

ORDINANCE NO. 2019 - 11

AN ORDINANCE OF THE TOWNSHIP OF BARNEGAT, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 68A OF THE TOWNSHIP CODE ENTITLED “TOBACCO PRODUCTS, SALE OF”.

WHEREAS, 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, Chapter 68A of the Township Code entitled “Sale of Tobacco Products” prohibits the sale of tobacco products to minors; and

WHEREAS, the Township of Barnegat has determined that it is in the best interests of the public health, safety, and welfare of the residents of the Township of Barnegat to prohibit the use, sale, and possession of electronic smoke devices by individuals under the age of twenty-one (21) in public places.

NOW THEREFORE BE IT ORDAINED by the Mayor and Township Committee of the Township of Barnegat, County of Ocean, State of New Jersey as follows:

SECTION 1. Chapter 68A of the Township Code entitled Sale of Tobacco Products is hereby amended and supplemented as follows:

§68A-1. Prohibition of Tobacco sales to minors

A. It shall be unlawful to sell or otherwise provide an electronic smoking device, tobacco or tobacco products to a person under twenty-one (21) years of age, which person shall be considered a minor for purposes of this Chapter.

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

C. **Sign requirement.** The following six (6) inch by eight (8) inch sign shall be posted in a conspicuous place near such cash register in all retail establishments which sell tobacco products:

“SALE OF TOBACCO PRODUCTS OR ELECTRONIC SMOKING DEVICE TO MINORS UNDER THE AGE OF TWENTY-ONE OR USE OF SUCH PRODUCTS IN A PUBLIC PLACE BY MINORS IS PROHIBITED BY LAW. Legal proof of age must be shown. A person who sells or offers to sell a tobacco product or electronic smoking device to a person under twenty-one (21) years of age may be prosecuted in accordance with the state and Barnegat Township Ordinances.”

D. **Cigarette-Free School Zones.**

(1) The Drug-Free School Zone Map adopted and referenced in Chapter 42 of the Township Code entitled “Drug-Free School Zone” 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 twenty-one (21) years of age tobacco in any form or an electronic smoking device within the area on or within 1,000 feet of such school property.

(2) It shall also be unlawful for a person under twenty-one (21) 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.

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E. 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 21 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 2. Chapter 68A-5 of the Township Code entitled “Definitions” is amended to include the new following definition:

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, or pipe.

SECTION 3. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 4. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 5. This ordinance shall take effect after second reading and publication as required by law

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NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed by the Township Committee on first reading at a meeting of the Township Committee of the Township of Barnegat on the 7th day of May, 2019, and will be considered for second and final passage at a meeting of the Township Committee to be held on the 6th day of June, 2019, at 10:00 a.m. at the Municipal Building located at 900 West Bay Avenue, Barnegat, New Jersey, at which time and place any persons desiring to be heard upon the same will be given the opportunity to be so heard.

**MICHELE RIVERS, RMC
Municipal Clerk**

CERTIFICATION

I, Michele Rivers, Municipal Clerk of the Township of Barnegat, County of Ocean, State of New Jersey do hereby certify by my hand and seal that the foregoing Ordinance was introduced and passed at a meeting of the Township Committee on the 7th day of May, 2019, and finally adopted after Public Hearing at a meeting held on the 6th day of June, 2019 in the Municipal Complex, 900 West Bay Avenue, Barnegat, NJ

Michele Rivers, RMC
Municipal Clerk

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CHRISTOPHER J. DASTI**

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