

ORDINANCE NO. 1988

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UPLAND, CALIFORNIA AMENDING CHAPTER 12.36 AND REPEALING CHAPTER 12.44 OF TITLE 12 OF THE UPLAND MUNICIPAL CODE TO ESTABLISH A CENTRAL LOCATION FOR RULES RELATING TO THE USE OF CITY PARKS

**WHEREAS**, pursuant to Article XI, Section 5 of the California Constitution and Government Code section 37100, the legislative body of a city may pass ordinances not in conflict with the Constitution and the laws of the State or the United States; and

**WHEREAS**, the City desires to ensure that the public has fair access to the City's parks and facilities therein, and to ensure that the parks and their facilities are maintained in good working condition; and

**WHEREAS**, at present rules relating to the use of City parks are found throughout the Municipal Code; and

**WHEREAS**, the consolidation of these rules into one Chapter of the Municipal Code will make the Code easier to use for both staff and the general public.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF UPLAND DOES ORDAIN AS FOLLOWS:**

**Section 1.** The above recitals are true and correct and are hereby incorporated herein by this reference.

**Section 2.** Chapter 12.36 of Title 12 of the Upland Municipal Code is hereby amended to read in its entirety as follows:

**"Chapter 12.36 USE OF CITY PARK FACILITIES**

- 12.36.010 Purpose.
- 12.36.020 Definitions.
- 12.36.030 Reserved use of parks and special events.
- 12.36.040 Park hours.
- 12.36.050 Park regulations, generally.
- 12.36.060 Designated skateboard/ skating areas.
- 12.36.070 Liability in connection with use of skateboard/skating areas.
- 12.36.080 Regulations applicable to the use of designated skateboard/skating areas.
- 12.36.090 Signs required.
- 12.36.100 Violations, penalties and enforcement.

**12.36.010 Purpose.**

It is the purpose of this Chapter to ensure that the public has fair access to the City of Upland's parks and facilities therein, to establish regulations for the safe use of parks within the City, and to ensure that the parks and their facilities are maintained in good working condition.

**12.36.020 Definitions.**

For the purposes of this Chapter, words, phrases and terms used herein shall have their ordinary meaning, unless otherwise provided as follows:

"Amplified sound" means music, sound wave, vibration, or speech projected or transmitted by electronic equipment, including amplifiers.

"City" means the City of Upland

"Council" means the City Council of the City of Upland, or any person authorized by the Council, pursuant to law, to act in its stead.

"Designee" means any employee of the City of Upland authorized to make decisions or act on behalf of the City of Upland.

"Director" means any Department Head of the City of Upland.

"Exclusive Use" means the right to physically occupy the park facility and use personal property in park facilities during the permitted time, free from the interference of others.

"General Park Use" means patrons accessing park amenities such as buildings, playgrounds, picnic areas, athletic facilities, or passive grass areas that are open to anyone without prior reservation.

"Park" or "Designated Park" means any community park, neighborhood park, nature park, special use facility, athletic facilities, park amenity, or other area identified by the City as a park. The term "park" includes the entire area of the park which includes, but is not limited to parking lots, walkways, restrooms, facilities, buildings, gazebos, playgrounds, passive grass areas, athletic fields or courts, slopes, greenbelts, bio swale, wet or dry creeks, and landscape areas.

"Peace Officer" shall have the same meaning as Section 830 of the California Penal Code.

"Permit" means a document issued by the City of Upland authorizing the permittee to use park facilities."

"Permittee" means the person, group, entity, corporation, or association to whom a permit is issued and shall include any individual accompanying the person, group, entity, corporation, or association.

"Reserved use" means patrons accessing park amenities such as buildings, playgrounds, picnic areas, athletic facilities, or passive grass areas exclusively (permit required) for one or more occasions.

"Roller skates" or "in-line skates," including Rollerblades, means any shoe, boot or other footwear to which one or more wheels are attached.

"Skateboard" means any platform of any composition or size to which two or more wheels four inches or less in diameter are attached, which is intended to be ridden or propelled by one or more persons standing or kneeling upon it, and to which there is not affixed any seat or any other device or mechanism to turn or control the wheels.

"Skateboard/skating area" means a public skateboard park as that term is used in California Health and Safety Code Section 115800(d)(1), or any successor provision thereto, and includes any facility, structure or area designated by resolution of the city council as a skateboard/skating area in which skateboarding, in-line skating and/or roller skating is permitted pursuant to the provisions of this Chapter.

