

Project title: An Ordinance Updating the Park Code, Amending EMC Chapters 9.06 and 46.80.030

Council Bill #

CB 2207-31

Agenda dates requested:

Briefing 07/27/22
Proposed action 08/03/22
Consent
Action 08/10/22
Ordinance X
Public hearing
Yes No

Budget amendment:

Yes No

PowerPoint presentation:

Yes No

Attachments:

Ordinance

Department(s) involved:

Parks
Administration
Legal

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Initialed by:

RML

Department head

Administration

Council President

Project: Park Code Ordinance Update

Partner/Supplier: N/A

Location: N/A

Preceding action: Last update to Park Code was 10/10/18

Fund: N/A

Fiscal summary statement:

No expenditure required.

Project summary statement:

The attached ordinance revisions amend chapter 9.06 of the Everett Municipal Code and reflects new changes to law, updates to technology and operations, and repeals rewards given for apprehension of park code violators.

Some of the specific changes removes language that requires Park Rangers to check for warrants when stopping suspected park code violators. It also makes updates to match state law changing the age for smoking and vaping from 18 to 21. Additionally, changes include allowing children ages 13 and under to sell products in parks, and establishes stricter guidelines around commercial dumping, abandoning animals, and liquor consumption in parks. Finally, hours have also been shortened for moorage on public docks.

New additions to the park code include specific allowances and rules for using e-bikes, motorized scooters, and drones in parks and on trails. There are also new rules for molesting wildlife and added language allowing Rangers to write citations for firework violators.

Recommendation:

Adopt an Ordinance updating the Park code, amending EMC chapters 9.06 and 46.80.030.



ORDINANCE NO. _____

An Ordinance Updating the Park Code, Amending Chapter 9.06 EMC and EMC 46.80.030.

WHEREAS,

- A. The Park Code (Chapter 9.06 EMC) has not been updated since October 10, 2018.
- B. Several revisions are needed based on changes to law and changes in technology used in and around parks.
- C. A revision to EMC 46.80.030 (Operation of motorized foot scooters) is necessary to properly cross reference with these updates.
- D. Operations and management of City parks can be improved through these updates.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. Amendments to Certain Sections of Chapter 9.06 EMC.

EMC 9.06.038 (Refusal to give information to park ranger) is amended as follows:

- A. A person commits the offense of refusal to give information to a park ranger if ~~he or she~~ such person 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. 1. Any person who is requested or signaled to stop by a park ranger has a duty to stop. Whenever any person is stopped for investigation of a park 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.
- 2. Any person or persons requested to identify himself or herself or themselves to a park ranger pursuant to an investigation of a park code violation has a duty to identify himself or herself or themselves and give ~~his or her~~ date of birth and current address.

EMC 9.06.055 (Illegal dumping – Abandonment of animals) is amended as follows:

- A. It is unlawful to 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. It is unlawful to deposit household 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.

C. It is unlawful to abandon an animal by intentionally, knowingly, recklessly or with criminal negligence leaving a domesticated animal in a park.

D. Violation of provision A 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. Violation of provision B of this section constitutes an infraction and may be punished by a fine of not more than two hundred fifty dollars.

EMC 9.06.090 (Business activity in parks) is amended as follows:

A. Except with the prior written approval of the parks director, it is unlawful for any person over the age of thirteen to conduct any type of business activity in any park.

B. As used in this section, “business activity” shall include, but not be limited to, the following:

1. Sale, display for sale, or taking or attempting to take orders for the sale of food, edible, beverage, liquid, merchandise, or any other tangible or intangible thing, right, privilege or claim;
2. Providing classes or other forms of instruction for a fee or other valuable consideration;
3. Use of park facilities for advertising any business, product, or service;
4. Soliciting contributions for commercial ventures; or
5. Seeking opinions, preferences, or other information for commercial purposes.

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.

EMC 9.06.120 (Boating) is amended as follows:

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 at any point upon the shores thereof bordering upon any park, except at places set apart for such purposes by the parks ~~and recreation~~ 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 ~~and recreation~~ director or ~~his or her~~ designee.

B. It is unlawful for any person to moor in any park any watercraft longer than four hours or overnight, except by permit of the parks director or designee.



