

ORDINANCE NO. 761

AN ORDINANCE OF THE UNIVERSITY PLACE CITY COUNCIL AMENDING CHAPTER 15.05 OF THE UNIVERSITY PLACE MUNICIPAL CODE; RELATING TO PARK RULES

WHEREAS, the State of Washington has a Smoking in Public Places law (ch. 70.160 RCW), established by citizen initiative in 2005, which prohibits smoking in public places and places of employment to protect the public from the harmful effects of secondhand smoke. This law primarily protects people in indoor environments; and

WHEREAS, the State of Washington also regulates vapor products (ch. 70.345 RCW) which generally preempts political subdivisions from adopting or enforcing requirements for the licensure and regulation of vapor product promotions and sales at retail and specifically preempts the ability of local governments to regulate the use of vapor products in outdoor public places. However, under RCW 70.345.210, local jurisdictions may specifically regulate the use of vapor produced in those public places “where children congregate, such as schools, playgrounds, and parks[;]” and

WHEREAS, other cities in Pierce County and in the Puget Sound area have adopted similar rules to limit or prohibit smoking in parks and recreation areas to support healthy activity and prevent secondhand smoke or vapor impacts to the many users of these public spaces; and

WHEREAS, the City Council has identified potential concerns regarding the use of unmanned aerial vehicles in City parks;

WHEREAS, the City of University Place Parks Code, principally codified at chapter 15.05 of the University Place Municipal Code, was last comprehensively amended in 2007; and

WHEREAS, the City Council has referred consideration to its Parks Advisory Commission the specific issue of “[w]hether the University Place Municipal Code should be amended to prohibit, or otherwise regulate, public smoking, vaping or the use of unmanned aerial vehicles (aka drones) in the City’s parks,” together with tasking the Commission with whether or not any other changes to the parks rules are appropriate via Resolution 907. The Commission has reported its findings and recommendations to the Council;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Section 15.05.030 of the University Place Municipal Code entitled “Definitions,” is amended to read as follows:

For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given in this section:

A. “Director” means the Director of Parks and Public Works for the City of University Place, or such other Director or designee as the City Manager may designate.

B. “Motor vehicle” means any self-propelled device capable of being moved upon a road, and in, upon, or by which any persons or property may be transported or drawn, and includes, but is not limited to, automobiles, trucks, motorcycles, motor scooters, jeeps or similar type four-wheel drive vehicles, and snowmobiles, whether or not they can legally be operated upon the public highways.

C. “Park” means and includes all City parks, passive open space land, and bodies of water contained therein, trails, public squares, public drives, parkways, boulevards, or any parking areas associated therein, museums, pools, buildings, and playgrounds or play structures and/or any other City of University Place

park or open space area ~~designated by the City~~ comprising the parks and recreation system of the City under the management and control of the Director.

D. "Person" means all natural persons, firms, partnerships, corporations, clubs and all associations or combination of persons whatsoever, acting for themselves or by an agent, servant, or employee.

E. "Smoke" or "Smoking" has the same meaning as in RCW 70.160.020.

~~FE.~~ "Trail" means any path or track designed for use by pedestrians, bicycles, or other nonmotorized modes of transportation, and which is not of sufficient width, nor graded or paved with concrete, asphalt, gravel, or similar substance, so designed as to permit its use by standard passenger automobiles, or other right-of-way specifically designated and posted for nonvehicular use.

~~GF.~~ "Trailer" means a towed vehicle, which contains any sleeping or housekeeping accommodations, boat, animal, or apparatus, or is designed for the purpose of transporting any of the same by towing behind a vehicle.

~~HG.~~ "Vehicle" means any wheeled conveyance, whether motor-powered, animal-drawn, or self-propelled. The term includes any trailer in tow of any size, kind or description. Exception is made for baby carriages, wheelchairs, and vehicles in the service of the City parks.

~~IH.~~ "Watercraft" means any floating device, powered by internal combustion engine, wind or human power, capable of traveling on or under water.

J. "Vape" or "Vaping" means the use of vapor products, or the act of inhaling or exhaling the resultant vapor or aerosol from a vapor product.