"Trespass Notice" means a written notice issued by City staff or a peace officer to any person found to be in violation of Section 12.36.030. The trespass notice shall indicate that the person's presence at the specific park facilities without a valid permit is unlawful and require that the person vacate the park facility immediately.

"Unmanned Aircraft" means an aircraft without a human pilot onboard, that is controlled from an operator on the ground, and operates without the possibility of direct human intervention from within or on the aircraft.

"Vehicle" means any device by which any person or property may be propelled, moved, or drawn, excepting a device moved by human power, including but not limited to cars, trucks, trailers, recreation vehicles, golf carts, all-terrain vehicles (ATV), off-road motor bicycles, motorized scooters, electric bicycles, or other power-driven mobility devices.

"Vehicular Travel" means to move in a given direction or path through a given distance by way of a vehicle.

"Wildlife" means undomesticated animals living in the wild including, but not limited to coyotes, raccoons, deer, opossums, feral cats, geese, ducks, foxes, squirrels, snakes, rats, mice, fish, and turtles.

**12.36.030 Reserved use of parks and special events.**

- A. Except as provided in this Chapter, and elsewhere in this Municipal Code or the policies adopted in furtherance thereof, use of all Park and park facilities will be based on a first come, first served basis for General Park Use. No Permit is required for this purpose.
- B. The use, Exclusive Use, and Reserved Use of Parks and park facilities may be subject to reservation and permit fees and policies, administrative regulations, and procedures including, but not limited to the City's Athletic Facilities Policy, Picnic Area Reservation Policy, Facility Use Policy, and any other Parks use policies that may be adopted by the City Council from time to time.
- C. The City Council is authorized to designate by resolution certain Parks within the City that require a Permit to use the park facilities therein. The City Council is authorized to set the amount of fees for these Permits by resolution.
- D. All persons desiring to use park facilities in designated Parks must first obtain a Permit pursuant to the provisions of this Chapter and present the Permit to any peace officer or member of City staff upon request.
- E. Any person desiring Exclusive Use of park facilities in non-designated Parks may, prior to the use, obtain a Permit pursuant to the provisions of this Chapter. The permittee must present the Permit to any peace officer or member of City staff upon request in order to establish his or her right to Exclusive Use of park facilities.
- F. In a designated park, it is unlawful for a person to do any of the following:
- a. Occupy or use park facilities without having first obtained a permit issued pursuant to the provisions of this chapter.
  - b. Occupy or use park facilities at any time other than the date and time specified in the permit issued pursuant to the provisions of this chapter.
  - c. Occupy or use park facilities during the time and date that a Permit issued pursuant to the provisions of this Chapter has been issued to another person.
  - d. Fail to present a valid Permit issued pursuant to the provisions of this Chapter to any requesting peace officer or member of City staff while occupying or using park facilities.
- G. In a non-designated park, it is unlawful for any person to interfere with, intrude upon, or use the park facilities specified in a Permit issued pursuant to the provisions of this Chapter belonging to another person during the time and date stated in the Permit.

H. All persons desiring a permit to use facilities at designated or non-designated parks must:

- a. Complete the permit request form provided by the City.
- b. Present a current form of identification.
- c. Pay the required fees and deposits that may be established by resolution of the City Council.

Denials of permit requests shall be in a writing that states the reason(s) for the denial and the procedures for appealing the denial.

I. Any person who violates the provisions of this Section and following issuance of a Trespass Notice, refuses to vacate the Park, designated park, or park facility shall be guilty of a misdemeanor. Nothing in this Section shall be construed to affect, supersede or otherwise prevent private causes of action for trespass or other civil, penal or administrative prosecution for trespass or maintaining a nuisance under state or local statute or ordinance.

#### **12.36.040 Park hours.**

The regulation of Park hours is established and set forth in Section 9.04.090 of this Municipal Code.

#### **12.36.050 Park regulations, generally.**

A. Firearms, Deadly or Dangerous Weapons, and BB Devices. The use and possession of firearms, deadly or dangerous weapons, and BB devices in Parks and at park facilities is prohibited (with exceptions) and regulated in accordance with Chapter 9.24 of this Municipal Code.

