

ORDINANCE NO. A-171

(as amended by A-171-A)

(as amended by A-171-B)

PROPOSED AMENDMENTS BY A-171-C

AN ORDINANCE ESTABLISHING CITY PARK REGULATIONS; PRESCRIBING PENALTIES; AND DECLARING AN EMERGENCY

The City of Coburg ordains as follows:

SECTION 1. PURPOSE

The parks of this city are established and maintained as areas of recreation, relaxation, and enjoyment of the public. It is intended that they shall be regulated and used to permit enjoyment by a maximum number of people engaged in as many diverse interests and activities as may be practical within the limits of space, design and accommodations available in each park unit. Limitations may be required to insure the safe use of park areas and to protect the rights of others in surrounding areas.

SECTION 2. DEFINITIONS. As used in this ordinance:

- (1) The term “park” means an area of land owned or controlled by the city, set aside and maintained by the city for recreation and relaxation of the public, including neighborhood parks and community parks, as well as limited use parks (which includes undeveloped greenways).
- (2) The term “neighborhood park” includes areas planned for public recreation, and also school grounds of each public school of the City of Coburg when said school ground is being used by the City under a recreation agreement with Eugene 4J School District.
- (3) The term “community park” includes areas such as the Norma Pfeiffer Park and similar areas which are, or may later be, planned and developed for numerous types of family or group uses.

SECTION 3. MOTORIZED VEHICLES

- (1) Motorized vehicles, such as autos, trucks, motorcycles, motor scooters, go carts, etc., shall operate, stop, or park only upon designated roadways or within designated parking areas. Exceptions will include;
 - a. Maintenance equipment when operated by city authorized personnel.
 - b. The loading and unloading of materials, supplies, or equipment as authorized by the City.
- (2) Except for city authorized vehicles or emergency vehicles, the following prohibitions shall also apply to city parks.
 - a. No bicycles shall be operated on trails designated as foot paths only.
 - b. Motor vehicles shall be operated only on roads and in parking areas constructed or designated for motor vehicle use.

- c. No motor vehicle shall be operated on a bicycle or foot path.
- d. No commercial vehicles, truck tractors (with or without a trailer), or vehicles with the combined weight greater than normal for loaded full-sized passenger automobiles, shall use the roads in any parks unless authorized or permitted by the City.

SECTION 4. HORSES AND PONIES

No person shall ride or lead any horse or pony in the park, except upon roadway or designated parking area or designated bridle path. No animal shall be hitched to a tree or shrub in a manner that endangers the tree or shrub. Horse or pony owners shall immediately remove from a park any solid waste deposited there by those animals.

SECTION 5. PETS

- (1) Dogs are prohibited in park areas posted as no dog areas.
- (2) A dog brought into or kept in any park areas shall be on a leash not more than eight (8) feet in length, or confined in a vehicle, and must be kept under control at all times.
- (3) Dog owners shall immediately remove from a park any solid waste deposited there by their dogs.
- (4) A dog's owner is responsible for the dog's behavior at all times while the dog is in the park. The City may require a person in charge of an animal to undertake any measure, including the removal of an animal from the park area, necessary to prevent interference by the animal with the safety, comfort, or well-being of park visitors, park resources, or adjoining property users. The refusal of a dog owner to follow any such orders shall be a violation of this ordinance.

SECTION 6. FIRE

No person shall build or maintain any fire in a park, except in fire rings or fireplaces as provided by the City or in a stove or barbeque unit where picnic areas are provided. No person shall take firewood from any park unless authorized by city officials to do so.

SECTION 7. COMMERCIAL ACTIVITY

- (1) No person shall sell or attempt to sell any merchandise or service or operate any concession in a park without permission of the City. The City may issue a permit authorizing the selling of merchandise or services or the operating of a concession in a park if the City determines, in its reasonable discretion, that such a commercial activity is appropriate for the park and is in the best interests of the public. The city may include reasonable conditions in said permit, and may revoke a permit if the terms of the permit are violated, or may deny a permit to a person or persons who have violated the terms of the permit within the previous year.

