

ORDINANCE NO. 2488

**AN ORDINANCE AMENDING CHAPTER III, SECTION 6 OF THE CODE OF THE
BOROUGH OF ROSELLE PARK TO BE ENTITLED, “SMOKING ON PUBLIC
PROPERTY PROHIBITED,” INTENDED TO PROHIBIT SMOKING ON MOST
PROPERTY OWNED BY THE BOROUGH OF ROSELLE PARK**

BE IT ORDAINED by the Mayor and Council of the Borough of Roselle Park, County of Union, and State of New Jersey that Chapter III, Section 6 the Code of the Borough of Roselle Park, New Jersey is hereby amended as herein set forth:

SECTION 1. Title.

This Section shall be known and may be cited as, “Smoking on Public Property Prohibited.”

SECTION 2. Policy Statement.

Pursuant to N.J.S.A. 40:48-2, 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 the State of New Jersey or of the United States of America, as it may deem necessary and proper for good 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 this subtitle, or by any law.

Previous State legislation which prohibited municipalities from passing strict local smoking laws that differed from the State standards have been repealed and the State of New Jersey now expressly authorizes municipalities to enact strict ordinances regulating smoking under N.J.S.A. 26:3D-63.

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

The Roselle Park Governing Body recognizes the well-known health and safety risks posed by smoking and finds that it is within the public interest to prohibit smoking in public buildings and on Borough owned public property, such as public parks and recreational areas.

The Roselle Park Governing Body also finds that the appearance of public parks and recreational areas can be enhanced and the limited resources of the Borough of Roselle Park Department of Public Works can be conserved if smoking was banned from such areas, thereby keeping such areas free of the litter typically generated by the smoking of cigarettes, such as cigarette butts, ashes, and packaging.

SECTION 3. Definitions.

ENCLOSED AREA shall mean all areas between a floor and ceiling, extending to the outer perimeter walls of the structure.

PARKS AND RECREATIONAL FACILITIES shall include all public parks, playgrounds, ball fields, publicly owned or leased by the Borough of Roselle Park and all property owned or leased by the Borough of Roselle 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, any parking area, driveway, or drive aisle.

MUNICIPAL BUILDINGS AND GROUNDS shall include all structures and property owned, leased, rented, and/or operated by the Borough of Roselle Park, and/or occupied by Borough employees and used for official business of the Borough of Roselle Park.

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 smoking device.

SECTION 4. Prohibition of Smoking in public places; signs

A. Smoking shall be prohibited in all Municipal buildings as defined herein. 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 each Municipal Building entrance and within each enclosed area where smoking is prohibited by this Chapter. 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.

B. Smoking shall be prohibited within a 25-foot radius of the front entrance of all Municipal Buildings. 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 both on the building and at the 25-foot perimeter of the front entrance of all Municipal Buildings where smoking is prohibited by the Chapter. 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.

C. Smoking shall be prohibited in all public parks and recreational facilities owned or leased by the Borough of Roselle Park and all property owned or leased by the Borough of Roselle 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, any parking area, driveway, or drive aisle. The Roselle Park Municipal Complex, inclusive of the municipal court and police department, shall be specifically exempt from the provisions of this Paragraph (C), but shall be subject to all provisions set forth in Paragraph B of this Subsection. 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 each Municipal Building entrance and within each enclosed area where smoking is prohibited by this Chapter. 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.

D. Smoking shall be prohibited in all vehicles registered to the Borough of Roselle Park.

SECTION 5. Enforcement.

The enforcement authority of this Chapter shall be the Roselle Park Police Department and the Roselle Park Deputy Code Enforcement Officer.

SECTION 6. Violations and Penalties.

A. Unless another penalty is expressly provided by New Jersey Statute, every person convicted of a violation of any section of this Chapter or any supplement hereto shall be subject to a fine not less than \$250.00 for the first offense and a fine of not less than \$500.00 for each subsequent offense.

B. Any municipal employee found in violation of this Chapter may, in addition to the violation and penalties set forth herein, be subject to discipline in accordance with the provisions of the Borough of Roselle Park’s policies and procedures.

SECTION 7. Invalidity

If any section or portion of a section of this Code shall be invalid for any reason, such invalidity shall not affect the validity of the remaining sections or portions of this Ordinance.

SECTION 8. Inconsistent Ordinances Repealed.

All ordinances or parts of ordinances, to the extent that they are inconsistent herewith, are hereby repealed.

SECTION 9. Captions.

Captions contained in this Ordinance have been included only for the purpose of facilitating reference to the various sections and are not intended and shall not be utilized to construe the intent and meaning of the text of any section.

SECTION 10. Effective Date.

This amendment to the Code of the Borough of Roselle Park shall become effective upon publication and in accordance with law.

Introduced: April 20, 2017

Adopted:

Mayor

Attest: _____
Borough Clerk