

ORDINANCE NO. 519 -A

BOROUGH OF PARKESBURG
CHESTER COUNTY, PENNSYLVANIA

AN ORDINANCE OF THE BOROUGH OF PARKESBURG ADOPTING A SMOKE FREE TOBACCO FREE AREA (AND PROHIBITING SMOKING ALTERNATIVES) WITHIN ANY BOROUGH BUILDING OR ON ANY BOROUGH PROPERTY WITHIN THE BOROUGH LIMITS OF THE BOROUGH OF PARKESBURG AND PROVIDING PENALTIES FOR VIOLATIONS

WHEREAS, the Borough of Parkesburg is a municipality operating under Borough Code and subject to the authority under the Borough Code to, make, alter, adopt, modify repeal, or enforce ordinances, resolutions, rules, and regulations, as may be necessary for the health, safety, morals, general welfare, cleanliness and beauty of the borough. See, §1202, (specifically §1202(5) and §1202(16)) of the revised Borough Code, Act 37 of 2014 enacted April 18, 2014 P.L. 432, No. 37); and,

WHEREAS, under §1202(16) of the new Borough Code, the Borough of Parkesburg has the specifically identified authority to prohibit and regulate smoking, carrying of lighted cigarettes, cigars, pipes, or matches, and the use of matches or fire producing devices, as long as such Ordinance does not conflict with the Clean Indoor Air Act of June 13, 2008 (P.L. 182 No. 27); and,

WHEREAS, it recognized that smoking and the use of tobacco products is deleterious to the health safety and welfare of Parkesburg citizens as it endangers those who come in contact with the tobacco (which includes those who receive second hand smoke or other such secondary contact with tobacco); and,

WHEREAS, it is further recognized that the use of tobacco products or alternative tobacco products such as vapor cigarettes, E-cigarettes and all such other alternatives enforces addictive behaviors which are not beneficial to the public; and,

WHEREAS, it is recognized that smoking and tobacco products, and their alternatives, create byproducts which are deleterious to the health, safety, and welfare of the community and create unsightly stains, litter and other damage to the public; and,

WHEREAS, the Borough intends to adopt this Ordinance to be consistent with and not to be pre-empted by the Clean Indoor Air Act.

NOW THEREFORE, according to the foregoing authority, and consistent with the Borough's general authority to protect public health, safety, and welfare, as well as the Borough's more specific authority under the police power, the Borough of Parkesburg hereby enacts the following:

1. **Borough buildings and Borough property regulated.** All Borough buildings and Borough property within the Borough limits shall be 100% smoke free and tobacco free such that all cigars, pipes, and cigarettes and tobacco products such as snuff, chewing tobacco and the like are strictly prohibited in these locations - as well as vapor cigarettes, Bcigarettes, and all alternatives. Borough property shall include, by way of example and not limitation, all Borough Parks (including Minch Park), and the Borough Hall, District Court and parking lot etc.

2. **Police enforcement.** The Parkesburg Borough Police shall be responsible for enforcement of this Ordinance pursuant to §1121(b) of the Borough Code.

3. **Penalties.** Notwithstanding any other penalties provided for other violations within Borough parks, the following are the penalties for a violation of this ordinance:

- a) A person who violates this ordinance commits a summary criminal offense and upon conviction, shall be sentenced to pay a fine of no more than \$50.00 as a first time offender within one year.
- b) A person who violates this ordinance a second time within one year of having received a first conviction for a violation of this ordinance commits a summary offense, the penalty for which shall be a fine which shall not exceed \$150.00.
- c) A person who violates this ordinance a third time or more within one year of having received a first and second conviction for a violation of this ordinance commits a summary offense, the penalty for which shall be a fine which shall not exceed \$300.00.

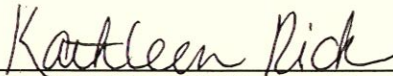
4. **Conflicts with statutory provisions.** In all matters that are regulated by the law of the Commonwealth of Pennsylvania by regulations or regulated by departments or an agency of the Commonwealth promulgated by authority of law, such law or regulations, or other Ordinance of the Borough of Parkesburg, as the case may be, shall control where the requirements thereof are the same or in excess of the provisions of this Ordinance. This Ordinance controls in all circumstances where the state requirements or the requirements of other Ordinances of the Borough are not as strict as those contained in this Ordinance.

5. **Severability.** If any portion of the Ordinance shall be determined to be unconstitutional, illegal or unenforceable, then the portion and only that portion of this Ordinance, which is deemed to be unconstitutional, illegal or unenforceable, shall be severed from the remainder of this Ordinance and all other terms thereof shall remain in full force and effect.

6. **Effective date.** This Ordinance shall be effective as required by the Borough Code thirty (30) days after adoption.


ORDAINED and ENACTED this 16th day of November, 2015.

PARKESBURG BOROUGH COUNCIL



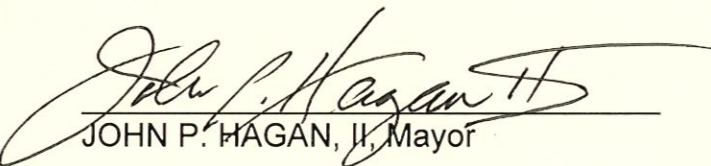
KATHLEEN RICK, President

ATTEST:



WENDY A. KEEGAN, Secretary

Approved this 16th day of November, 2015.



JOHN P. HAGAN, II, Mayor