

City of Providence
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CHAPTER 2017-19

No. 279 AN ORDINANCE AMENDING CHAPTER 23, "STREETS, SIDEWALKS, AND PUBLIC PLACES," TO ADD SECTION 37, "NO SMOKING IN THE PUBLIC WAY"

EFFECTIVE June 15, 2017

Be it ordained by the City of Providence:

SECTION 1. The Code of Ordinances of the City of Providence, Chapter 23, Section 37 is hereby amended by adding thereto the following:

Sec. 23-37. The use of tobacco products in the Public Way.

(a) Purpose

- (1) The use of tobacco for smoking purposes is being found to be increasingly dangerous, not only to the person smoking but also to the nonsmoking person who is required to breathe the contaminated air. A pervasive intrusion of the nonsmoker's rights to unpolluted air space is the uncontrolled smoking in downtown Providence.
- (2) The City of Providence is committed to keeping its downtown clean, safe, healthy and pleasant for everyone.
 - i. Smoking is hazardous to health and numerous studies have shown that secondhand smoke is a significant public health hazard;
 - ii. Smoking in public places endangers children and others by exposing them to secondhand smoke;
 - iii. The United States Environmental Protection Agency has classified secondhand smoke as a group A carcinogen, the most dangerous class of carcinogen;
 - iv. The United States Centers for Disease Control and Prevention (CDC) has found that secondhand smoke causes children to suffer from lower respiratory tract illnesses, such as bronchitis and pneumonia, exacerbates childhood asthma and increases the risk of chronic middle ear infection in children;
 - v. Discarding cigarette butts, cigar butts and tobacco waste on sidewalks and streets is unsightly, unclean and particularly hazardous to small children who handle and sometimes ingest them;
 - vi. Cigarette butts do not biodegrade and they contain two hundred (200) known poisons, sixty-three (63) of which are known to cause cancer;
 - vii. Whereas the area described in subsection (c) of this ordinance includes a public park, a public skating rink, a major bus station, and multiple businesses.
 - viii. Whereas the area described in subsection (c) of this ordinance is an area experiencing high pedestrian traffic in a concentrated area.
 - ix. Prohibiting smoking and the improper disposal of tobacco products in the area described in subsection (c) of this ordinance is necessary to protect the public health, safety and welfare of all residents and visitors. The City of Providence intends, by the enactment of this chapter, to protect the health and atmospheric environment of the nonsmoker by regulating smoking in downtown Providence.

(b) Definitions

- (1) For the purposes of this section, "tobacco product" means any product containing tobacco or nicotine, including but not limited to cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, bidis, snus, dissolvable tobacco products, and electronic smoking devices; provided, however, that such term shall not include any product that has been approved by the U.S. Food and Drug Administration as a tobacco cessation product.
 - (2) "Electronic smoking devices" means any electronic oral device such as one composed of heating element, battery and/or electronic circuit which provides a vapor of nicotine, vapor of a solution including nicotine, or aerosol of a solution including nicotine or any other substance for inhalation. This term shall include every variation and type of such devices whether they are manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pen, an electronic pipe or an electronic hookah or any other name or descriptor. The term "electronic smoking device" does not include any device specifically approved by the United States Food and Drug Administration for use in reducing, treating or eliminating nicotine or tobacco dependence, or for any other medical purposes, when such a device is being marketed and sold solely for such approved purpose.
- (c) The use of any and all tobacco products is prohibited on all non-enclosed sidewalks and other pedestrian areas, including alleys, accessible to the public anywhere inside the boundary lines contained in paragraph (c) of this section. Where the boundary lines contained in paragraph (c) of this section coincide with streets, highways, expressways, easements, or waterways, the boundary lines are construed to be the centerline of the right-of-way.
- i. Beginning at the intersection of Francis Street and Exchange Terrace, running easterly along Exchange Terrace to the intersection of Exchange Terrace and Exchange Street.
 - ii. From the intersection of Exchange Terrace and Exchange Street, running northerly along Exchange Street to the intersection of Exchange Street and Memorial Boulevard.
 - iii. From the intersection of Exchange Street and Memorial Boulevard, running easterly along Memorial Boulevard to the intersection of Memorial Boulevard and Westminster Street.
 - iv. From the intersection of Memorial Boulevard and Westminster Street, running southerly along Westminster Street to the intersection of Westminster Street and Dorrance Street.
 - v. From the intersection of Westminster Street and Dorrance Street, running westerly along Dorrance Street to the intersection of Dorrance Street and Francis Street.
 - vi. From the intersection of Dorrance Street and Francis Street, running northerly along Francis Street to the point and place of beginning.

(d) Locations where the use of tobacco products is permitted.

