

Ordinance

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Streets, Sidewalks and Public Works

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ORDINANCE NO. 3764

AN ORDINANCE OF THE CITY OF MOUNT VERNON, WASHINGTON REPEALING MUNICIPAL CODE CHAPTER 12.32, CITY PARKS IN TITLE 12 STREETS, SIDEWALKS AND PUBLIC WORKS, AND ENACTING A NEW CHAPTER 12.32, CITY PARKS AND TRAILS TO PROVIDE FOR GENERAL REGULATIONS FOR PARKS AND TRAILS AND ALL OTHER PROPERTY UNDER THE MANAGEMENT OF THE PARKS AND ENRICHMENT DEPARTMENT, PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the current chapter 12.32 of the Mount Vernon Municipal Code was enacted in 1996 and since that date there have been changes in the City's Parks Comprehensive Plan, City ordinances, and new enforcement positions that all impact the Park code and its operations. General regulation of the Parks Department need revision; and

WHEREAS, the Parks Department has acquired other property to manage since 1996 (besides traditional City Parks) and in the management of these properties it has become necessary to enact Parks regulation to prohibit any encroachments on park property; and

WHEREAS, the new Chapter is substantially different in content and organization of sections from the previous chapter, repealing the entire previous chapter and enacting the new chapter will provide clarity for both the public and parks enforcement officers; and

WHEREAS, in order to promote the public health, safety, and welfare of the citizens of Mount Vernon and promote responsible use of park property, it is necessary to repeal chapter 12.32 and enact a new chapter 12.32;

NOW, THEREFORE, THE CITY COUNCIL OF MOUNT VERNON, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section One. The current Chapter 12.32 of the Mount Vernon Municipal Code is hereby repealed.

Section Two. A New Chapter 12.32 is hereby enacted and incorporated into the Mount Vernon Municipal Code as follows:

Chapter 12.32

CITY PARKS AND TRAILS

Sections:

12.32.010	Purpose
12.32.020	Definitions
12.32.030	Administrative rules
12.32.040	Obstructing a Park Ranger Prohibited
12.32.050	Refusal to give information to Park Ranger
12.32.060	Violation of park rules unlawful
12.32.070	Unlawful Camping in City Park

12.32.080	Park Hours
12.32.090	No-Trespassing Areas
12.32.100	Sound amplification equipment prohibited
12.32.110	Littering
12.32.120	Building Fires
12.32.130	Removal or destruction of park property
12.32.140	Urinating of Defecating on park property
12.32.150	Encroachments on Park Property
12.32.160	Restrictions on animals in parks
12.32.170	Alcoholic Beverages
12.32.180	Opening package of or consuming marijuana, useable marijuana, marijuana-infused products, or marijuana concentrates in view of general public or public place— Penalty. Exclusion from Parks.
12.32.190	Trespass in parks
12.32.200	Procedure for exclusion from City Parks
12.32.210	Penalty for violations

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12.32.010 Short Title

This chapter shall constitute the park code of the city and may be cited as such.

12.32.010 Purpose.

This chapter constitutes the parks and trail code of the city. The parks, playgrounds, activity centers, trails, and other facilities of the department are established for public recreation purposes. This chapter is an exercise of the police power of the city for the public peace, health, safety and welfare, and its provisions shall be liberally construed.

12.32.020 Definitions.

A. The terms use in this chapter, unless clearly contrary to or inconsistent with the context in which used, shall be construed as follows:

1. "Park" means and includes all city parks, playgrounds, public squares, park drives, parkways, park facilities, trails or trail corridors, promenades, the downtown riverfront plaza and any other plaza deemed to be a park, playfields, recreation grounds, and other property under management of the Parks and Enrichment Services Department within the jurisdiction of the city of Mount Vernon; other

property includes but is not limited to unimproved lands or open space under management of the park and enrichment department not generally open to the public.

2. "Parks and Enrichment Services Director" means the city of Mount Vernon Parks and Enrichment Services Director.

3. "Park Facility" or "facilities" means any building, structure, or park area operated by the parks and enrichment department.

4. "Park Ranger" means a parks enforcement officer commissioned by the City to enforce infractions and criminal laws limited to within one thousand feet of Park subject areas which shall include the issuance of citations. The Park Ranger shall be empowered to exercise the authority of peace officer to the extent necessary to enforce the city park code and municipal code including but not limited to all criminal laws adopted by reference. Persons designated as Park Ranger shall bear identification reflecting the authority under which they act, which identification shall be shown to any person requesting the same.

