

PARK MUNICIPAL CODE

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9.06.010 Short title.

This chapter shall constitute the park code of the city and may be cited as such. (Prior code § 14.08.010)

9.06.020 Definitions.

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

- A. "Park commission" means the members of the park commission of the city;
- B. "Park" means and includes all city parks, public squares, park drives, parkways, boulevards, golf courses, park museums, zoos, bathing beaches, and play and recreation grounds under the jurisdiction of the park commission. (Ord. 2442-00 § 11, 2000: prior code § 14.08.040)

9.06.030 Construction of provisions.

This chapter is declared to be an exercise of the police power of the state and Everett for the public peace, health, safety and welfare, and its provisions shall be liberally construed. (Prior code § 14.08.020)

9.06.034 Parks director responsibility and authority.

- A. It shall be the responsibility of the parks director of the city to enforce all provisions of this chapter, the city park code, including park rules and regulations adopted by the park commission or the parks director and including the prohibition against camping in any park, Section 8.56.010(A) of this code.
- B. The parks director and his/her designees shall be empowered to exercise the authority of peace officers to the extent necessary to enforce the city park code, which power shall include issuance of citations.
- C. The parks director and his/her designees shall be empowered to exercise the authority of peace officers to the extent necessary to enforce the city parking laws (Chapter 46.28 of this code) within one thousand feet of any city park, which power shall include issuance of citations.
- D. Persons designated by the parks director to enforce the park code shall bear identification reflecting the authority under which they act, which identification shall be shown to any person requesting the same. Persons designated to enforce the park code shall be known as park rangers. (Ord. 2442-00 § 12, 2000: Ord. 1615-89 §§ 1, 4 (part), 1989)

9.06.036 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 intentionally does any act that he or she knows or should reasonably know will interfere with or obstruct a person known to be or who should reasonably be known to be a park ranger and while such park ranger is performing his or her official duties. (Ord. 1615-89 §§ 2, 4 (part), 1989)

9.06.038 Refusal to give information to park ranger.

Any person requested to identify himself or herself to a park ranger pursuant to an investigation of a park code violation has a duty to identify himself or herself and give his or her current address. (Ord. 1615-89 §§ 3, 4 (part), 1989)

9.06.040 Posting signs.

- A. It is unlawful to use, place or erect any signboard, sign, billboard, bulletin board, post, pole or device of any kind of advertising in any park; or to attach any notice, bill, poster, sign, wire, rod or cord to any tree, shrub, railing, post or structure in any park; or, without the written consent of the parks director, to place or erect in any park a structure of any kind.
- B. Provided, by recommendation of the park commission and/or the parks director and approval of the city council, the following signs may be erected in city parks:
 - 1. Temporary directional signs or decorations on occasions of public celebration and picnics;
 - 2. The city may enter into agreements for the installation of signs which depict the layout of each fairway on the city golf courses. Said signs may contain advertising matter which is tasteful and not out of character with general community standards and morals.
- 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. (Ord. 2442-00 § 13, 2000: Ord. 1035-84 § 1, 1984; prior code § 14.08.050)

9.06.050 Defacing property.

It is unlawful for any person, except an authorized employee or agent of the city, to remove, destroy, mutilate or deface any park property, structure, facility or station. This prohibition applies to all aspects of the natural or landscaped environment and to any structure, object, equipment, improvement, or other park property. Violation of any of the provisions of this section is 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. (Ord. 2442-00 § 14, 2000: prior code § 14.08.060)

9.06.055 Illegal dumping—Abandonment of animals.

- A. No person shall deposit household or commercial garbage, trash, refuse, waste, debris, rubbish or organic matter which is brought as such from any private property, in any park garbage receptacle or upon any park property.
- B. No person shall abandon an animal by intentionally, knowingly, recklessly or with criminal negligence leaving a domesticated animal in a park.
- C. Violation of any of the provisions of this section constitutes 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. (Ord. 2442-00 § 10, 2000)