- (2) No person who holds a valid permit issued by the City under this section shall sell merchandise or services within the park in violation of any conditions stated in that permit.

SECTION 8. GARBAGE AND OTHER REFUSE

- (1) No person shall discard or dispose of any garbage or other refuse in a park, except in a receptacle provided by the City for such garbage or refuse.
- (2) No person shall take any garbage or other refuse into a park for the purpose of discarding or disposing of such garbage or other refuse, nor shall the same be disposed of in any park, even though it may have been placed in a city receptacle for garbage or refuse.

SECTION 9. MOTOR VEHICLE SPEED

The designated speed for motor vehicles upon the roadways within any park is 10 miles per hour (mph) unless otherwise posted. In no event shall any person operate a motor vehicle upon any roadway in a park at a speed greater than permitted by the basic rule as provided in the Oregon Revised Statutes then adopted by ordinance of the city.

SECTION 10. DANGEROUS EQUIPMENT AND ACTIVITIES

No person shall use any equipment or other thing or engage in any activity in a park that creates an unreasonable interference or danger to other persons or property. Such activities shall include, but not limited to, the use of golf clubs, archery equipment, a discus, javelin or shot; or any aircraft, rocket or missile powered by fuel or mechanical means; or any firearm. Such activities will be allowed only provided in Section 13 of this ordinance.

SECTION 11. PROHIBITED ACTIVITIES

In addition to any other prohibitions in these rules, the following activities are prohibited within a park area:

- (1) Setting up or using a public address system without the written permission of the City.
- (2) Operating or using any battery, electrical motor, or vehicle operated noise-producing device in a manner that could disturb other park visitors or adjoining property owners or users in their reasonable use and enjoyment of their property.

Without in any manner otherwise limiting the applicability of this subsection (2), it is conclusively presumed to be a violation of this subsection if the noise produced by any such device is audible to any person at a distance from the device of not less than 50 feet.”

- (3) Participating in a public demonstration, disturbance, or riotous behavior that interferes with the reasonable use by the general public of a park or

adjoining property owners or users in their reasonable use and enjoyment of their property.

Without in any manner otherwise limiting the applicability of this subsection (3), it shall conclusively be presumed to be a violation of this subsection for any person or persons to vocally emit sound(s) which is audible to any person at a distance of not less than 50 feet from the person or persons emitting the noise.

- (4) Playing sports outside recreation areas set aside for organized sports activities without the written permission of the City during a time when such areas are being used by others or are scheduled by the City for other use.

SECTION 12. POSSESSION OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND ALCOHOLIC LIQUOR

Consumption of alcohol other than beer or wine, or possession of any receptacle containing any such alcohol is prohibited in all park areas. Beer and wine may be consumed by persons 21 years of age or older, except in children's playground areas, restrooms, parking lots, athletic fields, tennis courts, basketball courts, as well as other areas, if such areas are so designated by the City.

SECTION 13. SPECIAL USE AREAS

The city may set aside, establish, alter, and/or discontinue special use areas in one or more of the parks. These special use areas would include, but not limited to, activities such as horse or pony riding, junior Olympics, bicycle riding, camping activities, motorcycle riding, or any one or more of those activities otherwise prohibited in this ordinance. Before establishing, altering, or discontinuing such a special use area, the City shall determine, in its reasonable discretion, the priority of needs for such areas and whether an activity may be carried on without unreasonable interference or danger to other persons in the park or adjoining property owners or users. If the City establishes a special use area, the City may designate such hours or days of usage, the particular activity or activities to be reasonably required for safety and convenience of persons and property. The City shall mark the boundaries of the special use areas and post such signs and warnings concerning that special use area as it deems reasonably appropriate. No person shall use or cause damage to any special use area, except as is normal for the one or more activities permitted in that special use areas under any conditions of use which have been specified by the City.

