

**THE COUNCIL OF THE CITY OF WATERVLIET**

**LOCAL LAW NO. \_\_\_\_\_ FOR THE YEAR 2022**

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**A LOCAL LAW TO AMEND CHAPTER 209 OF THE  
CODE OF THE CITY OF WATERVLIET**

**WHEREAS**, it is the purpose of this local law to amend Chapter 209 of the Code of the City of Watervliet by adding Article V and amending Article IV; and

**WHEREAS**, a public hearing was held by the Council of the City of Watervliet on October \_\_\_, 2022 and a copy of the minutes of the public hearing will be available for inspection at the office of the City Clerk of the City of Watervliet.

**NOW, THEREFORE, BE IT ENACTED** by the Council of the City of Watervliet as follows:

**Section 1.** Chapter 209 of the Code of the City of Watervliet, known as “Chapter 209. Parks and Recreation,” is hereby amended to add Article V and such Article V shall read in its entirety as follows:

“**ARTICLE V** Smoking, Vaping, and Using Tobacco, Tobacco Products and Cannabis in Parks  
§ 209-43. Legislative intent; findings.

It is the intent of the City of Watervliet to promote the general health, safety, and welfare of the residents of the City by enacting this Article V. It is the finding of the City Council that smoking, vaping, and/or use of tobacco, tobacco products, and/or cannabis by persons on certain public lands is detrimental to the health, safety, and welfare of the residents of the City in that such smoking, vaping, and/or use of tobacco, tobacco products, and/or cannabis contributes to the development of unsanitary, hazardous, and toxic conditions for residents and the environment.

§ 209-44. Definitions.

For the purposes of this Article V, the following shall have the meanings ascribed to them. All other words shall have the meaning normally ascribed to them in regular usage.

**CANNABIS**

All parts of the plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the

mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. It does not include hemp, cannabinoid hemp, or hemp extract as defined in this section.

#### CANNABINOID HEMP

Any hemp and any product processed or derived from hemp that is used for human consumption provided that when such product is packaged or offered for retail sale to a consumer, it shall not have a concentration of more than three tenths of a percent delta-9 tetrahydrocannabinol.

#### CITY

The City of Watervliet

#### ELECTRONIC CIGARETTE

Any electronic device that delivers vapor which is inhaled by an individual user, and shall include any refill, cartridge, and any other component of such a device.

#### HEMP

The plant *Cannabis sativa* L. and any part of such plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration (THC) of not more than three-tenths of a percent on a dry weight basis.

#### HEMP EXTRACT

All derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers derived from hemp, used or intended for human consumption, for its cannabinoid content.

#### PARK

Public parks, dog parks, shared use/multi-use parks, beaches, pools, boardwalks, marinas, playgrounds, recreation centers, and group camps; and equipment, buildings, and facilities, now or hereafter under the jurisdiction, charge, or control of any state or local government agency or department that are located at or on any public parks, dog parks, shared use/multi-use parks, beaches, pools, boardwalks, marinas, playgrounds, recreation centers, and group camps.

#### SMOKING

The burning of a cigar, cigarette, pipe, or any other matter or substance which contains tobacco, cannabis, or cannabinoid hemp as defined in this section.

#### TOBACCO

Leaves of a plant which contain nicotine and are cured by a process of drying and fermentation for the purpose of human use.

#### TOBACCO PRODUCTS

One or more cigarettes or cigars, bidis, chewing tobacco, powdered tobacco, nicotine water, or any other product containing tobacco.

#### USING

Consumption of tobacco, tobacco products, and/or cannabis as defined in this section.

#### VAPING

The use of an electronic cigarette.

#### § 209-45. Prohibited Acts.

- A. Smoking, vaping, and/or using tobacco, tobacco products, and/or cannabis shall not be permitted and no person shall smoke, vape, or use tobacco, tobacco products, and/or cannabis in any park within the City of Watervliet at any time.
- B. No ash can, ashtray, or other smoking, vaping, tobacco, tobacco product, and/or cannabis use-specific waste receptacle shall be placed in any area in which smoking, vaping, and/or using tobacco, tobacco products, and/or cannabis is prohibited by this Article V.
- C. No person shall cause, permit, aid, abet, or conceal a violation of this Article V.

