

**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.”