

HEBER PUBLIC UTILITY DISTRICT REPORT TO BOARD OF DIRECTORS

DATE ISSUED: September 15, 2022

FROM: Laura Fischer, General Manager

SUBJECT: Waive the first reading and introduce Ordinance Number 2022-02 to Repeal Ordinance 220.

ISSUE:

Shall Heber Public Utility District Board of Directors waive the first reading and introduce Ordinance Number 2022-02 to Repeal Ordinance 220?

GENERAL MANAGER RECOMMENDATION:

Waive the first reading and introduce Ordinance Number 2022-02 to repeal Ordinance 220.

FISCAL IMPACT:

None.

BACKGROUND:

In 1980 the Heber PUD adopted Ordinance 220 that prohibited specific behavior and actions in our parks. A copy of Ordinance 220 is attached to this report. The ordinance was enacted to protect the safety of the community from health hazards presented by broken bottles, litter, trash, and refuse, the consumption of alcoholic beverages and acts of vandalism. The Ordinance also established and any violation of the Ordinance was an infraction with a punishable fine.

After staff review, it was found that all of the prohibited actions are included in our Facility Use Policy with the exception of Section 2. Beverages in Glass Containers. Additionally, all of the prohibited items are punishable under local, state and federal laws, and which are enforced by the Imperial County Sheriff's Office.

Staff has determined that a modification to the Heber Public Utility District Facility Use Policy is needed, and this action item is on the September 15, 2022 agenda. After adoption of the Modified Facility Use Policy, Ordinance 220 will become obsolete, void, and unenforceable, thus it should be repealed.

The only way to repeal an Ordinance is by adopting another Ordinance, thus staff has prepared Ordinance 2022-02 to repeal Ordinance No. 220.

CONCLUSION:

Staff has determined that Ordinance 220 should be repealed and has prepared Ordinance 2022-02 to that effect. Therefore, staff recommends that the Heber

Public Utility District Board of Directors introduce and waive the first reading of Ordinance 2022-02.

This Ordinance will be brought back before the HPUD Board at the next regularly scheduled meeting for the second reading and adoption via Resolution.

ALTERNATIVES

Do not introduce and waive the first reading of Ordinance 2022-02 and direct staff to make changes prior to consideration.

Respectfully Submitted,

Laura Fischer

General Manager

Attachments: Ordinance 2022-02
Ordinance 220

ORDINANCE NO 2022-02
AN ORDINANCE REPEALING ORDINANCE 220 OF THE
CODIFIED ORDINANCES OF THE HEBER PUBLIC UTILITY
DISTRICT

WHEREAS, Ordinance 220 of the Heber Public Utility District was adopted on 10th day of April, 1980 to Prohibit beverages in the form of glass containers, the deposit of litter, alcoholic beverages, and acts of vandalism in all parks and facilities in the District; and

WHEREAS, Ordinance 220 of the Heber Public Utility District establishes an infraction for violation of Ordinance 220 and establishes fines for first and second violations; and

WHEREAS, the General Manager and District Counsel have recently had an opportunity to review Ordinance 220 as it relates to beverages in the form of glass containers, the deposit of litter, alcoholic beverages, and acts of vandalism in all parks and facilities, and the establishment of infractions for violation of this Ordinance; and

WHEREAS, it was determined that several State, County and local regulations and laws have been adopted since 1980 which supersede and conflict with Ordinance 220 and which makes certain Sections of Ordinance essentially obsolete, void and unenforceable; and

WHEREAS, after discussion, review, and further consideration, the Board of Directors deems it acceptable and appropriate to repeal Ordinance 220 of the Heber Public Utility District in its entirety and to adopt Resolution Number 2022-13 to establish Park Facilities Rules and Regulations to address relevant sections of Ordinance 220; and

WHEREAS, the Heber Public Utility District has established a Facility Use Policy Number 3750, which will be modified by Resolution 2022-13 to include reference to Ordinance 2022-02 repealing Ordinance 220 and specifically the following sections:

- Section 2: Glass Containers Prohibited in the park
- Section 4: Alcoholic Beverages in Parks Prohibited.

NOW, THEREFORE, BE IT ORDAINED BY THE HEBER PUBLIC UTILITY DISTRICT

1 - That the entire Ordinance 220 of the Heber Public Utility District an Ordinance Prohibiting Beverages in the form of Glass Containers, the Deposit of Litter, Alcoholic Beverages, and Acts of Vandalism in all Parks and Facilities of the District as set forth in the attached Exhibit A, is hereby repealed.

Section 2 - The codifier is hereby instructed to remove Ordinance 220 and insert the following notation: Ordinance 220 was repealed by Ordinance 2022-02 and Resolution 2022-13.

Section 3 - That it is found and determined that all formal actions of this Board concerning and relating to the passage of this Ordinance 2022-02 were adopted in an open meeting of this Board, and that all deliberations of this Board were in meetings open to the public, in compliance with The Brown Act.

Section 4 – This Ordinance shall be in effect 30 days after adoption and publication.

APPROVED AND ADOPTED by the Board of Directors of the Heber Public Utility District on this 20th day of October, 2022.

Kaine Garcia, President
Board of Directors

I, MOISES G. CARDENAS, do hereby certify that I am Board Secretary of the Heber Public Utility District that on the 20th day of October, 2022, the Board of Directors of Heber Public Utility District adopted and approved the foregoing Ordinance 2022-02 and that said Ordinance was passed with the following motions:

AYES:

NOES:

ABSENT:

PRESENT BUT NOT VOTING:

In witness whereof I have hereunto set my hand and the seal of Heber Public Utility District this 20th day of October, 2022.

