

CITY OF YUBA CITY
STAFF REPORT

Date: June 10, 2009
To: Parks and Recreation Commission
From: Brad McIntire, Parks & Recreation Director

Subject: Background and consideration for an Ordinance prohibiting the use of Tobacco at all City Parks and within 50 feet of any public entrance into a City owned or leased facility.

Recommendation: Move forward with two public hearings to be held in July and August to make a recommendation to the City Council in September.

Fiscal Impact: \$1,500.00 for signs and materials to be paid by Sutter County Tobacco Control Program

Background:

On August 15, 2007, the Yuba City Parks and Recreation Commission was approached by the Substance Abuse Steering Coalition (a group of local citizens and professionals in the Tri-County area who promote a healthy substance abuse free environment for all) asking that the new Gauche Aquatic Park (GAP) be a non-smoking facility/park.

Three Public Hearings were held (September 19, 2007, October 17, 2007 and November 21, 2007), with the Appeal Democrat in attendance, and no opposition to this issue was raised during these meetings. On two separate occasions the local newspaper, the Appeal Democrat, ran an Editor's Opinion "Thumbs Down" article opposing a smoking ban.

During the last meeting held on November 21, 2007, the Substance Abuse Steering Coalition asked that the wording of their request be changed from Smoke Free to being a Tobacco Free environment. It was also stated that they would like to see all parks in Yuba City be tobacco free. The Commission stated it would like to start with one park and re-evaluate the process at a later time.

The Parks and Recreation Commission made the motion, "In an effort to reduce park user's exposure to secondhand smoke and to reduce smoking related litter in parks, the Parks & Recreation Commission is recommending that Council approve

adding a section to the Yuba City Municipal Code to include language relating to Gauche Aquatic Park be a tobacco free park”.

After two public hearings in March 2008, the City Council approved the recommendation.

Analysis:

- As it relates to facilities, Sutter County has a policy that smoking is prohibited outside in areas within 50 feet on any public entrance, open window or air ventilation intakes. These areas are clearly posted as nonsmoking areas.
- Park Maintenance and Recreation Staff has had no negative issues with the Ordinance prohibiting the use of Tobacco at Gauche Aquatic Park in the first year of implementation.
- In promoting health and wellness and facilitating community problem solving, staff believes it is in the best interest of the City to create a Tobacco Free policy for all Parks and City Facilities.
- Implementing this ordinance will hopefully help with the litter of cigarette butts in all of City Parks.
- There are approximately 90 cities and counties that have approved a No Smoking Ordinance and/or Tobacco Free Ordinance in the State of California.
- Local Cities with a No-Smoking Ordinance include: Sacramento, Davis, Woodland and Redding.

• **EXISTING LAWS:**

Tot Lot and Playground laws (California Health and Safety Code Section 104495):

As of January 2002, California Health and Safety Code 104495 prohibits the smoking of any cigarette, cigar or other tobacco related products within 25 feet of a tot lot sandbox area at a park or recreational area specifically designated to be used by children that have play equipment installed, are located on public or private school grounds, or on city, county, or state park grounds.

State, County and City Buildings (California Health and Safety Code Section 7596-7598):

Smoking is prohibited:

- inside a public building, which is a building owned and occupied, or leased and occupied, by the state, a county, a city, or a California community college district;
- In an outdoor area within 20 feet of a main exit, entrance, or operable window of a public building;
- In lobbies, lounges, waiting areas, elevators, stairwells, and restrooms that are a structural part of a covered public parking lot or a building to which such a parking lot is attached; and
- In a passenger vehicle owned by the state.

Enforcement: Outdoor smoking ordinances are designed to be self-enforcing. When communities pass these types of policies, they do not intend for police officers to spend their time searching for people smoking in public places. Rather, the expectation is that through education and signage, residents will become aware of the smoking restrictions and most individuals who smoke will obey the law. If someone does smoke in a restricted area, other people are likely to ask the individual to stop and inform them of the restrictions.

The penalty for violations of the new 9-2.23 is covered under Chapter 2 Section 1-2.02 of the Municipal Code which provides for a fine of \$100 for the first infraction, \$200 for the second and \$500 for the third.

Suggested Time-line:

First Public Hearing:	Wednesday, July 15, 2009
Second Public Hearing:	Wednesday, August 19, 2009
First Reading at Council:	Tuesday, September 1, 2009
Second Reading at Council:	Tuesday, September 15, 2009

Alternatives:

1. Move forward with two public hearings on an Ordinance prohibiting the use of Tobacco at all City Parks.
2. Move forward with two public hearings on an Ordinance prohibiting the use of Tobacco within 50 feet of any public entrance into a City owned or leased facility.

Recommendation:

Move forward with two public hearings to be held in July and August to discuss
and
consider an Ordinance prohibiting the use of Tobacco at all City Parks and
within 50 feet of any public entrance into a City owned or leased facility and make
a
recommendation to the City Council in September.

Prepared By:

Brad McIntire
Parks & Recreation Director