B. Operations of Vehicles

a. Roads for Public Use – The provisions of the California Vehicle Code are applicable in the City parks with respect to any way or place of whatever nature is publicly maintained and open to the use of the public for purposes of vehicular travel. All violations of such Vehicle Code shall be enforced and prosecuted in accordance with the provisions thereof.

b. Surfaces Other than Roads for Public Use – No person shall drive or otherwise operate a vehicle including golf carts, all-terrain vehicles (ATV), off-road motor bicycles, and similar vehicles in a park upon surfaces other than those maintained and open to the public for purposes of vehicular travel as regulated in accordance with Chapter 8.44.110 of this Municipal Code.

c. The parking of vehicles in Parks between the hours of 3:00 a.m. and 5:00 a.m. or for more than 72 consecutive hours is prohibited and is subject to regulation under Subsection O of Section 10.36.040 of this Municipal Code.

C. Unmanned Aircraft and Toy Vehicles

a. Unmanned Aircrafts including, but not limited to drones, model or toy airplanes, helicopters, or similar devices are permitted at all parks. When operating Unmanned Aircraft within parks, no person shall takeoff or land an Unmanned Aircraft under the following circumstances:

- i. Outside of the person's visual line of sight.
- ii. Within twenty-five (25) feet of another individual, except the operator or the operator's designee.
- iii. Within five hundred (500) feet of any City-permitted events open to the public.
- iv. With any type of weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, attached to it.
- v. In a reckless manner so as to create a substantial risk of serious injury to any person or substantial risk of damage to the property of another.

b. Gas powered remote-controlled vehicles including but not limited to toy or model cars, trucks, watercrafts, and similar toys are prohibited at all Parks and park facilities.

D. Damaging Property

a. It is unlawful and a misdemeanor, subject to punishment in accordance with Section 1.16.010 et seq. of this Code, for any person to damage any Park or park facility amenity.

b. No person shall mark, write upon, paint, deface, pluck, pull up, cut, take, or remove any building, tree, shrub, bush, plant, flower, rock, cage, pen, monument, fence, bench, or other structure apparatus, or property at a Park.

c. No person shall build or add or remove features, structures, or buildings at a Park without permit approval through the City.

d. Notwithstanding the above, the prohibitions set forth in this section do not apply to City, animal control, fire, and law enforcement personnel in the pursuit of their duties.

E. Damaging Land. It is unlawful and a misdemeanor, subject to punishment in accordance with Section 1.16.010 of this Code, for any person to cut, dig, or remove

any tree, wood, turf, grass, soil, rock, sand, gravel, or fertilizer at any Park or park facility, except by City personnel in pursuit of their duties.

F. Water. No person shall connect to and retrieve water from any source at a Park including, but not limited to drinking fountains, sprinklers, and fire hydrants, animal control, fire, and law enforcement personnel in the pursuit of their duties.

G. Fires and Fireplaces. No person shall kindle a fire in any Park except in fireplaces provided for that purpose or in barbecues approved by the City Manager, except by permission of the City Manager or designee.

H. Waste Liquids and Refuse. In accordance with Section 9.04.070 of this Municipal Code, no person shall urinate, defecate, or dispose of items, including but not limited to salt water, biohazardous materials, or other waste liquids, garbage, cans, bottles, papers, or other refuse, in any park or park facility, except that garbage may be disposed of in the waste receptacles provided for that purpose.

I. Smoking Prohibited. Smoking, including, but not limited to, the use of any electronic smoking device, is prohibited in all Parks in accordance with Chapter 9.60 of this Municipal Code.

J. Controlled Substances. The provisions of the California Uniform Controlled Substances Act are applicable in Parks and shall be enforced and prosecuted in accordance with the provisions of such Act. In addition, Chapter 9.48 regulates the use of marijuana and Chapter 9.52 regulates the sale and use of synthetic drugs within Parks.

K. Alcohol Use and Intoxication. Except for written pre-approval from the City Manager and/or Police Chief, the use of alcohol in Parks is prohibited. The general use of alcohol and intoxication in Parks are regulated under Chapter 9.16 of this Municipal Code.

L. Restrictions Upon Animals in Parks.

a. No person shall cause, permit, or allow any animal owned or possessed by him or her, or any animal in his or her care, custody, or control to be present in any park except:

- i. Equine animals being led or ridden under reasonable control upon any bridle path or trail provided for equine purposes;
- ii. Equine or other animals which are hitched or fastened at a place expressly designated for such purpose;
- iii. Dogs or cats when led by a cord or chain not more than six (6) feet long, or when confined within the interior of a vehicle;
- iv. Service animals including, but not limited to, specially trained animals that meet the following requirements:
  1. Used by blind or disabled persons to aid and guide them;