SECTION 14. SOUND

- (1) No person shall disturb the peace in any park between the hours of 10:00 p.m. and 7:00 a.m. For purposes of this subsection, disturbing the peace is defines a including, but not being limited to, the following:
 - a. Playing a musical instrument
 - b. Playing a radio, tape recorder, or television
 - c. Shouting
 - d. Engaging is any organized group games
- (2) No person shall use any device to amplify sound in any park unless a valid permit has been issued by the City under Subsection (3) of this section.
- (3) The City may issue a permit authorizing the use of devices to amplify sound to one or more specified persons is a designated area of a park on a certain date between specific hours if it finds, in its reasonable discretion, that the number of persons to be entertained or served by the use of sound can be adequately and reasonably served only by the amplification of sound, the City may impose conditions to such a permit which it deems reasonable, and the City may revoke a permit if the terms of the permit are violated, or may deny a permit to a person who have a condition of a permit within the previous year.
- (4) No person who holds a valid permit issued by the City under this section shall amplify sound within a park in violation of any conditions stated in that permit.

SECTION 15. HOURS OF USE; SLEEPING AND CAMPING

- (1) No person shall sleep in any park between the hours of 10:00 p.m. and 7:00 a.m., except as provided in Subsection 3 of this section.
- (2) No person shall use any tent, vehicle, camper, or trailer as a shelter for housing or sleeping in any park area, except as provided in Subsection 3 of this section.
- (3) The City may, in its reasonable discretion, issue permits for the use of tents, shelter-halves, recreational or other motor vehicles, campers or trailers as shelters for housing or sleeping in parks and for any overnight sleeping in parks between the hours 10:00 p.m. and 7:00 a.m.
- ~~(4) The hours of closure for parks, portions thereof or facilities therein shall be established by order of the City and may vary due to factors it deems relevant to the purposes of this ordinance.~~
(4) The hours of closure for parks, portions thereof or facilities therein set forth in this Section may be modified by an Administrative Order for the temporary use of public lands by individuals experiencing homelessness, issued by the City Administrator or the Administrator's designee. The City Administrator is authorized to issue and modify such an Administrative Order based upon all factors that the City Administrator deems relevant to the purposes of this Ordinance and to comply with applicable state and federal law.

~~SECTION 16. HOURS OF PARK CLOSURE~~

~~No person shall enter or use any park during posted hours of closure without a permit to do so from the City.~~

SECTION 17. ENFORCEMENT

- (1) City law enforcement officers, public works personnel, and other authorized personnel, in any park are may order compliance by the public with park rules, and other laws, and may order any person violating the same to leave the park area. A violator also may be issued a citation for a civil infraction by city law enforcement officers. Persons refusing a lawful order to leave a park area or who have or are committing violations of city, state or federal criminal laws in a park may be arrested by city law enforcement officers.
- (2) If a notice of violation is issued, it shall state with reasonable particularity the rule or rules alleged to have been violated; shall be signed by city personnel issuing the same; and shall contain a statement thereon that a complaint may be filed in the Municipal Court of the City of Coburg in conformity therewith.
- (3) The public works or other city personnel issuing the notice of violation shall, within 24 hours thereafter, prepare a written report containing a clear and concise statement of the incident, the alleged violation, the names and addresses of any witnesses thereto, and their statements, and shall deliver the same, together with a copy of the notice of violation to the city police chief who shall determine whether a complaint shall be issued.
- (4) If a complaint is authorized by the city police chief, it shall be signed and sworn to as in the manner of other Municipal Court complaints. The complaint shall be filed with the Municipal Court. The complaint citation shall state the appearance date and amount of scheduled bail thereon, and thereafter a copy of the citation shall be served by a city police officer upon the defendant, and the officer shall file a return of service with the court.
- (5) After a complaint has been filed and served on the defendant, all subsequent proceedings shall be in accordance with the law, rules and procedures of the Municipal Court.

SECTION 18. LIABILITY

All persons to whom any use permit has been granted under this ordinance, as a condition thereof, shall agree in writing to hold the City harmless and to indemnify the City from any and all liability, attorney fees, and costs for injury to persons or property occurring as a result of the activity sponsored by permittee. Said persons shall be strictly liable to the City for any and all damages to parks, facilities, and buildings owned by the City which results from the activity of permittee or is caused by any who participate in said activity. In addition, the city may require as a condition of granting a use

permit that the permittee provide as a condition of granting a use permit that the permittee provide insurance satisfactory to the City in its terms and coverage, as well as a certificate or other adequate proof of such insurance.