9.06.060 Animals at large.

- A. It is unlawful for any person to allow or permit any animal to be at large in any park, except dog guides or service animals, as defined in Chapter 70.84 RCW (White Cane Law), or those animals used by a law enforcement officer; provided, that except in areas in which animals are prohibited, animals are permitted in a park if on a leash not greater than ten feet in length, or otherwise securely caged or securely restrained.
- B. The parks director may ban dogs and other pets from areas of any park where the director determines it appropriate.
- C. Any person with any animal in his or her possession in any park shall be responsible for the conduct of the animal and shall not allow the animal to bite or otherwise molest or annoy other park visitors.
- D. Any person with an animal in his or her possession in any park shall carry equipment for removing fecal matter, and shall collect and place fecal matter deposited by such animal in an appropriate receptacle.
- E. Notwithstanding subsection A of this section, the parks director may designate certain areas in parks as allowing dogs and/or other pets to be off leash.
- F. 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. (Ord. 2442-00 § 15, 2000: prior code § 14.08.070)

9.06.070 Weapons.

It is unlawful to shoot or fire any firearm, air gun, bows and arrows, B.B. gun or use any slingshot in any park; provided, this section shall not apply to law enforcement personnel or to department of parks and recreation employees acting pursuant to and in accordance with rules and regulations of the parks director; and provided further, that this section shall not apply to participants in a parks and recreation program which, as a component of the program, includes the use of such weapons; and provided further, that this section shall not apply to hunters accessing park areas designated for the purposes of hunting, in accordance with Washington State Department of Fish and Wildlife regulations. Hunters are required to keep gun actions open and unloaded while on city property. Violation of any of the provisions of this section is 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. (Ord. 2442-00 § 16, 2000: prior code § 14.08.080)

9.06.080 Feeding animals.

It is unlawful in any manner to feed any fowl, farm animals or wildlife, except at areas designated by the parks director for such purposes. 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. (Ord. 2442-00 § 17, 2000: prior code § 14.08.090)

9.06.090 Soliciting.

It is unlawful to take up collections, or to act as, or ply the vocation of solicitor, agent, peddler, fakir, mendicant, beggar, strolling musician, organ grinder, exhorter, barker, showman or bootblack; or to operate or use any loudspeaker without a written permit in any park. (Prior code § 14.08.100)

9.06.100 Selling refreshments or merchandise.

It is unlawful to sell refreshments or merchandise, or to distribute literature in any park, without the permission of the parks director, or a concession contract with the city. 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. (Ord. 2442-00 § 18, 2000; prior code § 14.08.110)

9.06.104 Groups or assemblies—Reservations.

City parks and recreational facilities shall be available for any group or assembly on a first come, first serve basis. Groups or assemblies calculated to attract a large number of people, relative to the size and capacity of the park or facility must, prior to the event, reserve the space. A large group or assembly is that which would occupy one-tenth or more of the user capacity of the park or facility. (Ord. 889-82 § 2, 1982)

9.06.108 Groups or assemblies—Permit—Application.

Reservations as required in Section 9.06.104 shall be made by obtaining a written permit through the office of the director of parks and recreation. A permit may be obtained by submitting a written application to the director's office, at least fourteen working days prior to the day of the intended use. The application shall contain such information as the director of parks and recreation shall deem necessary to insure compliance with Sections 9.06.104 through 9.06.116 and/or any other applicable laws and regulations. (Ord. 889-82 § 3, 1982)

9.06.112 Groups or assemblies—Permit—Denial.

Applications will be denied, approved or approved with conditions within ten calendar days prior to the date scheduled for the event. Denial of applications will be based on one or more of the following:

- A. The space had already been applied to for reservation at the time of the application submission, or;
- B. The event or assembly for which the permit is sought would, because of its time, place or nature, obstruct or substantially interfere with the enjoyment and use by the general public; or
- C. The event or assembly for which a permit is sought is in violation of Sections 9.06.104 through 9.06.116 and/or any other applicable ordinance, law or regulation.

The director of parks and recreation shall have authority to approve a permit subject to the applicant meeting reasonable conditions consistent with Sections 9.06.104 through 9.06.116 and city ordinances and policies as now exist or are hereafter amended. (Ord. 889-82 § 4, 1982)

9.06.116 Parks and recreation facilities—Fee for use.

The director of parks and recreation is authorized to charge fees for the use of city park and recreation facilities as are established by city ordinances and policies as now exist or are hereafter amended.