2. Led by a cord or chain not more than six (6) feet long unless the cord or chain would interfere with the service animal's work or the individual's disability prevents using these devices;
- v. Small pets weighing five (5) lbs. or less, which are kept on the person of the possessor at all times;
- vi. Dogs confined in specified off-leash dog areas;
- vii. In connection with activities authorized in writing by the City Manager or designee;
- viii. Fowls or animals turned loose at the direction of the City Manager or designee.

b. The City Manager may prohibit animals in certain posted areas in Parks and park facilities in the interest of public health, safety, comfort, and welfare, or the purpose of habitat protection.

c. Feeding, Harassing, or Hunting Wildlife. It is unlawful and a misdemeanor for any person to hunt, feed, harass, harm, frighten, kill, trap, chase, tease, shoot or throw devices at any animal or bird in any park, nor shall any person remove or have in their possession any wild animals, or the eggs or nest or young of any animal or bird in any Park. This section shall not apply to City, law enforcement, fire district or animal control personnel in their official duties.

d. Duty to Care for Animals. It shall be the mandatory duty of all persons owning, possessing, in control of or otherwise responsible for a dog, cat, or an equine animal in any Park or park facility to promptly collect, pick up, and remove all fecal matter left behind by the animal in or upon any park space provided, however this subsection shall not apply to guide dogs for blind or disabled persons or to equine animals on a designated trail. Fecal matter may be disposed of in the appropriate waste receptacles provided therefore in the parks.

#### M. Amplified Sound in Parks

a. Purpose – The Council enacts this section for the sole purpose of securing and promoting the public health, comfort, safety, and welfare of its citizenry. While recognizing that certain uses of sound amplifying equipment are protected by constitutional rights of free speech and assembly, the City must reasonably regulate the use of sound amplifying equipment in order to protect the correlative constitutional rights of the citizens of this community to privacy and freedom from the public nuisance of loud and unnecessary sound.

b. It is unlawful for any person to install, use, and operate within a park a loudspeaker or any sound amplifying equipment for the purposes of giving instructions, directions, talks, addresses, or lectures, or of transmitting music to any persons or groups of persons in any park, or in the vicinity of such park, except when installed, used, or operated in compliance with one of the following provisions:



- i. By authorized law enforcement or park and recreation personnel; or
    - ii. In accordance with Section 9.28.020 of this Municipal Code, live entertainment may occur under a reservation or permit issued by the City Manager or designee, and when operated in accordance with terms of such reservation or permit.
  - c. Granting or Denial of Permit.
    - i. In determining whether to grant or deny a permit, the City Manager or designee shall be guided by the following considerations:
      - 1. The constitutional free speech and assembly rights of all persons including the applicant.
      - 2. The possible effects upon the peaceable passage or presence of property.
      - 3. The potential for disorder or unlawful injury to persons or property.
      - 4. The potential invasion of other people's right of privacy.
      - 5. The possible unlawful breach or disturbance of the peace.
      - 6. Any actual conflict with other scheduled park uses or events.
    - ii. The City Manager or designee shall not deny a permit on the basis of any dislike for or disagreement with the content of any proposed talks, addresses, lectures, or musical presentations. The City Manager or designee may, however, deny a permit for any such events which are designed for the purpose of advocating imminent lawless conduct.
    - iii. Power Source for Amplifiers. Amplifiers are permitted in parks and shall be operated only through a power source provided by the City, with a battery, or with a generator as approved by the City Manager or designee.
- N. Solicitation in Parks is prohibited in accordance with Section 5.28.050 of this Municipal Code.
- O. Professional Filming and Still Photography. Except in the service of the City and authorized by a Director or designee, no person shall photograph, videotape, or film for commercial (profit or sale) purposes in any park or park facility without obtaining a City issued film permit in accordance with Section 17.41.090 of this Municipal Code.
- P. Camping and Storage of Personal Property. The unlawful camping and storage of personal property within Parks or park facilities is regulated under Chapter 12.46 of this Municipal Code.

Q. Hitting golf balls in Parks or park facilities is prohibited in accordance with Section 8.44.030 of this Municipal Code.

**12.36.060 Designated skateboard/ skating areas.**

The city council may, from time to time, designate by a resolution certain areas as a skateboard/skating area.

**12.36.070 Liability in connection with use of skateboard/skating areas.**

The use of any skateboard/skating area is a hazardous recreational activity within the meaning of California Government Code Section 831.7. Subject to the provisions of that code section, the City may not be held liable for an injury incurred by any person participating in any such hazardous recreational activity. Skateboard/skating areas are not regularly supervised and all users assume all risks of injury in utilizing such areas.

