

HEBER PUBLIC UTILITY DISTRICT

REPORT TO BOARD OF DIRECTORS

DATE ISSUED: October 20, 2022

FROM: Laura Fischer, General Manager

SUBJECT: Second reading of Ordinance Number 2022-02, Repealing Ordinance 220, and Adopt Resolution 2022-18.

ISSUE:

Shall Heber Public Utility District Board of Directors conduct the second reading of Ordinance Number 2022-02 to Repeal Ordinance 220, and Adopt Resolution 2022-18?

GENERAL MANAGER RECOMMENDATION:

Conduct second reading of Ordinance Number 2022-02 to repeal Ordinance 220 and Adopt Resolution 2022-18.

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of the Modified Facility Use Policy, Ordinance 220 will become obsolete, void, and unenforceable, thus it should be repealed.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. This Ordinance, 2022-02 must be adopted via Resolution 2022-18.

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Staff has determined that Ordinance 220 should be repealed and has prepared Ordinance 2022-02 to that effect.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 conduct the second reading of Ordinance 2022-02 and adopt via Resolution 2022-18.

ALTERNATIVES

- 1) Do not conduct the second reading of Ordinance 2022-02 and direct staff to make changes prior to consideration.
- 2) Do not adopt Ordinance 2022-02 via Resolution 2022-18.

Respectfully Submitted,

Laura Fischer

General Manager

Attachments: Ordinance 2022-02
Ordinance 220
Resolution 2022-18

RESOLUTION NO. 2022-18

**A RESOLUTION OF THE HEBER PUBLIC UTILITY
DISTRICT ADOPTING ORDINANCE 2022-02
REPEALING ORDINANCE 2022.**

WHEREAS, the Heber Public Utility District desires repeal Ordinance 220 which was adopted on April 10, 1980; and

WHEREAS, the District adopted Ordinance 220 that prohibits beverages in the form of glass, the deposit of litter, alcoholic beverages, and the acts of vandalism in all parks and facilities of the District; and

WHEREAS, the District has determined that Ordinance Number 220 is essentially obsolete, void and unenforceable; and

WHEREAS, the Heber Public Utility District adopted Policy Number 3750 Titled Facility Use Policy on May 1, 2016 and has adopted an amendments to this policy on July 15, 2021; and further amended Policy Number 3750 on September 15, 2022; and

WHEREAS, the District desires to adopt Ordinance 2022-02 that repeals Ordinance 220; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of Heber Public Utility District:

- 1) The District's Ordinance 220 is hereby repealed; and
- 2) The District's Ordinance 2022-02 is hereby approved.

PASSED AND ADOPTED THIS 20th day of October 2022, by the following vote:

AYES:

NOES:

ABSENT:

Kaine Garcia, President
Board of Directors

ATTEST:

Moises Cardenas, Clerk of the Board

APPROVE AS TO FORM:

Steven M. Walker, General Counsel

STATE OF CALIFORNIA)
COUNTY OF IMPERIAL)
HEBER PUBLIC UTILITY)
DISTRICT)

I, MOISES CARDENAS, Clerk of the Board of the Heber Public Utility District, County of Imperial, State of California, DO HEREBY CERTIFY that the foregoing resolution was dully passed, approved and adopted by the Board of Directors of the Heber Public Utility District at its regularly scheduled meeting held on the 20th day of October, 2022.

By _____
Moises Cardenas, Clerk of the Board

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