9.06.120 Boating.

A. It is unlawful to have, keep or operate any boat, float, raft or other watercraft in or upon any bay, lake, slough, river or creek, within the limits of any park, or to land the same on any point upon the shores thereof bordering upon any park, except at places set apart for such purposes by the parks director and so designated by signs. Further, it is unlawful for any person to moor any watercraft overnight in any park, except by permit of the parks director or his or her designee.

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. (Ord. 2442-00 § 19, 2000; prior code § 14.08.130)

9.06.125 Parking for certain purposes prohibited.

A. No person shall park any vehicle in any park for the principal purpose of:

- 1. Displaying of commercial or noncommercial signs; or
- 2. Displaying such vehicle for sale.

B. No person shall park any vehicle in any park for the principal purpose of washing, greasing, or repairing such vehicle except repairs necessitated by an emergency.

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. (Ord. 2442-00 § 23, 2000)

9.06.130 Restrictions on vehicles.

It is unlawful to ride or drive any bicycle, tricycle, motorcycle, motor vehicle, horse or pony over or through any park except along and upon the park drives, parkways, park boulevards, or at a speed in excess of

fifteen miles per hour, or to stand or park any vehicle, except in areas designated by the parks director. 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. (Ord. 2442-00 § 20, 2000: prior code § 14.08.140)

9.06.132 Skateboarding.

Unless otherwise posted, it is unlawful to use skateboards, in-line skates, roller skates, or bicycles on tennis courts and stages. It is unlawful to use skateboards, in-line skates, roller skates, or bicycles in any other area of a park if so posted. 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. (Ord. 2442-00 § 8, 2000)

9.06.135 Noise.

A. No person shall, without prior written approval of the parks director or authorized parks department employee, cause or allow to be emitted noise in a park which:

1. Exceeds the maximum permissible noise levels set forth in Sections 20.08.040 and 20.08.050 of this code; or
2. Is a motor vehicle noise specifically prohibited by Section 20.08.080(B) of this code; or
3. Is a disturbance noise or a nuisance noise.

B. The following sources of sound shall be disturbance noises and are also subject to regulation under the provisions of Sections 20.08.030 through 20.08.050 of this code:

1. Frequent, repetitive or continuous noise made by any animal which unreasonably disturbs or interferes with the peace, comfort and repose of park users or nearby residents;
2. The frequent, repetitive or continuous sounding of any horn or siren attached to a motor vehicle, except as a warning of danger or as specifically permitted or required by law;
3. The creation of frequent, repetitive or continuous noise in connection with the starting, operation, repair, rebuilding or testing of any motor vehicle, motorcycle, off-highway vehicle or internal combustion engine so as to unreasonably disturb or interfere with the peace, comfort or repose of park users or nearby residents;
4. Yelling, shouting, hooting, whistling or singing so as to unreasonably disturb or interfere with the peace, comfort and repose of park users or nearby residents;
5. The use of a sound amplifier or other device capable of producing or reproducing amplified sound, except with prior permission of the parks director or his designee;
6. Sound from motor vehicle audio sound systems, such as tape players, radios and compact disc players, operated at a volume so as to be audible greater than fifty feet from the source; and
7. Sound from audio equipment, such as tape players, radios and compact disc players, operated at a volume so as to be audible greater than fifty feet from the source;

C. "Nuisance noise" means any sound which unreasonably either annoys, injures, interferes with or endangers the comfort, repose, health or safety of park users or nearby residents.

D. No sound source specifically exempted by Chapter 20.08 of this code shall be a disturbance noise or nuisance noise insofar as the particular source is exempted.

E. The provisions of this section shall not apply to regularly scheduled events at parks, such as public address systems for baseball games or park concerts.

F. If the measurement of sound is necessary to determine compliance with this section, such measurement shall be done in accordance with Chapter 20.08 of this code.

G. The provisions of this section shall be cumulative and nonexclusive, and shall not affect any other claim, cause of action or remedy; nor, unless specifically provided, shall this section be deemed to repeal, amend or modify any law, ordinance or regulation relating to noise, but shall be deemed additional to existing legislation and common law on noise.