“SECTION 18.1 SEPERABILITY

In the event that any section, subsection, term or provision of this Ordinance is adjudged to be unenforceable or invalid by a court or agency of competent jurisdiction, such a decision shall not invalidate the remaining sections, subsections, terms or provisions of this Ordinance which shall remain in full legal force and effect.

SECTION 19. FLORA

No person, other than a duly authorized city employee or volunteer in the performance of his or her duty or persons participating in city approved activities, shall dig, pick, remove, destroy, injure, mutilate, damage or cut any trees, plants, shrubs, blooms, or flowers, or any portion thereof growing in any park, unless written permission or a permit to do so has been granted by the city.

SECTION 21. MARKING, INJURING, OR DISTURBING ANY STRUCTURE

No person, other than a duly authorized city employee or volunteer in the performance of his or her duties, shall:

- a. Cut, break, injure, deface, or disturb any rock, building, cage, pen, monument, sign, fence, bench, structure, apparatus, equipment, or property in a park.
- b. Mark or place on any park property any mark, writing or printing.
- c. Attach to any park property any sign, card, display, or other similar device, except as authorized by the city.

SECTION 22. SIGNS AND CONCESSIONS

- (1) Except in an area so specifically designated by the City, no person may place or erect signs, markers, or inscriptions of any type within a park area without permission from the City.
- (2) The following activities are prohibited in a park area unless specifically authorized in writing by the City:
 - a. Operating a fixed or mobile concession
 - b. Soliciting, selling, offering or sale, peddling, hawking, or vending any goods or services
 - c. Advertising any goods or services
 - d. Distributing any commercial circular notice, leaflet, pamphlet, or writing or printed information of any kind. A noncommercial handbill may be distributed to a person willing to accept it, if it is distributed without charge

SECTION 23. VANDALISM AND LITTER

- (1) No person may mutilate, deface, damage, or remove a table, bench, building, sign, marker, monument, fence, barrier, fountain, faucet, traffic recorder, or any other structure, facility, or property of any kind in a park area.
- (2) No person may dig up, deface, or remove earth, stones, rock or other substance, make an excavation, lay or set off any blast, roll any stones or other objects, or assist is in doing so in a park area except with written permission or permit of the City to do so.
- (3) Refuse generated during or from activities in a park shall be left in a park area only in the receptacles designates for the=at purpose.
- (4) No person may wash any clothing, vehicles or other materials or objects in a park without the written permission of permit of the City to do so.

SECTION 24. PARKS AND FACILITIES USE PERMITS

1. Ordinance No. A-171 of the City is hereby amended as follows:
 - a. Section 24 is hereby designated as Section 25.
 - b. There is hereby added a new Section 24 which reads as follows
 1. Wherever in this ordinance it is required that a permit or permission of the city or one of its officers, employees, agents or other authorized person is necessary for a use of a city park or facilities, this permit or permission shall be obtained by filing a completed application for use on a form provided by the City not less than 10 days prior to the date of desired use. At the time of filing a non-refundable application fee as from time to time approved by the city shall be paid for profit or a non-profit enterprise in the City in order to cover the City's administrative costs. The City shall notify the applicant of its decision to grant or deny the permit.
 2. In addition to other requirements for a city permit or permission provided in this ordinance, a permit shall also be obtained as provided in subsection 24. (1) above for any of the following uses:
 - a. Any planned or organized use by 35 or more persons;
 - b. Any request for exclusive use of a City park or facility;
 - c. Any request for special City services to accommodate a proposed use.
 3. The decision to grant or deny a permit shall be made by the City's public works supervisor or designee based upon criteria which shall, without limitations of other relevant,

material criteria being considered, include timeliness of the filing, payment of the fee, complete information being provided, the proposed use's conformity to this ordinance and City park regulations, the applicant's prior misuse of park facilities or violations of this ordinance or park regulations, and the impact of the proposed use, date and time on other permit or potential users and surrounding property owners. Conflicts between applicants shall be resolved to give priority to the first to have filed for a permit who thereafter was issued one.

