

CITY OF SILVERTON
ORDINANCE
18-01

AN ORDINANCE OF THE SILVERTON CITY COUNCIL AMENDING SILVERTON MUNICIPAL CODE CHAPTER 12.48 AND DELETING CHAPTER 12.50 TO BAN CERTAIN ACTIVITIES IN CITY PARKS

WHEREAS, on September 18, 2017, October 16, 2017 and November 20, 2017, the Silverton City Council discussed changes to the Silverton Municipal Code (Code) whereby smoking and vaping of tobacco, nicotine, and marijuana like substances would be prohibited in City Parks; and

WHEREAS, the City believes the public health, safety, and welfare would be better served by prohibiting such activities in areas where people go to enjoy the outdoors and recreate; and

WHEREAS, Chapter 12.48 and Chapter 12.50 of the Code both relate to regulations in the City's parks and contained provisions that were not consistent; and

WHEREAS, the City desires to make both Chapters of the Code consistent by deleting Chapter 12.50 and also prohibiting certain acts in City Parks.

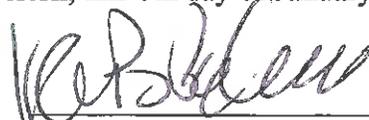
NOW THEREFORE THE CITY OF SILVERTON ORDAINS AS FOLLOWS:

Section 1: The Silverton Municipal Code is amended in substantially the same form as set forth in the attached Exhibit A-1 (Chapter 12.48 Smoking, Vaping, and Oral Devices)

Section 2: The Silverton Municipal Code is amended by deleting Chapter 12.50 in its entirety.

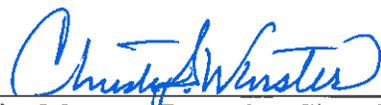
Section 3: This ordinance shall be effective upon and from 30 days of its passage.

Ordinance adopted by the City Council of the City of Silverton, this 8th day of January, 2018.



Mayor, City of Silverton
Kyle Palmer

ATTEST



City Manager/Recorder, City of Silverton
Christy S. Wurster

EXHIBIT A-1 (Regulating Smoking, Vaping and Oral Smoking Devices)
(deletions in ~~strikethrough~~, additions in *italics*)

Chapter 12.48 City Park Regulations

12.48.010 Purpose – Fees.

A. The parks of this city are established and maintained as areas of recreation, relaxation, and enjoyment for the public. It is intended that they shall be regulated and used to permit enjoyment by a maximum number of people engaged in widely diverse interests and activities as may be practical within the limits of space, design, and accommodations available in each park unit. Limitations may be required to insure the use of park areas in safety and to protect the rights of others in surrounding areas.

B. A park fee is hereby created and imposed, the amount of which is to be set by council resolution. The revenue from the park fee shall be used to pay the cost of construction, operation and maintenance of the city's parks and marine parks. The park fee shall be paid by the responsible party for each billing unit on developed property in the city. The park fee is premised on the direct and indirect use of or benefit derived from use of city parks and is neither a property tax nor subject to the limitations of Article XI, Section 11 of the Oregon Constitution.

C. Definitions. As used in this chapter and any resolution adopted under this chapter, the following phrases have the following meaning:

1. "Billing unit" means any structure(s) or discreet portion thereof lawfully capable of being occupied as either residential or nonresidential property. For example, in multifamily residential property each separate dwelling unit is considered a separate billing unit. Each separate and distinct business outlet in a shopping center is considered a separate billing unit. A "billing unit" may include one or more structure(s) if all are used in a common purpose or operation. For example, nonresidential property being used as an industrial or commercial site having several structures forming or being used for an integrated commercial or industrial purpose constitutes one billing unit.
2. "City" means the city of Silverton, Oregon.
3. "City utility service" means both the city's water and sanitary sewer utility(ies).
4. "Developed property" means improved legally identifiable lots located in the city containing one or more billing units. The phrase "developed property" does not include property owned or controlled by the city or federal governmental bodies.
5. "Improved" means real property with residential or nonresidential buildings or structures (habitable or otherwise).

6. *"Marijuana items" means cannabinoid concentrates, cannabinoid extracts, cannabinoid products and marijuana.*

7. *"Marine park" means a fishing park, swimming area, boat launch, aquatic recreation area or any other area in the city owned or used by the city, and designated by city council resolution for active or passive marine recreation.*

68. *"Nonresidential property" means all developed property not used or intended as residential property.*

9. *"Park" means any publicly or privately owned real property placed under the jurisdiction of, granted to, or owned by the city, including marine parks, buildings, facilities, playing fields, and other areas used or designated for park or recreational purposes.*

910. *"Residential property" means developed property used or intended primarily as personal domestic domicile(s) (along with related improvements) including single-family, multifamily and group homes, but not including properties used for transient (i.e., less than 30 days) occupancies such as hotels, resorts or motels.*

