

MEMORANDUM

Village of Mamaroneck



To: Jerry Barberio, Village Manager

From: Daniel J. Sarnoff, Assistant Village Manager

Re: Smoking Policies

Date: October 5, 2021

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www.villageofmamaroneck.org

Regarding the above captioned matter, the Board's recent discussion about the Marihuana Regulation and Taxation Act have led to a request to review smoking policies for the Village's parks and public spaces. As it relates to the parks and public spaces, there are four (4) relevant sources of information as follow: Chapter 260 of the Village Code "Parks"; Chapter 290 of the Village Code "Smoking Policy"; New York State Public Health Law Section 1399-O "Smoking and Vaping Restrictions"; and New York State Public Health Law 1399-O-1 "Smoking and Vaping Restrictions; Certain Outdoor Areas". Copies of all four laws are attached for reference.

Smoking in Village Parks

Smoking in village parks is regulated pursuant to §260-3(S) of the Village code which reads as follows:

§ 260-3 Prohibitions.

The following acts are prohibited within Village parks, and no person shall:

- S. *Except in areas which may be specifically designated by the Village Manager and marked as "Smoking Areas," smoke or burn tobacco or a tobacco substitute or carry burning tobacco or a tobacco substitute in the form of a cigarette, cigar, or any other smoke-producing product or device, including pipes, or use electronic cigarettes or other similar products that rely on vaporization or aerosolization, or dispose of tobacco products, lit or unlit, including cigarette or cigar butts, except in containers designated for that purpose.*

The restriction as codified applies to tobacco or a tobacco substitute. This can likely be expanded to include other legally inhaled substances.

Smoking in Public Spaces

Chapter 290 of the Village code is the Village's smoking policy. The Board of Trustees recently adopted amendments to the smoking policy as the original version pre-dated the enactment of New York State Public Health Law §1399-O. The provisions of the State Public Health Law were more stringent in many respects which created conflicts requiring the amendments. One of these changes dealt with public buildings and reads as follows:

*§ 290-1 **Prohibited areas.***

Smoking is prohibited in the indoor area of any building owned or under the control of the Village of Mamaroneck in which employees of the Village perform services, and in outdoor areas within 40 feet of any entrance or exit of any such building. Smoking is prohibited in any vehicle owned or operated by the Village of Mamaroneck.

Smoking as defined in §1399-N of the New York State Public Health Law as follows:

8. "Smoking" means the burning of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco or cannabis as defined in section 222.00 of the penal law, or cannabinoid hemp as defined in section three of the cannabis law.

New York State Public Health Law §1399-O

As to the aforementioned New York State Public Health Law, it regulates smoking in indoor and outdoor spaces and is attached for your reference. It is noted however, that one of the provisions of this law is that it allows local governments to adopt more stringent restrictions than what provided for in §1399-O. Insofar as it relates to public parks and spaces, there is no specific restrictions promulgated, there are, however, restrictions for certain outdoor areas in §1399-O-1.

New York State Public Health Law §1399-O-1.

The provisions of §1399-O-1 regulate smoking in the vicinity of playgrounds designed for six or more children and prohibits this activity between sunrise and sunset when one (1) or more individuals under the age of twelve are present.

Given the ongoing discussion of the Board following from the MRTA discussion, I respectfully request that this item be placed on the agenda for the Board of Trustees discussion at their October 12, 2021, work session meeting.