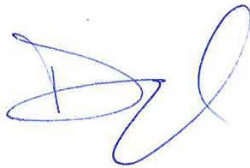


City of Calistoga

Staff Report

TO: Honorable Mayor and City Council
FROM: Dylan Feik, City Manager
DATE: October 18, 2016
SUBJECT: Consideration of an Ordinance Amending Chapter 12.24 titled "Park Rules and Regulations" by adding new sections to the Calistoga Municipal Code Chapters 12.24.040 Tobacco Use in City Parks and 12.24.041 Tobacco use in City Parks - Enforcement

APPROVAL FOR FORWARDING:



Dylan Feik, City Manager

1 **ISSUE:** Consideration of Adoption of ordinance related to smoke-free public
2 parks and direct staff accordingly.

3
4 **RECOMMENDATION:** The Council has several options, including:

- 5
6 1. Adopt an Ordinance and consider final adoption by amending Chapter
7 12.04 titled "Park and Recreation Area Use Regulations" by adding new
8 sections to the Calistoga Municipal Code Chapters 12.04.230 Tobacco
9 Use in City Parks and 12.04.231 Tobacco use in City Parks –
10 Enforcement.
11 2. Consider whether or not to include public parking lots.
12 3. Not pursue Calistoga Municipal Code amendments related to Park and
13 Recreation Area Use Regulations.

14
15 **BACKGROUND:** In late 2015, representatives from Napa County Tobacco
16 Education Program met with City officials and expressed the program's goal to
17 implement smoke-free public parks within Napa County. The program obtained

18 public input through a “Smoke Free Parks Public Opinion Survey,” which found
19 the following –

- 20 • 96.7% of respondents felt that “tobacco litter in public parks is harmful to
21 the environment.
- 22 • 94.3% of respondents felt that “tobacco use in public parks is harmful to
23 your health or the health of your family.”
- 24 • 86.5% of respondents would “support a policy to make Calistoga’s public
25 parks smoke free.”

26

27 **Follow Up to Council Meeting – September 20th, 2016**

28 The Napa County Tobacco Education Program introduced the ordinance to City
29 Council on Tuesday, September 20th, 2016. The presentation was well-received
30 and Council did ask a few questions. First, Council asked whether or not this
31 ordinance would restrict the use of marijuana in public parks. Under Health &
32 Safety Code section 11326.3(a) –

33

- 34 a. Individuals may not smoke marijuana in the following locations [in part]:
 - 35 - Any public place;
 - 36 - Anywhere smoking tobacco is prohibited;

37

38 Council also asked questions regarding enforcement and signage at public parks
39 and suggested whether or not “public parks” would include parking lots at the
40 parks. Council may determine whether or not to include public parking lots within
41 this ordinance amendment.

42

43 **DISCUSSION:** This specific ordinance was not identified by the City Council as
44 a priority project for Fiscal Year 2016-17; however, the larger Council Goal #4 of
45 “Create an environmentally-sustainable community” does include an objective to
46 “Implement green environmental sustainability policies and initiatives.”

47

48 **FISCAL IMPACT:** If Council considers adopting the ordinance, park signs will
49 need to be updated to reflect this change. Sign replacements are inexpensive
50 and additional costs will be nominal.

51

52 **ATTACHMENT:**

- 53 1. Draft Ordinance 723
- 54 2. Example of American Canyon Resolution
- 55 3. Smoke Free Parks Public Opinion Survey

56

ORDINANCE NO. 2016- XXX**AN ORDINANCE OF THE CITY OF CALISTOGA AMENDING CHAPTER 12.24 TITLED
“PARK RULES AND REGULATIONS” ADDING SECTIONS 12.24.040 TOBACCO USE
IN CITY PARKS AND SECTION 12.24.041 TOBACCO USE IN CITY PARKS –
ENFORCEMENT**

WHEREAS, there are numerous scientific studies and data have suggested that secondhand tobacco smoke is a major cause of disease, including lung cancer, in non-smokers, with a heightened risk to the elderly, individuals with cardiovascular disease, and individuals with impaired respiratory function including asthmatics and those with obstructive airway disease; and

WHEREAS, the United States Environmental Protection Agency has classified secondhand tobacco smoke as a class A carcinogen known to cause cancer in humans; and

