

OTSEGO COUNTY
Ordinance No. 1 of 2004

AN ORDINANCE PURSUANT TO ACT 156 OF THE PUBLIC ACTS OF 1851, AS AMENDED , TO PROHIBIT THE USE OF TOBACCO PRODUCTS AND ALCOHOLIC BEVERAGES WITHIN OTSEGO COUNTY COMMUNITY CENTER PARK

THE COUNTY OF OTSEGO ORDAINS:

Section 1. Title.

This Ordinance shall be known as the Otsego County Community Center Park Ordinance.

Section 2. Definitions. As used in this Ordinance,

- (a) "Alcoholic beverages" means any spirituous, vinous, malt, or fermented liquor, liquids and compounds, whether or not medicated, proprietary, patented, and by whatever name called, containing 1/2 of 1% or more of alcohol by volume which are fit for use for beverage purposes.
- (b) "Tobacco product" means a preparation of tobacco to be inhaled, chewed, or placed in a person's mouth.
- (c) "Use a tobacco product" means:
 - (i) The carrying by a person of a lighted cigar, cigarette, pipe, or other lighted smoking device.
 - (ii) The inhaling or chewing of a tobacco product.
 - (iii) The placing of a tobacco product within a person's mouth.
- (d) "Otsego County Community Center Park" means property that is bounded on the North by 2nd Street, on the South by 3rd Street, on the East by Elm Street and on the West by S. Center Street, and is owned or controlled by Otsego County and is open to the general public for recreational activities.

Section 3. Regulations.

No person shall do any of the following:

- (a) Use, consume, or possess alcoholic beverages within Otsego County Community Center Park at any time.
- (b) Use a tobacco product within Otsego County Community Center Park at any time.

Section 4. Violations and Penalties.

(a) Any person who violates any provision of this Ordinance, shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to the following fines:

- (i) For a first offense, the offender shall pay a fine of One Hundred and 00/100 (\$100.00) Dollars.
- (ii) For a second offense within two (2) years of the date on which the person was found responsible for the first violation, the offender shall pay a fine of Two Hundred Fifty and 00/100 (\$250.00) Dollars.
- (iii) For a third or subsequent offense within two (2) years of the date on which the person was found responsible for the first violation, the offender shall pay a fine of Five Hundred and 00/100 (\$500.00) Dollars.

(b) Each day this Ordinance is violated shall be considered a separate violation.

Section 5. Enforcement Officials.

The County Ordinance Enforcement Officer and police officers of the Otsego County Sheriff's Department are hereby designated as the authorized officials to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.

Section 6. Nuisance Per Se.

A violation of this Ordinance is hereby declared to be a nuisance per se and is declared to be offensive to the public health, safety and welfare.

Section 7. Separate Court Action.

In addition to enforcing this Ordinance through the use of a municipal civil infraction proceeding, the County may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

Section 8. Validity.

If any section, provision or clause of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not effect any remaining portions or application of this Ordinance, which can be given effect without the invalid portion or application.

Section 9. Effective Date.

This Ordinance shall become effective sixty (60) days following its enactment.

COUNTY OF OTSEGO

By:

_____ Lee Olsen, Chairman

By:

_____ Evelyn Pratt, Clerk