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 per day.

EMC 9.06.130 (Restrictions on vehicles) is amended as follows:

A. It is unlawful to:

1. Ride or drive any bicycle, tricycle, motorcycle, motor vehicle, off-highway vehicle, horse or pony over or through any park except along and upon the park drives, parkways, park boulevards, or other areas that may be designated by the parks ~~and recreation~~ director.
2. Ride or drive any bicycle, e-bike, scooter, motorized foot scooter or motorized vehicle over or through any park at a speed in excess of fifteen miles per hour.
3. Stand or park any vehicle in any park, except in areas that may be designated by the parks ~~and recreation~~ director.

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.

EMC 9.06.135 (Noise) is amended as follows:

A. No person shall, without prior written approval of the parks and recreation 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; or
2. Is a motor vehicle noise specifically prohibited by Section 20.08.080(B); 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:

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 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.

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 registered pursuant to RCW 46.16A.030.

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

registered pursuant to RCW 46.16A.030.

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.

EMC 9.06.140 (Remote control models, hang gliders, hot air balloons) is amended as follows.

Remote control models, drones, hang gliders, hot air balloons

A. It is unlawful to operate any remote control and/or motorized model aircraft, drones, 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 ~~and recreation~~ director for such purposes or as authorized by a permit from the parks ~~and recreation~~ director.

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

EMC 9.06.180 (Speed and endurance competitions) is amended as follows:

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, unless approval is granted by the parks director through a special permit application process.

EMC 9.06.202 (Consumption or possession of liquor in a city park) is amended as follows:

A. A person commits the offense of consumption or possession of liquor in a city park if ~~he or she~~ such person consumes or possesses liquor in a city park.

B. The prohibitions of subsection A of this section include possession of unopened liquor packages.

C. The prohibitions of subsection A of this section shall not apply under circumstances where the person consuming or possessing liquor in a park does so under circumstances that are otherwise allowed by provision of the Everett Municipal Code. 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.

EMC 9.06.205 (Possessing or obtaining tobacco by a minor) is amended as follows:

A. It is unlawful for any person under the age of ~~eighteen~~ twenty-one to possess or obtain, or attempt to obtain, cigarettes, vaping products, or tobacco products in a city park. Violation of



any of the provisions of this section constitutes a civil infraction, and may be punished by a penalty of not more than two hundred fifty dollars. In addition to or in lieu of the monetary penalty, the court may order participation in up to four hours of community service or participation in a smoking cessation program, or both.

B. Any person or persons requested to identify himself or herself or themselves to a park ranger pursuant to an investigation of a violation of this section has a duty to identify himself or herself or themselves and give ~~his or her~~ date of birth and current address. Refusal to give the information required by this section is punishable under Section 9.06.038.

Section 2. Repeal of EMC 9.06.220

EMC 9.06.220 (Reward for assistance in enforcing chapter), which states the following

The parks and recreation 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.

is hereby repealed.

Section 3. Addition of Sections to Chapter 9.06 EMC.

The following provisions are added as new sections to Chapter 9.06 EMC:

NEW SECTION EMC 9.06.085 (Molesting wildlife in a city park)

A. A person commits the offense of molesting wildlife in a city park if such person:

1. Intentionally takes wildlife, except by authorized fishing activities in accordance with Washington State Department of Fish and Wildlife regulations; or
2. Feeds, touches, teases, frightens or intentionally disturbs wildlife which is nesting, breeding or conducting other activities; or
3. Possesses unlawfully taken wildlife or portions thereof.

B. Wildlife taken legally in accordance with The Washington State Department of Fish and Wildlife regulations may be transported through city parks.

C. Persons authorized by the parks director may check hunting and fishing licenses and permits; inspect weapons, hunting gear, and fishing paraphernalia for compliance with state equipment restrictions; and inspect wildlife that has been taken for compliance with species, size and other taking restrictions.



D. 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.

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

1. "Wildlife" means animals living in their natural habitat and not within the possession or control of humans.
2. "Taking of wildlife" means to engage in any conduct that may harm, kill, or destroy wildlife. It may also include significant habitat modification or degradation that would kill or degrade wildlife organisms by impairing essential behavioral patterns including breeding, feeding, or sheltering.

