**Introduction of Ordinance 14-03**

**AN ORDINANCE TO AMEND CHAPTER 240-9(M), PARKS AND PLAYGROUNDS, OF THE REVISED CODE OF THE BOROUGH OF WOODCLIFF LAKE,**

**COUNTY OF BERGEN, STATE OF NEW JERSEY**

**WHEREAS**, the New Jersey Smoke-Free Air Act (NJSFAA) (N.J.S.A. 26:3D-63) specifically authorizes local restrictions on smoking “equivalent to, or greater than those provided in the NJSFAA for purposes of “protecting public health”; and

**WHEREAS,** Woodcliff Lake has a partial smoke free parks ordinance since 1999 as codified in Chapter 240-9(M), which banned smoking of tobacco or the outward appearance of smoking tobacco at some municipal park areas, specifically on any ball field, ball field spectator area or Old Mill Park pool area; and

**WHEREAS**, the New Jersey State Department of Health, through the Bergen County coalition on smoke free parks, currently has free aluminum signage to provide to New Jersey communities that have 100% smoke free parks and recreational areas ordinances, to help with self-enforcement and education on smoke free parks; and

**WHEREAS**, there is no constitutional right to smoke, and smoking is not a protected class under the Equal Protection Clauses of United States or New Jersey Constitutions; and

**WHEREAS,** the Woodcliff Lake Board of Health encourages protecting the health of children and adults at all of the municipality’s outdoor parks and recreation areas, by providing an environment that decreases the likelihood of children starting to smoke or use of tobacco, of children and small animals ingesting tobacco waste and of the pollution to the environment; and

**WHEREAS**, the Borough Council of the Borough of Woodcliff Lake has reviewed the Parks and Playgrounds Ordinance and desires to amend the Ordinance so as to make all outdoor municipal public parks and recreation areas 100% smoke free and to participate in the free signage program to allow for self-enforcement.

**NOW THEREFORE BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF WOODCLIFF LAKE AS FOLLOWS:**

Chapter 240-9(M) of the Parks and Playgrounds Ordinance of Woodcliff Lake is hereby amended and supplemented as follows:

SECTION I SMOKING; POSSESSION OF TOBACCO AND VAPOR PRODUCTS

1. No person shall smoke any tobacco or vapor product, including but not limited to cigarettes, cigars and pipes, nor shall any person possess such tobacco or vapor product in their hand or mouth in a manner which outwardly appears to be an act of smoking and regardless of whether the tobacco or vapor product is lit or unlit on any outdoor municipal public park, recreation area and Senior Center/Community Center.
2. For purposes of this subsection, “outdoor municipal public park, recreation area and Senior Center/Community Center” shall be defined as any public park, playground, ball field, Senior Center/Community Center or pool owned or leased by or situated within the Borough of Woodcliff Lake upon which the public is invited or upon which the public is permitted and where individuals may gather for any recreational activity including areas adjacent to such areas such as parking areas, driveways, or drive aisles.
3. Insofar as this subsection may be applicable to property owned by the Borough of Woodcliff Lake Board of Education, and insofar as §240-3 of this article construes the provisions of this subsection as being applicable to parks, ball fields or recreation areas owned by the Board of Education, the provisions of this subsection shall apply to property owned by the Woodcliff Lake Board of Education to the extent it is not expressly superseded by any state statute or Board of Education rule or policy adopted expressly in furtherance of state statutes providing for the prohibition of smoking on school properties.

SECTION II

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

SECTION III

All Ordinances or any provisions of any Ordinances inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistencies.

SECTION IV

This Ordinance shall take effect immediately upon final publication as required by law.