H. For purposes of this section, the following definitions apply:

1. "Motorcycle" means any motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, except farm tractors and such vehicles powered by engines of less than five horsepower.
2. "Motor vehicle" means any vehicle which is self-propelled, used primarily for transporting persons or property upon public highways, and required to be licensed under RCW 46.16.010.
3. "Noise" means the intensity, duration and character of sounds from any and all sources.
4. "Off-highway vehicle" means any self-propelled motor driven vehicle not used primarily for transporting persons or property upon public highways nor required to be licensed under RCW 46.16.010.
5. "Person" means any individual, firm, association, partnership, corporation or any other entity, public or private.

I. 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. (Ord. 2442-00 § 3, 2000)

9.06.140 Remote control models, hang gliders, hot air balloons.

It is unlawful to operate any remote control and/or motorized model aircraft, rocket, watercraft or similar device in any park, or to launch or land any hang glider or hot air balloon, except at places set apart by the parks director for such purposes or as authorized by a permit from the parks director. 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. (Ord. 2442-00 § 4, 2000)

9.06.142 Disorderly conduct.

A. A person is guilty of disorderly conduct in a city park if he or she, while in a city park:

1. Uses abusive or obscene language and thereby intentionally creates a risk of assault; or
2. Intentionally and unreasonably disrupts any lawful assembly or meeting of persons and refuses or intentionally fails to cease such activity when ordered to do so by the person in charge of the assembly or meeting; or
3. Intentionally obstructs vehicular or pedestrian traffic without lawful authority; or
4. Engages in a fight or brawl; provided, "fight or brawl" shall not include boxing matches, or martial arts contests or exhibitions, where all participants in said match contest or exhibition are wearing boxing gloves, or protective gloves or like protective devices commonly used in martial arts contests or exhibitions.

B. Violation of any of the provisions of this section constitutes 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. (Ord. 2442-00 § 5, 2000)

9.06.144 Lewd conduct.

A. A person commits the offense of lewd conduct in a city park if he or she performs any lewd act in a city park when he or she knows such act is likely to be observed by a person and such act is likely to cause reasonable affront or alarm.

B. A "lewd act" as used in this section is:

1. An exposure of one's genitals or female breasts; or
2. The touching, caressing or fondling of the genitals or female breasts; or
3. Masturbation; or
4. Sexual conduct.

C. "Sexual conduct" as used in this section means sexual intercourse in the ordinary meaning thereof, or any touching of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desire of either party, whether such persons are the same or opposite sex.

D. Violation of any of the provisions of this section constitutes 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. (Ord. 2442-00 § 6, 2000)

9.06.146 Urinating in public.

A. A person is guilty of urinating in public in a city park if he or she intentionally urinates or defecates in a city park in a place other than a wash room or toilet room.

B. Violation of any of the provisions of this section constitutes a misdemeanor, and may be punished by a fine of not more than one thousand dollars. (Ord. 2442-00 § 7, 2000)

9.06.148 Trail use.

Unless otherwise posted, it is unlawful to use bicycles or other similar wheeled vehicles on unpaved trails. Further, it is unlawful for any person to travel on a trail at a speed greater than is reasonable and prudent under the existing conditions and having regard to actual and potential hazards. In every event, speed shall be so controlled as may be necessary to avoid colliding with others who are complying with the law and using reasonable care. Travel at speeds in excess of fifteen miles per hour on a walking/vehicle trail, unless otherwise posted, shall constitute in evidence a prima facie presumption that the person violated this section. Travel at speeds fifteen miles per hour or less shall not relieve the rider from maintaining control of themselves and their equipment, and from the duty to ride with due regard for the safety of all persons. 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. (Ord. 2442-00 § 9, 2000)

9.06.150 Golfing, baseball, etc.

It is unlawful to practice or play golf, baseball, cricket, lacrosse, polo, archery, hockey, tennis, badminton or other games of like character or to hurl or propel any airborne or other missile except at places set apart for such purposes by the parks director. 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. (Ord. 2442-00 § 21, 2000: prior code § 14.08.160)

9.06.160 Littering.

No person shall 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. 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. (Ord. 2442-00 § 22, 2000: prior code § 14.08.170)

9.06.170 Automobile testing.

Repealed by Ord. 2442-00. (Prior code § 14.08.180)

