

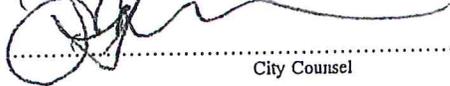
ORDINANCE OF THE CITY OF EAST ORANGE, NEW JERSEY

1st Reading .. NOVEMBER 7, 2016
Public Hearing .. December 5, 2016
Final Reading .. DECEMBER 5, 2016

Referred to
Planning Board
From
Planning Board

Approved as to Form and Legality
on Basis of Facts Set Forth:

Factual Contents Certified to By:


.....
City Counsel

.....
Department Head

Appropriations:

.....
Tabled Removed
From Table

.....
Comptroller
Councilman .. BRENT JOHNSON

Presents the following Ordinance:

ORDINANCE NO. 56 OF 2016

AN ORDINANCE CREATING CHAPTER 256 OF THE CODE OF THE CITY OF EAST ORANGE REGULATING SMOKING IN INDOOR PUBLIC PLACES AND WORPLACES AND TO IMPROVE AWARENESS IN RENTAL HOUSING AND CONDOMINIUMS

WHEREAS, the Administration and the City Council recognize the detrimental effect of smoking and secondary smoke upon the health of the citizens of our City; and

WHEREAS, the legislature of the State of New Jersey recognized this problem through the adopting of the Smoke-Free Air Act (P.L.2005,c.383) N.J.S.A. 26:3D-56; and

WHEREAS, the Administration and City Council are desirous of adopting regulations to support the statewide policy on smoking, as well as, heighten the awareness of all our citizens.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of East Orange that Chapter 256 of the Code of the City Of East Orange is hereby established as follows:

SECTION 1. NEW SECTION

Chapter 256: Smoke Free Air

§ 256-1 DEFINITIONS

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

ENCLOSED AREA

All areas between a floor and a ceiling, extending to the outer perimeter wall of a structure.

PARKS AND RECREATIONAL FACILITIES

Shall include all public parks, playgrounds and ball fields publicly owned or leased by the City of East Orange and all property owned or leased by the City of East Orange 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

Shall include all structures owned, leased, rented and/or operated by the City of East Orange and/or occupied by City employees and used for official business of the City of East Orange.

SMOKING

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.

§ 256-2. 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 closed 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 fifty-foot radius of the entrances 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 in locations to provide adequate notice to the public that 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. The "within" prohibition contained in this subsection shall not apply to designated smoking areas. The designated smoking area at the specific municipal buildings shall be determined and designated by the City Administrator after consultation with the Chief of the Fire Department and the Director of the Department of Public Works. "Designated Smoking Area" signs shall be clearly, sufficiently and conspicuously posted in all areas exempt from this subsection.
- C. Smoking shall be prohibited in all public parks and recreation facilities owned or leased by the City of East Orange and all property owned or leased by the City of East Orange 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, which have been designated with no-smoking signs. 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 in all areas regulated by this chapter. The signs shall be clearly visible to the public and shall contain letters or a symbol which contrasts in color with the sign, indicating that smoking is prohibited at the designated area. The sign shall also indicate that violators are subject to a fine.
- D. Smoking shall be prohibited in any vehicle registered to the City of East Orange.

§ 256-3. ENFORCEMENT

The enforcement authority of this chapter shall be the Police Department, Fire Department, Recreation Department, Public Works Department and Health Department of the City of East Orange.

§ 256-4. VIOLATIONS AND PENALTIES

Any person who violates any provision of this chapter shall be subject to a fine of not less than \$250 for the first offense, \$500 for the second offense and \$1,000 for each subsequent offense. Any municipal employee found in violation of this chapter may also be subject to discipline in accordance with the provisions of the City of East Orange policies and procedures.

§256-5. RENTAL HOUSING AND CONDOMINIUMS

A. SMOKING POLICY

1. Definitions. For the purposes of this section, unless the context otherwise indicates, the following terms have the following meanings.

SMOKING

Any person carrying or having in one's possession a lighted cigarette, cigar, pipe or other object giving off tobacco smoke.

2. Smoking policy disclosure. A landlord who or other person who on behalf of a landlord enters into a lease or tenancy at will agreement for residential premises that are used by a tenant or will be used by a potential tenant as a primary residence shall provide to the tenant or potential tenant a smoking policy disclosure that notifies tenants or potential tenants of the landlord's policy regarding smoking on the premises.

3. Notification. A landlord who or other person who on behalf of a landlord enters into a lease or tenancy at will agreement for residential premises shall provide written notice to a tenant or potential tenant regarding the allowance or prohibition of smoking on the premises. The notice must state whether smoking is prohibited on the premises, allowed on the entire premises or allowed in limited areas of the premises. If the landlord allows smoking in limited areas on the premises, the notice must identify the areas on the premises where smoking is allowed. A landlord who or other person who on behalf of a landlord enters into a lease or tenancy at will agreement for residential premises shall, on a form prescribed by the Department of Health of the City of East Orange, notify a tenant or potential tenant of the smoking policy. The disclosure form must include an acknowledgement that the tenant or potential tenant has received the disclosure form required by this subsection. Before a tenant or potential tenant enters into a contract or pays a deposit to rent or lease a property, the landlord or other person who acts on behalf of a landlord shall provide the disclosure form to the tenant or potential tenant, obtain the tenant's or potential tenant's signature on the disclosure form and sign the disclosure form. The Department of Health of the City of East Orange shall post and maintain the disclosure form required by this subsection on a publicly accessible website in a format that is easily downloaded.

4. **Penalty.** A person who violates this section commits a civil violation for which a fine of not more than \$250 per violation may be assessed. This paragraph is enforceable in the municipal Court of the City of East Orange.

SECTION 2.

Each section of this ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity of constitutionality of any other sections or parts thereof.

SECTION 3.

That all Ordinances and parts of Ordinances in conflict or inconsistent with this Ordinance are hereby repealed, but only to the extent of such conflict or inconsistency.

SECTION 4.

This Ordinance shall take effect after final passage and upon expiration of twenty (20) days following publication unless otherwise provided by resolution of this City Council.

I HEREBY CERTIFY THE FOREGOING TO BE A
TRUE COPY OF ORDINANCE NO. 56
ADOPTED BY THE CITY COUNCIL OF EAST
ORANGE AT ITS MEETING HELD
December 15, 2016
[Signature]
CITY CLERK, EAST ORANGE, NJ

FIRST READING

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	VETO
BULLOCK	X				
BRENT	X				
JOHNSON				X	
LEWIS	X				
COOPER	X				

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	VETO
HOLMAN				X	
GOMEZ	X				
JAMES				X	
TALMADGE	X				
GREEN	X				

RECORD OF COUNCIL VOTE ON FINALE PASSAGE

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	VETO
BULLOCK	X				
BRENT	X				
JOHNSON				X	
LEWIS	X				
COOPER	X				

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	VETO
HOLMAN	X				
GOMEZ	X				
JAMES	X				
TALMADGE	X				
GREEN	X				

X - Indicates Vote
Action on Veto - ✓ To Sustain

A.B. - Absent

N.V. - Not Voting (Abstained or Excused)
✓✓ To Over-Ride

Passed on First Reading NOVEMBER 7, 2016

Adopted on Final Reading DECEMBER 5, 2016

Presented to Mayor DECEMBER 6, 2016

Approved: December 12, 2016

Vetoed Reconsidered by Council

[Signature]
Mayor

[Signature]
Council Chairman
[Signature]
City Clerk