WHEREAS, in early 2006, following a comprehensive four year study the California Air Resources Board declared secondhand smoke a toxic air contaminant, which has been linked to 400 additional lung cancer deaths a year in non-smokers, 3,600 fatal heart attacks and 31,000 asthma attacks in children; and

WHEREAS, the list of health hazards associated with breathing secondhand tobacco smoke includes lung cancer, respiratory infection, decreased exercise tolerance, decreased respiratory function, bronchoconstriction and bronchospasm; and

WHEREAS, nonsmokers with allergies, respiratory ailments and others who suffer the ill effects of breathing secondhand smoke may experience a loss of job productivity or miss work because of the ill effects of tobacco on their health and higher costs to employers may result due to an increase in absenteeism, accidents, the cost of medical care, and loss of productivity; and

WHEREAS, in addition to these health hazards, smoking and the improper disposal of cigarettes is a documented environmental and fire hazard; and

WHEREAS, smokeless tobacco is not a safe alternative and causes its own share of death and disease including lung, larynx, esophageal, and oral cancer; and the regular use of snuff doubles the users risk of cardiovascular disease and death; and

WHEREAS, electronic cigarettes and similar nicotine delivery devices are not safe alternatives to smoking, of which the full health impacts are not completely known, although at minimum, the same adverse health effects from smoking are apparent; and

38 **WHEREAS**, the City Council hereby finds that smoking in public parks and
39 associated facilities is a positive danger to health, and that prohibiting smoking in
40 parks is thus necessary to preserve the public safety, health and welfare; and

41 **WHEREAS**, this Ordinance is exempt from environmental review pursuant
42 to Sections 15301, 15304 and 15307 of the State Guidelines implementing the
43 California Environmental Quality Act of 1970, as amended (“CEQA”), because the
44 adoption of smoking prohibited in all parks will not have a significant effect on the
45 environment and therefor such action is exempt from CEQA review; and

46 **WHEREAS**, a public hearing was held by the City Council of the City of
47 Calistoga on _____, 2016, after due notice was given as required by law, at
48 which time oral and documentary evidence was introduced to the City Council of
49 the City of Calistoga; and

50 **WHEREAS**, the City Council has considered all information related to this
51 matter, as presented at the public meeting of the City Council identified herein,
52 including any supporting reports by City Staff, and any information provided
53 during public meetings.

54

55 **THE PEOPLE OF THE CITY OF CALISTOGA DO ORDAIN AS FOLLOWS:**

56

57 **SECTION 1**

58 Chapter 12.24 of the Calistoga Municipal Code titled “Park Rules and
59 Regulations” is hereby amended by adding new section 12.24.040 to read as
60 follows:

61

62 **12.24.040 Tobacco use in City Parks**

63 In City Parks and Recreation Facilities, the use of tobacco products including
64 but not limited to cigarette smoking, use of electronic cigarettes or similar
65 nicotine delivery devices and use of smokeless tobacco is prohibited. Parks and
66 Recreation Facilities is defined as parks, landscaped trail areas, landscape areas
67 proximate to recreation facilities including the Calistoga Community Pool,
68 Calistoga Community Center, Monhoff Center, Pioneer Park and any other similar
69 facilities.

70

71 In addition to common Municipal Code violation practices, violators of this
72 chapter shall be referred to a local anti-smoking program.

73

74 The parks and Recreation Director may authorize the creation of designated
75 smoking areas for events lasting longer than four hours.

76
77 **SECTION 2**
78 Chapter 12.24.041 of the Calistoga Municipal Code titled "Park and
79 Recreation Area Use Regulations" is hereby amended by adding new section
80 12.04.241 to read as follows:

81
82 **Chapter 12.04 PARK AND RECREATION AREA USE REGULATIONS**
83
84 **12.04.041 Tobacco use in City parks - Enforcement**
85 Pursuant to Calistoga Municipal Code Section **12.24.040** violation of
86 tobacco use in city parks constitutes an infraction unless such violation is
87 specifically designated.

88
89 **PASSED, APPROVED AND ADOPTED** at a regular meeting of the City Council
90 on the _____, of _____ 2016 by the following vote:

91
92 **AYES:**
93 **NOES:**
94 **ABSTAIN:**
95 **ABSENT:**
96

97
98 _____
99 **Chris Canning, Mayor**

100 **ATTEST:**
101
102 _____
103 **Kathy Flamson, City Clerk**