

Regulation of Outdoor Smoking: CHAPTER 280, City of Ithaca Code

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TIMELINE

March 2007	Met with a Common Council member to introduce outdoor smoking regulations, Point-Of-Purchase resolution and No Thanks policy.
July 2007	Presentation to Ithaca Common Council Environment & Neighborhood Quality (E&NQ) Committee.
October 2007	Resolution – Support for Tobacco-Free Zones and Other Voluntary Steps to Reduce Smoking, POS, No Thanks – Full Council Carried Unanimously
October 2007	First meeting with Ithaca Downtown Alliance staff
December 2007	On the heels of discussions at E&NQ Committee meetings, Ithaca Journal editorial supports smoke-free outdoor areas.
January 2008	E&NQ Committee dissolved. Issue not immediately reassigned.
January 2008	“Smoke-free Commons” discussed with Ithaca Downtown Alliance board, and supported in concept.
March 2008	Ithaca Times runs a cover story about smoke-free Ithaca. Cover art shows a giant cigarette crushed out on The Commons. Article challenges public costs of smoking and cites a study showing that it costs government less when smokers die prematurely.
March 2008	Contacted the Mayor regarding reassigning the issue to a Common Council committee in the wake of dissolving E&NQ as of 12/31/07.
April 2008	Op-Ed in Ithaca Journal, “Ban in public outdoor areas misguided”, supports personal rights, claims that ban on outdoor smoking will force people to smoke indoors (in their apartments), which is more harmful.
May 2008	Establishment of subcommittee of the Community & Organizational Issues (C&OI) Committee to “Review proposed smoking regulations.” In voting against establishment of the subcommittee, Alderperson Myrick stated that “he is disappointed that this matter will have to come back to the committee next month for further review, discussion and consideration.”
June 2008	Subcommittee begins weekly meetings.
August 2008	Subcommittee’s “Inner-T” solution for regulating smoking on the Ithaca Commons is presented to the C&OI committee.
October 2008	Completion of 15 subcommittee meetings.
January 2009	C&OI Committee dissolved. Issue reassigned to Legislative Committee at the new committee’s first meeting at the end of Feb.
March 2009	Public comment by Tobacco Free Tompkins (TFT) to the full Common Council meeting. Alderperson Rosario responded, “... that he expects to resume the sub-committee meetings this Spring.”

March 2009	Public comment by Reality Check youth to the Legislative Committee.
April 2009	State Health Commissioner Daines appeared on the Commons to present a Public Health Excellence Award to the City, TCHD & TFT.
April 2009	Public comment at Legislative Committee meeting.
May 2009	Ithaca Youth Council endorsed the proposed regulations, and: “Ask(ed) Common Council to act to pass the new smoking regulations during the current Council session”.
May 2009	Public comment at Legislative Committee meeting. Alderperson Coles asked for a progress report at this meeting.
June 2009	Public comment at every Legislative Committee meeting through 2009.
July 2009	Subcommittee reconvenes for the first time since Oct. 2008. Met July 7, 13, 20, 29; Aug. 4, 18.
August 2009	Subcommittee update presented to Legislative Committee.
November 2009	Legislative Committee calls for a Public Hearing on the proposed regulation of outdoor smoking.
December 2009	Common Council votes to hold a Public Hearing.
December 2009	Public Hearing held. Public comment was clearly in favor of regulations.
January 2010	Public comment at full Council meeting.
January 2010	Legislative Committee dissolved. Issue reassigned to Planning & Economic Development (P&ED) Committee after that committee’s January meeting.
February 2010	P&ED Committee meeting: Proposed regulation discussed extensively, but is not voted out of Committee.
March 17, 2010	Next regular meeting of the P&ED Committee. Next opportunity for full City Council vote is April 7, 2010.
April 7, 2010	City Code Chapter 280, Regulations on Outdoor Smoking passed by Common Council vote 9–1. Effective date, Aug. 1, 2010.
Aug. 1, 2010	Regulations go into effect.
Sept. 1, 2010	Commons merchants speak at regular Common Council meeting to report clustering of smokers at unregulated ends of The Commons, outside of the “Inner-T”.
Sept. 15, 2010	P&ED Committee discusses revisions in new smoking regulations. Revision to include entire Commons in regulated area passed and sent to full Council.
Oct. 6, 2010	Regulation of outdoor smoking amended to include entire Commons, effective Nov. 1, 2010.

