

1. Regular Council Meeting Documents October 30, 2019

Documents:

[OCTOBER 30, 2019.PDF](#)

1.I. ORDINANCE 19-23 - REGULATING AND LICENSING VAPE SHOPS, ELECTRONIC SMOKING AND VAPOR DEVICES

Documents:

[19-23 VAPE SHOPS.PDF](#)

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**AGENDA
REGULAR MEETING
October 30, 2019**

The following is the Agenda for the Regular Meeting of the Mayor and Council of the Borough of Pompton Lakes, Passaic County, to be held in the Pompton Lakes Municipal Building, 25 Lenox Ave., Pompton Lakes, NJ, Wednesday, October 30, 2019 beginning at 7:30 pm.

1. CALL TO ORDER – Mayor Michael Serra

PRAYER

SALUTE TO FLAG

STATEMENT OF COMPLIANCE: “In conformance with the Open Public Meetings Law, Public Law 1975, Chapter 231, adequate notice of this Meeting setting forth the time, date, place and purpose of this regular Meeting through notice posted on the Bulletin Board in the Municipal Building, mailed to all who had requested and paid for same, and published in the Suburban Trends.

ROLL CALL: Mayor Michael Serra
Council President Terri Reicher
Councilman William Baig
Councilman Erik DeLine
Councilman Frank Jaconetta
Councilwoman Jennifer Polidori
Councilman Ekamon Venin

Borough Officers:

Joseph Ragno, Borough Attorney
Kevin Boyle, Borough Administrator
Elizabeth Brandsness, Municipal Clerk

MAYOR PRESENTATIONS AND UPDATES:

2. MEETING OPEN FOR PUBLIC COMMENTS:

Motion to open the Meeting for Public Comments ___Second___ All in favor___ Nays___
Motion to close the Meeting for Public Comments ___Second___ All in favor___ Nays___

3. APPROVAL OF MINUTES:

Motion to approve the following Minutes___Second___. All in favor___, Nays___.

Special Closed Session Minutes of October 16, 2019 – 6:00pm
Regular Meeting Minutes of October 16, 2019
Closed Session Minutes of October 16, 2019

4. AUTHORIZED BILLS AND CLAIMS: Motion to approve the following Bill

Lists ___Second___. All in favor___Nays___.

Current Fund	\$ 2,536,990.34
Capital Fund	\$ 47,491.61
Recreation Trust	\$ -0-
Unemployment	\$ 95.79
Dog Trust Account	\$ 45.00
Other Trust Account	\$ 46,746.90
Clerk’s Account	\$ -0-
Open Space Trust	\$ 1,543.50

5. PRESENTATION OF PETITIONS: None

6. CONSENT AGENDA – RESOLUTIONS:

(Does Any Councilperson Require Any Consent Agenda Item To Be Pulled For Separate Actions?)

WHEREAS, the Mayor and Council of the Borough of Pompton Lakes has reviewed the Consent Agenda consisting of various proposed Resolutions; and

WHEREAS, the Mayor and Council of the Borough of Pompton Lakes (*does / does not*) desire to remove Resolutions for individual action from that Agenda.

NOW, THEREFORE, BE IT RESOLVED that the following resolutions on the Consent Agenda are hereby approved:

