



May 7, 2015

Superintendent Christopher Williams
Board of Park Commissioners
Seattle Parks and Recreation
100 Dexter Avenue N.
Seattle, WA 98109

VIA U.S. MAIL AND ELECTRONIC MAIL

Re: **Proposed Parks Code of Conduct P 060 7.21.00 section 3.2.10 to ban smoking in public parks**

Dear Superintendent Christopher Williams and the Seattle Parks and Recreation Board of Park Commissioners,

I am writing on behalf of the American Civil Liberties Union of Washington (ACLU-WA) to urge the Seattle Parks and Recreation Department to reject the proposed amendment to Parks Code of Conduct P 060 7.21.00 section 3.2.10 which would ban all smoking in Seattle public parks.

The proposal is unnecessary. The Parks Department currently has a rule that accounts for concerns about second-hand smoke by prohibiting smoking and other tobacco use within 25 feet of other park patrons, play areas, beaches, playgrounds, and picnic areas in parks. This is a sufficient restriction for use of a legal product.

The rule would disproportionately impact the poor and homeless, who do not have living rooms and front porches, with minimal health benefits over the current rule. If individuals had a private residence to smoke in, there would be less of a need to smoke in a public park. Banning low-income and homeless individuals from public spaces simply for smoking is not an acceptable approach.

Although the Department asserts that the rule will be applied equally to all park users, it is clear that homeless people will be disparately impacted. Homeless individuals tend to spend more time in public parks. The National Coalition for the Homeless has listed broad smoking bans as among the most objectionable of anti-homeless measures because they are never enforced equally.

In this case, the enforcement will be specifically targeted at the parks in the downtown core of Seattle, where homeless populations are particularly high. Furthermore, Seattle has a history of disproportionately enforcing similar regulations. For example, during the first six months of marijuana legalization, more than half of the tickets for public smoking were issued to homeless individuals or individuals with addresses associated with homeless services.

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Enforcement of this ban will impose a counterproductive financial burden on Seattle residents who already are homeless. Most will be unable to pay the \$27 fine, and the City will waste resources attempting to collect from them.

The proposed amendment's enforcement standards, which include criminal sanctions, also are problematic in that they grant a significant expansion of discretionary authority to police, likely resulting in a harmful increase in the cycle of arrests and exclusion orders that already burden homeless people. The proposed rule permits officers to issue citations even without a prior warning "based upon the park and circumstances." A single smoking incident can lead to being excluded from the park based on a subsequent park rule violation, Seattle Municipal Code violation, or state law violation of any kind. An individual can be arrested for entering any park or park facility if they have been excluded from one park for smoking. As a result, individuals can be effectively banned from all Seattle public parks for the duration of the exclusion, which may last up to a year.

In addition, the procedures for challenging an exclusion order are burdensome for the homeless. To challenge an exclusion, a person must submit a request for a hearing. Notice of the hearing date and time then is sent to the person via mail, which likely will not reach a homeless person. This process will discourage people with no fixed address or phone from requesting a hearing at all.

Any potential health benefits or administrative convenience derived by this proposed rule are far outweighed by its disparate impact on the poor and homeless. On behalf of the ACLU-WA and our more than 50,000 statewide members and supporters, we ask that you reject this proposal.

Sincerely,



JENNIFER SHAW
Deputy Director

Cc: Tom Tierney, Committee Chair
Yazmin Mehdi, Committee Vice Chair
Antoinette Angulo, Commissioner
Bob Edmiston, Commissioner
Diana Kincaid, Commissioner
Brice Maryman, Commissioner
Lydia Albert, Commissioner
Barbara Wright, Commissioner