

ORDINANCE NO. RO-17-21

ORDINANCE OF THE TOWNSHIP OF WASHINGTON, COUNTY OF MORRIS, STATE OF NEW JERSEY, AMENDING CHAPTER 189 "TOBACCO SALES" OF THE CODE OF THE TOWNSHIP OF WASHINGTON

WHEREAS, pursuant to N.J.S.A. 40:48-1 *et seq.* the New Jersey Legislature delegated to municipalities the responsibility to promulgate regulations designed to promote the public health, safety, and welfare of its citizens; and

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; and

WHEREAS, on February 22, 2021, Governor Murphy signed into law P.L. 2021, c. 19, which provides for certain criminal and civil justice reforms, particularly addressing legal consequences associated with certain marijuana and hashish offenses as well as raising awareness of available expungement relief; and

WHEREAS, on February 22, 2021, Governor Murphy signed into law P.L. 2021, c. 25, which concerns certain regulated substances, with particular emphasis on underage possession or consumption of various forms of cannabis, including legal consequences for such activities; and

WHEREAS, on March 26, 2021, Governor Murphy signed into law P.L. 2021, c. 38, which revised certain provisions concerning parental notification of juveniles found to be using or possessing alcohol, marijuana, hashish or cannabis, as well as amending certain other provisions of N.J.S.A. 2C:33-15; and

WHEREAS, the Township Committee of the Township of Washington has determined that, it is necessary and appropriate, and in the best interest of the health,

safety and welfare of the Township residents to prohibit the sale of cannabis delivery products to minors.

NOW, THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Washington, County of Morris, and State of New Jersey, as follows:

SECTION ONE. Chapter 189 “Tobacco Sales” of the Township Code shall be amended to read as follows:

§189 Tobacco and Cannabis Sales

§189-1 Definitions.

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

CANNABIS

Any product made from the cannabis plant for the purpose of smoking, inhaling, aerosolizing, or other use. “Cannabis” does not include: medical cannabis dispensed to registered qualifying patients pursuant to the “Jake Honig Compassionate Use Medical Cannabis Act,” P.L.2009, c.307 (C.24:6I-1 et al.) and P.L.2015, c.158 (C.18A:40-12.22 et al.)

CANNABIS DELIVERY PRODUCT

Any product that is designed to deliver cannabis, cannabis vapor or non-cannabis vapor, including, but not limited to, any type of electronic smoking device defined as an electronic or other powered device that can be used to deliver cannabis, or aerosolize cannabis, or other substances to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, cigarillo or pipe, or any cartridge or other component of the device or related product, including, but not limited to, any substances used in such devices such as liquids, gels or powders, or any forms of cannabis.

FREESTANDING OR ATTACHED TOBACCO/CIGARETTE DISPLAY

Any display promotion of tobacco/cigarette products in any area of a store or food establishment not specifically behind a sales counter and within the grasp of the public so as to be self-service.

MINOR

Any person under 21 years of age.

NICOTINE DELIVERY PRODUCT

Any product that is designed to deliver nicotine, nicotine vapor or non-nicotine vapor, including, but not limited to, any type of electronic smoking device defined as an electronic or other powered device that can be used to deliver nicotine or

other substances to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, cigarillo or pipe, or any cartridge or other component of the device or related product, including, but not limited to, any substances used in such devices such as liquids, gels or powders, or any forms of tobacco, but excluding United States Food and Drug Administration approved nicotine patches or nicotine chewing gum.

PERSON

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

TOBACCO

Any product made from the tobacco plant for the purpose of smoking, chewing, inhaling and other personal use, including but not limited to cigars, chewing tobacco, pipe tobacco, snuff, shisa and cigarettes in any form, or shall mean any other matter or substance which can be smoked.

TOBACCO RETAILER

Any person or entity that operates a store, stand, booth, concession or place which sells tobacco; also a person or entity that owns, operates or maintains a vending machine and/or vending machine location.

VENDING MACHINE

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

§189-2 Prohibition on sale of Cannabis Products, Cannabis Delivery Products, Tobacco Products and Nicotine Delivery.

a. Prohibition.

1. The sale of cannabis products and cannabis delivery products is strictly prohibited in the Township of Washington,
2. No person shall sell, distribute or give tobacco or nicotine delivery products in the Township of Washington unless an employee of the establishment controls the sale of such products. Self-service displays and all vending machines of cannabis, cannabis delivery product, tobacco or nicotine delivery products shall be prohibited.
3. No person shall sell, distribute, or give tobacco or nicotine delivery products to any person under 21 years of age.
4. No person or tobacco retailer selling tobacco or nicotine delivery products shall allow the retailer, employee or any other person to sell, distribute or give such

products until the retailer, employee or other person has read the Washington Township Code, Ordinances and State laws pertaining to the sale or distribution of tobacco and nicotine delivery products and has signed a statement that they have read such ordinances and State laws. Such form statement will be supplied by the Health Department and all signed original statements shall be kept on file by the tobacco retailer and made immediately available at all times for review by the Health Department. All retailers shall be in compliance with this provision within 30 days of the effective date of this section.

