

ORDINANCE NO. 6747

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
AUBURN, WASHINGTON, RELATING TO TOBACCO USE
IN PUBLIC PARKS, AND AMENDING CHAPTER 2.22 OF
THE AUBURN CITY CODE

WHEREAS, one of the primary purposes and functions of public parks is to provide safe, welcoming places for all to enjoy and pursue physical activity, healthy lifestyles, and leisure experiences through nature. Through these purposes Auburn parks contribute to a healthier Auburn community; and

WHEREAS, the City of Auburn finds that smoking or the use of other tobacco products in public parks is contrary to the fundamental purposes for operating public parks; and

WHEREAS, while the Auburn Parks Department will continue its existing education program, which encourages no smoking or the use of tobacco products on or near any city athletic fields, picnic shelters and playgrounds, the program does not apply generally to all park property and does not have a parallel enforceable component; and

WHEREAS, several other King County cities have declared their parks smoke and tobacco free, including the cities of Kent, Burien, SeaTac, Tukwila, and Seattle; and

WHEREAS, the Auburn Parks and Recreation Board recommended that the City parks and facilities be smoke and tobacco free; and

WHEREAS, it is in the public interest to adopt a smoke and tobacco use prohibition for all park property and park facilities.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN,
WASHINGTON, DO ORDAIN as follows:

Section 1. Amending City Code Section. Chapter 2.22. of the Auburn City Code is amended to read as shown in Exhibit A.

Section 2. Implementation. The Mayor is authorized to implement those administrative procedures necessary to carry out the directives of this legislation.


Section 3. Severability. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance, or the invalidity of the application of it to any person or circumstance, will not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 4. Effective date. Subsection 2.22.085(B) in Exhibit A shall take effect and be in force one hundred-eighty days after passage and publication of this Ordinance. All remaining sections and subsections of this Ordinance will take effect and be in force five days from and after its passage, approval, and publication as provided by law.

INTRODUCED: NOV 0 4 2019

PASSED: NOV 0 4 2019


APPROVED: NOV 0 4 2019


NANCY BACKUS, MAYOR

ATTEST:


Shawn Campbell, MMC, City Clerk

APPROVED AS TO FORM:


Steven L. Gross, City Attorney

Published: November 7, 2019 by the Times

EXHIBIT A

2.22.030 Definitions.

The terms herein used, unless clearly contrary to or inconsistent with the context in which used, shall be construed as follows:

- A. "Civil infraction" has the meaning given that term by Chapter 7.80 RCW, the Infraction Rules for Courts of Limited Jurisdiction and any local rule adopted thereto by the King County district court at Auburn.
- B. "Director" means the director of the parks and recreation department.
- C. "Hearing examiner" means the city's hearing examiner as set forth in Chapter 2.46 ACC.
- D. "Park" means and includes all parks, squares, public gardens, community centers, museums, drives, piers, boulevards, golf courses, zoos, beaches, playgrounds, fields, and recreation areas, and facilities either developed or undeveloped, owned or under the management and control of the city of Auburn, and all trails, drives, roads, parkways, facilities, bodies of water, docks, piers, beaches, and parking lots and garages contained therein.
- E. "Vehicle" shall have the meaning set forth in RCW 46.04.670 as currently enacted or hereafter amended and shall also include (1) trailers, including trailers designed to be towed behind any vehicle, and (2) motorized scooters and electric personal assistive mobility devices, as defined in Chapter 10.54 ACC.

Wherever consistent with the context of this chapter, words in the present, past, or future tenses shall be construed to be interchangeable with each other, and words in the singular number shall be construed to include the plural. (Ord. 6465 § 1, 2013.)

2.22.050 Permits – Generally.

- A. Permits, when required by this chapter, shall be applied for through the director unless otherwise provided. The granting or denying of permits shall be based upon the policies and standards set forth in this chapter. Where fees are required by the city for the issuance of permits, payment of such fees will be required before permits are issued. No fee shall be imposed when prohibited by the First and Fourteenth Amendments to the United States Constitution, or Article I, Section 3, 4, 5, or 11 of the Washington Constitution other than a fee based on the cost of processing the application. Political or religious activity intended primarily for the communication or expression of ideas shall be presumed to be a constitutionally protected event. Factors that may be considered in evaluating whether or not the fee applies include the nature of the event; the extent of commercial activity, such as the sales of food, goods, and services; product advertising or promotion, or other business participation in the event;

the use or application of any funds raised; if part of an annual tradition or a series, previous events in the sequence; and the public perception of the event.

B. All permits issued by the city shall be subject to other applicable city ordinances and park regulations. The persons to whom such permits are issued ("permittees") shall be bound by said rules, regulations, and ordinances as fully as though the same were contained in such permits. A permittee shall be liable for any loss, damage, or injury sustained by any person by reason of the negligence of the permittee, as well as for any breach of such rules, regulations, or ordinances, to the person or persons so suffering damages or injury.