The use of tobacco products is permitted in private residences and in private vehicles. The use of tobacco products is permitted on private property unless the owner prohibits the use of tobacco products on that private property.

(e) Posting of signs.

The mayor or his or her designee shall post signs that adequately inform the public of the restrictions created by this section.

(f) Penalties.

For the first offense, the violator will receive a warning. All subsequent offenses are hereby declared to be public nuisances punishable by a civil fine of fifty dollars (\$50.00) per violation. Each violation shall be deemed a separate violation, and each violation shall be subject to a separate fine.

SECTION 2. This ordinance shall take effect upon passage.

IN CITY COUNCIL
MAY 04 2017
FIRST READING
READ AND PASSED
Lois L. Day CLERK

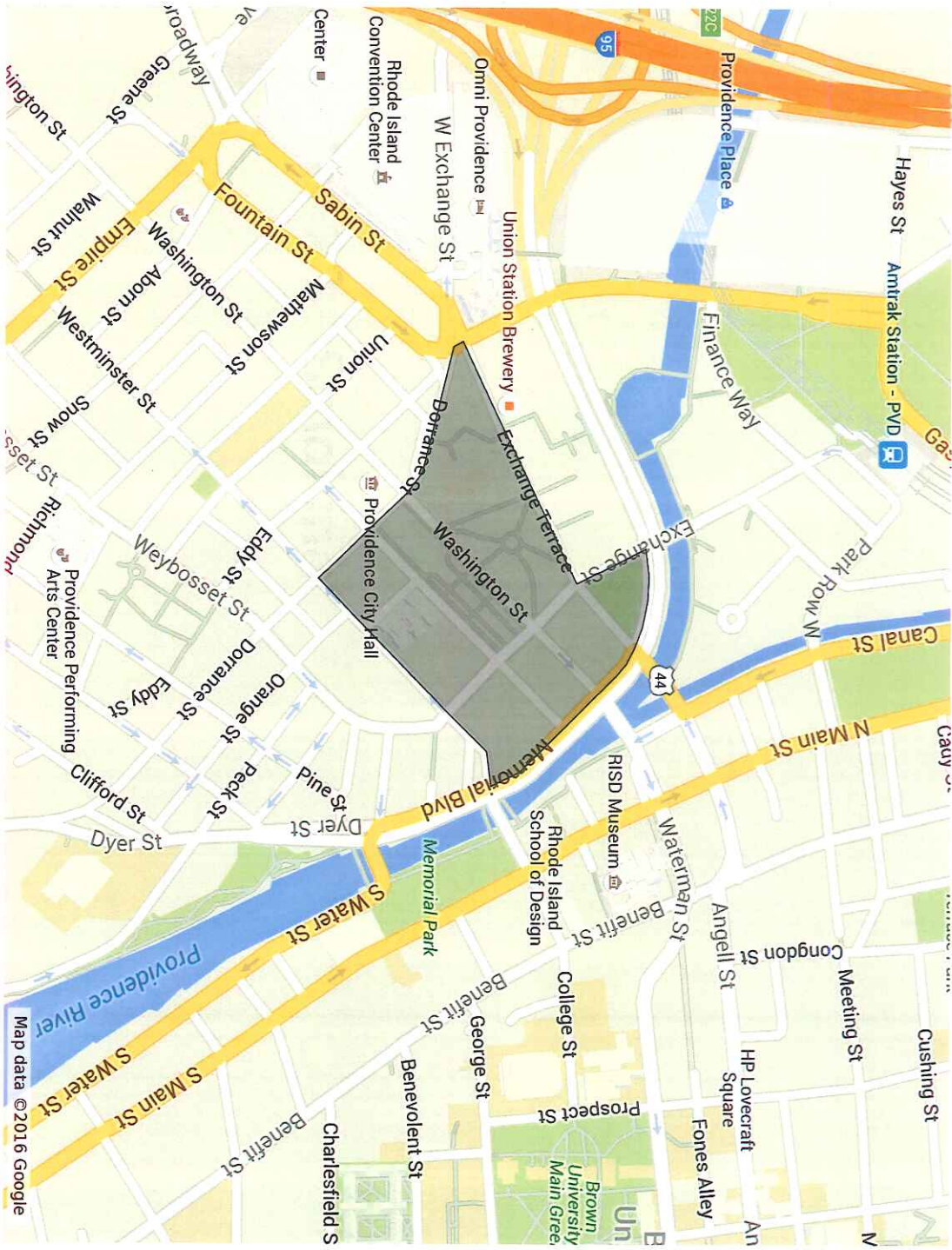
IN CITY COUNCIL
MAY 24 2017
FINAL READING
READ AND PASSED
Sabrina Mote ACTING PRESIDENT
Lois L. Day CLERK