K. "Vapor Products" has the same meaning as in RCW 70.345.010 as it presently exists or is amended. In addition, vapor products include any Electronic Nicotine Delivery System (ENDS) product regulated by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug and Cosmetic Act. However, vapor products do not include any drug, device, or combination product that has been approved by the United States Food and Drug Administration for legal sales for use as a smoking cessation product or other medical purpose and is marketed and sold for such approved purpose. For purposes of this chapter, vapor products also include but are not limited to, electronic cigarettes (or "e-cigarettes"), electronic nicotine delivery systems, electronic cigars, electronic cigarillos, electronic pipes, electronic hookahs, vape pens, steam stones, electronic juice (or "e-juice"), batteries, chargers, cables, or similar products or devices, as well as any parts that can be used to build or use such devices.

Section 2. Section 15.05.060 of the University Place Municipal Code entitled "Regulations and prohibited activities," is amended to read as follows:

A. Park Property.

1. Destruction and Removal. No person shall vandalize, damage, destroy, mark, deface by graffiti, displace or remove any buildings, bridges, tables, benches, fireplaces, railings, paving or paving materials, signs, notices or placards, monuments, stakes, posts, stones, trees, shrubs, plants, public utilities, or other structures, equipment, facilities or park property or appurtenances whatsoever, either real or personal.

2. Erection of Structures. No person shall construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon, or across park property, except by facility rental or reservation or special event permit issued under Chapter 5.10 UPMC.

3. Climbing Trees, Etc. No person shall climb any tree or walk, stand or sit upon monuments, fountains, railings, fences or upon any other property not designated or customarily used for such purposes.

4. Pollution of Waters. No person shall throw, discharge, or otherwise place or cause to be placed in the waters of any stream or other body of water in or adjacent to any park, or any stream, storm sewer, or drain flowing into such waters, any substance, matter or thing, liquid or solid, which will or may result in the pollution of the waters.

5. Deposit Trash. No person shall bring in, dump or deposit any trash, waste or garbage not generated during lawful use of the park or City moorage facilities. All trash, waste and garbage generated during lawful use of the park or City moorage facilities shall not be placed in any waters in or contiguous to the park nor left anywhere on the grounds but shall be placed in the proper receptacles where provided. Where receptacles are not so provided, all such trash, waste and garbage shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere.

B. Animals.

1. Hunting. No person shall hunt, molest, harm, frighten, kill, trap, chase, tease, shoot or throw missiles or objects at any animal, reptile or bird, nor shall he remove or have in his possession the young of any wild animal, or the eggs or nest or young of any reptile or bird.

2. Feeding. No person shall feed any bird or wild animal or give or offer, or attempt to give, to any animal or bird any tobacco, alcohol or other known noxious substances.

3. Hitching of Animals. No person shall tie or hitch any animal to any tree, plant or fence, unless in a designated area or unless such action is not reasonably likely to cause damage to park property.

4. Domestic Animals. No person shall allow a dog or animal under that person's care, custody or control to run at large. All animals in those areas where animals are permitted shall be restrained at all times on adequate leashes, unless dogs are in a designated off-leash dog area. A person whose dog or other domestic animal is in a park is responsible for removing feces deposited by such animal from the park.

C. Traffic.

1. City Motor Vehicle Laws Apply. No person shall fail to comply with all applicable provisions of the City motor vehicle traffic laws in regard to equipment and operation of vehicles, together with such regulations as are contained in this chapter and other ordinances.

2. Enforcement of Traffic Regulations. No person shall fail to obey all traffic officers and park employees, such persons being authorized and instructed to direct traffic whenever and wherever needed in the parks and on the highways, streets or roads immediately adjacent thereto in accordance with the provisions of these regulations and such supplementary regulations as may be issued subsequently by the Director.

3. Obey Traffic Signs. No person shall fail to observe carefully all traffic signs indicating speed, direction, caution, stopping, or parking and all others posted for proper control and to safeguard life and property.

4. Speed of Vehicles. No person shall drive a vehicle at a rate of speed exceeding 10 miles an hour, except upon such roads as the Director may designate by posted signs for speedier travel.

5. Vehicle Operation Confined to Roads. No person shall drive any vehicle on any area except designated park roads or parking areas, or such other areas as may be specifically designated by the Director.

6. Vehicles in Designated Areas. No person shall park a vehicle in other than an established or designated parking area, and such use shall be in accordance with the posted directions and with the instructions of any attendant who may be present.

