

**ORDINANCE NO. 2016-09**

**AN ORDINANCE AMENDING CHAPTER 12.12 OF THE SANDY MUNICIPAL CODE TO PROHIBIT USE OF ALL TOBACCO PRODUCTS AND SMOKING AND VAPING OF ANY SUBSTANCE WITHIN SANDY PARK AND OPEN SPACE FACILITIES AND CENTENNIAL PLAZA**

**WHEREAS**, the City believes children and adults engaging in outdoor activities at City-owned Parks are entitled to a tobacco and smoke-free environment; and

**WHEREAS**, butts, filters and other tobacco and smoking-related litter create additional maintenance requirements, diminish the beauty of parks and pose a risk to toddlers and wildlife due to possible ingestion; and

**WHEREAS**, the City desires to reduce potential fire hazard and improve the safety and livability of our community; and

**WHEREAS**, the City desires to provide healthy ecosystems that contribute to better air and water quality; and

**WHEREAS**, the proposed changes have been reviewed and approved by the Park Board; and

**WHEREAS**, the proposed amendment makes a change to city law,

**NOW, THEREFORE THE CITY OF SANDY ORDAINS AS FOLLOWS:**

Sandy Municipal Code Chapter 12.12 is amended as set forth to add Rule 17 to **12.12.010 Rules adopted:**

**Rule 17.** It is prohibited for any person to use tobacco, smoke or vape any substance within any City Park and designated open space. Areas include, but are not limited to, playgrounds, restrooms, spectator areas, picnic shelters, concession stands, parking lots, athletic fields, aquatic areas and trails.

**THIS ORDINANCE IS ADOPTED BY THE COMMON COUNCIL AND APPROVED BY THE MAYOR THIS \_\_\_ DAY OF \_\_\_\_\_, 2016.**

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William King, Mayor

ATTEST:

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EXHIBIT A

**Amendments to Title 12. Replace Title 12 in its entirety with the following:**

**Chapter 12.12 - Public Parks**

**12.12.005 Definitions. For the purposes of this chapter:**

"Person" means any person, firm, corporation, but excluding those acting under direct authority of the city council.

"Public parks" means all property owned or controlled by the city, whether within or without the city limits, and operated for the use of the public for park purposes. (Ordinance 2008-08, 2008)

**12.12.010 Rules adopted.**

The following rules and regulations governing the use of the public parks in the city are adopted:

**Rule 1.** No person shall dig up, cut, break, remove or deface any building, structure, sign, bush or plant belonging to or growing within a public park in the city without written permission from the city.

**Rule 2.** No person shall have in his possession or discharge any destructive weapon, firearm, firecracker, torpedo or fireworks, or throw or place upon the ground any lighted match, cigar or any burning substance in any public park in the city.

**Rule 3.** No person shall, within the limits of any public park within the city, threaten, harass or abuse another person or otherwise engage in any disorderly conduct.

**Rule 4.** All public parks belonging to the city shall be open to the public at dawn and shall be closed and visitors excluded therefrom after dusk each day. Special exceptions can be made by the city.

**Rule 5.** Use of motorized vehicles (exclusive of wheelchairs) is prohibited in city parks. Exceptions include special events for the purpose of loading and unloading, emergency vehicles and service vehicles used by the city..

**Rule 6.** Horseback riding is prohibited in city parks unless otherwise posted.

**Rule 7.** Dogs in city parks must be on leash unless otherwise posted.

**Rule 8.** All persons using the park shall at all times obey all lawful orders of any police officer or lifeguard who may be stationed therein.

**Rule 9.** The drinking or possession of intoxicating beverages is allowed ONLY by OLCC permit, special events permit (including rental of facilities through the city) or other permitted activity. Permits issued allow only for the consumption and possession of beer and wine by adults 21 years or older. All sales of alcohol are prohibited unless authorized by OLCC permit. The city manager may impose such conditions upon such events, and require such financial security in connection therewith, so as to assure that such events are conducted in a safe manner and consistent with the use of parks by the public.

All drinking of intoxicating beverages in the Sandy River Park is prohibited.

**Rule 10.** All refuse, papers and rubbish shall be placed in refuse/recycling containers provided for that purpose, and everyone who uses park facilities shall keep them and the premises clean, so as to leave them in orderly condition for the next user.

**Rule 11.** Use of bicycles, skates, skateboards and other non-motorized, wheeled vehicles is allowed in designated areas only. Use is not permitted on any brickwork, ornamental surface, picnic table, tennis court, basketball court, fountain area, wading pool, planter, or sculpture located on public grounds.