1. Resolution 19-195 Authorizing Refund Of Other Lien Block 100 Lot 1.344
2. Resolution 19-196 Award Of A Bid For The Striping Of Various Roadways To Denville Line Painting, Inc. Under Morris County Co-Op Contract #36 In The Amount Of \$1,740.00
3. Resolution 19-197 Approving Division Of Local Government Services Best Practices Inventory For The Year 2019
4. Resolution 19-198 Authorizing A Contract For The Acquisition Of Goods Or Services Pursuant To NJSA 19:44A-20.4 And/Or NJSA 19:44A-20.5 With AM Consultants
5. Resolution 19-199 Authorizing A Contract For The Acquisition Of Goods Or Services Pursuant To NJSA 19:44A-20.4 And/Or NJSA 19:44A-20.5 With Edmunds & Associates
6. Resolution 19-200 Authorizing A Contract For The Acquisition Of Goods Or Services Pursuant To NJSA 19:44A-20.4 And/Or NJSA 19:44A-20.5 With Paychex, Inc.
7. Resolution 19-201 Authorizing The Mayor And Borough Clerk To Execute The 2019 Open Space, Farmland And Historic Preservation Trust Fund Agreement With The County Of Passaic In The Amount Of \$150,000.00
8. Resolution 19-202 Appointing Brian Townsend To The Position Of Part-Time Tax Assessor Effective January 1, 2020 At an Annual Salary Of \$30,000.00
9. Resolution 19-203 Authorizing Appointment Of Captain To The Pompton Lakes Police Department
10. Resolution 19-204 Authorizing The Appointment Of An Acting Chief Of Police To The Pompton Lakes Police Department
11. Resolution 19-205 Authorizing The Appointment Of Police Sergeant To The Pompton Lakes Police Department
12. Resolution 19-206 A Resolution Requesting Permission For The Dedication By Rider For 125th Year Anniversary Celebration Required By NJSA 40A: 5-29
13. Resolution 19-207 Authorizing Refund Of Other Lien Block 3500 Lot 19

Motion to approve the Consent Agenda__Second__. All in favor___, Nays___.

7. RESOLUTIONS FOR SEPARATE ACTION (ROLL CALL)

8. INTRODUCTION OF ORDINANCES–FIRST READING AND INTRODUCTION:
(Ordinance will be presented for second reading and final adoption on Nov. 13, 2019)

ORDINANCE 19-24

AN ORDINANCE REPEALING AND REPLACING CHAPTER 190, ARTICLE XI, SECTIONS 190-64 THROUGH 190-74 WITH CHAPTER 190 ARTICLE XV, AFFORDABLE HOUSING

Motion to Approve Ordinance No. 19-24 for Introduction____, Second____.

Roll Call:

ORDINANCE 19-25

AN ORDINANCE AMENDING CHAPTER 190, ARTICLE IV OF THE MUNICIPAL CODE OF THE BOROUGH OF POMPTON LAKES TO ADDRESS THE BOROUGH’S AFFORDABLE HOUSING OBLIGATIONS UNDER THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) - § 190-17 AFFORDABLE HOUSING ZONES

Motion to Approve Ordinance No. 19-25 for Introduction____, Second____.

Roll Call:

ORDINANCE 19-26

AN ORDINANCE AMENDING CHAPTER 190, ARTICLE XV OF THE MUNICIPAL CODE OF THE BOROUGH OF POMPTON LAKES TO ADDRESS THE BOROUGH’S AFFORDABLE HOUSING OBLIGATIONS UNDER THE FAIR HOUSING ACT AND THE

UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) – AFFORDABLE HOUSING ORDINANCE

Motion to Approve Ordinance No. 19-26 for Introduction____, Second____.
Roll Call:

ORDINANCE 19-27

AN ORDINANCE CREATING CHAPTER 190, ARTICLE XV OF THE MUNICIPAL CODE OF THE BOROUGH OF POMPTON LAKES TO CREATE A MANDATORY AFFORDABLE HOUSING SET-ASIDE ON MULTI-FAMILY RESIDENTIAL DEVELOPMENT

Motion to Approve Ordinance No. 19-27 for Introduction____, Second____.
Roll Call:

ORDINANCE 19-28

AN ORDINANCE CREATING CHAPTER 190, ARTICLE XV OF THE MUNICIPAL CODE OF THE BOROUGH OF POMPTON LAKES REGARDING THE BOROUGH’S AFFORDABLE HOUSING – DEVELOPMENT FEES

Motion to Approve Ordinance No. 19-28 for Introduction____, Second____.
Roll Call:

9. ORDINANCES FOR SECOND READING AND FINAL ADOPTION:

(These ordinances have been advertised and posted on the Municipal Bulletin Board)

ORDINANCE 19-23

AN ORDINANCE REGULATING AND LICENSING VAPE SHOPS, ELECTRONIC SMOKING AND VAPOR DEVICES

Motion to open the Meeting for public comments on Ordinance # 19-23 ____, Second____.
All in favor____, Nays____.