§11. *"Responsible party" means person(s) who is either by ownership or occupancy of developed property with one billing unit, or, pursuant to contract, responsible for payment of city utility services provided to that property. For any developed property with one billing unit not otherwise required to pay for city utility services, "responsible party" shall mean the owner of that property or the person(s) legally entitled to occupancy of that property, unless a person/party other than an occupant or owner has agreed to pay for the city's utility services, in which case, they would be the responsible party. For developed property with more than one billing unit, the "responsible party" for each billing unit shall be responsible for the payment of a park fee. For example, each of the 20 billing units in a 20-unit apartment complex will be billed for and pay the park fee.*

12. *"Smoking" means any of the following:*

a) smoking, burning, inhaling, or exhaling of any kind of plant material including but not limited to tobacco, nicotine, marijuana items, tobacco-like products that are intended or capable of being inhaled or smoked in a heated or lighted cigar, cigarette, hookah, pipe, or any other kind of lighted smoking equipment;

b) the use of an e-cigarette which creates a vapor, in any manner or in any form; or

c) the use of any oral smoking device for the purpose of circumventing the smoking prohibition.

12.48.070 Hours of use – Sleeping and camping.

A. No person shall sleep in any park between the hours of 10:00 p.m. and 7:00 a.m., except as provided in subsection C of this section.

B. No person shall use any tent, shelter-half, motor home, vehicle, camper, or trailer as a shelter for housing or sleeping in any park area, except as provided in subsection C of this section.

C. The city manager may, in his or her reasonable discretion, issue permits or designate areas for the use of tents, shelter-half, motor homes, vehicles, campers, or trailers as shelters for housing or sleeping in parks for any overnight sleeping in parks between the hours of 10:00 p.m. and 7:00 a.m. *The City Manager may also allow park hosts of marine parks as defined under SMC 12.50.020 to stay overnight in marine parks.*

12.48.100 Wildlife/Hunting.

No person, without the written permission of the city manager, shall trap, harm, mutilate, maim, abuse, or destroy any wildlife inhabiting or found in a park area. ~~This section shall not apply to duly authorized city employees in the performance of their duties.~~ *It is unlawful for any person to hunt or pursue wildlife at any time, or to use, carry or possess firearms, air rifles, spring guns, bows and arrows, slings or any other form of weapon potentially harmful to wildlife and/or human safety, or any instrument that can be loaded with and fire blank cartridges or any kind of trapping device, or any weapon designated as dangerous by the laws of the state of Oregon in a city park. This section shall not apply to duly authorized city employees in the performance of their duties.*

12.48.125 Smoking Prohibited.

Smoking is prohibited on and around all city parks and recreation areas except for those areas as designated by the city manager or designee. This includes but is not limited to adjacent parking lots and adjacent sidewalks.

12.48.127 Prohibited activities in marine parks.

In addition to other prohibitions listed in this Chapter 12.48, the following activities are prohibited in marine parks:

A. Use of Alcoholic Beverages. It is unlawful for any person to possess or consume any alcoholic beverage in a marine park.

B. Sale, Possession, Use and Discharge of Fireworks. It is unlawful for any person to sell, keep or offer for sale, expose for sale, possess, use, explode or have exploded any fireworks in any marine park.

C. Swimming. No person shall swim in any area posted as a no swimming area. No person shall use a public dock for the purpose of ingress or egress while swimming in the marine park.

D. Personal Abuse. No person shall blow, spread or place any nasal or other bodily discharge or spit, urinate or defecate on the floors, walls, partitions, furniture, fittings or any portion of a public convenience station located in any marine park in the city, or in any place in such station, excepting directly into the particular fixture provided for that purpose.

E. Abuse of Plumbing. No person shall place a bottle, can, cloth, rag or metal, wood or stone substance in the plumbing fixtures in such public convenience stations.

F. Boating. It is unlawful for any person to navigate, direct or handle any boat in such a manner as to unjustifiably or unnecessarily annoy or frighten or endanger the occupants of any other boat or swimmer.

12.48.128 Exclusion from parks.

A police officer may exclude any person who violates a provision of SMC 12.48 or 12.50 from a park for a period of not more than one year.

A. Written notice shall be given to a person excluded from the parks. The notice shall specify the dates of exclusion and shall be signed by the issuing officer. Warning of consequences for failure to comply shall be prominently displayed on the notice.

B. If a person excluded from a park is found therein during the exclusion period, that person is subject to immediate arrest for criminal trespass pursuant to state law.

12.48.140 Penalty.

Any person who violates any provisions of this chapter shall, upon conviction, be punished by a fine of not more than \$500.00. A violation of this Section is punishable in accordance with the general penalty provisions of SMC 1.08.010.