7. Abandoned Vehicles. No person shall leave any vehicle in the park that is or appears to be inoperable, immobile, disassembled or extensively damaged. Evidence of inoperability and damage includes, but is not

limited to, a buildup of debris that obstructs use, a broken window or windshield, a missing wheel, a flat tire, a nonfunctional motor or transmission, missing bumpers, or missing license plates.

8. Immovable Vehicles. No person shall leave any vehicle in the park with one or more wheels chained, or with motor set in gears and doors locked, or in any manner fixed or arranged so that such vehicle cannot readily be moved by hand.

9. Double-Parking. No person shall double-park any vehicle on any road or parkway unless directed by a park official.

10. Vehicle Parking Hours. No person shall park a vehicle overnight on park property.

11. Bicycle Operation. No person shall ride a bicycle other than on the right-hand side of the road paving as close as conditions permit, and bicycles shall be kept in single file when two or more are operating as a group. Persons shall at all times operate their bicycles with reasonable regard for the safety of others, signal all turns, pass to the right of any vehicle they are overtaking, and pass to the right of any vehicles they may be meeting.

12. Immobile Bicycles. No person shall leave a bicycle lying on the ground or paving, or set against trees, or in any place or position where other persons may trip over or be injured by them.

D. Picnic Areas and Use.

1. Regulated. No person shall picnic or lunch in a place other than those designated or reasonably useful for that purpose. Attendants shall have the authority to regulate the activities in such areas when necessary to prevent congestion and to secure the maximum use for the comfort and convenience of all. Visitors shall comply with any directions given to achieve this end.

2. Availability. No person shall violate the regulation that use of the tables and benches and other park amenities follows, generally, the rule of "first come, first served," unless by facility rental or reservation or by special event permit issued under Chapter 5.10 UPMC.

3. Nonexclusive. No person shall use any portion of the picnic areas or of any of the buildings or structures therein for the purpose of holding picnics to the exclusion of other persons, nor shall any person use such area and facilities for an unreasonable time if the facilities are crowded, unless by a facility rental or reservation or by a special use permit issued under Chapter 5.10 UPMC.

4. Barbeque. No person shall operate a barbeque except in designated areas and unless he or she takes all necessary safety precautions to ensure the safety of others and of the park property. All barbeques must be self-contained units that use coal or propane gas, and only be used outside. Coals, ashes, grease or other byproducts of said barbeques may not be disposed of on park property.

E. Recreational Activities.

1. Bathing Areas. No person shall erect, maintain, use or occupy on or in any beach, stream bank, or bathing area any tent, shelter or structure of any kind.

2. Firearms. No person shall use, carry, or possess weapons of any description potentially inimical to wildlife and dangerous to human safety, or any kind of trapping device; provided, however, that firearms are permitted subject to the following limitations. No person except duly authorized law enforcement personnel and/or persons licensed to carry a concealed weapon shall possess a concealed firearm in a City park. No person shall aim or discharge a firearm in, into, or across any park area.

3. Camping. No person shall camp in the open, or in tents, shacks, or any other temporary shelter, nor shall any person leave any movable structure or special vehicle to be used or that could be used for such purpose, such as a house trailer or camp trailer; provided, that camping as a component activity of a

properly permitted special event sponsored and organized or supported by the City, or sponsored and organized by a Federally certified nonprofit youth education organization, may be allowed for not more than 48 hours. Further provided, that this provision does not apply to temporary tent encampments as those are elsewhere defined and regulated in this code.

4. Games. No person shall take part in or abet the playing of any games involving thrown or otherwise propelled objects, or the playing of rough or comparatively dangerous games such as football or baseball, except in areas set apart for such use, or otherwise reasonably useful for such use and not reasonably likely to cause injury or interfere with the use of park facilities by the general public. Roller-skating and skateboarding, golf and horseshoes shall be confined to those areas specifically designated for such use.

5. Model Aircraft. No person shall fly or operate any gas- or electric-powered aircraft, model aircraft, model rockets, unmanned aerial vehicle or hot-air balloons, except at specified places and times designated for such activities by the Director upon his determination that:

a. Adequate provision has been made to ensure that the health and safety of participants in and spectators of any such activities will not be subject to undue hazard;

b. Such activities will be conducted in such a manner as to minimize potential damage to public or private property;

c. Such activities will not constitute a public nuisance;

d. Such activities will not unduly interfere with the use of park facilities by the general public; and

e. User has provided to the City a certificate of insurance satisfactory to the Director naming the City as an additional insured.