VETO
I HEREBY DISAPPROVE AND VETO.
[Signature] MAYOR
DATE: 6/2/17

IN CITY COUNCIL
JUN 15 2017
READ AND MAYOR'S VETO
OVERRIDEN
Lois L. Day CLERK

Amendment to Chapter 23 - Smoking

No Smoking Boundaries
No Smoking Boundaries





OFFICE OF THE COMMISSIONER OF PUBLIC SAFETY
Steven M. Paré, Commissioner of Public Safety | Jorge O. Elorza, Mayor

May 4, 2017

The Honorable Luis A. Aponte, Council President
The Honorable Members of the Providence City Council
Providence City Hall
25 Dorrance Street
Providence, RI 02903


RE: Downtown Smoking Ban

Dear President Aponte and Honorable Members of the Providence City Council:

I continue to have concerns with the smoking ban ordinance that is being considered before the City Council. We must prioritize our limited resources in public safety and the enforcement of the smoking ban on the police is not practical. The Providence Police Department concentrates on enforcing criminal law and smoking tobacco in public spaces should not be the role of police officers in Providence. It puts our police officers in a difficult position and their discretion to enforce an otherwise legal behavior as tobacco smoking. The use of tobacco should be looked upon as a health concern and not as a violation of the city ordinance.

We continue to build our relationship with the community to be effective in enforcing criminal law and this would have an adverse impact when we are responsible for those smoking tobacco in public spaces. I am also concerned with people who frequent our public streets in the City of Providence and smoke cigarettes and this ordinance requiring us to ticket and fine those indigent violators clearly would not be in a position to continuously pay these fines.

Very truly yours,


Steven M. Paré
Commissioner of Public Safety

PROVIDENCE THE CREATIVE CAPITAL
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www.providenceri.com



Mayor of Providence

Jorge O. Elorza

June 2, 2017

The Honorable Members of the Providence City Council
Providence City Hall
25 Dorrance Street
Providence, RI 02903

Regarding: Veto of ordinance amending chapter 23, 'Streets, sidewalks and public places,' to add section 37, 'No Smoking in the Public Way'."

Honorable Members of the City Council,

I am writing to explain why I have chosen to veto your ordinance amending chapter 23, "Streets, sidewalks and public places," to add section 37, "No Smoking in the Public Way".

While this ordinance is ostensibly about smoking, its true target is the homeless community. Homelessness is a serious problem in Providence, just as it is in cities across the country. As you are aware, the causes of homelessness are multi-faceted and deep-rooted and include substance abuse, mental illness and, of course, economic challenges. That is why my administration, along with all of you, have been working to address the problem at its root and that is why we have invested in so many important initiatives to deal with the problem of homelessness.

Working together, we have invested in Amos House's program, "A Hand Up," which creates work opportunities for homeless individuals and also helps the city address blight. We are working with House of Hope to create a navigation center to connect homeless individuals to services and ultimately to housing; we are supporting the emergency room diversion center established by the Providence Center to support inebriated individuals; we are working with Crossroads and other organizations to address the needs of people in the Upper Broad Street area; and we will continue to advocate for state Affordable Housing Bond funds to go towards housing the homeless. If we are truly going to address the problem, we must address it at its root.

Aside from these initiatives, the city has also invested heavily to ensure that people who live, work and visit downtown are safe. In fact, we have invested hundreds of thousands of dollars over the past year to both run an undercover sting operation and to have a continuous police presence in the Kennedy Plaza area. This resulted in a large number of drug-related arrests in the early stages of this initiative and

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has eliminated most if not all of the open-air drug dealing in the plaza. If anyone walking through our downtown area is nonetheless threatened or harassed, they should call the police and we will respond immediately.

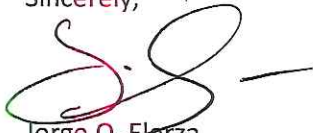
With all this as context, I am vetoing this ordinance because it is a waste of valuable police resources; because it is bad policy to criminalize poverty; and because it will be ineffective.

We have a finite amount of police resources and it is a waste of their time to have them focus on people who are smoking. We have been successful in reducing crime city-wide in the past couple of years and I believe our officers should be focused on serious crime, not criminalizing poverty.

I believe the ordinance certainly will not solve the problem of homelessness and panhandling. At best, the ordinance will simply push people to move to a block or two away, and the City will surely get complaints from property owners on those blocks. It makes no sense to simply shift the problem to another street or neighborhood.

Last, I do not believe that ticketing tourists and visitors who accidentally walk on the wrong sidewalk is in the city's best interest. I'm open to other ways to address the concerns that have been expressed by members of the council and others. But for the aforementioned reasons, I cannot support this ordinance.

Sincerely,



Jorge O. Elorza
Mayor