

**TOWN OF WEST NEW YORK
HUDSON COUNTY, NEW JERSEY**

ORDINANCE #8/23

AN ORDINANCE TO BAN SMOKE SHOPS AND VAPE SHOPS AS A PRINCIPAL PERMITTED USE IN ANY ZONE DISTRICT IN THE TOWN OF WEST NEW YORK

WHEREAS, the Town of West New York has under the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., and the police power, N.J.S.A. 40:48-1, et seq., the authority to regulate land uses within its municipal boundaries; and

WHEREAS, an Executive Summary on the use of electronic smoking devices issued in 2016 by the United Surgeon General indicates that such devices pose a significant health risk, especially to youth and young adults; and

WHEREAS, among middle and high school students, 2.06 million were current users of electronic smoking devices in 2021 according to the US Food & Drug Administration (FDA); and

WHEREAS, the Centers for Disease Control and Prevention has issued multiple alerts identifying a new syndrome of respiratory illness and failure related to “vaping” with e-cigarettes; and

WHEREAS, under the circumstances presented above, the Mayor and Board of Commissioners have determined that it is in the best interest of the Town and the health of its residents to ban smoke shops and vape shops as a principal permitted use in all zone districts.

NOW THEREFORE, BE IT ORDAINED by the Mayor and Board of Commissioners of the Town of West New York, County of Hudson, State of New Jersey, as follows:

SECTION ONE

Section 414-11, Definitions, is amended to add the following new definitions:

SMOKE SHOP - Shall mean any premises dedicated as a principal business to display, distribution, delivery, offering, furnishing, or marketing of tobacco, tobacco products, or tobacco paraphernalia, including providing an area for smoking tobacco products, but excluding any grocery store, supermarket, convenience store or similar retail use that sells tobacco product, shall not be included within the definition of smoke shop. An area for “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 which contains tobacco or any other matter that can be smoked, or the inhaling or exhaling of smoke or vapor from an electronic smoking device.

VAPE SHOP - Shall mean any premises dedicated as a principal business to display, sale, distribution, delivery, offering, furnishing or marketing of electronic smoking devices, liquid nicotine containers or vapor product as defined by N.J.S.A. 26:3D-57, N.J.S.A. 2A:170-51.9(a)(2), N.J.S.A. 2A:170-51.9(a)(3) and N.J.S.A. 2A:170-51-9(a)(4), including an area for vaping. An area for “vaping” shall mean the inhaling or exhaling of smoke or vapor from any electronic smoking device.

SECTION TWO

Section 414-14 Exclusions of certain uses, is amended to add the following:

Smoke shops and vape shops are expressly prohibited as uses in all zone districts within the Town.

SECTION THREE:

Severability. If any term or provision of this Ordinance is held to be illegal, invalid, or unenforceable by a court of competent jurisdiction, in whole or in part, such determination shall not affect the validity of the remaining terms and provisions of this Ordinance.

SECTION FOUR:

Repealer. To the extent that any provision of the Code of the Town of West New York is found to conflict with this Ordinance, in whole or in part, this Ordinance shall control.

SECTION FIVE:

In order to avoid accidental repeal of existing provisions, the Town Clerk and the Corporation Counsel are hereby authorized to change any chapter numbers, article numbers and/or section numbers in the event that the codification of this Ordinance reveals that there is a conflict between those numbers and the existing Code.

SECTION SIX:

This Ordinance shall take effect upon passage and publication as required by law.

Introduced: 8/9/2023

Notice

The foregoing Ordinance was adopted for first reading by the Mayor and Board of Commissioners of the Town of West New York, New Jersey, on **August 9, 2023** and ordered published, for consideration before final passage at a public hearing on **September 20, 2023 at 6:30 p.m.** held remotely or in person. Instructions regarding attendance and participation in the meeting will be posted on the Town’s website: <http://www.westnewyorknj.org/> . A copy of this Ordinance has been posted on the bulletin board upon which public notices are customarily posted on in the Town Hall of the Town of West New York, and a copy (at no charge) is available up to and including the time of such meeting to the members of the public of the Town who shall request such copies, at the Office of the Town Clerk in said Town Hall in West New York, N.J.