**12.36.080 Regulations applicable to the use of designated skateboard/skating areas.**

A. No person shall skate or skateboard, or otherwise be present within any skateboard/skating areas, at all times other than those established as the hours of operation. Hours of operation shall be posted. The hours are subject to change without prior notice.

B. No person shall use any skateboard/skating area for any use other than skateboarding and skating.

C. Each person using any skateboard/skating area must wear a shirt and proper safety equipment including a helmet, elbow pads and kneepads. All such safety equipment must be functional and protective, properly sized and designed for skating or skateboarding purposes. Soft-sided shoes must be worn by skateboarders.

D. No person shall ride or use any wheeled devices other than roller skates, in-line skates, or skateboards within any skateboard/skating area. Use of any other wheeled devices including, but not limited to, bicycles, scooters, unicycles, go-carts, or wagons is prohibited.

E. No person shall possess or use alcohol or illegal drugs within a skateboard/skating area or in surrounding park areas. Tobacco products are prohibited in the skateboard/skating area.

F. No person shall litter in any skateboard/skating area. All persons using a skateboard/skating area must place any trash created or brought to the skateboard/skating area in refuse containers provided by the city. If the city provides no refuse container, each person shall be responsible for removing and disposing of such items in an appropriate manner.

G. No person shall cause graffiti or tagging in or upon any skateboard/skating area or anywhere in the surrounding park areas.

H. No person shall ride, or permit to be ridden, any skateboard or skates in a skateboard/skating area in a reckless manner or with willful disregard for the safety of persons or property.

I. No person shall skate on the curbs, sidewalk, fences, railings and/or driveway of any city-owned area surrounding or adjoining a skateboard/skating area.

J. Glass containers or other glass products are prohibited within a skateboard/skating area.

K. No ramps, jumps or other obstacles may be placed in any skateboard/skating area.

L. No skateboard/skating area may be used if any hazardous condition exists, including, but not limited to, inclement weather conditions, and/or significant cracks, breaks or other irregularities in the skating surface of the skateboard/skating area that are visible to the user.

M. All organized events utilizing a skateboard/skating area are prohibited without the prior written approval of the chief of police.

N. No animals are allowed in any skateboard/skating area.

O. Personal stereos, earphones and headphones are prohibited within any skateboard/skating area.

P. The city is not responsible for items which are lost or stolen within any skateboard/skating area.

Q. Any person suffering an injury within a skateboard/skating area must promptly report the injury to the city human resources/risk management department.

#### **12.36.090 Signs required.**

In order to provide reasonable notice to the public, signs referring to this Chapter shall be posted in one or more conspicuous areas at or near the entrance to each Park, each skateboard/skating area, and each designated park setting forth the rules and regulations established herein, including prohibited activities and Permit requirements, and stating that any person failing to comply with any provision of this Chapter shall be subject to citation.

**12.36.100 Violations, penalties and enforcement.**

Any person violating any of the provisions of this Chapter shall be subject to removal from a Park, designated park, park facility, or skateboard/skating area, and such violation shall be punishable as an infraction as provided in Section 1.16.020 of the Upland Municipal Code unless the specific section violated provides for a different punishment.”

**Section 3.** Chapter 12.44 of Title 12 of the Upland Municipal Code is hereby repealed in its entirety.

**Section 4.** Compliance with California Environmental Quality Act. The City Council finds that this Ordinance is not subject to the California Environmental Quality Act (“CEQA”) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the State CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Further, if the activity is deemed a project this City Council finds that this Ordinance is exempt pursuant to Section 15061(b)(3) of the State CEQA Guidelines.

**Section 5.** Severability. If any section, subsection, subdivision, sentence, or clause or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have adopted each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases are declared unconstitutional, invalid, or ineffective.

**Section 6.** Effective Date. This Ordinance shall become effective thirty (30) days from its adoption.

**Section 7.** Publication. The City Clerk shall certify to the adoption of this Ordinance and cause it, or a summary of it, to be published in a newspaper of general circulation printed and published within the City of Upland, pursuant to all legal requirements.

**PASSED, APPROVED, AND ADOPTED** this 13th day of May, 2024.



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Bill Velto, Mayor

I, Keri Johnson, City Clerk of the City of Upland, California, do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Upland held on the 22nd day of April, 2024, and was adopted at a regular meeting of the City Council of the City of Upland on the 13th day of May, 2024, by the following vote:

- AYES: Mayor Velto, Councilmembers Breitling, Garcia, Maust, Zuniga
- NOES: None
- ABSENT: None
- ABSTAINED: None

ATTEST:

  
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Keri Johnson, City Clerk