C. Permits issued for musical acts or bands shall specify that the noise/sound level emitting from such act or band shall be no greater than 90 decibels at or beyond 50 feet.

Any person claiming to have a permit from the city must produce and exhibit such permit upon the request of any authorized person who may desire to inspect the same.

D. Violation of this section constitutes a class 1 civil infraction pursuant to 7.80 RCW. (Ord. 6465 § 1, 2013.)

2.22.070 Destruction of park property.

It is unlawful for any person to damage or destroy any real or personal property within a park. Violation of this section constitutes a class 1 civil infraction pursuant to 7.80 RCW. (Ord. 6465 § 1, 2013.)

2.22.080 Intoxicating liquors.

The display, possession, or consumption of intoxicating liquors in any park is prohibited, except in particular areas or facilities which may be expressly designated from time to time by the director. ~~Every person who violates any provision of this section shall be guilty of a civil infraction and shall be fined not more than \$100.00, which includes all statutory assessments.~~ Whenever any person is stopped for a violation of this section, the officer may detain that person for a reasonable period of time necessary to identify the person and check for outstanding warrants. (Ord. 6465 § 1, 2013.) Violation of this section constitutes a class 2 civil infraction pursuant to 7.80 RCW.

2.22.085 Smoking, vaping and tobacco use.

A. In or on any park that is not a golf course, it is unlawful for any person to use tobacco products, to smoke, to vape, or to hold a smoking or vaping product that is lit or producing smoke. This prohibition includes both non-combustible products, like e-cigarettes or other vaping devices that produce smoke or vapor, and dipping tobacco, chewing tobacco, snuff, or snus; and combustible products, like paper cigarettes, cigarillos, and cigars, pipes, and hookahs. If the product emits smoke, or vapor, or contains tobacco, it is prohibited.

B. Violation of this section constitutes a class 3 civil infraction pursuant to 7.80 RCW.

2.22.090 Selling, advertising, soliciting.

A. No person, except duly authorized concessionaires, and those having a specific permit, shall sell or offer for sale in any park any goods, refreshments, photographs, or other articles.

B. Advertising by the distribution, carrying, erection, attachment, or use of a handbill, sign, or device of any kind in any park is prohibited. It is unlawful to place or erect a structure of any kind in any park. It shall be unlawful to carry on any activity whatsoever for compensation or remuneration except upon express authorization of the director, including, but not limited to, the sale of goods, wares, merchandise, and services.

C. Violation of this section constitutes a class 1 civil infraction pursuant to 7.80 RCW. (Ord. 6465 § 1, 2013.)

2.22.100 Damage or removal of plants prohibited.

Unauthorized cutting, removal, or destruction of any turf, tree, plant, shrub, flower, or seaweed on park property is prohibited. While inside any park, having in one's possession any newly plucked branch, tree, flower, plant, fungus (mushrooms, shelf fungus, etc.), algae or shrub without specific permission by the director shall be presumptive evidence of such cutting, removal, or destruction. Violation of this section constitutes a class 1 civil infraction pursuant to 7.80 RCW. (Ord. 6465 § 1, 2013.)

2.22.120 Animal control.

A. Unless in a designated off-leash area, dogs and cats must be on a leash no longer than eight feet or secured inside a vehicle.

B. Animals are not allowed to enter wading pools, ponds, lakes, fountains, spraygrounds, or any play area designed to utilize water in any park unless in a designated off-leash area.

C. Any person with an animal in his or her possession shall be responsible for the conduct of the animal.

D. The provisions of this section do not apply to animals owned or maintained by the city of Auburn.

E. The director may prohibit animals, except for service animals as defined in RCW 9.91.170, from events and/or facilities within a park.

F. All provisions of ACC Title 6 remain in full force and effect in all parks and may be enforced by any police officer or animal control officer.

G. Any violation of this section is a Class 1 civil infraction pursuant to 7.80 RCW. unless a different penalty is provided in ACC Title 6. (Ord. 6465 § 1, 2013.)

2.22.130 Molesting or feeding animals.

No person shall molest or attempt to touch any bird or wild animal in a park. It shall be unlawful for any person to give, offer, or attempt to give to any wild animal within the parks any tobacco, drink, or other article known to be dangerous or noxious to animals. It is also unlawful to feed any wild bird or animal in a park. Violation of this section constitutes a class 1 civil infraction pursuant to 7.80 RCW. (Ord. 6465 § 1, 2013.)

2.22.150 Prohibitions as to boating, fishing, and swimming.

It is unlawful for any person to boat, fish, wade, swim, scuba dive, snorkel, or bathe in any park except in the places and at times designated by the director. Violation of this section constitutes a class 1 civil infraction pursuant to 7.80 RCW. (Ord. 6465 § 1, 2013.)