#### §209-46. Other Requirements.

- A. The City is hereby authorized to secure and display signs for each park within the City which shall indicate:
  - (1) That smoking, vaping, and/or using tobacco, tobacco products, and/or cannabis shall not be permitted and no person shall smoke, vape, and/or use tobacco, tobacco products, and/or cannabis at any time in/on the park to which the sign applies.
  - (2) That no ash can, ashtray, or other smoking receptacle shall be permitted in the park to which the sign applies.
- B. The presence of smoking, vaping, tobacco, tobacco product, and/or cannabis use-specific waste receptacles in violation of § 237-3(B) and the absence of signs required by § 237-4(A) shall not be a defense to a violation of any provision of this Article V.

#### § 209-47. Penalties for Offenses.

- A. The remedies provided by this Article V are cumulative and in addition to any other remedies available at law or in equity.
- B. Each instance of a violation of § 209-45(A) and § 209-45(C) shall constitute a separate violation. For violations of § 209-45(B), each day of a continuing violation shall constitute a separate violation.

- C. Each violation of this Article V constitutes an infraction subject to a fifty dollar (\$50) fine.
- D. The Watervliet Police Department is responsible for enforcing the provisions of this Article V.
- E. Nothing in this Article V shall create a right of action in any person against the City or its agents to compel public enforcement of this Article V against private parties.”

**Section 2.** Chapter 209 of the Code of the City of Watervliet, known as “Chapter 209. Parks and Recreation,” Article IV, § 209-36 “Rules and regulations of use,” is amended to read in its entirety as follows:

“§209-36. Rules and regulations of use.

The City Council hereby establishes the following rules and regulations for use for any City-owned and/or operated dog park, or any portion of a multiuse park of the City where an area is designated by the City as a dog park by fencing and signage, which shall be posted at any City-owned and/or operated dog park, or any portion of a multiuse park of the City where an area is designated by the City as a dog park by fencing and signage:

- A. Handlers are responsible for all actions and behaviors of their dogs and shall be responsible and liable for all injuries or damage caused by their dogs while on City property.
- B. Handlers are limited to no more than two dogs per visit.
- C. Dog feces, vomit or other waste must be cleaned immediately.
- D. Handlers must keep their dogs on a leash no longer than six feet in length when entering the dog park and before moving the dogs into the off-leash area.
- E. Handlers must carry their leash with them at all times.
- F. Handlers must be within the dog park and supervising their dogs at all times. Handlers must keep their dog(s) within view and under verbal, sound or signal control at all times. Unattended dogs will be immediately removed.
- G. All dog handlers must be eighteen (18) years of age or older.
- H. Children seven (7) to seventeen (17) years old must be accompanied by an adult and have adult supervision.
- I. Children six (6) years of age and under are not allowed in the off-leash area.
- J. All dogs must have a valid dog license and dog park entry tags attached to them and displayed at all times.
- K. All dogs must have current rabies vaccinations.
- L. Any dog that exhibits aggressive behavior with a dog park shall be immediately removed by its handler.
- M. No persons are permitted to enter an off-leash area unless accompanied by a dog.
- N. Handlers must fill in any holes dug by their dog(s).
- O. Human or dog food, glass containers, dogs in heat, sick dogs, aggressive or muzzled dogs, dogs under four months old, spike, chain, prong, pinch, choke or electronic

collars, possession or consumption of alcohol or drugs, and any noise-producing devices are prohibited.

- P. Animals other than dogs are not allowed.
- Q. Bicycles, skateboards, rollerblades, scooters or any motorized vehicles are prohibited.
- R. Handlers must wear shoes at all times.
- S. The City of Watervliet, its officers, employees and volunteers shall not be liable for any injury or harm to any person or dog incurred or caused by any person or dog in connection with use of any dog park.

**Section 3. Severability**

If any section of this local law or the application thereof to any person, circumstance or property shall be adjudged invalid by a court of competent jurisdiction, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not affect or invalidate the remainder of any provision or any section or the application of any part thereof to any other person, circumstance or property, and to this end, the provisions of each section of this local law are declared severable.

**Section 4. Repeal of other laws**

All ordinances, local laws and parts thereof in conflict with the provisions of this local law are hereby repealed to the extent necessary to give this local law full force and effect.

**Section 5. Effective Date**

This local law shall take effect immediately upon filing with the Secretary of State.

Approved as to form this \_\_\_\_ day of October, 2022.

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Brian S. Kremer  
Corporation Counsel

Attested by the Clerk of the Council this \_\_\_\_ day of October, 2022.

\_\_\_\_\_  
Clerk

I hereby approve the foregoing Local Law of the Council of the City of Watervliet.

Dated: October \_\_\_\_, 2022

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Charles V. Patricelli, Mayor