S.A. 26:3D-55 et. seq., known and cited as the "New Jersey Smoke-Free Air Act", provides for prohibitions regarding smoking, and therein, by N.J.S.A. 26:3D-63, expressly authorizes municipalities to enact ordinances under the authority of N.J.S.A. 40:48-1 and N.J.S.A. 40:48-2, or by any other statute or regulation adopted pursuant to law for the purposes of protecting life and property from fire or protecting public health, and prohibiting smoking, and further, expressly authorizes municipal ordinances to provide restrictions on or prohibitions against smoking equivalent to or greater than those provided under the "New Jersey Smoke-Free Air Act".

**WHEREAS**, the Legislature of the State of New Jersey in N.J.S.A. 2C:33-13.b., provides that the owner and/or operator of a public place, such as public parks and recreational areas, may prohibit smoking on such property.

**WHEREAS**, on February 22, 2021, Governor Murphy signed into law P.L. 2021, c. 16, known as the "New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act" (the "Act"), which legalizes the recreational use of marijuana by adults 21 years of age or older, and establishes a comprehensive regulatory and licensing scheme for commercial recreational (adult use) cannabis operations, use and possession;

**WHEREAS**, the Mayor and Town Council recognize the well-known health and safety risks posed by smoking, and find that it is within the public interest to prohibit smoking in and around public buildings and on public property such as public parks and recreation areas.

**WHEREAS**, the Mayor and Town Council have determined that the public interest is especially implicated in preventing the youth of the Town of Boonton from being exposed and succumbing to the temptations of experimenting with smoking; and

**WHEREAS**, the Mayor and Town Council also find that the appearance of municipal property, parks, and recreation areas can be enhanced and the limited resources of the town's Department of Public Works can be conserved if smoking were to be banned from such areas, thereby keeping such areas free of the litter typically generated by smoking such as cigarette and cigar butts, ashes, discarded material and packaging.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Town of Boonton, in the County of Morris and State of New Jersey, as follows:

SECTION 1. The Code of the Town of Boonton is hereby amended to include the following new Ordinance – Smoking Prohibited.

(A) PURPOSE

The purpose of this Ordinance is to prohibit smoking in and on Town of Boonton municipal buildings, property, recreation areas and facilities.

(B) DEFINITIONS

For the purpose of this article, the following terms, phrases, words, and their derivations shall have the meanings stated herein, unless their use in the text of this article clearly demonstrates a different meaning:

1. MUNICIPAL BUILDINGS – All buildings, structures, facilities or complexes, including appurtenant parking areas, that are owned, leased, rented and/or operated by the Town of Boonton or occupied by Town of Boonton employees and used for official business of the Town of Boonton.
2. PARKS AND RECREATION AREAS AND FACILITIES – All public parks, playgrounds, ball fields, and other recreation facilities publicly owned or leased by the Town of Boonton, and all property owned or leased by the Town of Boonton upon which the public is invited or upon which the public is permitted 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.
3. PERSON – Any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee or any other legal entity.
4. SMOKING – The burning of, inhaling from, exhaling from, or the possession of a lighted cigar, cigarette, pipe, electronic cigarette, vaping device, or any other matter or substance which contains tobacco, cannabis, or any other matter that can be smoked.

(C) SMOKING PROHIBITED

Except as otherwise provided herein, smoking shall be prohibited in the following places:

1. All Municipal Buildings as defined herein;
2. On any municipal property, if within a 100-foot radius of entrances and exits of all Municipal Buildings;
3. Public areas of libraries, museums, or the like which are funded or partially funded by government agencies;
4. All public parks and recreation facilities owned or leased by the Town of Boonton, and all property owned or leased by the Town of Boonton upon which the public is invited or upon which the public is permitted 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, which have been designated with “No-Smoking” signs;
5. All vehicles registered to the Town of Boonton;

(D) CANNABIS

Except as otherwise provided herein, and in addition to the restrictions set forth above, cannabis shall not be smoked, ingested or consumed in any manner at any of the following places:

1. A school, or on any property owned by the Town of Boonton Board of Education, or owned by its related entities.

(E) SIGNS

“No-Smoking” signs, or the international no-smoking symbol (consisting of a pictorial representation of a burning smoking item enclosed in a red circle with a diagonal red line through its cross section), shall be clearly, sufficiently, and conspicuously posted at each Municipal Building entrance, and within each area where smoking is prohibited by this Ordinance. The signs shall be clearly visible to the public and shall contain letters or a symbol which contrast in color with the sign, indicating that smoking is prohibited therein. The sign shall also indicate that violators are subject to a fine.

(F) ENFORCEMENT

The provisions of this Ordinance shall be enforceable by the Police Department or any other employee of the Town of Boonton, as well as any other individual. Any person seeking to enforce the provisions of this Ordinance shall be authorized to file a complaint with the Municipal Court of the Town of Boonton.

(G) VIOLATIONS AND PENALTIES

1. It shall be unlawful for any person to smoke in any area where smoking is prohibited under this Ordinance.
2. Any person who violates any provision of this Ordinance shall be subject to a fine of not more than \$200 for a first offense, \$400 for a second offense, \$1000 for a third offense, and \$2000 for each subsequent offense.
3. Any person found guilty of defacing, tampering with, or removing "No Smoking" signs which are required by this Ordinance, shall be guilty of a general ordinance violation and subject to Article III, General Penalty and those provisions therein set forth, and subject to the sound discretion of the Municipal Court Judge.
4. Any juvenile adjudicated to have violated the provisions of this ordinance shall be subject to such penalties, fines, or other discipline as may be imposed upon an adult pursuant to this Ordinance.
5. Any municipal employee found to be in violation of this Ordinance may also be subject to discipline in accordance with the Town of Boonton’s policies and procedures.

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

SECTION 3. Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason, then the remaining portions of this Ordinance shall not be affected thereby and shall remain in full force and effect, and to this end the provisions of this Ordinance are hereby declared to be severable.

SECTION 4. This Ordinance shall become effective after the final passage and publication, according to law.

The foregoing ordinance having been introduced and passed on first reading by the Mayor and Town Council of the Town of Boonton, County of Morris, State of New Jersey, on August 16, 2021 and then ordered to be published according to the law, will be further considered for final passage and adoption at a public hearing to be held at a meeting beginning at 7:30 p.m. on September 7, 2021 at the Town Hall, 100 Washington Street, Boonton, NJ 07005, when and where, or at such time and place to which said meeting may be adjourned. All persons interested will be given an opportunity to be heard concerning said ordinance.

Cynthia A. Oravits, RMC  
Town Clerk