

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 6074

AN ORDINANCE amending Section 3.43.020; adding a new Section 3.43.055; and amending Section 3.43.320 of the Bellevue City Code relating to the possession and discharge of firearms in City Parks.

WHEREAS, Revised Code of Washington ("RCW") 9.41.290 explicitly provides that "the state of Washington hereby fully occupies and preempts the entire field of firearms regulation within the boundaries of the state, including the registration, licensing, possession, purchase, sale, acquisition, transfer, discharge, and transportation of firearms, or any other element relating to firearms or parts thereof, including ammunition and reloader components."; and

WHEREAS, in 2009 the City of Seattle banned firearms on certain city property where children were likely to be present; and

WHEREAS, the Washington State Court of Appeals struck down Seattle's firearms ban determining this restriction to be inconsistent with and preempted by state law; and

WHEREAS, on March 7, 2012, the Supreme Court denied review, upholding the Court of Appeals decision; and

WHEREAS, the preemptive language of RCW 9.41.290 does make an exception, allowing local governments to enact laws, as in RCW 9.41.300(2)(a), restricting the discharge of firearms in any portion of their jurisdiction where there is "a reasonable likelihood that humans, domestic animals, or property will be jeopardized."; and

WHEREAS, the City Council finds that the discharge of a firearm across, or into any City park presents a reasonable likelihood that humans, domestic animals, or property will be jeopardized; and

WHEREAS, the purpose of this ordinance is to bring Bellevue City Code Section 3.43.320 prohibiting firearms in city parks in compliance with state law, while retaining the ability to ban other weapons and the discharge of all weapons in city parks;

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Section 3.43.020 of the Bellevue City Code is hereby amended as follows:

3.43.020 – Definitions.

“Air or gas weapon” means any air pistol or air rifle, designed to propel a BB, pellet, or other projectile by the discharge of compressed air, carbon dioxide or other gas.

“Department” means the department of parks and community services of the city.

“Director” means the director of the department of parks and community services and authorized agents of the director.

“Firearm” means a weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder.

“Inflatable, nonmotorized watercraft” means those nonmotorized watercraft which have two or more inflatable chambers and are propelled by two or more oars.

“Motorized watercraft” means those floating devices which are designed to be propelled by the use of internal combustion engines or electric motors. Inflatable, motorized watercraft may be included in this definition if they are propelled by the use of internal combustion engines or electric motors.

“Nonmotorized cycle or similar device” means any wheeled, operator-propelled equipment which transports the operator on land, except wheelchairs. Nonmotorized cycle or similar device includes, but is not limited to, unicycles, skateboards, bicycles, tricycles, quadcycles and scooters.

“Nonmotorized watercraft” means those floating devices which are designed to support or help support a person or persons in water, and which may or may not be propelled by the use of oars, paddles or sails.

“Nonswimming season” means that portion of the year which has not been designated as the swimming season.

“Park” means all parks and bodies of water contained therein, squares, plazas, trails, golf courses, museums, beaches, playgrounds, playfields, botanical gardens, greenbelts and other park, recreation and open space areas, buildings and facilities comprising the parks and recreation system of the city under the management and control of the city manager or his or her designee.

“Recreation program” means any program or activity conducted, sponsored or assisted by the department, whether or not it occurs in a park.

"Swimming season" means the period of time, as designated by the city manager or his or her designee, from approximately mid-June to the first week in September, when lifeguards are on daily duty at park swimming beaches.

Section 2. A new Section 3.43.055 is added to the Bellevue City Code as follows:

3.43.055 – Firearms, weapons.

No person except duly authorized law enforcement personnel shall possess a bow and arrow, crossbow, or air or gas weapon in a City park. No person shall discharge across, in, or into any City of Bellevue park area a firearm, bow and arrow, crossbow, air or gas weapon, or any device capable of injuring or killing any person or animal, or damaging or destroying any public or private property. This section shall not apply where the city manager or his or her designee has authorized in writing a special recreational activity or where the possession and/or discharge of a personal protection spray is expressly authorized under RCW 9.91.160, as adopted or hereinafter amended.

Section 3. Section 3.43.320 of the Bellevue City Code is hereby amended as follows:

3.43.320 – Expulsion.

A. The city manager or his or her designee or his or her authorized agent may order the expulsion of any person from any or all parks for a period of one to seven days if he or she observes such person:

1. Using abusive or disruptive language or engaging in conduct which disrupts a park facility or program;
2. Directing racially offensive remarks at another person;
3. Using tobacco products in an unauthorized area or facility;
4. Causing injury or risk of injury to another person or persons;
5. Causing damage or risk of damage to city property; or
6. Violating any provision of this chapter.

B. The city manager or his or her designee or his or her authorized agent may order the expulsion of any persons from any or all parks for a period of seven days to one year if such person:

1. Has been expelled from a park two or more times in any 30-day period;
2. Caused injury to another person;
3. Sells, possesses or uses illegal drugs or alcohol;
4. Violates any applicable local, state or federal law relating to the possession or use of weapons; or
5. Commits more than one violation of this chapter in any 30-day period.

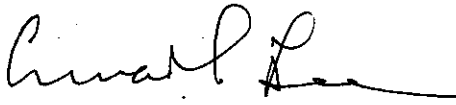
C. Any order of expulsion under this section shall be in writing and shall be personally served or sent by certified mail to the person expelled at his or her last known address.

D. Any person who enters a park during a period during which he or she has been expelled under subsection A or B of this section is guilty of a misdemeanor.

Section 4. This ordinance shall take effect and be in force thirty (30) days after passage and legal publication.

Passed by the City Council this 17th day of September, 2012, and signed in authentication of its passage this 17th day of September, 2012.

(SEAL)



Conrad Lee, Mayor

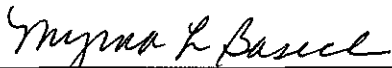
Approved as to form:

Lori M. Riordan, City Attorney



Monica A. Buck, Assistant City Attorney

Attest:



Myrna L. Basich, City Clerk

Published Sept 20, 2012