

Ordinance No. _____

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, RELATED TO PROHIBITION OF SMOKING AND VAPING WITHIN CITY PARKS AND ON CITY TRAILS AND AMENDING CHAPTER 12.60 OF THE OLYMPIA MUNICIPAL CODE

WHEREAS, Olympia's parks are intended for the healthy enjoyment of all citizens, including children and youth and those partially or wholly disabled by respiratory disease; and

WHEREAS, a 2006 study conducted by the Surgeon General entitled *Health Consequences of Involuntary Exposure to Tobacco Smoke* concluded that children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome, acute respiratory infections, ear problems, and more severe asthma, and that the scientific evidence indicates there is no risk-free level of exposure to secondhand smoke; and

WHEREAS, a 2016 report of the Surgeon General entitled, *E-Cigarette Use Among Youth and Young Adults*, concludes that E-cigarette use among youth and young adults has become a public health concern. As of 2014, use of e-cigarettes by young adults 18–24 years of age was greater than use by adults 25 years of age and older. Further, the use of products containing nicotine in any form among youth, including in e-cigarettes, is unsafe, and nicotine exposure during adolescence can harm the developing adolescent brain; and

WHEREAS, Olympia Parks, Arts and Recreation staff has reported that smoking in parks has resulted in litter of cigarette butts, which studies have shown can cause environmental degradation, pose a health risk to children and animals, and require City resources to remove; and

WHEREAS, studies have shown that children and youth exposed to smoking and tobacco use are more likely to smoke when they get older; and

WHEREAS, many of Olympia's parks contain forested areas that during dry summer months are at risk of fire from unextinguished cigarette butts; and

WHEREAS, on May 19, 2016, the Olympia Parks and Recreation Advisory Committee recommended that the City Council adopt an ordinance prohibiting smoking and vaping in Olympia's parks; and

WHEREAS, the Olympia City Council finds that smoking and vaping have a negative effect on public and environmental health and welfare; and

WHEREAS, the City Council finds that Olympia's Parks should be enjoyed by the public without concern that they will be negatively affected by the tobacco use of others; and

WHEREAS, on December 6, 2016, the Olympia City Council directed staff to prepare an ordinance prohibiting smoking and vaping from Olympia's parks;

WHEREAS, this prohibition is enacted under the City's police powers and is supported by the studies and records on file with the City of Olympia associated with this Ordinance; and

WHEREAS, this Ordinance is also supported by the professional judgment and experience of the City staff who have worked on this proposal; and

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. Amendment of OMC 12.60. Olympia Municipal Code Chapter 12.60 is hereby amended to read as follows:

**Chapter 12.60
PARK REGULATIONS**

12.60.000 Chapter Contents

Sections:

- 12.60.001 Enforcement.
- 12.60.010 Advertising signs and posters--Structures of any kind.
- 12.60.030 Regulations and Violations Relating to Pet Animals.
- 12.60.040 Harassing or feeding animals unlawful.
- 12.60.050 Fireworks Prohibited in City Parks.
- 12.60.060 Soliciting or peddling unlawful.
- 12.60.080 Sales unlawful without concession contract.
- 12.60.090 Groups or Assemblies - Reservations
- 12.60.100 Bicycles--Horses--Motor vehicles in Designated Areas Only.
- 12.60.110 Camping or parking unlawful except where designated.
- 12.60.120 Ball games and other sports.
- 12.60.130 Smoking or Vaping Prohibited in City Parks and Trails
- 12.60.160 Building fires permitted only in designated areas.
- 12.60.300 Violation--Penalty.

12.60.001 Enforcement

The Park Ranger is hereby authorized to enforce this code, including the issuance of notices of infraction.

12.60.010 Advertising signs and posters –Structures of any kind

It is a civil infraction to use, place, or erect any signboard, sign, billboard, bulletin board, post, pole or device of any kind for commercial advertising in any park; or to attach any notice, bill poster, sign, wire or cord to any tree, shrub, railing, post or structure within any park in a manner which dents, mars, defaces, breaks, punctures or injures it in any way or to place or erect in any park a structure of any kind, without the written consent of the Director of the Olympia Parks, Arts and Recreation Department or his or her designee.

12.60.030 Regulations and Violations Relating to Pet Animals

The following sections of code are incorporated from OMC Title 6, Animal Services.

OMC 6.04.050 Regulations and Violations Relating to Pet Animals.

Any person who harbors, keeps, possesses, maintains, or has temporary custody of a pet animal shall be responsible for the behavior of such animal whether the owner knowingly permits the behavior or not. Such person shall violate the terms of this chapter if:

A. Pet animal at large. Such person's animal is at large as defined in Section 6.04.030(D); provided, however, this section shall not prohibit the owner and the pet animal from participating in an organized show or training, exercise, or hunting session in locations designated and authorized for that purpose.

B. Nuisance pet animal. Such person's pet animal constitutes a nuisance pet animal as defined in OMC Section 6.04.030(T).

C. Pet animal on public property. Such person's pet animal is on public property such as a public park, beach, or school ground and is not on a leash by a person who is able to maintain physical control, or proper safeguards have not been taken to protect the public and property from injury or damage from said animal, or the presence of the animal on such property is in violation of additional specific restrictions which have been posted. Such restrictions shall not apply to guide dogs of the visually impaired, service animals for the physically handicapped, or to dogs on public property specifically designated by the City of Olympia as areas for dogs without the requirement of a leash. Pet animals on public property is a civil infraction as defined in Section 6.04.120(B).

D. Intentionally not incorporated.

E. Failure to possess removal equipment or to remove fecal material. Such person (1) fails to possess in a public park the equipment or material necessary to remove animal fecal matter when accompanying a pet animal, or (2) fails to remove animal fecal material when accompanying a pet animal off the owner's property. Failure to possess removal equipment or to remove fecal material is a civil infraction as defined in Section 6.04.120 (B).

