

**BOROUGH OF RARITAN  
BOARD OF HEALTH**

**ORDINANCE NO. BH: 2016-01**

**AN ORDINANCE OF THE BOARD OF HEALTH OF THE BOROUGH OF RARITAN, COUNTY OF SOMERSET, STATE OF NEW JERSEY, PROHIBITING THE SALE OF TOBACCO, NICOTINE, VAPOR NICOTINE, VAPOR NON-NICOTINE DELIVERY PRODUCTS TO PERSONS UNDER THE AGE OF TWENTY-ONE (21)**

**WHEREAS**, the Borough of Raritan Board of Health (“Board of Health”) was established pursuant to N.J.S.A. 26:3-1 and

**WHEREAS**, pursuant to N.J.S.A. 26:3-1, the Board of Health 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 of government, order and protection of person 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 Board of Health has concluded that it is appropriate to prohibit the sale of tobacco, nicotine, vapor nicotine, vapor non-nicotine delivery products within the Borough of Raritan, to persons under the age of twenty-one (21).

**NOW, THEREFORE, BE IT ORDAINED** by the Borough of Raritan Board of Health, County of Somerset, State of New Jersey, that

**SECTION I RETAIL SALE OF TOBACCO PRODUCTS**

A. No person shall sell tobacco or nicotine, vapor nicotine, vapor non-nicotine delivery products in Raritan Borough unless an employee of the establishment controls the sale of such products. A person may only sell tobacco, nicotine, vapor nicotine, vapor non-nicotine delivery products in a direct, face-to-face exchange between the retailer and the consumer. Self-service displays and vending machines of tobacco or nicotine delivery products shall be prohibited.

B. No person shall sell, distribute, or give tobacco, nicotine, vapor nicotine, vapor non-nicotine delivery products to any person under the age of twenty-one (21) years of age.

C. Tobacco Retailers shall conspicuously post and reasonable maintain signs having a minimum size of six inches by eight inches where tobacco, nicotine, vapor nicotine, vapor non-nicotine delivery products are displayed and at all check-out counters notifying customers that proof of age is required to purchase tobacco, nicotine, vapor nicotine, vapor non-nicotine delivery products.

D. Any person selling tobacco, nicotine, vapor nicotine, vapor non-nicotine delivery products shall verify by means of government-issued photographic identification containing the bearer’s date of birth that no person purchasing the tobacco, nicotine, vapor nicotine, vapor non-nicotine containing products is younger than 21 years of age. No such verification is required for

any person over the age of 26. No clerk shall sell tobacco, nicotine, vapor nicotine, vapor non-nicotine delivery products to a person less than twenty-one (21) years of age who has a note or any form of communication from any person, including an adult.

E. No person or tobacco retailer selling tobacco, nicotine, vapor nicotine, vapor non-nicotine delivery products shall allow an employee to sell or distribute such products until the employee has read the Raritan Borough Board of Health Ordinance and state laws pertaining to the sale or distribution of tobacco, nicotine, Vapor nicotine, vapor non-nicotine delivery products and has signed a statement that the employee has read such ordinance and State laws. Such form statement will be supplied by the Health Department and the signed original statement shall be filed with the Health Department and a copy shall be kept on file by the tobacco retailer and made available for review by the Health Department.

## **SECTION II DEFINITIONS**

**HEALTH DEPARTMENT** shall mean the Raritan Borough Board of Health Department

**HEALTH OFFICER** shall mean the Somerset County Health Department Health Officer and/or his or her authorized representative.

**NICOTINE/NON-NICOTINE DELIVERY PRODUCTS** shall mean any product that is designed to deliver nicotine or nicotine/non-nicotine vapor, including, but not limited to, what are commonly known as “e-cigarettes” or other types of electronic smoking devices, or any cartridge or other component of such device, or related products including but not limited to any substances used in such devices, such as liquids or powders or other forms of tobacco, but excluding United States Food and Drug Administration approved nicotine patches or nicotine chewing gum.

**PERSON** shall mean an individual, partnership, cooperative, association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

**TOBACCO** shall mean any product made from the tobacco plant for the purpose of smoking, chewing, inhaling/vaping and other personal use including cigars, chewing tobacco, pipe tobacco, snuff, and cigarettes in any form.

