

ORDINANCE NO. 3098

AN ORDINANCE OF THE CITY OF PUYALLUP amending section 9.20.250 of the Puyallup Municipal Code pertaining to restricting persons from entering or remaining in City parks, facilities, and public facilities based on unlawful or prohibitive conduct.

WHEREAS, the public should be able to use City parks, and public facilities without an imminent fear of harassment or intimidation;

WHEREAS, City staff have been subject to violent and unlawful acts occurring in public amenities such as the Puyallup Public Library;

WHEREAS, the public's right to reasonable use and enjoyment of public facilities outweighs an individual's right to use public facilities when such individual engages in unlawful activity or disruptive behavior while at the public facility;

WHEREAS, the City desires to provide a more comprehensive method for the issuance of a trespass notice to those individuals whose behavior is dangerous, unsafe, illegal, or unreasonably disruptive to other users;

WHEREAS, the Puyallup City Council finds that this ordinance is in the interest of public welfare and safety;

NOW THEREFORE, the City Council of the City of Puyallup do ordain as follows:

Section 1. Section 9.20.250 of the Puyallup Municipal Code is amended to read as follows:

9.20.250 Public facility—Illegal activity—Prohibition of entry. Trespass—City Property.

~~(1) Issuance of an Order Prohibiting Entry. If the City has reasonable grounds to believe that a person has violated an applicable law or rule while such individual is on or within any city or other publicly owned facility, building, or outdoor area, the City Manager or designee may prohibit the person from entering or remaining in or upon the real property of the City of Puyallup by issuing a notice of trespass to the person.~~

~~a) A law enforcement officer may issue a written notice and order prohibiting entry ("order") to an individual prohibiting such person from entering a public facility if there is probable cause to believe that such person engaged in criminal activity prohibited by the Puyallup Municipal Code ("PMC") or the Revised Code of Washington ("RCW"), or violates any provision of this chapter. A notice of~~

trespass may be issued regardless of whether the person is charged with a crime or issued a civil infraction.

~~(b) An order may be issued regardless of whether the person subject to the order was charged with a crime or issued a civil infraction.~~ The authority of those designated by the City Manager to issue a notice of trespass shall be limited to the building in which the conduct occurs or the curtilage of the building. Law enforcement is authorized to issue a notice of trespass at any location within the City.

~~(2) Contents of an Order Prohibiting Entry. An order~~ A trespass notice should, to the extent possible, ~~shall~~ contain the following information:

~~(a) Name, gender, address, date of birth, and physical characteristics, and contact information of the person prohibited from entering a public facility;~~

~~(b) A citation to, or description of, the law or rule~~ The PMC or RCW section that the person was violated;

~~(c) Date and location of violation;~~

~~(d) A summary of the factual basis for issuance of the order~~ notice;

~~(e) The identity of the person~~ law enforcement officer's identification number who issued the ~~order~~ notice; and

~~(f) A summary of the appeal rights provided for in subsection (4) of this section.~~

~~(3) Duration of an Order Prohibiting Entry. An order issued pursuant to this section shall be in effect for 45 calendar days from the date of issuance.~~ A trespass notice that is not based on a crime shall be in effect from the date of issuance and shall have a duration of:

(a) Up to forty-five calendar days;

(b) Up to one hundred eighty calendar days if the person has been the subject of a prior City-issued notice of trespass within two years; or

(c) Up to three hundred sixty-five calendar days if the person has been subject of two or more prior City-issued notices of trespass within two years.

(4) A trespass notice that is based on a crime shall be in effect from the date of issuance and shall have a duration of:

(a) Up to three hundred sixty-five calendar days;

(b) Up to two years from the date of issuance if the person has been the subject of a prior City-issued notice of trespass within two years; or

(c) Up to five years if the person has been the subject of two or more prior City-issued notices of trespass within two years.

(5) Notwithstanding the foregoing, the City may modify the effective date, or extend the duration of a notice of trespass in order to more effectively protect the health, safety or welfare of persons or property. The reasons on which a modification or extension is based shall be memorialized in writing.

(6) For good cause, the City may terminate or reduce the duration of a notice of trespass.

(7) The City Manager or designee or the legal department shall promptly review the notice of trespass to determine if reasonable grounds exist establishing that a rule or law was violated. If it is determined that reasonable grounds do not exist establishing that a rule or law was violated the notice of trespass shall be rescinded, and the restrictions imposed thereby annulled.

(8) Nothing herein precludes a court of competent jurisdiction from ordering a person to refrain from entering or remaining in or upon the real property of the City of Puyallup.

(9) ~~(4) Appeal of an Order Prohibiting Entry.~~ The procedure for contesting a City-issued notice of trespass is as follows:

(a) A person who is issued an ~~order~~ notice of trespass may ~~appeal~~ ~~contest~~ such ~~order~~ ~~the~~ notice by filing a request for a hearing with the Puyallup ~~m~~Municipal eCourt within fourteen (14) calendar days of issuance of the notice, and/or the date on which the City modifies the effective date of the notice or extends the duration of notice. ~~The court shall set and conduct a hearing within 10 calendar days of such request being filed with the court.~~

(b) ~~It shall be the~~ ~~The~~ burden of the eCity to ~~must~~ establish by a preponderance of the evidence that reasonable grounds exist that the contesting person violated an applicable law or rule; or when applicable, that the City modified the effective date, or extended the duration of the notice of trespass in order to more effectively protect the health, safety or welfare of persons property. ~~the order was issued based on the standard provided for in subsection (1)(a) of this section. In the absence of proof of a written request to produce the law enforcement officer who issued the~~

~~order, served on the city attorney's office within seven calendar days prior to the hearing, the order is admissible in lieu of the law enforcement officer appearing at the hearing, so long as the order substantially meets the requirements of subsection (2) of this section and RCW 9A.72.085.~~

~~(e) The court shall affirm, revoke, or modify the order.~~

(c) Absent issuance of subpoenas pursuant to the Civil Rules for Courts of Limited Jurisdiction, the hearing shall occur by motion and affidavit in accordance with the Civil Rules.

(d) All restrictions contained in the ~~order~~ notice shall remain in effect during the appeal process.

(9) Notwithstanding other penalty provisions in this chapter, violations of a City-issued notice of trespass shall be subject to and governed by RCW 9A.52.

Section 2. Publication. A summary of this ordinance shall be published as required by law.

Section 3. Severability - Construction.

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

(2) If the provisions of this ordinance are found to be inconsistent with the other provisions of the Puyallup Municipal Code, this Ordinance is deemed to control.

Section 4. Effective Date. This Ordinance shall take effect and be in force five (5) days after final passage and publication, as provided by law.

Passed and approved by City Council of the City of Puyallup at regularly scheduled open public meeting on the 13th day of October, 2015.


John Knutsen
Mayor

Approved as to form:



Shawn Arthur
Senior Assistant City Attorney

Attest:



Mary Winter
City Clerk

Published: October 16, 2015
Effective: October 21, 2015