

**TOWN OF NEWBURGH  
INTRODCUTORY LOCAL LAW NO. \_ OF THE YEAR 2025  
AMENDING CHAPTER 152 ENTITLED "SMOKING"  
OF THE CODE OF THE TOWN OF NEWBURGH**

BE IT ENACTED by the Town Board of the Town of Newburgh as follows:

**SECTION 1 – TITLE**

This Local Law shall be referred to as "A Local Law Amending Chapter 152 Entitled "Smoking" of the Code of the Town of Newburgh."

**SECTION 2 - AMENDMENT TO CHAPTER 152**

The current text of Chapter 152 entitled "Smoking" is hereby deleted in its entirety and a new text is added to read as follows:

**"§ 162-1 Findings and purpose.**

A. The Town Board of the Town of Newburgh finds there is an increasing public awareness and acceptance of the dangers that smoking tobacco products, cannabis, e-cigarettes and other vaping products have on the health and wellbeing of the general public and that such activities have the potential to create a serious health hazard for the employees of the Town, the citizens of the Town, and those who visit and utilize Town property. Accordingly, in order to protect and promote the public health, safety and welfare of the employees and citizens of the Town of Newburgh, it is necessary to restrict the acts of smoking and vaping tobacco, cannabis and related smoking and vaping products in and on Town property, including buildings, parks and playgrounds.

B. The Town Board of the Town of Newburgh further finds it is in the Town's best interest to do all it can to protect the Town's property from the danger of fire posed by discarded tobacco, cannabis, and vaping products, as well as the prevalence of unsightly litter caused by same.

C. In light of the above findings, the Town Board has adopted this Chapter, the primary purpose of which is to prohibit all smoking and vaping on town owned property, except in specific designated outdoor areas.

D. The Town Board also recognizes that the Clean Indoor Air Act, adopted by the New York State Legislature as Public Health Law, Article 13-E, § 1399- n et seq., already effectively prohibits smoking and vaping in almost all public and private indoor workplaces, as well as numerous specified outdoor areas and occupied transportation vehicles. The Clean Indoor Air Act, however, allows localities to adopt and enforce local laws regulating smoking and vaping, as long as any

such local law is at least as strict as the State Law. Accordingly, this local law is enacted to enhance the prohibitions of the Clean Indoor Air Act as it pertains to Town buildings and Town property.

E. The Town Board further recognizes that the New York State Smoke-Free Park Law enacted by the New York State Legislature as Public Health Law 1399-O-2 et seq prohibits smoking in both state and local government public parks and the term “park” is defined by the law to include “public parks, beaches, pools, boardwalks, marinas, playgrounds, recreation centers, and group camps” and includes “equipment, buildings and facilities” but excludes park parking lots and roads. Public Health Law Section 1399-R(3) allows local governments to adopt and enforce local laws regulating smoking and vaping in parks, as long as any such local law is at least as strict as the State Law. Accordingly, this local law is enacted to enhance the prohibitions of the Smoke Free Park Law as it pertains to Town parks and playgrounds.

## **§ 162-2 Definitions.**

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

### **CANNIBIS**

All parts of the plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin.

### **CANNABIS-INFUSED PRODUCTS**

Products that have been manufactured and contain either cannabis or concentrated cannabis and other ingredients that are intended for use or consumption.

### **ELECTRONIC CIGARETTE OR E-CIGARETTE**

An electronic device that delivers an aerosol or vapor which is inhaled by an individual user, and shall include any refill, cartridge and any other component of such a device.

### **SMOKING**

To inhale or exhale the smoke of burning tobacco, tobacco infused product, cannabis or cannabis infused product and also to carry burning tobacco, tobacco infused product, cannabis or cannabis infused product in the form of a cigarette, cigar, or any other smoke-producing product or device, including but not limited to pipes.

### **TOBACCO OR TOBACCO-INFUSED PRODUCT**

Any product, made wholly or in part of tobacco or of any other substance, irrespective of size or shape and whether or not such tobacco or substance is flavored, adulterated or mixed with any other ingredient, intended for consumption.

### **TOWN PARKS AND PLAYGROUNDS**

All parks, playgrounds and recreation centers and areas and group camps and includes equipment, buildings and facilities, parking lots, driveways, walkways, and trails used, operated and maintained by the Town of Newburgh.

### **TOWN BUILDING**

Any building, structure or enclosed outdoor area owned, leased, used or operated by the Town of Newburgh or any of its departments and used for the conduct of public business.

### **TOWN PROPERTY**

Any land, building, structure, or outdoor area owned, leased, licensed, used or operated by the Town of Newburgh or any of its departments for the conduct of public business, including but not limited to Town Buildings and Town Parks and Playgrounds.

### **VAPING**

The use or ignition of an electronic cigarette or e-cigarette.

### **§ 162-3 Prohibitions.**

The smoking of tobacco, tobacco infused product, cannabis and cannabis infused product and vaping on or in any Town Property and Town Building is prohibited, except in outdoor areas specifically designated for smoking and vaping. No such designated area shall be located in a Town Park or Playground.

### **§ 162-4 Penalties.**

Any person convicted of a violation of any provision of this chapter shall be subject to a fine not to exceed \$500 per violation.

### **§ 162-5 Signage.**

"Smoking of Tobacco, Cannabis and Related Products and Vaping are Prohibited Except in Designated Outdoor Areas" or signs with equivalent language, shall be clearly and conspicuously posted at each entrance to Town Property. In addition, the international "no smoking" symbol (a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) or other signage required by applicable law or regulation shall also be posted in all Town Buildings.

### **§ 162-6 Enforcement.**

This chapter may be enforced by any law enforcement officer or agent, including but not limited to the Town of Newburgh Police, New York State Police, Orange County Sheriff, any other local police, constable or peace officer, any Town of Newburgh Code Enforcement Officer, or any other person so designated by the Town Board of the Town of Newburgh."

## **SECTION 3 - SEVERABILITY**

Should any provision of this Local Law be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Local Law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

#### **SECTION 4 – EFFECTIVE DATE**

This Local Law shall be effective upon its filing with the Secretary of State in accordance with the Municipal Home Rule Law.