6. Racing. No person shall engage in, conduct or hold any trials or competitions for speed, endurance or hill climbing involving any vehicle, boat, aircraft or animal, except at specified places and times designated for such activities by the Director upon his determination that:

a. Adequate provision has been made to ensure that the health and safety of participants in and spectators of any such activities will not be subject to undue hazard;

b. Such activities will be conducted in such a manner as to minimize potential damage to public or private property;

c. Such activities will not constitute a public nuisance;

d. Such activities will not unduly interfere with the use of park facilities by the general public; and

e. User has provided to the City a certificate of insurance satisfactory to the Director naming the City as an additional insured.

F. Behavior.

1. Illegal Substances and Alcoholic Beverages. No person shall have or be under the influence of any illegal substances. No person shall have or be under the influence of alcoholic beverages of any kind, except that alcohol may be served in conjunction with a special event permit or facility rental agreement.

2. Violence. No person shall exhibit violence at any time, whether or not in possession of a weapon pursuant to this chapter.

3. Fireworks and Explosives. No person shall bring, or have in his possession, or set off or otherwise cause to explode or discharge or burn, any firecrackers, torpedoes, rockets, or other fireworks or explosives of

inflammable material, or discharge them or throw them into any such area from land or water adjacent thereto, including any City park or on the grounds of any City facilities, except in conjunction with a permit issued under Chapter 9.20A UPMC. This prohibition includes any substance, compound, mixture, or article that in conjunction with any other substance or compound would be dangerous from any of the foregoing standpoints.

4. Fires. No person shall build or attempt to build a fire except in such areas and under such regulations as may be designated by the Director. No person shall drop, throw, or otherwise scatter lighted matches, burning cigarettes or cigars, tobacco paper or other inflammable material within any park area or on any highway, road or street abutting or contiguous thereto.

5. Closed Areas. No person shall enter an area posted as "Closed to the Public," nor shall any person use, or abet the use of, any area in violation of posted notices.

6. Games of Chance. No person shall gamble or participate in or abet any game of chance.

7. Loitering and Boisterousness. No person shall sleep or protractedly lounge on the seat, or benches, or other areas, or engage in loud, boisterous, threatening, abusive, insulting or indecent language, or engage in any disorderly conduct or behavior tending to a breach of the public peace.

8. Signs. No person shall attach, affix or otherwise post any sign, placard, advertisement, or inscription to any park property, nor shall any person erect or cause to be erected any sign whatsoever on any public lands or roads in or adjacent to a park, except by facility rental or reservation or special event permit issued under Chapter 5.10 UPMC, or by permission of the Director.

9. Noise. No person shall operate a loudspeaker or mechanical amplifier, nor play a radio, stereo, television set, or similar device, at volumes such that they may be heard from over 20 feet from the source, except by facility rental or reservation or special event permit issued under Chapter 5.10 UPMC.

10. Exhibit Permits. No person shall fail to produce and exhibit any permit from the Director he claims to have upon request of any person who desires to inspect the same for the purpose of enforcing compliance with any ordinance or rule.

11. Interference with Permittees. No person shall disturb or interfere unreasonably with any person or party occupying any area, or participating in any activity, under the authority of a permit, rental, or reservation.

12. No Smoking or Vaping. No person shall smoke, vape or light cigars, cigarettes, tobacco, marijuana or other smoking material within City parks.

G. Sales.

1. Vending and Peddling. No person shall expose or offer for sale any article or thing, nor shall he station or place any stand, cart or vehicle for the transportation, sale or display of any such article or thing, except by sales permit issued under this chapter, or special event permit issued under Chapter 5.10 UPMC.

2. Advertising. No person shall announce, advertise, or call the public attention in any way to any article or service for sale or hire, except by sales permit issued under this chapter.

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 4. Effective Date. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City and shall take effect and be in full force five (5) days after publication.

PASSED BY THE CITY COUNCIL ON SEPTEMBER 19, 2022.

Steve Worthington, Mayor

ATTEST:

Emelita J. Genetia, City Clerk

APPROVED AS TO FORM:

Matthew S. Kaser, City Attorney

Publication Date: 09/21/22
Effective Date: 09/26/22