**TOBACCO RETAILER** shall mean any person or entity that operates a store, stand, booth, concession, or place at which sales of tobacco, nicotine, vapor nicotine, vapor non-nicotine delivery products are made to purchasers for consumption or use. The term shall also mean any person or entity that owns, operates or uses tobacco vending machine and /or a tobacco vending machine location as defined herein.

**TOBACCO VENDING MACHINE** shall mean any automated, self-service device which, upon insertion of money, tokens, or other form of payment, dispenses nicotine delivery products, cigarettes, or other tobacco products.

**TOBACCO VENDING MACHINE LOCATION** shall mean the room, enclosure, space or area where a tobacco vending machine is installed and operated.

### **SECTION III ENFORCEMENT**

- A. The enforcement authority for this ordinance shall be the Raritan Borough Health Officer or his/her designee.
- B. The Health Officer may, after giving proper identification, inspect any matter, thing, premise, place, person, record, vehicle, incident, or event as necessary to execute his or her official duties in a manner prescribed by law.
- C. It shall be unlawful for any person to molest, willfully oppose, verbally abuse or otherwise obstruct the Health Officer in his enforcement of this ordinance, and the Health Officer may request the assistance of the Raritan Borough Police Department or other police agency or peace officer when necessary to execute his or her official duties in a manner prescribed by law.

### **SECTION IV PENALTIES**

- A. A person who violates the provisions of this ordinance, including any employee of a retail dealer licensee under P.L. 1948, c.65 (C.54:40A-1 et seq.) who actually sells or otherwise provides tobacco product to a person under 21 years of age, shall be liable to a civil penalty of not less than \$250.00 for the first violation, not less than \$500.00 for the second violation, and not less than \$1,000 for the third and each subsequent violation. Complaint shall be made in the municipal court of Raritan Borough or before such other judicial officer having authority under the laws of the State of New Jersey.
- B. Each sale of tobacco, nicotine, vapor nicotine, vapor non-nicotine delivery products to any person under the age of twenty-one (21) shall constitute a separate violation.
- C. In addition to the penalties set forth in subsection 4.A above the Raritan Borough Board of Health may suspend the Retail Food Establishment License of any person convicted of violation of this ordinance, for a period of not more than 3 days, pursuant to the authority of the Board of Health to license and regulate food establishments as provided by N.J.S.A. 26:3-31(c).

### **SECTION V REPEALER**

All ordinances or parts of ordinances contrary to or inconsistent with the provisions of this chapter are hereby repealed to the extent of such conflict or inconsistency.

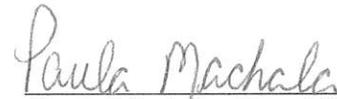
### **SECTION VI INVALIDITY**

If any section or provision of this Ordinance be adjudged invalid or unconstitutional, preempted by Federal or State law, or otherwise invalid by any court of competent jurisdiction, the same shall not affect the validity of the ordinance as a whole or any other section or provision hereof

### **SECTION VII EFFECTIVE DATE**

Following its passage and publication as provided by law this Ordinance shall take effect on January 1, 2017.

**ATTEST:** I Constance M. Del Rocco, Secretary of the Board of Health in the Borough of Raritan, County of Somerset, State of New Jersey, do hereby certify that this is a resolution adopted by the Borough of Raritan Board of Health at 22 First Street, Raritan, New Jersey, meeting held on December 14, 2016.

  
 Paula Machala, Board President

  
 Constance M. Del Rocco, Secretary

**INTRODUCTION: November 9, 2016**

MOTION	SECOND	NAME	YEAS	NAYS	ABSTAIN	ABSENT
	X	Bongiovi	X			
		Brown	X			
		Ciufo				X
		Lella	X			
		Machala	X			
X		Mastice	X			
		Mirra			X	

**PUBLIC HEARING/ ADOPTION: December 14, 2016**

MOTION	SECOND	NAME	YEAS	NAYS	ABSTAIN	ABSENT
		Bongiovi				X
X		Brown	X			
	X	Ciufo	X			
		Lella				X
		Machala	X			
		Mastice	X			
		Mirra				X