

**BOROUGH OF OLD TAPPAN  
ORDINANCE 1186-21**

**AN ORDINANCE BY THE BOROUGH OF OLD TAPPAN IN THE COUNTY OF  
BERGEN AND STATE OF NEW JERSEY REPEALING ORDINANCE 255-54.2,  
TITLED "CANNABIS AND ELECTRONIC VAPOR INHALATION" AND  
REPLACING IT WITH A NEW ORDINANCE 255-54.2, TO BE TITLED  
"ELECTRONIC VAPOR INHALATION"**

**AN ORDINANCE TO AMEND** Chapter 255 of the Code of the Borough of Old Tappan titled "Zoning" by repealing Ordinance 255-54.2 titled "Cannabis and Electronic Vapor Inhalation" and replacing it with a new Ordinance 255-54.2 to be titled "Electronic Vapor Inhalation"

**BE IT ORDAINED** by the Mayor and Council of the Borough of Old Tappan as follows:

**Section 1.** Ordinance 255-54.2 of the Code of the Borough of Old Tappan, titled "Cannabis and Electronic Vapor Inhalation", is hereby repealed and replaced with the following new Ordinance 255-54.2, to be titled "Electronic Vapor Inhalation"

A. Purpose.

(1) The purpose of this section is to prohibit the establishment, location and operation of any business engaged in the sale, distribution, manufacture and/or testing of electronic vapor devices, electronic vapor inhalation substances, and electronic/vapor substance inhalation shops and lounges in the Borough of Old Tappan, Bergen County, in order to maintain and protect the Borough's safety, security and general welfare.

(2) These regulations will rely on all definitions in this chapter and the Code of the Borough of Old Tappan.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:  
BUSINESS

Any sole proprietorship, joint venture, corporation or other business entity formed for profit-making purposes, including, but not limited to, retail and wholesale establishments where goods and/or services are sold, manufactured, distributed, cultivated or tested.

CREATION OF SMOKE SHOP ESTABLISHMENT

(1) The opening of any such establishment as new when it did not exist before;

(2) The conversion of any such establishment as new when it did not exist before;

(3) The relocation of any such establishment from one location to another.

ELECTRONIC/VAPOR SUBSTANCE INHALATION SHOPS

Those businesses where customers can purchase and/or use electronic/vapor substance inhalation products and/or devices, commonly known as "electronic cigarettes," "e-cigarettes," "e-cigars," "e-cigarellos," "e-pipes," "e-hookahs," "electronic nicotine delivery systems" and other similar devices.

SMOKE SHOP

Any store, stand, booth, concession or other place that either devotes a substantial portion of its display area (15% or more space) to hookahs, electronic vapor devices, electronic inhalation substances or drug paraphernalia to purchasers for consumption or use.

**TRANSFER OF OWNERSHIP OR CONTROL OF SMOKE SHOP**

(1) The sale, lease or sublease of such establishment;

(2) The transfer of securities which constitute a controlling interest in such establishment, whether by sale, exchange, or similar means; or

(3) The establishment of a trust, gift, or other similar legal device which transfers ownership or control of such establishment, except for the transfer by bequest or other operation of law upon death of the person possessing such ownership of controlling interest.

**C. Prohibition.** No person or entity shall cause or permit the creation, enlargement or transfer of ownership or control of any smoke shop or electronic/vapor inhalation shop or lounge within 1/4 mile of any residential, educational, religious or recreational use, or zoning district permitting such uses, within the Borough of Old Tappan.

**D. Measure of distance.** Distance, without regard to intervening structures, shall be a straight line measured from the closest exterior structural wall of a smoke shop or electronic/vapor substance inhalation shop or lounge to the closest property line of a residential, educational, religious or recreational use, or zoning district permitting such uses, within the Borough of Old Tappan.

**E. Violations and penalties.**

(1) Any person or entity violating any of the provisions of this section shall be subject to a fine of not more than \$1,000.

(2) Each person or entity found guilty of a violation shall be deemed guilty of a separate offense for every day during any portion of which a violation of any section of this section is committed, continued or permitted by such person. Any use or occupation of any building or structure maintained contrary to the provisions of this section, shall constitute a public nuisance.

(3) Notwithstanding any other penalty for violating any of the provisions of this section, the Borough of Old Tappan may, but shall not be required to, to seek to enjoin such violation in a court of competent jurisdiction.

**F. Enforcement.** Enforcement of the provisions of this section may be enforced by the Borough Health Officer, members of the Police Department, Borough Building Department, the Borough Code Official and any other person so designated by the Borough of Old Tappan.

**Section 2.** If any part of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the Ordinance.

**Section 3.** All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed or amended to the extent of such inconsistency.

**Section 4.** This Ordinance shall take effect upon final passage and publication according to law.