NEW SECTION EMC 9.06.134 (Motorized Foot Scooters, and Electric Bikes)

- A. It is unlawful for any person to operate a motorized foot scooter or e-bike in any park, except (1) upon such areas designated on signs posted by the parks department as open to such operation and (2) upon such areas authorized for use by motor vehicles, such as parking lots.
- B. Any person operating a motorized foot scooter shall comply with the requirements of (1) Chapter 46.80 EMC; (2) all signs posted by parks department; and (3) this chapter, including without limitation EMC 9.06.130.
- C. Any person operating an e-bike shall comply with the following:
 1. Every e-bike shall be equipped with a brake that will enable the operator to make the braked wheels skid on dry, level, clean pavement.
 2. Except as otherwise provided in this chapter, e-bike riders shall have the same rights and duties as operators of bicycles.
 3. At all times, e-bike riders shall yield the right-of-way to pedestrians and human-powered devices and shall give an audible signal before overtaking and passing a pedestrian or human-powered device.
 4. All e-bike riders shall comply with all signs posted by the parks department.
 5. All e-bike riders shall comply with the requirements of this chapter, including without limitation EMC 9.06.130
 6. Any person operating a e-bike shall wear a protective helmet designed for bicycle safety.

D. Any person violating the provisions of this section shall be deemed to have committed a traffic infraction. In lieu of the penalty described in the preceding sentence, any Everett park ranger may utilize the following penalty provisions for a person under sixteen years of age found operating a motorized foot scooter or e-bike in a park in violation of this section:

1. The ranger may take custody of the device. If the ranger does not impound the device, the ranger may release it only to an adult.
 2. The ranger must provide the violator with a written notice setting forth the procedure for reclaiming the device.
 3. The procedure for reclaiming the device shall be promulgated by the parks director.
 4. Only the parent or legal guardian of a violator or an adult owner can reclaim a motorized foot scooter or other e-bike impounded pursuant to this section.
 5. A fifty dollar fee for costs of impound and administrative processing shall be paid to the city clerk prior to the release of any property impounded under this alternative penalty.
 6. Any unclaimed devices may be disposed of in accordance with state law.
- E. The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any provision of this section.
- F. The regulations of this section shall not apply to any vehicle used by a disabled person in accordance with Chapter 46.19 RCW.

G. "Motorized foot scooter" means a device with two or three wheels that has handlebars, a floorboard that can be stood upon while riding, and is powered by an internal combustion engine or electric motor that has a maximum speed of no greater than twenty miles per hour on level ground. For the purposes of this definition, a motor-driven cycle, a moped, an electric-assisted bicycle, or a motorcycle is not a motorized foot scooter.

H. "E-bike" means an electric-assisted bicycle or tricycle that has a maximum speed of no greater than twenty miles per hour on level ground.

NEW SECTION EMC 9.06.138 (Fireworks)

- A. No person may discharge fireworks at any place within a park except as authorized by Chapter 16.60 EMC.
- B. Except as otherwise provided in Chapter 16.03 EMC or RCW 70.77.488, violation of this section is an infraction, punishable by a fine of two hundred fifty dollars.

C. As used in this section, “fireworks” is as defined in Chapter 16.60 EMC.

Section 4. Amendment EMC 46.80.030.

EMC 46.80.030 (Operation of motorized foot scooters) is amended as follows:

A. It is unlawful for any person to operate a motorized foot scooter:

1. In excess of fifteen miles an hour on a city street, sidewalk, or other city property upon which this chapter authorizes the operation of motorized foot scooters;
2. On any city street, sidewalk, or other city property, as authorized by this chapter, unless such person is sixteen years of age or older;
3. With a passenger in addition to the operator;
4. On any city street with a maximum speed limit above thirty miles per hour, unless the device is operated within a designated bicycle lane;
5. On any city property that is not a city street, sidewalk, or paved bicycle lane, except as otherwise expressly authorized by this chapter; provided, that it is unlawful to operate a motorized foot scooter on any sidewalk within the central business district except as necessary to enter or leave adjacent property;
6. In any park, except as authorized under Chapter 9.06 EMC; ~~except upon such areas authorized for use by motor vehicles, such as parking lots; or~~
7. On any private or public property posted to exclude or restrict motorized foot scooters.

