

RUSH TOWNSHIP, SCHUYLKILL COUNTY  
COMMONWEALTH OF PENNSYLVANIA

ORDINANCE NO. 176

AN ORDINANCE OF RUSH TOWNSHIP, SCHUYLKILL COUNTY, COMMONWEALTH OF PENNSYLVANIA, PROHIBITING THE USE OF TOBACCO AND TOBACCO PRODUCTS IN RECREATIONAL AREAS, PUBLIC PARKS AND PUBLIC PLAYGROUNDS, AND PROVIDING PENALTIES FOR VIOLATIONS.

WHEREAS, Rush Township's parks, playgrounds and recreational facilities serve to protect and promote the health, safety and welfare of the citizens of Rush, Township; and

WHEREAS, the Rush Township Board of Supervisors acknowledges the findings of government agencies and the medical community that second hand tobacco smoke poses a threat to the health, safety and welfare of adults and small children; and

WHEREAS, the Rush Township Board of Supervisors acknowledges that statistics show that a large majority of smokers start smoking before the age of 18; and

WHEREAS, the Rush Township Board of Supervisors acknowledge that parks, playgrounds and recreational areas within the Township typically contain a large number of children;

NOW THEREFORE, be it ENACTED AND ORDAINED as follows:

Section 1. Title.

This Ordinance shall be known and may be cited as the Rush Township Tobacco Free Park Ordinance.

Section 2. Definitions.

The following words shall have the following meanings throughout this Ordinance unless the context clearly indicates otherwise.

"Person" - any individual, corporation, or any other legal entity.

"Public Park" - any Township owned park, playground or recreational area, including but not limited to Quakake Park, Miller Park, Ryan Park, Lincoln Park and Kelly Park. This definition does not include the parking lot or the area surrounding the Rush Township Municipal Building.

"Tobacco Product" - any product or item intended to be chewed, smoked or ingested by an individual which contains the substance known as tobacco, including but not limited to cigarettes, cigars, pipes and chewing tobacco.

"Township" - Rush Township, Schuylkill County, Commonwealth of Pennsylvania.

### Section 3. Prohibitions.

No Person shall use, consume or smoke any Tobacco Product in any Public Park located in the Township.

### Section 4. Posting.

The Township is hereby authorized, and may in its discretion, post any sign in any Public Park in the Township warning Persons of the prohibitions established by this Ordinance. Failure by the Township to exercise its discretion to post signs does not excuse any Person from a violation of this Ordinance.

### Section 5. Penalties and Enforcement.

Enforcement of this Ordinance may be by action brought before a Magisterial District Justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Any Person violating any provisions of this Ordinance, upon conviction, shall pay court costs, shall pay a fine of not less than One Hundred (\$100.00) Dollars nor more than Three Hundred (\$300.00) Dollars per violation, and/or be sentenced to a term of imprisonment upon conviction or for failure to pay a fine or costs for a time not exceeding ninety (90) days per violation. Each day on which a violation of this Ordinance occurs shall be considered a separate violation. Nothing stated above shall prevent the Township in its discretion from seeking equitable relief to abate any violation of this Ordinance.

### Section 6. Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is found to be unconstitutional, illegal or unenforceable, such section, subsection, sentence, clause, phrase or portion of this Ordinance shall be deemed separate, distinct and independent from the remainder of this Ordinance, and the remainder of this Ordinance shall have full force and effect.

### Section 7. Repealer.

If any prior ordinance or the provisions of any prior ordinance are inconsistent with this Ordinance or any provisions of this Ordinance, the prior ordinance or the provisions of the prior ordinance are hereby repealed to the extent necessary to give effect to this Ordinance and the provisions of this Ordinance.

Section 8. Effective Date.

This Ordinance shall be effective immediately upon enactment or on the first day allowed by law thereafter, whichever occurs first.

ENACTED and ORDAINED this 16 day of August, 2012.

ATTEST:

Darlene Fenstermacher  
Secretary

RUSH TOWNSHIP  
BOARD OF SUPERVISORS

Shay Eric Gillard  
[Signature]  
Jeanine Motroni