F. Intentionally not incorporated.

G. Intentionally not incorporated.

H. Intentionally not incorporated.

I. Menacing behavior. Such person's animal engaged in menacing behavior as defined in Section 6.04.030(R). Violation of this subsection is a civil infraction as defined in Section 6.04.120(A).

The following penalties apply to any violation of the designated section of 12.60.030.

A. Violation of the following sections of this chapter shall constitute a Class 3 civil infraction. A second infraction for certain offenses within an 18-month period will constitute a Class 2 civil infraction. A third infraction for certain offenses within an 18-month period will constitute a civil infraction. "Within an 18-month

period" means the violation date for a prior offense occurred within 18 months of the date of the subsequent violation.

1. Section 12.60.030 (A) Failure to license; provided that the infraction shall be dismissed if, within 14 days of the date of issuance of the infraction, the person cited shows evidence of licensing of the subject animal to the Olympia Court Clerk. The Court Clerk, at the direction of the Olympia Municipal Court, may assess court administrative costs up to \$25.00 at the time of the dismissal;
2. Section 12.60.030 (A) Pet animal at large (first violation; second violation is a Class 2 civil infraction; third violation is a Class 1 civil infraction).
3. Section 12.60.030 (B) Nuisance pet animal (first violation; second violation is a Class 2 civil infraction; third violation is a Class 1 civil infraction).
4. Section 12.60.030 (I); Menacing Animal (first violation; second violation is a Class 2 civil infraction; third violation is a Class 1 civil infraction).

B. Violation of the following sections of this chapter shall constitute a Class 4 civil infraction:

1. Section 12.60.030 (C) Pet animals on public property.
2. Section 12.60.030 (E) Failure to remove fecal material; failure to possess removal equipment.

12.60.040 Feeding, Harassing, Injuring animals unlawful

It is unlawful in any manner to purposely tease, annoy, disturb, harass, catch, injure or kill or to throw anything at or strike any animal, bird, fowl or fish within a park, or to feed any fowl, fish or animal within any park.

12.60.050 Fireworks Prohibited in City Parks

It is unlawful to shoot, fire or explode any fireworks, firecracker, torpedo or explosive of any kind in a City park.

12.60.060 Soliciting or peddling unlawful

It is unlawful to take up collections, or to act as or apply the vocation of solicitor or peddler within a park; provided, that it shall not be a violation of this section for a nonprofit or charitable organization or group to conduct a fund-raising event in a park or facility under the control of the City's Parks, Arts and Recreation Department with the approval of the Parks, Arts and Recreation Department and upon the payment of a reasonable fee for the use thereof. Such fund-raising events shall solicit donations only. The ability of park patrons to visit park facilities or to use the nonreserved portions of the facility shall not be denied or conditioned upon the payment of a donation.

12.60.080 Sales unlawful without permit or concession contract

It is unlawful to sell food, refreshments or merchandise within a park from a fixed stand, table or booth without a concession contract with the City. This section shall not apply to festival events set forth in the Olympia Municipal Code.

12.60.090 Groups or Assemblies - Reservations

City parks and recreational facilities shall be available for any group or assembly on a first come, first serve basis. Groups or assemblies calculated to attract a large number of people, relative to the size and capacity of the park or facility must, prior to the event, reserve the space by filling out an application from the Parks, Arts and Recreation Department ten (10) days prior to the event to reserve the space. Approval may be conditioned as to the time and place of such assembly so as not to unreasonably interfere with other lawful activities within the park and subject to compliance with all park rules.

12.60.100 Bicycles –Horses –Motor vehicles in Designated Areas Only

It is a civil infraction to ride or drive any motorized or non-motorized vehicle over or through any park except along and upon the park drives, parkways, or designated bicycle lanes; or to ride any animal through a park except upon the park drives, parkways, or designated areas.

12.60.110 Camping or parking unlawful except where designated

It is a civil infraction to camp or stay overnight in any vehicle within any park or within any public parking lot adjacent to a park except at places set aside for such purposes and so designated by signs.

12.60.120 Ball games and other sports

The following activities are not permitted unless they are a part of a Parks, Arts & Recreation Program: golf, paintball, tennis, badminton or other games of like character or to hurl or propel any airborne or other missiles, except at places set apart for such purposes and so designated by signs.

12.60.130 Smoking or Vaping Prohibited in City Parks and Trails

It is unlawful for any person to smoke or light cigarettes, cigars, tobacco, or other smoking material, including electronic nicotine delivery devices including, but not limited to, electronic cigarettes, vapor cigarettes, or similar products, within city parks or on city trails.

12.60.160 Building fires permitted only in designated areas

It is a civil infraction to build any fires in any City park except in designated areas so designated by signs.

12.60.300 Violation -- Penalty

A. Unless stated otherwise, it shall be a civil infraction for a person, firm, or corporation to violate or fail to comply with any term or provision of this chapter. Each day shall be a separate infraction. A person, firm, or corporation found to have committed a civil infraction shall be assessed a monetary penalty as follows:

1. First offense: Class 3 (\$50), not including statutory assessments.
2. Second offense arising out of the same facts as the first offense: Class 2 (\$125), not including statutory assessments.
3. Third offense arising out of the same facts as the first offense: Class 1 (\$250), not including statutory assessments.

See also OMC Chapter 4.44, Uniform Code Enforcement.

B. Penalties for violations of Section 12.60.030 shall be the same as those provided under Olympia Municipal Code 6.04.120 for the same offense.

Section 2. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

Section 3. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 4. Effective Date and Codification. This Ordinance shall take effect on January 1, 2018 and shall not be codified until its effective date.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



DEPUTY CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED: