

ORDINANCE NO. 933

**AN ORDINANCE AMENDING THE STAYTON MUNICIPAL CODE TITLE 8 - HEALTH AND SAFETY, CHAPTER 8.12 USE OF PUBLIC PARKS AND PUBLIC PROPERTY; AND, DECLARING AN EMERGENCY.**

WHEREAS, the Stayton Municipal Code Chapter 8.12 includes regulations governing camping and other uses within city parks and on public properties inside the City of Stayton; and

WHEREAS, Stayton Municipal Code does not address the use of waterways inside the City and does not authorize the Chief of Police to cause closures of public properties and waterways for the purpose of public health, public safety or environmental safety emergencies;

WHEREAS, it is the City's desire to amend Stayton Municipal Code 8.12 to include regulations governing the use of the Stayton waterway known as the Stayton Ditch, as identified on Exhibit A attached hereto and made a part hereof, also known as the Power Canal or Reid Power Canal;

WHEREAS, the Stayton Ditch is the primary source of supply for public drinking water for the City of Stayton and the City Council desires to protect the quality of the City's drinking water;

WHEREAS, the Stayton Ditch is the primary source of water supply for the Santiam Water Control District's hydroelectric facilities and irrigation canal system and the City Council desires to protect water quality for agricultural uses and protect the public from safety hazards at hydroelectric facilities;

WHEREAS, it is the City's desire to amend Stayton Municipal Code 8.12 to include regulations to allow the Chief of Police to cause temporary closures of public properties and waterways for the purpose of public and environmental safety emergencies; and,

WHEREAS, it is appropriate that an emergency be declared as to the enactment of this Ordinance because of the public health, public safety and environmental concerns and so that it is in full force and effect immediately from and after its enactment by the Stayton City Council.

NOW THEREFORE, the City of Stayton ordains:

**SECTION 1. Stayton Municipal Code Title 8 Health And Safety, Chapter 8.12 Camping On Public Property** is hereby amended to read:

## CHAPTER 8.12

### USE OF PUBLIC PARKS, PUBLIC PROPERTY, AND WATERWAYS

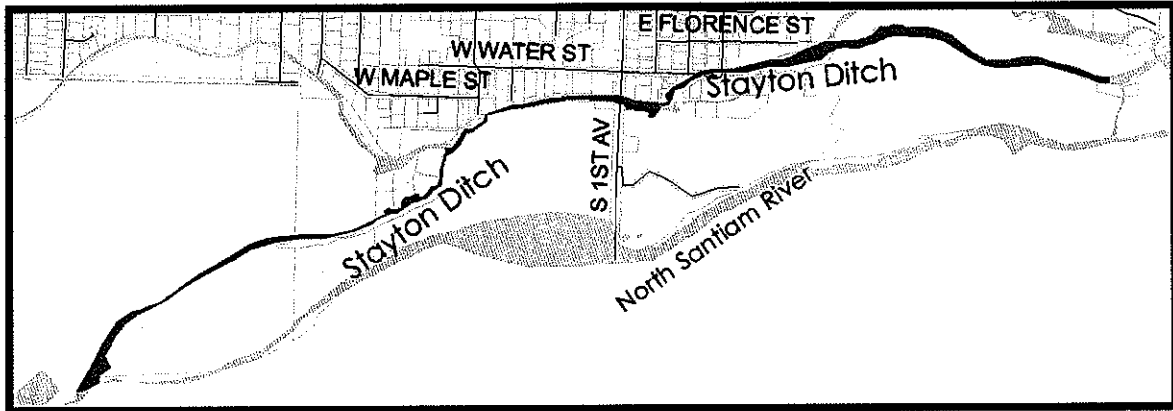
#### SECTIONS

8.12.620	Definitions
8.12.630	Camping Permit
8.12.640	Park Hours
8.12.650	Prohibited Behavior in Public Parks and Facilities
8.12.660	Exclusion of Persons from Parks and Public Facilities
8.12.670	Emergency Closure of Parks and Public Facilities
8.12.680	Violation: Penalty

#### 8.12.620 DEFINITIONS

As used in this Chapter, the following mean:

1. **CAMP:** To set up or to remain in or at a campsite.
2. **CAMPSITE:** Any place where any bedding, sleeping bag, or other material used for bedding purposes, or any stove or fire is placed, established, or maintained for the purpose of maintaining a temporary place to live, whether or not such place incorporates the use of any tent, lean-to, shack, or any other structure, or any vehicle or part thereof.
3. **PUBLIC PROPERTY:** A sidewalk, street, alley, public right-of-way, park, building, structure, any other publicly owned land, waterway, or facility.
4. **RECREATION VEHICLE:** A vacation trailer or other vehicular or portable unit which is either self-propelled, carried, or towed by a motor vehicle and which is intended for human occupancy and is designed for vacation or recreational purposes but not a permanent residence. Recreational vehicles also include travel trailers, motorhomes, campers, boats, boat trailers, snowmobiles, all-terrain vehicles (ATVs), and trailers designed primarily to carry ATVs or snowmobiles. Recreational vehicles do not include utility trailers or canopies. (Ord. 711, November, 1992)
5. **POWER CANAL a waterway (Reid Power Canal).** See Stayton Ditch.
6. **STAYTON DITCH a waterway, also known as POWER CANAL or REID POWER CANAL.** The Stayton Ditch is the waterway which flows west from the N. Santiam River dividing the Wilderness Area Park from the Riverfront Park in Stayton. The Stayton Ditch flows from the North Santiam River west to First Ave in Stayton, crossing First Ave flowing back into the N. Santiam River, as illustrated below.



#### 8.12.630 CAMPING PERMIT

1. No person shall camp in or upon any public property on or under any bridge unless a permit is obtained from the Chief of Police or designated representative or by declaration of the Mayor in emergency circumstances. An application shall be filed with the City for each RV, tent, or campsite.
2. The Chief of Police or designated representative may issue a permit to any person to park a recreational vehicle (RV) or to camp upon any public property. A permit issued under this section shall be issued when the Chief of Police or designated representative finds that the following criteria will be met.
  - a. The applicant has made arrangements for appropriate sanitary facilities and drinking water;
  - b. The proposed activity for which the permit is issued is not likely to disturb the peace and quiet of any person; and,
  - c. The proposed activity is unlikely to result in litter, trash, garbage, sewage, or other unsanitary material being placed or left on public property; and,
  - d. A permit shall not be issued for camping in a public park unless it is in conjunction with another City approved event, such as a festival in the park and does not interfere with the needs of the City such as normal city services.
3. The permit may be granted for up to ten days. A permit shall not be issued to the same applicant more than once in any thirty-day period

#### 8.12.640 PARK HOURS

Public parks of the City shall be closed to access and use by the public between the hours of 10:00 p.m. and 6:00 a.m. unless a permit has been issued by the Chief of Police or designee or a facility use permit has been issued by the City.

8.12.650 PROHIBITED BEHAVIOR IN PUBLIC PARKS, PUBLIC PROPERTY, AND FACILITIES

While in any park, public property, or facilities:

1. No person shall make, assist in making, continue, or cause to be made any boisterous, disturbing, threatening, abusive, indecent, or obscene language or gestures; or unnecessary noise; or by any other act to breach the public peace; or annoy, disturb, injure, or endanger the comfort, repose, health, safety, welfare, or peace of others while in any park or public facility in accordance with the State Disorderly Conduct laws.
2. No person shall blow, spread, or place any nasal or other bodily discharge, or spit, urinate, or defecate on the floors, walls, partitions, furniture, fittings, or any portion of a public restroom located in any park, or in any place in a public restroom or public facility, excepting directly into the particular fixture provided for that purpose.
3. No person shall damage or do anything that will or could cause damage to the public parks, public property, waterways, and facilities.
4. No person shall swim, float, kayak, raft, boat, fish, wade, play in or participate in any similar recreation activity in the Stayton Ditch.
5. The Stayton Ditch may be accessed for official use such as by the City of Stayton, Santiam Water Control District, Stayton Fire District, other governmental agencies, public safety organizations, or others as permitted by the Santiam Water Control District.

8.12.660 EXCLUSION OF PERSONS FROM PARKS AND PUBLIC FACILITIES

1. If there is probable cause to believe that a person has violated the Stayton Municipal Code, Chapters 8.04, 8.12, 9.04, 9.08, 9.20, 9.24, 9.28, 9.36, 10.04, or 10.12, or any related state law, while in a public park or park facility, that person may be excluded from any or all parks or public facilities for a period of not more than thirty (30) days in accordance with the following procedure: (Ord. 874, section 23, 2004)
  - a. Written notice shall be given to the person to be excluded from a park or public facility. The exclusion period shall take immediate effect.
  - b. The notice shall prominently specify the beginning and ending dates of the exclusion period.

- c. The notice shall prominently display a trespass warning describing the potential consequences of unlawful behavior after receipt of an exclusion notice and for entering a park, public property or facility during the exclusion period.
- d. At any time within the exclusion period, a person having received a notice may apply in writing to the Chief of Police or designee for a temporary waiver from the exclusion for good reason shown. (Ord 720, §1, August 1993)

8.12.670 EMERGENCY CLOSURE OF PUBLIC PROPERTIES, PARKS, AND WATERWAYS

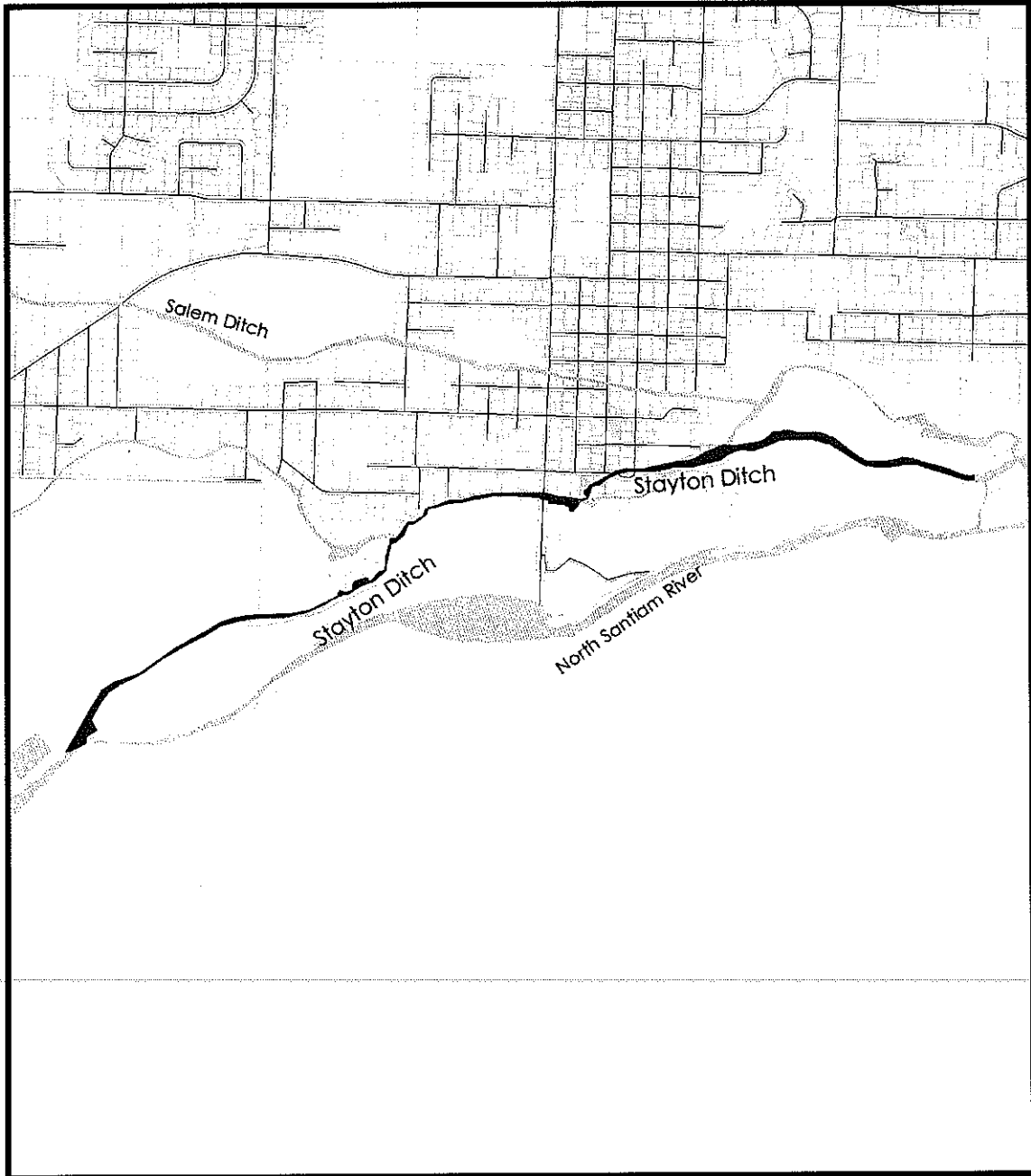
- 1. Stayton's Police Chief or designee may close a public property, park, waterway or part thereof, at any time by erecting barricades, signs, locking mechanisms or other appropriate measures prohibiting and barring access to any such public property, park, waterway or part thereof, at appropriate locations. Notice that any public property, park, waterway or part thereof, is closed shall be posted at appropriate locations during the period of such closure.
- 2. Stayton's Police Chief or designee may close any public property, park, waterway, or any part thereof, in accordance with this section, in the interest of public safety, health, and welfare in the event conditions exist in or near that premises which involve any of the following circumstances:
  - a. Life or property appear to be endangered and other means cannot reasonably be utilized to eliminate the danger;
  - b. An overcrowding of persons or vehicles has occurred, impairing access of emergency assistance or emergency vehicles;
  - c. The subject premises or other property located near the premises reasonably appears to be endangered;
  - d. Persons making, assisting in making, continuing, or causing to be made any boisterous, disturbing, threatening, abusive, indecent, or obscene language or gestures, or unnecessary noise, or by any other act to breach the public peace; or annoying, disturbing, injuring, or endangering the comfort, repose, health, safety, welfare, or peace of others in any park, public facility, or waterway and is of such consequence that cessation of the disturbance cannot otherwise be accomplished;
  - e. A hazardous condition exists;
  - f. That violation(s) of criminal offenses or ordinances is occurring and is caused by sufficient numbers of persons, or is of such consequence that cessation of the disturbance cannot otherwise be accomplished; or,