b. Sign Requirement - Tobacco. The following six inch by eight-inch sign shall be posted in a conspicuous place near each cash register in all retail establishments which sell tobacco products and/or nicotine delivery products:

SALE, DISTRIBUTION OR GIVING OF TOBACCO PRODUCTS OR NICOTINE DELIVERY PRODUCTS TO PERSONS UNDER THE AGE OF 21 IS PROHIBITED BY LAW. LEGAL PROOF OF AGE MUST BE SHOWN. A PERSON WHO SELLS OR OFFERS TO SELL A TOBACCO PRODUCT OR A NICOTINE DELIVERY PRODUCT TO A PERSON UNDER 21 YEARS OF AGE MAY BE PROSECUTED IN ACCORDANCE WITH STATE STATUTES AND THE TOWNSHIP OF WASHINGTON ORDINANCES. IF YOU ARE AWARE OF ANY RETAILER WHO IS VIOLATING THIS SECTION OF THE LAW, PLEASE CONTACT THE WASHINGTON TOWNSHIP HEALTH DEPARTMENT AT (908) 876-3650.

§189-3 Identification required.

Any retailer, employee or other person selling, distributing or giving tobacco or nicotine delivery products shall verify, by means of government-issued photograph identification containing the bearer's date of birth, that no purchaser of tobacco or nicotine containing products is younger than 21 years of age. No such verification is required for any purchaser over the age of 26. No retailer, employee or other person shall sell, distribute or give tobacco or nicotine delivery products to a purchaser younger than 21 years of age who has a note or any form of communication from any person.

§ 189-4 Sale from vending machines and displays prohibited.

It shall be unlawful to offer for sale or to sell tobacco/cigarettes through a tobacco/cigarette vending machine or from a freestanding or attached display of tobacco/cigarettes in the Township of Washington.

§ 189-5 Removal of vending machines.

All tobacco/cigarette machines and freestanding or attached displays of tobacco/cigarette within the grasp of the public and not specifically behind a sales counter made unlawful by the terms of this chapter shall be removed within 30 days from the effective date of this chapter.

§ 189-6 Enforcement.

A. Whenever the Health Officer/Sanitarian or other authorized representative of the Board of Health reasonably believes there exists a violation of this chapter, he/she may issue a summons and complaint not later than 90 days after discovery of the alleged violation. The complaint shall be written and shall state with reasonable particularity the nature of the violation, including reference to the article and section of this chapter alleged to have been violated. The complaint shall be delivered by the police or sent certified mail to the alleged violator.

B. The Health Officer/Sanitarian or other authorized representative of the Board of Health or any other person charged with enforcement of this chapter, after giving proper identification, may inspect any matter, thing, place, record, incident or event as necessary.

C. It shall be unlawful for any person to molest, willfully oppose, verbally abuse or otherwise obstruct the Health Officer/Sanitarian or other authorized representative of the Board of Health, who may request the assistance of the Washington Township Police Department or other police agency or peace officer when necessary to execute his or her official duty in the manner prescribed by law.

D. Citizens may bring complaints against violators of this chapter through the Board of Health or Police Department.

§ 189-7 Violations and penalties.

A. Unless otherwise provided by law, statute or ordinance, any person violating any of the provisions of this chapter shall, upon conviction thereof, pay a fine of \$250 for the first offense, \$500 for a second offense and \$1,000 for a third and each consecutive offense. Complaints shall be made in Municipal Court of the Township of Washington or before such other judicial officer having authority under the laws of the State of New Jersey.

B. The defendant may, after reading and understanding the penalties, plead guilty to the charges and, after signing an affidavit, may pay the appropriate fine to the Clerk of the Municipal Court, in lieu of a Court appearance.

C. Each sale of tobacco/cigarettes to a minor shall constitute a separate violation.

SECTION TWO. RENUMBERING. This Ordinance may be renumbered for codification purposes.

SECTION THREE. SEVERABILITY. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

SECTION FOUR. REPEALER. Any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed as to their inconsistencies only.

NOTICE

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a regular meeting of the Township Committee of Washington Township held on October 18, 2021, and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Washington Township Committee to be held on November 15, 2021 **at 7:00 p.m.** or as soon thereafter as the Township Committee may hear this Ordinance at the Washington Township Municipal Building, 43 Schooley's Mountain Road, Long Valley, NJ 07853, at which time all persons interested may appear for or against the passage of said Ordinance.

Nina DiGregorio, RMC, Township Clerk

Matthew T. Murello, Mayor

Adopted:

Attest: I herein certify that the foregoing ordinance was duly adopted by the Washington Township Committee at a regular meeting held by the Township Committee on November 15, 2021.

Nina DiGregorio, RMC, Township Clerk