



**MONMOUTH COUNTY REGIONAL HEALTH COMMISSION NO. 1**

**ORDINANCE NO. 2022-2**

**AN ORDINANCE CREATING CHAPTER 11 OF THE ADMINISTRATIVE CODE OF THE MONMOUTH COUNTY REGIONAL HEALTH COMMISSION NO. 1 ESTABLISHING A CODE REGULATING ELECTRONIC SMOKING DEVICE ESTABLISHMENTS, AND FIXING FEES FOR LICENSING THEREOF, AND PENALTIES FOR VIOLATIONS THEREOF**

WHEREAS, the Commission has established an Administrative Code of the Monmouth County Regional Health Commission No. 1; and

WHEREAS, the Commission finds that it is in the best interest of the public health and its contract municipalities that the Commission establish a code regulating electronic smoking device establishments, and fixing fees for licensing thereof, and penalties for violations thereof.

NOW, THEREFORE, BE IT ORDAINED by the Monmouth County Regional Health Commission No. 1, created and operating pursuant to N.J.S.A. 26:3-83 et seq., as follows:

Section 1. Chapter 11 “Electronic Smoking Device Establishments” of the Administrative Code of the Monmouth County Regional Health Commission No. 1 is hereby created and shall provide as follows:

**11-1 Purpose**

The purpose of this ordinance is to license establishments that sell electronic smoking devices. The funds collected by licensing of such establishments shall be used to fund the Monmouth County Regional Health Commission’s Tobacco Age of Sale Enforcement program and other smoking cessation, prevention or control programs.

**11-2 Definitions**

For the purpose of this section, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this section clearly demonstrates different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number shall include the singular number, and words

used in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

**Business** means any sole proprietorship, partnership, joint venture, corporation, association, or other entity formed for profit-making purposes.

**Electronic Smoking Device** shall mean an electronic device that can be used to deliver an inhaled dose of nicotine, or other substances, including any component, part, or accessory of such a device, whether or not sold separately. “Electronic Smoking Device” includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor.

**Electronic Smoking Device Paraphernalia** means cartridges, cartomizers, e-liquid, smoke juice, tips, atomizers, Electronic Smoking Device batteries, Electronic Smoking Device chargers, and any other item specifically designed for the preparation, charging, or use of Electronic Smoking Devices.

**Employee** means any Person who is employed or retained as an independent contractor by any Employer in consideration for direct or indirect monetary wages or profit, or any Person who volunteers his or her services for an Employer.

**Employer** means any Business or Nonprofit Entity that retains the service of one or more Employees.

**MCRHC #1** shall mean the Monmouth County Regional Health Commission #1.

**Nominal Cost** means the cost of any item imposed for the transfer from one person to another for less than the total of: (1) [twenty-five percent (25%)] of the fair market value of the item exclusive of taxes and government fees; plus (2) all taxes and government fees previously paid and all taxes and government fees still due on the item at the time of transfer.

**Non-sale Distribution** means to give, furnish, or cause or allow to be given or furnished within the jurisdictional limits of the MCRHC, an Electronic Smoking Device or Electronic Smoking Device Paraphernalia at no cost or at Nominal Cost to a Person who is not a Retailer.

**Nonprofit Entity** means any entity that meets the requirements of IRS as well as any corporation, unincorporated association or other entity created for charitable, religious, philanthropic, educational, political, social or similar purposes, the net proceeds of which are committed to the promotion of the objectives or purposes of the entity and not to private gain. A government agency is not a Nonprofit Entity within the meaning of this article.

**Person** means any natural person, cooperative association, Employer, personal representative,

receiver, trustee, assignee, or any other legal entity including a government agency.

**Retail Electronic Smoking Device Establishment** shall mean any establishment that sells or offers for sale electronic smoking device products designed for consumption through the inhalation.

**Sale** shall mean every delivery of electronic smoking devices, whether the same is by direct sale or the solicitation or acceptance of an order, including the exchange, barter, traffic in, keeping and exposing for sale, displaying for sale, delivering for value, peddling and possessing with intent to sell.

### 11-3 **Licensing Fees**

A. No person shall conduct, maintain or operate an establishment that sells electronic smoking devices or electronic smoking device paraphernalia without first obtaining from the MCRHC, a license to do so.

B. Fees in accordance with the following schedule shall be paid before any license required in this article shall be issued:

Electronic Smoking Device Establishment License	\$750.00
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C. Licenses issued under the provisions of this article, unless forfeited or revoked by this Board, shall expire annually on the 31<sup>st</sup> day of December of each year.

D. No license is transferrable by sale or otherwise.

E. Such license shall be posted in a conspicuous place in such establishment or, if an itinerant establishment, shall be readily available for display.

### 11-4 **Enforcement**

This section shall be enforced by the MCRHC.

Any person found to be in violation of this section shall be ordered to cease the sale of electronic smoking devices immediately.

### 11-5 **Violations and Penalties**

Any person(s) who is found to be in violation of the provisions of this section shall be subject to the following penalties. For any and every violation of any of the provisions of this section, the violator of said provision will be subject to a fine of not less than five hundred (\$500.00) dollars and not more than two thousand (\$2,000.00) dollars. No fines shall be issued for thirty (30) days after publication of this ordinance.

## 11-6 **Effective Date**

This Ordinance and the Code herein established shall take effect thirty (30) days after the date of the final passage hereof.

Section 2. The Health Officer and Commission Secretary are hereby authorized and directed to take any ministerial action consistent with the intent of this Ordinance.

Section 3. REPEALER. All prior Ordinances or parts of same consistent and/or inconsistent with any of this Ordinance established hereunder are hereby repealed.

Section 5. SEVERABILITY. In the event that a court of competent jurisdiction shall declare any section, sentence or clause of this Ordinance unconstitutional, such declaration shall not in any manner prejudice the enforcement of the remaining provisions.

Section 6. EFFECTIVE. This Ordinance shall take effect thirty (30) days after the first publication thereof after final adoption as provided by law.

Leonard Giles, DMD  
Dr. Leonard Giles,  
President MCRHC No. 1

Marita Kresge  
Marita Kresge  
Commission Secretary, MCRHC No. 1

### **INTRODUCTION:**

MOVED: Sea Bright (Roman)  
SECONDED: Fair Haven (Newell)  
IN FAVOR: 7  
OPPOSED: 1  
ABSTAINED: 3

### **ADOPTION:**

MOVED: Sea Bright (Roman)  
SECONDED: Tinton Falls (Mack)  
IN FAVOR: 7  
OPPOSED: 0  
ABSTAINED: 2

Ordinance Introduced on: July 26, 2022  
First Publication on: August 17, 2022  
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Second Publication on: August 30, 2022