Motion to close the Meeting for public comments on Ordinance # 19-23 ____, Second____.
All in favor____, Nays____.

Motion to approve Ordinance # 19-23 for Final Adoption____, Second____.
Roll Call:

10. MAYOR REPORT:

11. COUNCIL COMMITTEE REPORTS:

Council President Reicher:

Councilman Jaconetta:

Councilwoman Polidori:

Motion to approve the request of the Pompton Lakes Chamber of Commerce to close Wanaque Avenue between Pompton and Lakeside Avenues between the hours of 3:00pm and 9:00pm on Saturday, December 7, 2019 for the annual Holiday Stroll. Also to use Pompton Avenue, Ramapo Avenue and Lakeside Avenue as a detour route. (Passaic Co. Freeholders, Hundertmark Agency, Police and Fire Depts. have been notified) ____Second____.
All in favor____, Nays____.

Motion to approve the request of the Pompton Lakes Chamber of Commerce to hang a banner to promote the annual Holiday Stroll across Wanaque Avenue from November 12, 2019 to December 9, 2019 ____, Second____. All in favor____, Nays____.

Motion to approve the request of the Pompton Lakes Chamber of Commerce to cover the parking meters with holiday decorations from November 30, 2019 to January 3, 2020 to provide

limited 2-hour Holiday free parking for the Holiday season ___Second___> All in favor___,
Nays___.

Councilman Venin:

Councilman Baig:

Councilman DeLine:

Professional Reports:

12. TABLED ITEMS: None

13. MEETING OPEN FOR PUBLIC COMMENTS:

Motion to Open Meeting for Public Comments__Second__All in favor ___Nays___.

Motion to Close Meeting for Public Comments__Second__All in favor___ Nays___.

14. PRIVILEGE OF THE FLOOR:

15. ADJOURN TO EXECUTIVE SESSION WHEN REQUIRED:

Motion to Adjourn___Second___ All in favor___Nays___.

Closed Session Time _____ Open Session Time _____

Motion to Open___Second___ All in favor___Nays___.

16. ADJOURNMENT: Motion to Adjourn___Second___ All in favor___Nays___.

Adjourn Time ___.

**Election Day
November 5, 2019
Polls 6:00am – 8:00pm**

**Pompton Lakes Free Rabies Clinic
Saturday, November 9, 2019 / 1:00-3:00pm
Pompton Lakes Firehouse**

**Veteran’s Day Ceremony
Wednesday, November 13, 2019 / 6:30pm
Carnevale Center / St Mary’s Church**

ORDINANCE NO.: 19-23

AN ORDINANCE REGULATING AND LICENSING VAPE SHOPS, ELECTRONIC SMOKING AND VAPOR DEVICES

BE IT ORDAINED by the Mayor and Council of the Borough of Pompton Lakes, County of Passaic and State of New Jersey as follows.

1. An Ordinance regulating Vape Shops is hereby established as followed.

Vape Shops, Electronic Smoking and Vapor Devices: Regulations and Licensing

1. Definitions.

ELECTRONIC SMOKING or VAPOR DEVICE — An electronic smoking device that can be used to deliver nicotine or other substances to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, cigarillo, hookah, pipe or any cartridge or other component of the device or related product.

ELECTRONIC SMOKING or VAPOR DEVICE OPERATION — Any establishment, person, entity or business that sells electronic smoking or vapor devices including, but not limited to, an electronic cigarette, cigar, cigarillo, hookah, pipe or other smoking or vapor device, or any cartridge or other component of the device or related product.

2. Right of entry.

It shall be lawful for any member of the Borough Health department, the Health Officer, Health Inspectors or any person acting under and by the authority of the Borough Department of Health and/or the Borough Police Department to enter in and upon any premises within the Borough in the exercise of the powers or in the fulfillment of its or their duties conferred or imposed by law or Borough ordinance and the rules and regulations thereunder. Any person hindering, obstructing, delaying, resisting, preventing or interfering with such right of access shall be deemed to violate the provisions of this article.

3. License required; fees; inspection.

- A. It shall be unlawful for any person(s) or any corporate body to conduct an electronic smoking or vapor device operation, as defined herein without first having procured a license from the Health Officer.
- B. No person shall carry on, conduct or operate an electronic smoking or vapor device operation within the Borough without first obtaining a license therefor from the Health Officer as outlined herein.
- C. The annual license fee to be paid for an electronic smoking or vapor device establishment shall be \$500.00.
- D. Electronic smoking or vapor device operations are subject to periodic compliance inspections by the health department. Fees for the re-inspection of any operation which is necessitated by violations of any of the provisions set forth in this article observed during the initial inspection shall be \$500.00
- E. Electronic smoking or vapor device operations must be conducted inside a place of business located within a retail zone. The applicant must obtain a zoning permit from the Zoning Officer prior to beginning operation. A license will only authorize sales of related devices or products at the place of business identified on the application.
- F. It shall be unlawful for the electronic smoking or vapor device operation to allow the use or sampling of the devices or related products in the public right of way or in an egress where pedestrians or customers must pass that falls within the storefront occupied by the operation or that fall in front of businesses in the same building that directly neighbor the said operation.

4. Application for license; renewal license.

- A. Application for an electronic smoking or vapor device operation shall be submitted on forms to be furnished by the Health Officer. The application shall be accompanied by the applicable license fee in cash, certified check or money order.
- B. A renewal license may be applied for by a licensee for premises licensed during the previous licensed period. The licensure fee for a renewal shall be \$400.00.
- C. Each and every applicant for a license for an electronic smoking or vapor device operation shall set forth the following information in writing on forms provided by the Health Officer:
 - (1) The applicant's name, business name, business address, applicant's phone number and the business phone number.
 - (2) The applicant's personal email address and business e mail address.
 - (3) If the applicant is an individual, the applicant's residence address.
 - (4) If the applicant is a partnership, corporation, limited liability company, or any other type of business entity, the applicant shall set forth the full name and residence address of each partner, member or officer of the business entity.
 - (5) If the applicant is a partnership, corporation, or limited liability company, the applicant must submit a certificate from the State of New Jersey that the business entity, regardless of form, is in good standing, according to the records of the State of New Jersey.

5. Issuance of license; contents; expiration date.

- A. The granting of an electronic smoking or vapor device establishment license shall be by the Health Officer. The Health Officer shall not issue or renew a license until they have confirmed that the establishment is in compliance with all provisions set forth within this article.
- B. The license shall state:
 - (1) Date of issuance.
 - (2) Name of establishment
 - (3) Name of owner
 - (4) Purpose for which issued.
 - (5) Location of licensed premises.
- C. The term of the license shall be for one year or any part thereof, commencing January 1st and expiring December 31st of each year.

6. License not transferable; display of license.

- A. A license issued under this article shall not be transferable to any other person, business entity or to any other location.
- B. The issued license shall be conspicuously displayed, at all times, on the licensed premises.

7. Age Restrictions; proof of age; signage.

- A. No person, either directly or indirectly by an agent or employee, or by a vending machine owned by the person or located in the person's establishment, shall sell, offer for sale, distribute for commercial purposes at no cost or minimal cost or with coupons or rebate offers, give or furnish, to a person under 21 years of age, any electronic smoking or vapor device that can be used to deliver nicotine or other substances to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, cigarillo, hookah, pipe or device of another form, or any cartridge or other component of the electronic smoking or vapor device or related products.