**Rule 12.** Written permission by the city council is required for organized, promoted special events in city parks. Approval may include modifications to park rules. (Ord. 98-17, 1998: Ord. 9-77 § 1, 1977.)

**Rule 13.** No person shall deposit into a public water feature bubbling agents or dyes, or any objects or substances that would harm or hinder its function or endanger public safety. Materials used in the course of maintenance or operations by city staff or contractors are excepted. Ord. 2006-11.

**Rule 14.** No person shall hunt, pursue, trap, kill or disturb any animal, or its habitat.

**Rule 15.** Any group desiring to reserve any portion of a public park for picnics or social functions shall make written application therefore to the city manager at least one week prior to the event. An application fee may be required for certain parks and/or areas. The city manager may impose such conditions upon such events, and require such financial security in connection therewith, so as to assure that such events are conducted in a safe manner and consistent with the use of parks by the public.

**Rule 16.** No person shall engage in, sponsor or conduct: fighting, boxing, wrestling or similar forms of mutual combat in a public park. However, boxing and wrestling matches and exhibitions that are regulated and licensed by the Oregon State Boxing and Wrestling Commission; or boxing and wrestling conducted by organizations identified in ORS 463.210 as exempt from the licensing and bonding provisions or ORS Chapter 463, may be held in public parks upon the approval of the city manager. The city manager may impose such conditions upon such events, and require such financial security in connection therewith, so as to assure that such events are conducted in a safe manner and consistent with the use of parks by the public. (Ordinance 2008-08 §1, 2008)

**Rule 17.** *It is prohibited for any person to use tobacco, smoke or vape any substance within any City Park and designated open space. Areas include, but are not limited to, playgrounds, restrooms, spectator areas, picnic shelters, concession stands, parking lots, athletic fields, aquatic areas and trails.*

#### **12.12.020 Trespass and exclusion from parks.**

**(A)** In addition to other measures provided for violation of this code, or any of the laws of the state, any peace officer, as defined by ORS 133.005(3), as amended, or code enforcement officer may exclude any person who violates any provision of this code, any city ordinance, any laws of the state or any rule or regulation duly made and issued by the City Council from any city park for a period of not more than 30 days.

**(B)** Written notice shall be given to any person excluded from any city park. The notice shall specify the dates and places of exclusion. It shall be signed by the issuing party. Warning of the consequences for failure to comply shall be prominently displayed on the notice.

**(C)** A person receiving the notice may appeal to the Municipal Judge in accordance with 12.12.025 of this chapter to have the written notice rescinded or the period shortened. The appeal must be filed within 5 days of receipt of the exclusion notice, unless extended by the Municipal Judge for good cause shown.

**(D)** At any time within the 30 days, a person receiving an exclusion notice may apply in writing to the city manager for a temporary waiver from the effects of the notice. The city manager may grant a waiver if good cause exists. (Ordinance 2008-08 §2, 2008)**12.12.025 Appeal.**

**(A)** Appeal of an exclusion notice shall be to the municipal judge.

**(B)** Initiation of an appeal of an exclusion notice shall be filed within 5 days from the date of the exclusion notice with the municipal court clerk. The municipal judge may waive this requirement for good cause shown.

**(C)** The request for an appeal hearing shall be in writing and shall contain either a copy or a full and complete description of the notice of exclusion and a statement of the grounds upon which it is contended that the decision to exclude is invalid, unauthorized or otherwise improper.

**(D)** Upon receipt of a request for an appeal hearing, the municipal court clerk shall schedule a hearing before the judge within 14 days after receipt of the request. Notice of the hearing time and date shall be given to the person requesting the hearing and to the person issuing the exclusion notice.

**(E)** At the hearing, the judge may determine the matter without hearing upon the record. The judge may sustain, reverse or modify the exclusion notice appealed from in his or her judgment.

**(F)** The determination of the municipal judge is a quasi-judicial decision and is not appealable to the city council: appeals from any determination by the municipal judge shall be by writ of review to the Circuit Court of Clackamas County, Oregon as provided in ORS 34.010 through 34.100. (Ordinance 2008-08 §2A, 2008)

**12.12.030 Violation-Penalty.**

Any person who violates any of the provisions of this chapter shall be punished for each offense, upon conviction thereof, by a fine equivalent to a Class A Violation as listed in Oregon Revised Statutes, or by exclusion from city parks not to exceed 30 days, or by both such fine and exclusion. (Ordinance 2008-08 §3, 2008)

**12.12.040 Criminal Trespass.**

A person who knowingly violates an order of exclusion from city parks commits the crime of Criminal Trespass. (Ordinance 2008-08 §4, 2008)