2.22.160 Boats and beaches.

No dock or any other structure shall be built upon any beach unless expressly authorized. No boat shall be kept for hire or private use upon any waters under the jurisdiction of the city of Auburn, except as expressly authorized by the director. Launching of waterborne craft from any shoreline is prohibited, except for specifically designated areas or with specific permit issued by the director. The launching of waterborne craft, as provided in this section, shall be unlawful if the required fee, as determined by the director, has not been paid. Violation of this section constitutes a class 1 civil infraction pursuant to 7.80 RCW. (Ord. 6465 § 1, 2013.)

2.22.170 Fires.

A. Fires are prohibited except in picnic stoves or fire pits installed under the authority of the director or in portable barbeques. Fires in any other facility or area are allowed only by special permit. Fires in picnic stoves or portable barbeques may only utilize propane or charcoal briquettes as fuel; all other fuel sources, including wood, are specifically prohibited. Portable barbeques may be utilized only for cooking food. Briquettes must be completely extinguished and properly disposed of or removed from the park. The director may further restrict the use of barbeques within any park, provided that signs are installed to notify patrons of the restrictions.

B. Fires are prohibited during announced burn bans.

C. Violation of this section constitutes a class 1 civil infraction pursuant to 7.80 RCW. (Ord. 6465 § 1, 2013.)

2.22.180 Use of certain equipment.

A. It is unlawful for any person to use a slingshot, beanshooter, paintball gun, air gun, or other similar implement, or golf or archery equipment in or upon any park; provided, that such equipment may be used in areas especially designated or provided for that use, or by specific permit.

B. It is unlawful to conduct organized golf, baseball, tennis, soccer, or other games of like character, or to hurl or propel any missile into or over any park, except at places set apart for such purposes.

C. It is unlawful to use motorized model aircraft or watercraft in any park, except as specifically permitted.

D. Violation of this section constitutes a class 1 civil infraction pursuant to 7.80 RCW. (Ord. 6465 § 1, 2013.)

2.22.190 Fireworks.

It is unlawful to carry, shoot, fire, or explode any fireworks or explosives of any kind in any park. Violation of this section constitutes a class 1 civil infraction pursuant to 7.80 RCW. (Ord. 6465 § 1, 2013.)

2.22.200 Vehicular standards.

It is unlawful:

A. To enter or leave a park by other than established entrances and exits.

B. To operate a vehicle or a bicycle in any park, except on roads intended for the movement of public vehicular traffic, or on roads and trails specifically designated for special use.

C. To park vehicles in any park except in established parking areas.

D. To park in any park when the park is closed. Any vehicle that is parked in violation of this subsection may be immediately impounded.

E. To service, wash, wax, or change the oil of any vehicle within a park.

F. To engage in, conduct, or hold any trials or competitions for speed, endurance, or hillclimbing involving any vehicle, boat, or aircraft in any park without specific permit.

G. To fail to obey the posted speed limits and all other regulatory signs.

H. Violation of this section constitutes a class 1 civil infraction pursuant to 7.80 RCW. (Ord. 6465 § 1, 2013.)

2.22.205 Entrance fees.

Where fees are required by the director for entering any park, it is unlawful to enter without paying the prescribed fee. Violation of this section constitutes a class 1 civil infraction pursuant to 7.80 RCW. (Ord. 6465 § 1, 2013.)

2.22.210 Overnight use.

It is unlawful to camp or set tents or other shelters overnight in any park, unless authorized by the director. Violation of this section constitutes a class 1 civil infraction pursuant to 7.80 RCW. (Ord. 6465 § 1, 2013.)

2.22.220 Opening and closing hours.

A. Unless otherwise posted, parks shall open one-half hour before sunrise and close one-half hour after sunset. Any person entering or remaining in a park when it is closed is subject to arrest and prosecution for criminal trespass or a class 1 civil infraction pursuant to Chapter 7.80 RCW.

B. The director may extend open hours for sanctioned events, but only that portion of a park being used for the event will be open beyond normal hours; other areas of such a park shall remain closed.

C. This section shall not apply to:

1. Police officers or park employees while on-duty.
2. Sidewalks that are within the right-of-way of a public street, when the street is not within the boundaries of a park. (Ord. 6465 § 1, 2013.)

2.22.250 Penalty for violations.

Violations of this chapter shall be penalized as provided in each section uUnless a penalty is specifically designated elsewhere in the Auburn City Code as a gross misdemeanor or misdemeanor, or if specified to be enforced pursuant to other law, including, but not limited to, another section, chapter, or title of the Auburn City Code; any violation of this chapter shall constitute a Class 1 infraction, not to exceed \$250.00, not including statutory assessments. Such~~Each~~ penalty is in addition to any other remedies or penalties provided by law. For each act herein prohibited of a continuing nature, each day shall be considered a separate offense. Whenever any person is stopped for a violation of this chapter, the officer may detain that person for a reasonable period of time necessary to identify the person and check for outstanding warrants. (Ord. 6465 § 1, 2013.)