- B. An electronic smoking or vapor device operation must require proof of age from any customer. It shall not be a defense to a violation of this Chapter that the customer appeared older than 21. Proof must be provided in the form of a valid government issued photo ID.
- C. Signage must be conspicuously posted at the point of display and at the point of sale. The sign must state the following in English with letters no less than 1 inch in size as follows:
 - (1) "A person who sells or offers to sell an electronic smoking or vapor device, components, cartridges or related products to a person under 21 years of age shall pay a penalty of up to \$1,000 and may be subject to a license suspension or revocation. Proof of age may be required for purchase. Those persons or establishments in violation shall be prosecuted."
 - (2) "Smoking, sampling or using an electronic smoking or vapor device inside this place of business is prohibited by NJ State law. Those establishments or individuals in violation shall be prosecuted. The penalty for a violation of this section shall be as set forth in Violations and penalties set forth hereafter."
- D. No electronic smoking or vapor device operation shall offer or allow the smoking or sampling of an electronic smoking or vapor device to anyone who is under 21 years of age.

8. Suspension or revocation of license.

- A. Licenses issued under this Article may be revoked or suspended by the Borough Council, after a public hearing. Reasons for automatic temporary suspension or revocation, subject to a subsequent hearing if so requested, of an establishment license include but are not limited to the following:
 - (1) Fraud, misrepresentation or false statement in the application for the establishment license.
 - (2) Fraud, misrepresentation or false statement made while operating the licensed business in the Borough.
 - (3) Conducting the licensed business within the Borough in an unlawful manner or in such a manner as to constitute a menace or danger to the health, safety or general welfare of the public.
 - (4) The owner and/or operator or any employee refuses to permit any duly authorized Borough Police Officer or health official to inspect the premises or the operations therein.
 - (5) For a violation of any provision of the Article.
- B. In addition to any penalty prescribed, any license under this Article is subject to revocation for violating any provision of this Article or where the operation of the licensed premises is otherwise detrimental to the preservation of the health, safety and welfare of the public. The Health Officer shall serve the licensee with a written complaint setting forth specifically the grounds of the complaint along with a notice indicating the time and place to appear before the Council for a hearing if so requested by the person or business. Such service shall be made by personal service or certified and regular mail at least 10 days before the hearing date. The Council after such hearing, if requested, may suspend or revoke the license. If no request for a hearing is made before the hearing date, the license may be suspended or revoked.
- C. Should it be determined that the conduct of the licensee is detrimental to the health, safety and general welfare of the public, such establishment's license may be suspended by the Borough and the establishment shall close until all violations are corrected. The Health Officer may also recommend revocation of the license and suspend the license pending the revocation hearing referred to in section B. above. This hearing must be concluded within forty-five (45) days of the date of the suspension and closure of the establishment.

9. Violations and penalties.

A person who violates the provisions of this Chapter, including the owner of the operation or the employee of the operation who actually sells or otherwise provides an electronic smoking or vapor device or related product to a person under 21 years of age, shall be liable to a penalty as

set forth in Chapter 1, Section 1-5 of the Borough Code and/or a suspension or revocation of the operating license.

BE IT FURTHER ORDAINED as follows.

2. All ordinances or parts of ordinances or resolutions that are in conflict with the provisions of this Ordinance are repealed to the extent necessary.
3. If any article, section, subsection, term or condition of this Ordinance is declared invalid or illegal for any reason, the balance of the Ordinance shall be deemed severable and shall remain in full force and effect.
4. This Ordinance shall take effect after approval of the Mayor or in accordance with law and publication and passage according to law.

NOTICE

NOTICE IS HEREBY GIVEN, that the above Ordinance was introduced and passed on first reading at the regular meeting of the Mayor and Borough Council of the Borough of Pompton Lakes, County of Passaic, State of New Jersey held in the Municipal Building on the 16th day of October, 2019, and the same came up for final passage at the regular meeting of the Mayor and Borough Council held on the 30th day of October, 2019, at which time, after persons interested were given the opportunity to be heard concerning said Ordinance, the same was passed and will be in full force and effect in the Borough of Pompton Lakes after approval by the Mayor or in accordance with law.

Approved:

Michael Serra, Mayor

Elizabeth Brandsness, Borough Clerk