9.06.180 Speed or endurance competitions.

It is unlawful to engage in, conduct or hold any trials or competitions for speed, endurance or hill climbing involving any vehicle, boat, aircraft or animal in any park. (Prior code § 14.08.190)

9.06.190 Building fires.

It is unlawful to build any fires in any park except in areas designated by the parks director. 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. (Ord. 2442-00 § 24, 2000: prior code § 14.08.200)

9.06.200 Liquor concessionaires.

A. Concessionaires of the city operating at the club houses of Legion Memorial and Walter E. Hall Golf Courses are authorized, subject to appropriate city, state and federal requirements, to sell and/or dispense beer and wine; provided however, that the privilege shall be limited to those concessionaires who operate full restaurant facilities in conjunction with the sale and/or dispensing of beer and wine.

B. The sale or dispensing of any intoxicating liquors on city park property other than by a concessionaire or person authorized by the city is unlawful.

C. The sale or dispensing or consumption of intoxicating liquors on city park property shall be limited to the concessionaire's premises only; provided however, the concessionaire is permitted to sell beer and wine on the golf courses and such beer and wine sold may be consumed on the golf courses as well. Possession of an open container of intoxicating liquor or consumption of liquor at any location other than the golf courses as authorized herein or on the premises of duly licensed concessionaires to whom the privilege to sell beer and wine as authorized herein is unlawful.

D. All beer and wine sold on city-owned golf courses shall be in containers opened at the time and point of sale and shall not be taken onto the parking lot.

E. The sale of beer and wine by authorized concessionaires shall be permitted in conformance with an agreement between the city and such concessionaires. The revenue from such sales shall be split between the concessionaire and the city in accordance with the terms of the agreement.

F. On or before September 1, 2003, the parks department shall provide the city council with a report concerning the effect of beer and wine sales by beverage cart operators on the operations of city-owned golf courses.

G. The ordinance codified in this section shall expire on September 15, 2003, unless the city council (by a majority vote of four members) determines to extend it. (Ord. 2715-03 § 1, 2003; Ord. 2625-02 § 1, 2002: prior code § 14.08.210)

9.06.202 Alcoholic beverages.

It is unlawful for any person to consume or possess any alcoholic beverage in a city park, including unopened alcoholic beverage containers; provided, this prohibition shall not apply to organized groups which have secured a permit from the parks director or his or her designee and, if required, from the Washington State Liquor Control Board. Violation of any of the provisions of this section is 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. (Ord. 2442-00 § 1, 2000)

9.06.205 Possessing or obtaining tobacco by minor—Refusal to give information.

A. A person under the age of eighteen who possesses or obtains, or attempts to obtain cigarettes or

tobacco products in a city park commits a civil infraction and is subject to a fine of fifty dollars, not including any statutory assessments, or participation in up to four hours of community service, or both. The court may also require participation in a smoking cessation program.

B. Any person requested to identify himself or herself to a park ranger pursuant to an investigation of a violation of this section has a duty to identify himself or herself or herself and give his or her current address. Refusal to give information to a park ranger is a misdemeanor, and may be punished by a fine not to exceed one thousand dollars, or imprisonment in jail not to exceed ninety days, or by both such imprisonment and fine. (Ord. 2442-00 § 2, 2000)

9.06.208 Trespass in parks—Punishment.

A. Any person who 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 Section 9.06.235; (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 recreation department or conducted pursuant to the terms of a permit issued by the parks and recreation 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” shall be guilty of trespass in parks, a gross misdemeanor, and may be punished by a fine and/or imprisonment up to the maximum fine amount and term of imprisonment set forth in Section 10.04.080(A).

B. Unless otherwise posted, city parks are open to the public from six a.m. to ten p.m. April 1st to October 31st and six a.m. to eight p.m. November 1st to March 31st. The parks are closed to the public outside of posted times. The parks and recreation 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.

C. The provisions of this section do not apply to any duly authorized department of parks and recreation or other city employee in the performance of his or her duties, or other person authorized by law.

