

The Office of
SUSAN ALIBOZEK
City Clerk



TO: Common Council

FROM: Susan Alibozek
City Clerk

DATE: July 3, 2013

RE: Committee of the Whole

Mayor Thane has called a Committee of the Whole for **Tuesday, July 9, 2013 at 6:30 p.m.** in the Common Council Chambers, 61 Church Street.

Items for discussion:

1. Discussion on Smoke Fee Recreation Areas in City
2. Continued Discussion of 2013-2014 Capital Projects
3. Any other business to come before the Council

CC: Department Heads
Media

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City of Amsterdam
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Project ACTION, Tobacco-free Coalition of Hamilton, Fulton, and Montgomery Counties works with communities to establish tobacco-free outdoor policies. We invite you to join the growing number of Municipalities across Hamilton, Fulton, and Montgomery Counties that protect children from exposure to secondhand smoke and toxic tobacco litter in your community.

Summer is here and children are playing outdoors at the parks, playgrounds, and other recreational areas in the city. There are many reasons that Hamilton, Fulton, and Montgomery County residents are in favor of tobacco-free playgrounds, such as:

- There is no safe level of exposure to secondhand smoke. It leads to serious illnesses including asthma, respiratory infections, and cardiovascular disease.
- Cigarette litter is hazardous to children, animals, and the environment and it's costly to clean up.
- Parks are about enjoying clean air, natural beauty, and healthy activities.

In recent years we have worked with numerous villages, towns, and cities and here is what they had to say:

"The Tobacco-free areas of Speculator have been wonderful! The grounds are cleaner and it gives the community a sense of ownership as they themselves enforce this policy."
 Letty Rudes, Mayor
 Village of Speculator

"I am proud to say that the City of Gloversville parks are now tobacco free. Children and adults should not have to play or have picnics in parks while breathing in second hand smoke. Our parks have also become cleaner as a result as well. I support Project ACTION and encourage more municipalities to make their parks tobacco free!"
 Dayton King, Mayor
 City of Gloversville

"What a difference a smoke free zone sign makes. Many people ignore directive signs. To my amazement the signs are doing the job. Just look at the ground."
 Martin Natoli, Mayor
 Village of Hagaman

We provide guidance, sample policy/resolution and free signage for your municipality, to support efforts to create tobacco-free parks. Enclosed is a fax back form or please call 841-3453 to let us know of your interest. Thank you for your time.

Sincerely,

Susan Arminio
Program Coordinator, Project ACTION

www.projectactionhfm.org



Project ACTION Tobacco-Free Coalition
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CITY OF AMSTERDAM
RESOLUTION ESTABLISHING
TOBACCO-FREE POLICY

WHEREAS, the City of _____ believes that tobacco use in the proximity of children and adults engaging in or watching outdoor recreational activities at town owned or operated facilities is detrimental to their health and can be offensive to those using such facilities; and

WHEREAS, the City of _____ has a unique opportunity to create and sustain an environment, that supports a no-tobacco standard through a tobacco-free policy, rule enforcement, and adult-peer role modeling on town owned outdoor recreational facilities; and

WHEREAS, the City of _____ believes parents, leaders, and officials involved in recreation are role models for youth and can have a positive effect on the lifestyle choices they make; and

WHEREAS, the tobacco industry advertises at and sponsors recreational events to foster a connection between tobacco use and recreation; and

WHEREAS, cigarettes and chew products, once consumed in public spaces, are often discarded on the ground requiring additional maintenance expenses, diminish the beauty of the town's recreational facilities and pose a risk to toddlers due to ingestion; and

WHEREAS, the City of _____ determines that the prohibition of tobacco use at the town's recreational facilities serves to protect the health, safety and welfare of the citizens of _____.

NOW, THEREFORE BE IT RESOLVED, by the City of _____, that the following tobacco-free policy is adopted.

SECTION 1: DEFINITIONS

Beach means any outdoor area along a shoreline of an ocean or lake and extending [one thousand (1,000) feet] from the shoreline that is owned or operated by the [City] [or that is open to the general public, regardless of any fee or age requirement].

Playing Field: Portion of an outdoor Recreational Area that is set up and marked in some way for the playing of one or more specific games or sports (such as baseball, football, or soccer), and that is [owned or operated by the City and] open to the general public. For the purposes of this chapter, a playing field that is fenced or the outside perimeter of which is otherwise physically demarcated shall be deemed to include all of the area inside such fence or demarcation, together with any bleachers or other designated viewing area; a playing field that is not fenced or otherwise demarcated (as to its outside perimeter) shall be deemed to include all of the area customarily required for playing the game for which it is being used, together with any bleachers or other designated viewing area.

Reasonable Distance: A distance that ensures that people located within an area in which smoking is prohibited are not exposed to secondhand smoke created by smokers outside the area. This distance shall be a minimum of [twenty (20 feet)] in any direction.

Recreational Area: Any outdoor area that is [owned or operated by the City and] open to the general public for recreational purposes, regardless of any fee or age requirement. The term "Recreational Area" includes but is not limited to Playing Fields, playgrounds, parks, picnic areas, golf courses, walking paths, gardens, hiking trails, bike paths, horseback riding trails, swimming pools, roller- and ice-skating rinks, skateboard parks, and amusement parks. The term "Recreational Area" is not intended to include streets and sidewalks unless they are located within a demarcated Recreational Area such as a park. This definition includes spectator and concession areas, and restrooms located within the demarcated Recreational Area.

Smoking: The inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, in any manner or in any form.

Tobacco Product: Any manufactured product containing tobacco or nicotine, including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, bidis, snus, dissolvable tobacco products, and electronic cigarette cartridges. However, "Tobacco Product" does not include any product that has been approved by the U.S. Food and Drug Administration, pursuant to its authority over drugs and devices, for sale as a tobacco use cessation product or for other medical purposes and is being marketed and sold solely for that approved purpose.

SECTION 2: TOBACCO USE PROHIBITED IN OUTDOOR RECREATIONAL FACILITIES.

Smoking and the use of Tobacco Products is prohibited in all of the following places within the [Town]:

- (1) Beaches;
- (2) Recreational Areas; and
- (3) Playing fields

Nothing in this Chapter prohibits any Person with legal control over any property from prohibiting Smoking and Tobacco Product use on any part of such property, even if Smoking or the use of Tobacco Products is not otherwise prohibited in that area.

The Department of _____ shall issue requirements about the content and placement of signage advising the public of the restriction of Tobacco Products usage and/or Smoking in the designated areas.

The Director of _____ or his/her designee shall engage in an ongoing educational program to explain and clarify the purposes and requirements of this Chapter. However, lack of such education shall not be a defense to a violation of this Chapter.

SECTION 3: PENALTIES

Penalties to include are up to the City and can vary from written warnings to monetary fines. A town should look to penalty provisions of similar ordinances and policies. Here is an excerpt of the penalty provision in our model Outdoor Air Ordinance

- (A) The remedies provided by this Chapter are cumulative and in addition to any other remedies available at law or in equity.
- (B) Each instance of Smoking or Tobacco Product use in violation of this Chapter shall constitute a separate violation. For violations other than Smoking or Tobacco Product use, each day of a continuing violation of this Chapter shall constitute a separate violation.
- (C) Causing, permitting, aiding, abetting, or concealing a violation of any provision of this Chapter shall also constitute a violation of this Chapter.
- (D) Each violation of this Chapter is an infraction subject to a [one hundred dollar (\$100)] fine.
- (E) Enforcement of this Chapter shall be the responsibility of [____]. In addition, any peace officer or code enforcement official may enforce this Chapter.
- (F) Any violation of this Chapter is hereby declared to be a nuisance.

(G) In addition to other remedies provided by this Chapter or by other law, any violation of this Chapter may be remedied by a civil action brought by the City Attorney, including, but not limited to, administrative or judicial nuisance abatement proceedings, code enforcement proceedings, and suits for injunctive relief.

(H) Nothing in this Chapter shall create a right of action in any Person against the [City] or its agents to compel public enforcement of this Chapter against private parties.

(I) Any Person may bring a civil action to enjoin a violation of this Chapter by a business or to enjoin repeat violations of this Chapter by an individual.

SECTION 4: EFFECTIVE DATE

This policy statement is effective immediately upon the date of adoption.

Adopted by the City of _____ on this _____ day of _____ 2013.
