

**BOROUGH OF CLARKS SUMMIT
COUNTY OF LACKAWANNA
COMMONWEALTH OF PENNSYLVANIA
ORDINANCE NO. 2020-02**

**AN ORDINANCE OF THE BOROUGH OF CLARKS SUMMIT,
LACKAWANNA COUNTY, PENNSYLVANIA, PROHIBITING THE USE OF
TOBACCO PRODUCTS IN THE BOROUGH OF CLARKS SUMMIT'S PARKS AND
PROVIDING FOR PENALTIES FOR VIOLATION THEREOF**

WHEREAS, the Borough of Clarks Summit (the "Borough") is a duly organized and existing municipality and political subdivision within the County of Lackawanna, Commonwealth of Pennsylvania with offices located at 304 South State Street, Clarks Summit, Pennsylvania 18411;

WHEREAS, the Borough is subject to the Pennsylvania Borough Code as found in 8 Pa. C.S.A. §101 *et seq.*;

WHEREAS, and pursuant to said Borough Code, the Borough has the authority to make regulations as may be necessary for the health, safety and general welfare of the Borough. *See* 8 Pa. C.S.A. §1202(5);

WHEREAS, and pursuant to said Borough Code, the Borough has the authority prohibit and/or regulate smoking. *See* 8 Pa C.S.A. § 1202(16);

WHEREAS, and pursuant to said Borough Code, the Borough has the authority to provide, improve, maintain and regulate recreational places within the Borough "recreational places", including public parks, playgrounds and playfields. *See* 8 Pa C.S.A. § 2701(a);

WHEREAS, the Borough Parks, as defined *infra*, are intended for the healthy enjoyment of all residents, especially the children and youth of the Borough;

WHEREAS, the annoyance to others, the litter and the second-hand smoke associated with smoking and tobacco use in the Borough Parks, as defined *infra*, can pose health risks to the residents of the Borough, and especially to children and youth, as determined by the United States Surgeon General; and

WHEREAS, the Borough's Council desires to discourage tobacco use and promote clean public health by designating Borough Parks, as defined *infra*, as "Tobacco Free Zones".

THEREFORE, BE IT ORDAINED AND ENACTED, AND IT IS HEREBY ORDAINED AND ENACTED, by the Council of the Borough of Clarks Summit, County of Lackawanna and Commonwealth of Pennsylvania, as follows:

SECTION 1.

Prohibition Against the Use of Tobacco Products in Borough Parks.

A. Borough Parks, as defined *infra*, are hereby designated “Tobacco Free Zones” and the use of any tobacco product in any form is, shall be, prohibited.

B. Appropriate signage will be posted at all subject sites delineating Borough Parks as “Tobacco Free Zone”.

C. The Borough’s Council hereby authorizes the police officers of the Clarks Summit Borough Police Department to take whatever steps are necessary for full participation in, and compliance with, this Ordinance and/or any such other programs of the Commonwealth of Pennsylvania pertaining to the prohibition against the use of tobacco products as set forth in this Ordinance.

D. Any person who violates any provision of this Ordinance shall be forced to leave the Borough Park and may also be fined up to Fifty Dollars (\$50.00) per violation.

SECTION 2. **Definitions**

The following words, terms, and phrases, when used in this Ordinance, shall be defined as follows, unless the context clearly indicates otherwise.

A. “Borough.” Means the municipal corporate entity known as the Borough of Clarks Summit, Lackawanna County, Pennsylvania and/or where applicable, the geographical confines and land owned by the Borough of Clarks Summit situated in Lackawanna County, Pennsylvania and its duly elected or appointed public officials, designated representatives, agents, servants or employees.

B. “Borough Parks.” Means the lands owned, controlled and/or maintained by the Borough which have been designated for ornamental, leisure and recreational use and are situated at the following locations within the Borough:

- i.** Along the 100 Block of Carol Drive (commonly known as “Carol Drive Park”);

- ii. Along the 300 Block of Carnation Drive (commonly known as “Mayor Tony Perry Memorial Park”)
- iii. Along the 100 Block of Hemlock Drive (commonly known as “Mayor Donald L. Eilenberger Memorial Park”)
- iv. Along the 10 Block of Front Street (commonly known as “Robert A. Preate Memorial Park”)
- v. Along the 300 Block of Thurston Street (commonly known as “Veteran’s Memorial Park”); and
- vi. Along the 100 Block of Depot Street (commonly know as “Depot Street Pocket Park”)

B. “Person.” Means a natural person, agent, firm, operator, corporation, partnership, organization, association, institution or other legal entity.

C. “Police Officer.” Means any member of the Clarks Summit Police Department, including all full-time and part-time police officers.

D. “Tobacco Product.” Includes all of the following:

- i. Any product containing, made or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, sniffed, snuffed, dipped or ingested by any means including, but not limited to, cigarettes, cigars, chewing tobacco, pipe tobacco and snuff, or dipping tobacco; and
- ii. Any electronic device that delivers nicotine or other substances to the person inhaling from the device including, but not limited to, electronic cigarettes (e-cigarettes), vape pens, pipes or devices and any other similar electronic tobacco devices which ignite tobacco and/or emit smoke, aerosol or vapor;
- iii. Notwithstanding any provision of Section 2(D)(i) and 2(D)(ii) above, to the contrary, “tobacco product” further includes any component, part or accessory of a tobacco product whether or not sold separately. “Tobacco Products” does not include any product that has been approved by the United States Food & Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marked and sold for such use; and

- iv. The list identified in Section 2(D)(i) and 2(D)(ii) above are subject to adjustment to conform to terms used in federal, state or local laws.

SECTION 3. Penalties and Enforcement

A. Any person who violates any provision of this Ordinance shall be forced to leave the Borough Park and is also subject to a fine up to Fifty Dollars (\$50.00) per violation.

B. The provisions of the Ordinance shall be enforced (in the same manner as a summary offense within the Commonwealth of Pennsylvania) by Clarks Summit Borough Police Department and its police officers.

C. Any violation of the provisions of this Ordinance may be cause for a citation, a violation ticket, and/or a notice of violation to be issued to any person violating the provisions of this Ordinance.

SECTION 4. Severability

If any provision, paragraph, word, section, or subsection of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, or subsections shall not be affected and shall remain in full force and effect.

SECTION 5. Reservation of Right to Amend

The Borough of Clarks Summit reserves the right to amend this Ordinance, or any portion thereof, from time to time as the Clarks Summit Borough Council shall deem advisable in the best interests of the promotion of the purposes and intent of this Ordinance and the effective administration thereof.

SECTION 6. Effect Upon Other Ordinances

All relevant ordinances, regulations, and policies of the Borough of Clarks Summit, Pennsylvania not specifically amended or affected by the provisions of this Ordinance shall remain in full force and effect. Any Ordinance or part of any Ordinance conflicting with the provisions of this Ordinance shall be, and the same is, hereby repealed to the extent of such conflict.

SECTION 7. Effective Date

This Ordinance shall be effective immediately upon passage and approved in the manner prescribed by law.

ORDAINED AND ENACTED into Ordinance this ____ day of _____, 2020.

Borough Council of the Borough of Clarks Summit

GERMAINE CAREY
Council President

APPROVED:

Approved this ____ date of _____, 2020

HERMAN JOHNSON
Mayor; Borough of Clarks Summit

ATTEST: Adopted by the Clarks Summit Borough Council this ____ date of _____, 2020

VIRGINIA KEHOE
Borough Manager/Secretary

SEAL