5. "Person" means all persons, groups, firms, partnerships, corporations, clubs, and all association or combination of persons whenever acting for themselves or as an agent, servant, or employee.

12.32.030 Administrative rules.

The Parks and Enrichment Services Director shall have authority to promulgate and adopt reasonable rules and regulations pertaining to the operation, management and use of the parks unless otherwise prohibited by the park code. These rules and regulations shall allow the full, peaceful access and utilization of the parks by the general public to the greatest extent possible when reasonable and are consistent with the public, health, safety, and welfare.

12.32.040 Obstructing a Park Ranger Prohibited

A person commits the offense of obstructing a park ranger if:

- A. He or she intentionally uses or threatens to use force to obstruct a person he or she knows or should reasonably know is a park ranger and while such park ranger is performing his or her official duties; or
- B. He or she willfully hinders, delays or obstructs any park ranger in the discharge of his or her official powers or duties.

12.32.050 Refusal to give information to Park Ranger

A. A person commits the offense of refusal to give information to a park ranger if he or she knows or should know they are in a city park and fails to comply with any of the duties set forth in subsection B of this section.

B. Any person who is requested or signaled to stop by a park ranger has a duty to stop. Whenever the park ranger obtains evidence warranting detention of a person for investigation of a municipal code violation, the park ranger may detain that person for a reasonable period of time necessary to identify the person, check for outstanding warrants and/or driver license status, and complete and issue a notice of infraction or criminal citation.

12.32.060 Violation of park rules unlawful

It is unlawful to violate or fail to comply with any park rule or regulation duly adopted and posted by the Parks and Enrichment Services Director. Unless otherwise provided, violation of any park rule or regulation duly adopted and posted by the Parks and Enrichment Services Director constitutes an infraction, and may be punished by a penalty of not more than two hundred fifty dollars.

12.32.070 Unlawful Camping in City Park

A. A person commits the offense of unlawful camping in a city park if he or she camps in any park, except as otherwise provided by ordinance or park rule or as permitted pursuant to Chapter 5.05 of the Mount Vernon Municipal Code. This ordinance shall not apply to i) streets or rights of way under the management of Mount Vernon Public Works and ii) public space open to the general public adjacent to City right of way. Notwithstanding the foregoing, it shall remain unlawful to camp in a city park with established park hours, playgrounds, playfields and recreation grounds, public squares, park drives, parkways, park facilities, trails or trail corridors, parking facilities, promenades, the downtown riverfront plaza and any other plaza deemed to be a park, except as otherwise provided by ordinance or park rule or as permitted pursuant to Chapter 5.05 of the Mount Vernon Municipal Code.

B. Definitions.

1. "Camp" means to pitch, use, or occupy camp facilities for the purposes of habitation, as evidenced by the use of camp paraphernalia.
2. "Camp facilities" include, but are not limited to, tents, huts, temporary shelters, or vehicles if said vehicle is being used as a temporary living quarters.
3. "Camp paraphernalia" includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, blankets, mattresses, hammocks or cooking facilities or equipment.

12.32.080 Park Hours

It is unlawful to be in a park, or leave a vehicle unattended in a park including parking lots serving the park, after closing time without permission from the Parks and Enrichment Services Director or as permitted pursuant to Chapter 5.05 of the Mount Vernon Municipal Code. Unless specifically excluded herein, parks shall close one-half hour after sunset and reopen one-half hour before sunrise; provided however, these closing hours shall not apply to trails, the riverfront plaza, public squares, or open spaces that are otherwise generally open to the public. The Parks and Enrichment Services Director shall have the authority to modify the time a city park is open and closed to the public where the director

determines it appropriate. The provisions of this section do not apply to any duly authorized department of Parks and Enrichment Services or other city employee in the performance of his or her duties, or other person authorized by law.

12.32.090 No-Trespassing Areas.

It is unlawful for any person except an authorized city employee in the performance of his/her duties, or other person duly authorized pursuant to law, to enter or go upon any area which has been designated and posted by the city manager or his or her designee as a "No Admittance" or "No Trespassing" area, or during any time during which the park is posted as being closed to the public.

12.32.100 Sound amplification equipment prohibited.

Except as authorized by the Parks and Enrichment Services Director or as permitted pursuant to Chapter 5.05 of the Mount Vernon Municipal Code the City, or except as necessary for the preservation of public peace or safety, it is unlawful to use any public address system, loudspeaker or other sound-amplifying device in any park when of any such equipment is operated in such a manner as to be audible at a distance of 50 feet. It is unlawful to exceed noise levels prescribed by MVMC 9.28.060 and MVMC 9.28.070.