KEY ISSUES:

Enforcement: burden on police officers, uneven /inconsistent enforcement, unexpected enforcement, lack of clarity for enforcement, ambiguous boundaries for SF areas. Who is responsible for overseeing enforcement? Extra burden on City Clerk & major event planners (e.g., Ithaca Festival). Another “NO” that will drive people (customers) away.

Buffers: inconsistent interpretation of buffer areas, overlapping buffer areas, distancing of responsible parties from the focus of their responsibility (e.g., bus drivers too far from their bus, parents too far from their children, workers too far from their workplace).

Balkanizing: creation of smoke-free areas will drive smokers to congregate in areas that will place an undo burden on those areas (e.g., in front of businesses outside of smoke-free areas) or unsafe areas (e.g., in stairwells, alleyways). Extreme concentration of litter in these areas.

Public properties: when private property is within the buffer zone of a designated smoke-free area, smoking cannot be regulated on that private property (e.g., private property less than 25-ft from a City Hall air intake is a favorite smoking hangout, and this ordinance will not change that. Regulation within 25-ft of bus stops is also impacted by this issue.)

When in use for that purpose: should places such as outdoor dining areas, playing fields and recreation areas be smoke-free at all times, or only “when in use for that purpose”?

Signage: how much is enough? Should it be placed along the buffer zone border?

Intent: City Attorney advised that all regulation pertain to the primary, public health intent of the regulation, which is, “to reduce the proximate exposure... to second-hand tobacco smoke.” In particular, he strongly advised against building the ordinance around protecting youth from adult role-modeling, which does not have the same foundation of scientific evidence or of tested law as does the health risks associated with SHS. As a sidebar, note that the state Clean Indoor Air Act pertains only to tobacco smoke, and does not (for example) ban smoking of herbal cigarettes or non-tobacco products in a hookah.

REFERENCES

Minutes of C&OI Committee meeting, May 20, 2008:

Resolution to Create A Sub-Committee to Review Proposed Smoking Regulations

Aldersperson Myrick stated that he voted in opposition to this resolution as he feels that the Committee is over-thinking the proposed legislation and that installing appropriate signage would work and would clarify what the regulations are. He further stated that he is disappointed that this matter will have to come back to the committee next month for further review, discussion and consideration.

Minutes of Common Council meeting, March 4, 2009

Privilege of the Floor – Common Council and the Mayor:

Aldersperson Rosario reported that a lot of work has been done regarding the outdoor smoking issue; however, the regular meetings of the sub-committee were interrupted so that

a comprehensive review of the subject could be completed. He stated that he expects to resume the sub-committee meetings this Spring.

Minutes of Common Council meeting, May 6, 2009

City Clerk Holcomb read two statements into the record. The first was from Fay Gougakis that voiced her concerns regarding the Phase II of the Cayuga Waterfront Trail. The second was from Ted Schiele, Coordinator of Tobacco Free Tompkins and an employee of the Tompkins County Health Department that acknowledged Common Council's role in the Public Health Excellence Award that was recently presented jointly to the City of Ithaca, the Tompkins County Health Department, and Tobacco Free Tompkins, by New York State Health Commissioner, Richard F. Daines, M.D., for their "collaborative efforts to protect New Yorkers against exposure to second-hand smoke."

Text of Resolution before Ithaca Youth Council, May 7, 2009

THEREFORE, BE IT RESOLVED, that the **Ithaca Youth Council** endorses the following initiatives, which aim to decrease the presence of the tobacco industry in our community, and reduce the prevalence of tobacco use in the public landscape:

1. Supports Ithaca Common Council initiatives to regulate smoking in outdoor public areas, including but not limited to, all City parks, playgrounds, during public events held on City property, and on portions of The Commons, as currently being drafted by a subcommittee of the Legislative Committee;
2. Asks Common Council to act to pass the new smoking regulations during the current Council session;

[Link to minutes](#) of Ithaca Common Council meetings