4. The city may require special conditions for granting a permit as is deemed reasonable necessary to protect public property or the public peace, health, safety, morals and general welfare.
5. The City may require that an applicant pay prior to the issuance of a permit, and as a condition for its issuance, for any one or more of the following, which amounts shall be approved by the City and may be changed from time to time:
 - a. Usage by persons who do not reside, own property or conduct a for profit or non-profit enterprise in the City, which charge shall not be refundable;
 - b. A security deposit for cleaning, damages and other costs that the City may incur;
 - c. The estimated costs of special or requested City services for the applicant's proposed use;
6. For charges made under subsections 25(5) B and C above, the applicant shall be liable to the City for its actual incurred and attributed costs. An applicant's prior payment under either of these subsections shall be held by the City until the applicant's use of a park or facility is completed and the City's costs have been finally determined. The City shall then provide the applicant with a written statement of the total costs the applicant is liable to pay. Payment in full shall be made within 30 calendar days from the date of the written notice. A late payment penalty charge of one and one-half percent per month shall be assessed on all late payments. In the event the City's actual costs are finally determined to be less than applicant's prior payments, the applicant shall pay the total amount of the City's costs in full and, upon receipt, the City shall cancel and return the applicant's prior

payment. In the event the City's total costs exceed the applicant's prior payment, the applicant shall either pay the City's total final costs and the City, upon receipt, shall cancel and return the applicant's prior payment, or pay the difference between the City's total final costs and the applicant's final payment, as the City shall in its discretion direct in its written statement of costs. The City shall not be liable to the applicant for the payment of interest or any other charge on the amount of the applicant's prior payment.

7. Upon application for a waiver for demonstrated economic or other hardship, the City's public works supervisor may waive the fees or charges authorized herein for non-profit organizations located or operating in the City.
 8. Any party aggrieved by a decision made under this section shall file a reasonably specific written notice of appeal with the City not later than 10 calendar days after the date of notice of the City's decision. The appeal shall be submitted to the City Council for a hearing and final decision.
2. In the event any provision of this Ordinance is finally adjudged to be legally unenforceable, all other provisions of this Ordinance shall remain in full legal force and effect.
 3. This ordinance establishes new services of the City. The charges authorized in this ordinance are to cover the City's estimated reasonable costs for providing these new services. This ordinance, thus, is not intended, nor does it authorize any shift, transfer or conversion from property taxes to fees, charges or assessments to replace any property taxes which have been or may be lost to the City.
 4. Because the City's park and facilities have been subject to increasing uses, and this ordinance is intended to regulate those uses to avoid conflicts, an emergency is hereby declared, and this Ordinance shall take effect immediately upon adoption by the council and approved by the mayor.

SECTION 25. DISCRETION OF CITY

Whenever this ordinance makes a reference to the exercise of reasonable discretion by the City, it shall take into account the use and enjoyment of the parks for the maximum number of people, the interests of adjoining property users and the general purposes set forth in Section 1 of this ordinance.

SECTION 26. PENALTY

Any person who violates any provision of this ordinance shall be guilty of a civil infraction against the City and shall be punished by fine of not more than \$100.00 for each violation, required to make restitution for damages or harm caused by the violation, and required to pay the reasonable costs to the City of enforcement of this ordinance, including court costs and its attorney fees.

SECTION 27. EMERGENCY CLAUSE

Whereas the orderly use of City parks is necessary to preserve the peace, health, safety and general welfare of the public, and this ordinance directly advances those interests, an emergency is hereby declared to exist, and this ordinance shall take effect immediately upon its passage by the Council and approval by the Mayor.

This ordinance was read once in full and once by title at the February 26, 1991 regular meeting(s) of the Coburg City Council, whereupon it was put to a final vote. The vote of the Council was:

Yes: 6

No: 0

Abstentions: 0

Passed: X

Rejected:

SIGNED AND APPROVED this 27th day of February, 1991.

Amending ORDINANCE A-171-A signed and approved on June 3, 1997.

Amending ORDINANCE A-171-B signed and approved on August 4, 1998.