D. 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. (Ord. 3236-11 § 8, 2011; Ord. 3059-08 § 1, 2008; Ord. 2442-00 § 29, 2000)

9.06.210 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 director. Unless otherwise provided, violation of any park rule or regulation duly adopted and posted by the parks director constitutes an infraction, and may be punished by a penalty of not more than two hundred fifty dollars. (Ord. 2442-00 § 25, 2000; prior code § 14.08.220)

9.06.220 Reward for assistance in enforcing chapter.

The parks director may offer, post and pay a suitable reward not exceeding twenty-five dollars for information leading to the arrest and conviction of anyone violating the provisions of this chapter. (Ord. 2442-00 § 26, 2000; prior code § 14.08.230)

9.06.230 Principal offender defined.

Anyone concerned in the violation of this chapter whether directly committing the act or omitting to do the thing constituting the offense, or who aids or abets the same, and whether present or absent, and anyone who directly or indirectly counsels, encourages, hires, commands, induces or otherwise procures another to commit such offense, is and shall be a principal under the terms of this chapter and shall be proceeded against and prosecuted as such. (Prior code § 14.08.240)

9.06.235 Park exclusion.

A. The parks director or his/her designees 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. Violates any provision of the Everett Municipal Code or Revised Code of Washington.

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 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 year prior to the violation and the current violation is not a weapon violation, then the parks director or his/her designee may exclude the offender from the city park in which the current violation occurred for a period not exceeding seven days from the date of the exclusion notice.

2. Has been the subject of only one prior exclusion notice issued within one year prior to the current violation and neither the current nor the past violation was a weapon violation, then the parks director or his/her designee shall exclude the offender from any or all city parks for a period of ninety days from the date of the exclusion notice.

3. Has been the subject of two or more prior exclusion notices issued within one year prior to the current violation, or if the current violation is a weapon violation, then the parks director or his/her designee shall exclude the offender from any or all city parks for a period of one year from the date 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. Only the parks director or his/her designee after a hearing may rescind, shorten or modify an exclusion notice.

E. An offender receiving an exclusion notice longer than seven days may seek a hearing to have the exclusion notice rescinded, the period of exclusion shortened, or the areas of exclusion reduced. The hearing examiner shall be an elected or pro tempore Everett municipal court judge, unless the mayor designates another as hearing examiner. The request for a hearing shall be delivered to the parks director 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. The hearing should occur within seven days after the parks director receives the request for hearing. The parks director or his/her designee shall take reasonable steps to notify the offender of the date, time, and place of the hearing.

F. At the hearing, the violation must be proved by a preponderance of the evidence in order to uphold the exclusion notice. If the exclusion notice was issued because of the alleged violation of any criminal law, the offender need not be charged, tried, or convicted for the exclusion notice to be upheld. The exclusion notice establishes a prima facie case that the offender committed the violation as described. The hearing examiner shall consider a sworn report or a declaration made under penalty of perjury, written by the individual who issued the exclusion notice, without further evidentiary foundation. The certifications authorized in Rule 6.13 of the Criminal Rules for Courts of Limited Jurisdiction shall be considered without further evidentiary foundation. The hearing examiner may consider information that would not be admissible under the evidence rules in a court of law but which the hearing examiner considers relevant and trustworthy.

G. If the violation is proved, the exclusion notice shall be upheld; but upon good cause shown, the hearing examiner may shorten the duration of the exclusion or reduce the areas covered by the exclusion. If the violation is not proved by a preponderance of the evidence, the hearing examiner shall rescind the exclusion. If the hearing examiner rescinds an exclusion, the exclusion shall not be considered a prior exclusion for purposes of subsection B of this section.

H. The decision of the hearing examiner is final. An offender seeking judicial review of hearing examiner's decision must file an application for a writ of review in the Snohomish County superior court with fifteen days of the date of that decision.

I. The exclusion shall remain in effect during the pendency of any administrative or judicial proceeding.

J. 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.

K. This section shall be enforced so as to emphasize voluntary compliance with laws and park rules, and so that inadvertent minor violations that would fall under subsection B.1 can be corrected without resort to an exclusion notice. (Ord. 2442-00 § 28, 2000)

9.06.240 Penalty for violations.

Unless otherwise provided, any person violating any of the 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. (Ord. 2442-00 § 27, 2000: Ord. 293-74 § 2 (part), 1974; prior code § 14.08.250)