- g. Other conditions exist such that the safety or protection of persons or property cannot reasonably be assured.
- 3. During the closure of a park, public premises or waterway, or portion thereof, in accordance with this section, it shall be unlawful for any person to enter upon the premises, or any part thereof, that has been closed, or to remain in the premises, or part thereof, after having been notified of the closure and having been requested to leave by a an authorized authority.
- 4. Such emergency closure shall not exceed 18 hours without the written approval of the City Administrator. (Ord 720, §1, August 1993)

8.12.680 VIOLATION: PENALTY

- 1. A violation of a provision of this chapter is punishable by a fine not to exceed \$500.00 per day.
- 2. In addition to the remedies and fees provided for in this Chapter, any person authorized to enforce the provisions of this Chapter may issue an enforcement complaint, as defined in section 6.04.020, to any person found in violation of the provisions of this Chapter. (Ord. 711, November, 1992)
- 3. If there is probable cause to believe a person has violated provisions of 8.12, constituting a crime under Oregon Revised Statues that person may be prosecuted accordingly, and if convicted, fined accordingly.

Exhibit A. Location of Stayton Ditch



SECTION 2. Upon enactment by the Stayton City Council and the Mayor's signing, this Ordinance shall become effective immediately.

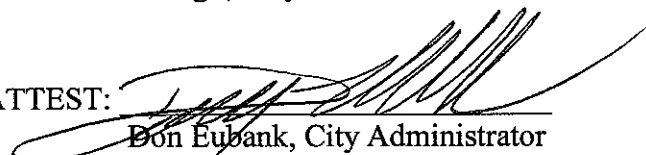
ENACTED BY THE STAYTON CITY COUNCIL ON MARCH 7, 2011.

Signed: 03/07, 2011

CITY OF STAYTON

By:   
A. Scott Vigil, Mayor

Signed: 3/7, 2011

ATTEST:   
Don Eubank, City Administrator

APPROVED AS TO FORM:

  
David A. Rhoten, City Attorney