**AN ORDINANCE OF THE BOROUGH OF BLOOMINGDALE, IN THE COUNTY OF**

**PASSAIC AND STATE OF NEW JERSEY, AMENDING CHAPTER III, “POLICE REGULATIONS,” TO MODIFY THE DEFINITION OF TOBACCO AND TO PROHIBIT SMOKING INSIDE OF ALL MUNICIPAL BUILDINGS AND VEHICLES, AND WITHIN A 25-FOOT RADIUS OF ALL MUNICIPAL BUILDING ENTRANCES AND EXITS.**

 **WHEREAS,** pursuant to N.J.S.A. 40:48-2, any municipality may make, amend, repeal, and enforce such other ordinances, regulations, rules, and by-laws not contrary to the laws of this state or of the United States, as it may deem necessary and proper for the 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; and

 **WHEREAS,** the State has expressly authorized municipalities to enact strict ordinances regulating smoking under N.J.S.A. 26:3D-63; and

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

 **WHEREAS**, the Borough desires to prohibit smoking inside of all municipal buildings and vehicles, and within a 25-foot radius of all municipal building entrances and exits; and

 **WHEREAS,** the Borough desires to modify the definition of “Tobacco” to included electronic smoking devices

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 **NOW, THEREFORE, BE IT ORDAINED**, by the Mayor and Council of the Borough of Bloomingdale, in the County of Passaic and State of New Jersey, that the Borough Code is hereby amended as follows:

 **SECTION 1:** Chapter 3-9, “Prohibition Against Possession and Use of Tobacco by

Minors,” Section 3-9.2, “Definitions,” of the Borough Code shall be amended to read as follows:

 **3-9.2 Definitions.**

For purposes of this section:

 **Minor** shall mean any person under the age of eighteen (18) years of age.

 **Public Place** shall mean:

1. Any building or enclosed structure located within the Borough of Bloomingdale that is open to the pubic; and
2. Any street, road, sidewalk, walkway, park, playground, Borough recreational facility, school ground or open space located within the Borough of Bloomingdale that is open to the public.

**Tobacco** shall mean any product that is made from the tobacco plant for the purpose of being smoked, inhaled, or chewed by a person, including, but not limited to, cigars, chewing tobacco, pipe tobacco, snuff, and cigarettes in any form, including electronic smoking devices.

 **SECTION 2.** The title of Chapter 3-10, “Use of Tobacco Prohibited on Recreational

Facilities Owned or Leased to the Borough,” of the Borough Code shall be amended to read as follows:

**§ 3-10 PROHIBITION OF SMOKING IN PUBLIC PLACES; USE OF TOBACOO**

**PROHIBITED ON RECREATIONAL FACILITIES OWNED BY OR LEASED TO**

**THE BOROUGH.**

**SECTION 3.** Section 3-10.1, “Prohibition,” of the Borough Code shall be amended to read as follows:

**§ 3-10.1 Definitions.**

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

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

**PARKS AND RECREATION FACILITIES** shall include all public parks, playgrounds, and ball fields publicly owned or leased by the Borough of Bloomingdale (“Borough”) and all property owned or leased by the Borough 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 such as parking areas, driveways, or dive aisles.

**MUNICIPAL BUILDINGS** shall include all structures owned, leased, rented and/or operated by the Borough and/or occupied by Borough employees and used for official business of the Borough

**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 of substance that contains tobacco or any other matter that can be smoked, or the inhaling or exhaling of smoke or vapor from an electronic smoking device.

**3-10.2    PROHIBITION OF SMOKING IN PUBLIC PLACES.**

1. Smoking shall be prohibited in all Borough Municipal Buildings as defined herein. No-Smoking signs of the international no-smoking signal (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 (front/rear) 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 that contrast in color with the sign, indicating that smoking is prohibited therein.
2. Smoking shall be prohibited with a twenty-five (25) foot radius of the front entrance/exit of all Municipal Buildings. No-Smoking signs of the international no-smoking signal (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 (front/rear) 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 that contrast in color with the sign, indicating that smoking is prohibited therein.
3. Smoking shall be prohibited in all public parks and recreation facilities owned or leased by the Borough and all property owned or leased by the Borough 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 facility such as parking areas, driveway, or div aisles, which have been designated with no-smoking signs. No-Smoking signs of the international no-smoking signal (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 (front/rear) 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 that contrast in color with the sign, indicating that smoking is prohibited therein.
4. Smoking shall be prohibited in any motor vehicle registered to the Borough.

**3-10.3    Enforcement.**

       The enforcement authority of this chapter shall be the Police of the Borough of Bloomingdale.

**3-10.4    Violations and Penalties**

A violation of this section shall be punishable for each violation with a minimum fine of fifty ($50.00) dollars, not to exceed $200.00. (Ord. No. 3-2004 § III)

**SECTION 4.**All ordinances of the Borough of Bloomingdale, which are inconsistent with the provisions of this Ordinance, are hereby repealed to the extent of such inconsistency.

**SECTION 5.**If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

**SECTION 6.**This Ordinance shall take effect immediately upon final passage, approval, and publication as required by law.

**APPROVED:**

 BOROUGH OF BLOOMINGDALE

 COUNTY OF PASSAIC

ATTEST: STATE OF NEW JERSEY

 By:

Jane McCarthy, Clerk Jonathan Dunleavy, Mayor