

**TOWNSHIP OF EVESHAM**

**ORDINANCE NO. 2-3-2018**

**AN ORDINANCE OF THE TOWNSHIP OF EVESHAM PROHIBITING THE USE AND POSSESSION OF ELECTRONIC SMOKING DEVICES BY INDIVIDUALS UNDER THE AGE OF 18 PURSUANT TO N.J.S.A. 40:48-2**

**WHEREAS**, State law, N.J.S.A. 2A:170-51.4, prohibits the sale or distribution of electronic smoking devices to any individuals under the age of 21, in addition to more conventional tobacco and nicotine products; and

**WHEREAS**, Section 119-4 of the code of the Township of Evesham prohibits the use and possession of tobacco products in public places by anyone under the age of 18; and

**WHEREAS**, Section 119-4 of the code of the Township of Evesham must be revised to reflect modern trends relating to the consumption of nicotine, tobacco, and other products; and

**WHEREAS**, The purposes and goals of the State law and regulation concerning tobacco, nicotine, and electronic smoking devices would be furthered by the local regulation of the use and possession of electronic smoking devices by minors; and

**WHEREAS**, Pursuant to N.J.S.A. 40:48-2, the Township has the authority to adopt ordinances for the preservation of the public health, safety, and welfare of the municipality and its inhabitants; and

**WHEREAS**, the Mayor and Township Council have determined that, consistent with the purposes of relevant State law, it is in the best interests of the public health, safety, and welfare of the municipality and its inhabitants to prohibit the use and possession of electronic smoking devices by individuals under the age of 18 in public places:

**NOW THEREFORE BE IT ORDAINED AND ENACTED** by the Mayor and Township Council of the Township of Evesham, County of Burlington, State of New Jersey as follows:

**Section One.** Section 119-2 of the Code of the Township of Evesham is revised to include the underlined language as follows:

§ 119-2  
Purchases and use by minors.

A. It shall be unlawful to sell or otherwise provide an electronic smoking device, tobacco or tobacco products to a person under 18 years of age, which person shall be considered a minor for purposes of this chapter.

B. It shall be unlawful for any person to purchase an electronic smoking device or tobacco products with funds furnished by a minor or with the intent to sell or give such a product to a minor.

C. It shall be unlawful to offer for sale or to sell an electronic smoking device or tobacco products from a self-service display. Tobacco products are to be stored for sale in such a manner that only a sales clerk has physical access to the same, and said sales clerk shall manually obtain the same upon customer request.

D. Sign requirements. The following six-inch-by-eight-inch sign shall be posted in a conspicuous place near each cash register in all retail establishments in which tobacco products are sold:

"THE SALE OF TOBACCO PRODUCTS TO MINORS UNDER THE AGE OF EIGHTEEN IS PROHIBITED BY LAW. Legal proof of age must be shown. A person who sells or offers to sell a tobacco product to a person under eighteen years of age may be prosecuted in accordance with state and local ordinances."

E. It shall be unlawful for any person under 18 years of age to smoke or use a tobacco product or electronic smoking device in any public place, or to possess in open view a cigarette or tobacco product, an electronic smoking device, an opened cigarette pack, opened carton or other opened container (as evidenced by a broken seal) holding a tobacco product.

F. Drug-free and cigarette-free school zones.

(1) The Drug-Free School Zone Map produced by Richard A. Alaimo Associates, Municipal Engineer, adopted by Evesham Township Council Ordinance No. 2-1-89, as referenced in Chapter 69 of the Township Code, is hereby amended to include "Cigarette-Free School Zone" whereby it shall be unlawful for anyone to sell, give or permit to be sold or given to a person under 18 years of age tobacco in any form or an electronic smoking device within the areas on or within 1,000 feet of such school property.

(2) It shall be also unlawful for a person under 18 years of age to smoke or use a tobacco product or to possess in open view an electronic smoking device, a cigarette or tobacco product, an opened cigarette pack, opened carton or other opened container (as evidenced by a broken seal) holding a tobacco product in and/or on school property as referenced in the Cigarette-Free/Drug-Free School Zone Map.

G. It shall be unlawful for a parent, legal guardian or other person acting in place of a parent or legal guardian or person who is responsible for the care and welfare of a minor under the age of 18 years to allow that minor to possess any electronic smoking device, cigarettes made of tobacco or of any other substance which can be smoked, any cigarette paper or tobacco in any form, including but not limited to smokeless tobacco.

**Section Two.** Section 119-4 of the Code of the Township of Evesham is revised to include the underlined language as follows:

§ 119-4

Definitions.

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

**ELECTRONIC SMOKING DEVICE**

An electronic device that can be used to deliver nicotine, cannabis, or other substances to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, cigarillo, pipe.

**MUNICIPAL BUILDING**

All municipal offices, police stations, fire stations, schools and school administration, water treatment plants, Department of Public Works and any and all facilities owned and/or operated by the Township of Evesham.

**PURCHASER**

Any individual, partnership, cooperative, association or corporation, personal or representative, receiver, trustee, assignee or any other legal entity.

**TOBACCO**

Any product made from the tobacco plant for the purpose of smoking, chewing, inhaling or any other use, including cigars, chewing tobacco, pipe tobacco, snuff and cigarettes in any form.

**TOBACCO RETAILER**

Any person or entity who or which operates a store, stand, booth, concession or place at which sales of tobacco are made to the purchaser for consumption or use. It shall also mean a person or entity who or which owns, operates, or uses a vending machine and/or a vending machine location.

**VENDING MACHINE**

Any automatic, self-service device which, upon the insertion of money, tokens or any other form of payment, dispenses cigarettes or other tobacco products.

**Section Three. Repealer, Severability and Effective Date.**

- A. Repealer. Any and all Ordinances inconsistent with the terms of this Ordinance are hereby repealed to the extent of any such inconsistencies.
- B. Severability. In the event that any clause, section, paragraph or sentence of this Ordinance is deemed to be invalid or unenforceable for any reason, then the Township Council hereby declares it intent that the balance of the Ordinance

not affected by said invalidity shall remain in full force and effect to the extent that it allows the Township to meet the goals of the Ordinance.

- C. Effective Date. This Ordinance shall take effect upon proper passage in accordance with the law.

Please take notice that the ordinance published herewith was introduced and passed on first reading at the Regular Meeting of the Township Council of the Township of Evesham in the County of Burlington, State of New Jersey, held on February 6, 2018, and said ordinance will be further considered for final passage after public hearing at a meeting of said Township Council to be held on March 6, 2018, at 6:30 P.M. in the Municipal Complex, 984 Tuckerton Road, Marlton, New Jersey, at which time and place all persons interested will be given an opportunity to be heard concerning such ordinance.

Mary Lou Bergh, RMC  
Township Clerk