Attest: _____
Moises Cardenas, Board Secretary

Exhibit A - Ordinance 2022-02

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ORDINANCE NO. 220

AN ORDINANCE OF THE HEBER PUBLIC UTILITY DISTRICT PROHIBITING BEVERAGES IN THE FORM OF GLASS CONTAINERS, THE DEPOSIT OF LITTER, ALCOHOLIC BEVERAGES, AND ACTS OF VANDALISM IN ALL PARKS AND FACILITIES OF THE DISTRICT.

BE IT ENACTED by the Board of Directors of Heber Public Utility District:

Section 1: Purpose. To protect the people of the community of Heber from the health hazards presented by broken bottles, litter, trash, and refuse, the consumption of alcoholic beverages and acts of vandalism and because of the resulting detriment and danger to public health and safety, the public interest, convenience and necessity requires the regulation thereof and, to that end, this ordinance is adopted.

Section 2: Beverages in Glass Containers. It is unlawful for any person to sell, consume, or possess any beverage which is in any form of a glass container upon any district park or facility or upon any vehicle which is parked or situated adjacent to any district park or facility.

Section 3: Refuse, Trash, and Litter Prohibited. It is unlawful for any person to dump, deposit or leave any nails, ashes, paper, boxes, cans, refuse or trash on the grounds of any district park or facility. Such items shall be placed in the proper receptacles where provided; and, where such receptacles are not provided, all such waste shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere.

Section 4: Alcoholic Beverages in Parks Prohibited. It is unlawful for any person to drink, consume or possess or to attempt to drink or consume, any alcoholic beverage while such person is in or upon any district park or facility.

Section 5: Certain Acts in Park Prohibited. It is unlawful for any person in a park to do any of the following:

a) Wilfully mark, deface, disfigure, injure, tamper with, displace, or remove any building, bridges, tables, benches, fireplaces, railings, fencing, paving or paving material, water lines or other public utilities, or parts of appurtenances thereof, signs, notices, placards, whether temporary or permanent, monuments, stakes, post or other boundary markers or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal.

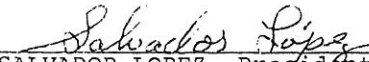
b) Use loud, boisterous, threatening, abusive, insulting or indecent language, or to engage in other loud or disturbing conduct, by the use of musical instruments, amplifiers, loudspeakers, or other noise making devices or to engaged in any disorderly conduct or behavior tending to a breach of the public peace and enjoyment of park and recreation areas.

Section 6. Violation, Offense, Penalty. A violation of this ordinance constitutes an infraction. Every violation determined to be an infraction shall be punishable by (a) a fine not exceeding fifty dollars (\$50) for a first violation; (b) a fine not exceeding

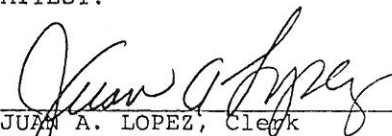
1 one hundred dollars (\$100) for a second violation within one year;
2 (c) a fine not exceeding two hundred and fifty dollars (\$250) for
each additional violation within one year; (d) or as otherwise may
3 be provided by Section 36900 of the Government Code.

4 Section 7. The District shall cause to be placed and main-
tain signs notifying the public of the provisions of this ordinance
and the penalties thereunder.

5 PASSED, APPROVED AND ADOPTED this ___ day of _____, 1980.

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SALVADOR LOPEZ, President

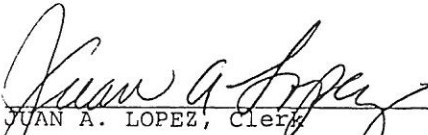
9 ATTEST:

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11 JUAN A. LOPEZ, Clerk

12 State of California)
13 County of Imperial)

14 I, JUAN A. LOPEZ, do hereby certify that I am Clerk of Heber
15 Public Utility District, that on the ___ day of _____, 1980,
the Board of Directors of Heber Public Utility District adopted
16 and approved the foregoing Ordinance No. ___ of said Heber Public
Utility District and that said ordinance on the motion of Dir.
17 Salvador Lopez, seconded by Delfino Matus, was carried by unanimous
roll call vote.

18 AYES: LOPEZ, MATUS
19 NOES: NONE
ABSENT OR NOT VOTING: NONE WITH ONE VACANT SEAT

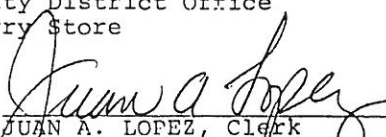
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22 JUAN A. LOPEZ, Clerk

23 AFFIDAVIT OF POSTING ORDINANCE NO. 220

24 State of California)
25 County of Imperial)

26 Juan A. Lopez, being duly sworn, says: that he is clerk of Heber
Public Utility District, Imperial County, California, and that on
27 the 10th day of APRIL, 1980, he posted copies of the Ordinance
No. 220 of said Board of Directors in three places within the
boundaries of said District, as follows:

28 One at Heber Public Utility District Office
29 One at Heber Cash and Carry Store
30 One at Kennedys Market

31 
JUAN A. LOPEZ, Clerk

32 Subscribed and sworn to
before me this ___ day
of _____, 1980.

NOTARY PUBLIC