12.32.110 Littering

- A. It is unlawful to leave, deposit, drop or scatter any bottles, broken glass, ashes, paper, cans or other rubbish, litter or refuse in any city park except in a garbage can or other receptacle designated for such purposes.
- B. Violation of any of the provisions of this section constitutes an infraction, and may be punished by a penalty of not more than two hundred fifty dollars.

12.32.120 Building Fires

- A. It is unlawful to build any fires in any park except in areas designated by the Parks and Enrichment Services Director.
- B. It is unlawful to use any material other than charcoal for fires in areas designated by the Parks and Enrichment Services Department. Wood and any other combustible material used for fires is prohibited.
- C. Violation of any of the provisions of this section constitutes an infraction, and may be punished by a penalty of not more than two hundred fifty dollars.

12.32.130 Removal or destruction of park property

- A. It is unlawful for any person to remove, injure, deface, damage, or destroy park property. This prohibition applies to all aspects of the natural or landscaped environment and to any structure, object, equipment, improvement, or other park property.

B. It is unlawful to collect, gather, or harvest natural resources or other materials on park property except by written permission of the Director of Parks and Enrichment Services.

12.32.140 Urinating or Defecating on Park Property

It is unlawful to intentionally urinate or defecate in any park except through facilities specifically provided for the purpose.

12.32.150 Encroachments on Park Property

A. It is unlawful for any person other than a duly authorized employee or agent of the Mount Vernon Parks and Enrichment Services Department to do any of the following acts without the written permission of the director of the Mount Vernon Parks and Enrichment Services Department:

1. Place, erect, or maintain any structure or obstruction of any kind on park property;
2. Deposit or store any refuse, debris, vegetation, personal property, litter, or any other material on park property;
3. Mow, prune, cut, clear, plant on, or otherwise alter or disturb any park property.

12.32.160 Restrictions on animals in parks.

A. Dogs and other domestic animals are not allowed within those areas of city parks designated by the Parks and Enrichment Services Director's rules and regulations.

B. All dogs, where otherwise allowed on city park property as provided in the above referenced policy, must be under control by means of a leash, as required by Chapter 6.04 of the Mount Vernon Municipal Code; provided, that this requirement does not apply to areas of park property designated for dog exercise, recreation, or training.

C. Horses are only allowed on paved roads open to motor vehicles, and on bridle paths when designated by the Parks and Enrichment Services Director or when permitted pursuant to Chapter 5.05 of the Mount Vernon Municipal Code.

D. Owners or handlers are responsible for cleaning up their animals' waste deposits left on park property.

E. Owners and handlers are required to have in their possession the equipment necessary to remove their animals' fecal matter when accompanied by said animal on public property or public easement.

F. No person shall hunt, catch, or injure any wild animal or bird on park property.

G. Violation of any of the provisions of this section constitutes an infraction, and may be punished by a penalty of not more than two hundred fifty dollars.

12.32.170 Alcoholic Beverages

A. The opening or consuming of any alcoholic beverage on park property is prohibited, except in those areas, or at those events that:

1. Have appropriate licensing from the state of Washington; and
2. Have explicit written permission of the Parks and Enrichment Services Department including pursuant to Chapter 5.05 of the Mount Vernon Municipal Code.

B. Violation of any of the provisions of this section constitutes an infraction, and may be punished by a penalty of not more than two hundred fifty dollars.

12.32.180 Opening package of or consuming marijuana, useable marijuana, marijuana-infused products, or marijuana concentrates in view of general public or public place—Penalty. Exclusion from Parks.

RCW 69.50.445 is as now or hereafter amended is hereby adopted by reference. A violation of RCW 69.50.445 are deemed grounds to exclude a person or persons from park property pursuant to MVMC 12.32.200.

12.32.190 Trespass in parks

A. A person commits the offense of trespass in parks if he or she knowingly: (1) enters or remains in a park from which he or she has been excluded during the period covered by an exclusion notice pursuant to MVMC 12.32.190; (2) enters, remains in, or is otherwise present within the premises of a park during hours which the park or portion of the park is not open to the public, unless the person is present within the park to participate in an activity either conducted by the parks and enrichment department or conducted pursuant to the terms of a permit issued by the parks and enrichment department; or (3) enters or remains in any area of a park which has been designated and posted by the director as a closed area, using such postings as "no admittance" or "closed to use" or "no trespassing."

The Parks and Enrichment Services Director shall have the authority to modify the time a city park is open and closed to the public where the director determines it appropriate.

