



# Department of Planning, Housing, & Community Development

*Mayor, Richard C. David*

TO: Planning Commission  
FROM: Department of Planning, Housing, & Community Development  
DATE: February 20, 2014  
RE: Proposed zoning amendments regarding sale of tobacco near schools

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## **REQUEST**

City Council has requested that the Planning Commission review and make a recommendation on the proposed zoning amendments regarding the sale of tobacco products near schools.

## **BACKGROUND**

Sharon Fischer from Broome County Department of Health, Sue Moranda from the American Cancer Society, and Lisa Weston-Bialy from Cornell Cooperative Extension went before City Council on November 4, 2013 to discuss the impact of tobacco advertising on the City of Binghamton's youth. The group proposed that the City adopt zoning legislation which would prevent tobacco retail businesses from locating within 500 feet of school property. The Broome County Department of Health provided a map that shows the number of tobacco retailers that currently reside within 500 feet of public and private school properties in the City of Binghamton (see Attachment A).

City Council referred this matter to the Planning Commission at the Business Meeting held on November 6, 2013 and requested a report on amendments necessary to enact this proposal (see Attachment B). Staff has reviewed the Rochester zoning amendments and supplemental information provided by the Center for Public Health and Tobacco Policy alongside Chapter 410 and has compiled the enclosed proposed amendments.

**Note: The following only includes Sections of the Zoning Code that are proposed to be updated.**

**Explanation of mark up:**

Black text currently exists in the code

Red text is proposed

~~Strikethrough text~~ currently exists in the code and will be eliminated

**Chapter 410, ZONING**

**[Adopted by the City Council of the City of Binghamton 8-7-2006 by Ord. No. 06-31 (Appendix A of the 1970 Code). Amendments noted where applicable.]**

**§410-24. Performance standards. [Amended 7-20-09 by Ord. No. 23-2009; Amended 9-7-13 by Ord. No. 13-049]**

A. Purpose. The purpose of these performance standards is to regulate the potentially objectionable aspects of land uses or activities in the City of Binghamton by the application of specific standards whenever possible. The objectives of these standards are consistent with the promotion of public health, safety and general welfare and include:

- (1) To reduce to a minimum dissemination of smoke, gas, dust, odor or any other atmospheric pollutant outside the building in which the use or activity is conducted.
- (2) To control noise perceptible beyond the boundaries of the immediate site of the use or activity.
- (3) To prevent the discharge of any waste material into any watercourse.
- (4) To prevent the dissemination of vibration or heat or electromagnetic interference beyond the immediate site of the use or activity.
- (5) To eliminate physical hazard by reason of fire, explosion, radiation, or any similar cause, to property in the same or an adjacent district.

[...]

N. **Tobacco Sales Near Schools Prohibited.** The sale of tobacco and tobacco products (including but not limit to: cigarettes; cigars; pipe tobacco; and chewing tobacco) is prohibited within 500 feet of any property boundary of any public or private elementary or secondary school. The provisions of this section shall not preclude the operation, maintenance, and occupancy of any tobacco retailer that existed lawfully prior to the effective date of this Section. Such uses shall be subject to nonconforming use regulations in Article XII.

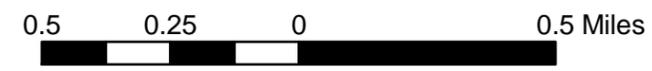
[All other performance standards to be renumbered accordingly]

# Retail Tobacco Facilities within 500 feet of Public and Private School Properties within the City of Binghamton



**Legend**

- Schools
- 500 Foot Buffer of Binghamton School Property
- Tobacco Retailer
- Tobacco Retailer Within 500 Feet of School
- Roads





## OFFICE OF THE CITY CLERK ▪ CITY OF BINGHAMTON

Teri Renna, City Council President  
Angela Holmes, City Clerk

Planning Commission  
c/o Leigh McCullen  
38 Hawley Street  
Binghamton, NY 13901

Thursday November 7, 2013

**RE: Proposed Amendments to Chapter 410, Zoning, Regarding Sale of Tobacco Near Schools**

Dear Planning Commission Members,

The Council of the City of Binghamton met with Sharon Fischer from Broome County Department of Health, Sue Moranda from the American Cancer Society, and Lisa Weston-Bialy from Cornell Cooperative Extension at a Work Session on November 4, 2013 to discuss the impact of tobacco advertising on the City of Binghamton's youth. During this meeting, it was suggested that the City of Binghamton adopt zoning legislation which would redefine certain retail uses and prohibit the establishment of "high impact" retail businesses from locating within 500' of school property. The documents distributed to City Council members during the Work Session are enclosed for your review, including an excerpt from the City of Rochester's zoning code, which was recently amended to enact a similar proposal. The Binghamton City Zoning Code would have to be amended accordingly.

City Council would like to explore this initiative and its impacts on the City of Binghamton. During last night's Business Meeting, City Council referred this matter to the Planning Commission, requesting a report on the amendments to Chapter 410, *Zoning*, which would be necessary to enact this proposal, focusing primarily on how the City Code would have to be amended, definitions, allowed uses, and the site plan review process regarding these uses.

If you have any questions or concerns, please feel free to contact me by telephone at (607) 772-7005, or by email at [abholmes@cityofbinghamton.com](mailto:abholmes@cityofbinghamton.com).

Sincerely,

A handwritten signature in cursive script that reads "Angela Holmes".

Angela Holmes  
City Clerk

cc: City Council  
Corporation Counsel