B. Any person operating a motorized foot scooter shall obey all the rules of the road, as well as the instructions of official traffic control signals, signs, and other control devices, unless otherwise directed by a police officer.

C. No motorized foot scooter shall be ridden or operated in a negligent or unsafe manner but shall be operated with reasonable regard for the safety of the operator and other persons. For purposes of this section:

1. To operate in a negligent manner means the operation of a motorized foot scooter or other wheeled recreational device in such a manner as to endanger or be likely to endanger any person or property.
2. Operation of a motorized foot scooter in excess of fifteen miles per hour shall be prima facie evidence of operation in a negligent manner.

Section 5. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener’s/clerical errors, references, ordinance numbering, section/subsection numbers, and any internal references.

Section 6. The City Council hereby declares that should any section, paragraph, sentence, clause or phrase of this ordinance be declared invalid for any reason, it is the intent of the City Council that it would have passed all portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

Section 7. The enactment of this Ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

Cassie Franklin, Mayor

ATTEST:

City Clerk

PASSED: _____

VALID: _____

PUBLISHED: _____

EFFECTIVE DATE: _____

Park Code (EMC 9.06 and 46.80.030) Summary of Changes

Amending an Ordinance relating to Park Code, EMC 9.06 and 46.80.030. Repealing section 9.06.220 related to paying rewards, and adding sections 9.06.085 regarding disturbing wildlife, 9.06.134 use of motorized scooters and e-bikes in parks, and 9.06.138 adding infractions for fireworks in parks.

Code Section	Summary of Changes
9.06.038 Refusal to give information to Park Ranger	Removed language requiring Rangers to check for warrant and driver's license status. The Rangers lost their originating agency identifier or ORI capabilities, and are not able to perform this work any longer.
EMC 9.06.055 Illegal dumping – Abandonment of animals	Separated description of dumping of household trash and commercial trash and added a misdemeanor charge for commercial dumping in parks.
	Added an infraction penalty for abandoning animals in a park.
EMC 9.06.090 Business activity in parks	Added language making it lawful for persons 13 or younger to sell items in a park.
	Added an infraction penalty for persons 14 or over selling in a park.
EMC 9.06.120 Boating	Added language making it an infraction to moor a boat at a City dock for longer than 4 hours. City docks should be used for launching and loading only.
EMC 9.06.130 Restrictions on vehicles	Added language making it unlawful to operate e-bike, scooter, motorized foot scooter in a park in excess of 15 miles per hour.
EMC 9.06.135 Noise	Removed specific language from code that is dated, such as: tape players, radios, and compact disc players.
EMC 9.06.140 Remote control models, hang gliders, hot air balloons	Added drones to list of items unlawful to fly in parks without Park Director approval.
EMC 9.06.202 Consumption or possession of liquor in a city park	Added an infraction penalty for consumption or possession of liquor in a city park.
EMC 9.06.205 Possessing or obtaining tobacco by a minor	Changed age from 18 to 21 to match Washington State law. Added vaping products as unlawful to use by minors in a City park.
Repeal of EMC 9.06.220	Removed code language that allowed the parks director to 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.
Added sections to EMC 9.06.085 Molesting wildlife in a city park	Added infraction penalties and restrictions around taking wildlife from parks (except when authorized by permit or license). Added restrictions on feeding, touching, teasing, frightening or intentionally disturbing wildlife.
Added sections to EMC 9.06.134 Motorized Foot Scooters, and Electric Bikes	Added language making it unlawful for any person to operate a motorized foot scooter or e-bike in any park, except (1) upon such areas designated on signs posted by the parks department as open to such operation and (2) upon such areas authorized for use by

	motor vehicles, such as parking lots. Added specific requirements for e-bike users such as helmets, and adequate braking systems.
Added sections to EMC 9.06.138 Fireworks	Added an infraction penalty for people setting off fireworks in parks.
Amended sections of EMC 46.80.030 Operation of motorized foot scooters	Updated 46.80.030 to include the statement: except as authorized under Chapter 9.06 EMC.