B. The provisions of this section do not apply to any duly authorized Department of Parks and Enrichment Services employees or other city employee in the performance of his or her duties, or other person authorized by law.

C. It is not a defense to the crime of trespass in parks:

1. That the underlying exclusion issued pursuant to this chapter is on appeal when the excluded person is apprehended, charged, or tried under this section; nor
2. That the excluded person entered or remained in the park pursuant to a permit that was issued in the name of another person either before or after the date of the exclusion notice.

12.32.200 Procedure for exclusion from City Parks

A. The Parks and Enrichment Services Director or his/her designees, or Park Ranger or Mount Vernon Police Officer may, by delivering an exclusion notice in person to the offender, or by first class mail and certified mail to the offender at the offender's last known address, exclude from a city park, anyone who within a city park:

1. Violates any provision of this chapter; or
2. Violates any park rule; or
3. Engages in any conduct constituting probable cause that he or she is committing or has committed any criminal offense.

The offender need not be charged, tried, or convicted of any crime or infraction in order for an exclusion notice to be issued or be effective. The exclusion may be based upon observation by the Parks and Enrichment Services Director or his/her designee or upon civilian reports that would ordinarily be relied upon by police officers in the determination of probable cause.

B. If the offender:

1. Has not been excluded from any city park by an exclusion notice issued within one (1) year prior to the current violation, and the current violation is not a criminal violation, then the parks and recreation director or his/her designee or Parks Ranger may exclude the offender from any or all city parks for a period of sixty days from the date of issuance of the exclusion notice.
2. Has been the subject of one (1) or more prior exclusion notices issued within one (1) year prior to the current violation, or if the current violation is a criminal violation, then the parks and recreation director or his/her designee or Parks Ranger may exclude the offender from any or all city parks for a period of one (1) year from the date of issuance of the exclusion notice.

C. The exclusion notice shall be in writing and shall contain the date of issuance. The exclusion notice shall specify the length and places of exclusion. It shall be signed by the issuing individual. Warning of the consequences for failure to comply shall be prominently displayed on the notice.

D. The original exclusion notice will be forwarded to the Mount Vernon police department records unit for entry into the police records management system. One copy of the exclusion notice will be maintained by park staff and one copy will be delivered to the subject of the notice as provided in this section.

E. An offender receiving an exclusion notice may request a hearing to have the exclusion notice rescinded or modified. The City office of the hearing examiner established under Chapter 2.34 of the Mount Vernon Municipal Code, including hearings examiner pro tempore, shall be the tribunal to conduct and rule on any hearing request. The request for a hearing shall be delivered to the Mount Vernon Police Department or postmarked no later than seven days after the issuance date of the exclusion notice. The request for hearing shall be in writing and shall be accompanied by a copy of the exclusion notice on which the hearing is sought. Immediately upon receipt of a request for hearing on an

exclusion notice, department staff will forward the information directly to the legal department— criminal division (prosecutor), who will cause the scheduling of the hearing and take reasonable steps to notify the offender of the date, time and place of the hearing. An exclusion notice should only be rescinded or modified following a hearing as described herein.

F. The decision following a hearing is final. An offender seeking judicial review of the hearing examiner's decision must file the appropriate a writ or other pleading in the Skagit County superior court.

G. The exclusion notice remains in effect during the pendency of any administrative or judicial proceeding.

H. No determination of facts made by a person conducting a hearing under this section shall have any collateral estoppel effect on a subsequent criminal prosecution or civil proceeding and shall not preclude litigation of those same facts in a subsequent criminal prosecution or civil proceeding.

I. It is the intent of the Parks and Enrichment Services Department that this section be enforced so as to emphasize voluntary compliance with laws and park rules, and so that inadvertent minor violations can be corrected without resort to an exclusion notice.

12.32.210 Penalty for violations

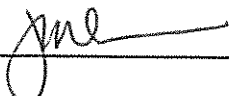
Unless otherwise provided, any person violating any provisions or failing to comply with any of the mandatory requirements of this chapter shall be guilty of a misdemeanor and may be punished by a fine of not more than one thousand dollars or by imprisonment not to exceed ninety days or by both such fine and imprisonment.

Section Three. Severability: Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section Four. Effective Date: This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.


ADOPTED BY THE CITY COUNCIL OF THE CITY OF MOUNT VERNON, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 26th DAY OF SEPTEMBER, 2018.

CITY OF MOUNT VERNON:



Jill Boudreau, Mayor

APPROVED AS TO FORM:



Kevin Rogerson, City Attorney

ATTEST/AUTHENTICATED:

Doug Volesky

Doug Volesky

Published: October 8, 2018

Effective: