

★ Roll Call Number

Agenda Item Number

46

Date August 6, 2007

An Ordinance entitled, "AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, by adding and enacting new Section 34-209 of Chapter 34, Cemeteries and a new Section 74-116 of Chapter 74, Parks and Recreation thereof, relating to smoking prohibition",

which was considered and voted upon under Roll Call No. 07-1426 of July 23, 2007; again presented.

Moved by _____ that this ordinance be considered and given second vote for passage.

(Second of three required readings)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

_____ City Clerk

MOTION CARRIED

APPROVED

.....
Mayor



**Council
Communication**
Office of the City Manager

Date	July 23, 2007
Agenda Item No.	28 46
Roll Call No.	07-1426
Communication No.	07-458
Submitted by: Donald M. Tripp, Parks and Recreation Director	

AGENDA HEADING:

Amending the Cemetery Ordinance by adding new section 34-209 and amending the Park and Recreation Ordinance by adding new section 74-116 to prohibit smoking at selected Park and Recreation Department facilities and youth programs.

SYNOPSIS:

Recommend approval of an amendment to Chapter 34 of the Municipal Code prohibiting smoking at municipal cemetery offices and an amendment to Chapter 74 of the Municipal Code prohibiting smoking at various Park and Recreation Department facilities and youth programs or within 25 feet of the entrances to such facilities or programs.

FISCAL IMPACT:

Amount: \$500.00 (signage)

Funding Source: GE001 PKS010400 Cemetery, page 223 and GE001 PKS070400 Horticultural Maintenance, page 233.

ADDITIONAL INFORMATION:

At their June 26, 2007 meeting, the Des Moines Park and Recreation Board voted to recommend to the Des Moines City Council approval of an ordinance which would prohibit smoking at various park and recreation facilities and youth programs. This action was based on staff's recommendation and feedback from the Board to prohibit smoking in swimming environments, where patrons are barefoot, at youth activities and venues and areas where the Park and Recreation Department has received complaints from the public related to smoke and debris in outdoor environments where seating is confined to a limited area.

The recommended smoking prohibitions are:

- (a) A person shall not smoke in or on the following facilities or in or on City owned real estate which is within 25 feet of such facilities' entrances:
 - (1) The park between 10th and 15th Streets and Grand Avenue and Locust Street aka Western Gateway Park;
 - (2) Aquatic Centers and swimming pools;
 - (3) Gray's Lake Beach;
 - (4) Wading pools;
 - (5) Playgrounds;

- (6) Enclosed shelters;
 - (7) Golf course clubhouses;
 - (8) Park restrooms;
 - (9) James W. Cownie Baseball Park;
 - (10) James W. Cownie Soccer Park;
 - (11) Community centers;
 - (12) Long Look Gardens
 - (13) Westchester Park
- (b) A person shall not smoke in the area in a facility where the following programs for youth under the age of 18 are in progress or on or in City owned real estate which is within 25 feet of such programs:
- (1) Park and recreation department sponsored activities;
 - (2) Athletic games and athletic practices;
 - (3) Summer programs.
- (c) A person shall not smoke in any facility during concerts sponsored by the Park and Recreation Department.

For the purposes of this section “smoke” or “smoking” means to carry or exercise control over a lighted cigar, cigarette, pipe, or other lighted smoking equipment. This mirrors the definition in the City parking garage smoking ordinance.

Paragraph (d) of this ordinance would allow exceptions, suspensions or modifications to the smoking prohibitions for special events by permit issued by the Park and Recreation Director. Therefore, if a private promoter desires to host a concert within Western Gateway Park and to allow smoking, the Park and Recreation Director is authorized to approve such a request. There will need to be very compelling evidence of the need for smoking at the event for the Director to approve the waiver. This ordinance does not prohibit smoking at concerts or events held at Simon Estes Amphitheater that are not sponsored by the Park and Recreation Department.

The recommendation is a result of feedback from various patrons participating in department- sponsored program offerings, complaints about smoke at various City-sponsored events held in confined spaces, and the debris created by discarded cigarette butts. Although there is some research concerning the negative impact of second-hand smoke in outdoor environments, the recommendation is based on patron satisfaction (debris, smoke, or cigarette butt embers) rather than any possible health issues related to tobacco use.

Upon approval of this ordinance, staff will issue a press release and install appropriate signage within the affected areas. The on-site signage will aid in empowering citizens to address concerns should smoking occur in a prohibited area, and field staff in informing the public of this new park rule. An evaluation to be conducted within one year of the effective date of the Prohibited Smoking Ordinance and relating to police enforcement, field observations and customer comments will be submitted to the Park and Recreation Board and Des Moines City Council upon completion.

PREVIOUS COUNCIL ACTION(S): NONE

BOARD/COMMISSION ACTION(S):

Date: June 26, 2007

Roll Call Number: N/A

Action: The Park and Recreation Board approved recommendation to Des Moines City Council to establish an ordinance to prohibit smoking at various park and recreation facilities and youth programs.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

Receive and file field report after one year of implementation of the Smoking Prohibited Ordinance.

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ORDINANCE NO. _____

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, by adding and enacting new Section 34-209 of Chapter 34, Cemeteries and a new Section 74-116 of Chapter 74, Parks and Recreation thereof, relating to smoking prohibition.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, is hereby amended by adding and enacting new Section 34-209 of Chapter 34, Cemeteries and a new Section 74-116 of Chapter 74, Parks and Recreation thereof, relating to smoking prohibition, as follows:

Sec. 34-209. Smoking Prohibited.

- (a) No person shall smoke in the cemetery offices.
- (b) For purposes of this section "smoke" or "smoking" means to carry or exercise control over a lighted cigar, cigarette, pipe, or other lighted smoking equipment.

Sec. 74-116. Smoking Prohibited.

- (a) A person shall not smoke in or on the following facilities or in or on city owned real estate which is within 25 feet of such facilities' entrances:
 - (1) The park between 10th and 15th Streets and Grand Avenue and Locust Street a/k/a "Western Gateway Park";
 - (2) Aquatic Centers and swimming pools;
 - (3) Gray's Lake Beach;
 - (4) Wading pools;
 - (5) Playgrounds;

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- (6) Enclosed shelters;
- (7) Golf course clubhouses;
- (8) Park restrooms;
- (9) James W. Cownie Baseball Park;
- (10) James W. Cownie Soccer Park;
- (11) Community centers;
- (12) Long Look Garden; and
- (13) Westchester Park.

(b) A person shall not smoke in the area in a facility where the following programs for youth under the age of 18 are in progress or on or in city owned real estate which is within 25 feet of such programs:

- (1) Park and recreation department sponsored activities;
- (2) Athletic games and athletic practices; and
- (3) Summer programs.

(c) A person shall not smoke in any facility during concerts sponsored by the park and recreation department.

(d) Exceptions, suspensions or modifications to the smoking prohibitions in this section may be made for special events by permit from the park and recreation director.

(e) For purposes of this section "smoke" or "smoking" means to carry or exercise control over a lighted cigar, cigarette, pipe, or other lighted smoking equipment.

Sec. 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

Ann DiDonato
Ann DiDonato
Assistant City Attorney