

ORDINANCE NO. 773

AN ORDINANCE RELATING TO PARKS & CEMETERIES AS AMENDED; ESTABLISHING REGULATIONS; GRANTING AUTHORITY; ADDING NEW SECTIONS TO CHAPTER 12.16 MMC; IMPOSING PENALTIES; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

R E C I T A L S:

1. The City maintains a cemetery as well as a park and other recreational facilities for use by the citizens. It has also, in recent years, acquired additional property for potential use as a second park.

2. The Administrative Staff has reported to the Council that the operation of the system would benefit from the implementation of a formal set of regulations.

3. Staff have reviewed the materials and have recommended to the Council and Mayor that the provisions set out below be adopted.

4. During the course of the review, attempts have been made to update and insure consistency with the relevant portions of the provisions of the Municipal Code relating to activities within the City operated cemeteries. Also, it is the goal of this ordinance to integrate its provisions with the existing provisions of Chapter 12.16 of the Municipal Code.

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS BY THE CITY COUNCIL OF THE CITY OF McCLEARY:

SECTION 1: SIGN POSTING AND STRUCTURES PROHIBITED

Without the prior written consent of the Director of Public Works, hereinafter referred to in this ordinance as the Director, or his or her designee, the following acts are unlawful:

A. To place or erect any sign, board, billboard, or similar device of any kind in any park or cemetery.

B. To create, place, or erect any structure in any park or cemetery.

SECTION 2: DISTRIBUTION OF HANDBILLS

It is unlawful to exhibit or distribute any handbills, circulars, or signs in any park or cemetery in any manner that interferes with or obstructs the normal use of the park or cemetery or the normal passage of people or vehicles within or through the park or cemetery.

SECTION 3: STORAGE OF EQUIPMENT

Persons using parks should not expect storage space for equipment necessary for their activity. Any user desiring to store equipment, supplies, or material of any type or kind on a park site shall obtain the written approval of the Director in advance. If temporary storage is allowed with the permission of the Director, the City shall not be responsible for loss or damage to the equipment or property stored.

SECTION 4: REMOVAL, ALTERATION, OR DESTRUCTION OF PARK OR CEMETERY PROPERTY PROHIBITED:

4.1 It is unlawful to remove, destroy, mutilate, or deface any structure, monument, wall, fence, railing, bench, shrub, tree, lawn, grass, plant, flower, lighting system, or sprinkling system, or any other property or thing lawfully in any park or cemetery.

4.2 No physical alteration, whether in the form of additions, modifications, or removal, to the park or cemetery or other facility covered under the provisions of this ordinance or any improvements located therein shall be done without the prior written approval of the City, acting by and through the Director of Public Works or such other official as may be designated by the Mayor.

4.3 No foreign matter of any sort (including without limitation such materials as sawdust or sand) may be added to any field for any reason without the prior written consent of the Director.

SECTION 5: ANIMALS IN PARKS OR CEMETERIES

5.1. Dogs, pets, or domesticated animals are not permitted on any area covered by turf, whether natural or artificial, nor in or upon any picnic area, sport court, or inbounds play area in any park or cemetery nor in any park or cemetery structure unless specifically authorized by posting or

by special permission given in writing by the Director. This section shall apply neither to animal guides nor service animals.

5.2. Dogs and other pets or domesticated animals shall be kept on a leash and under control at all times unless otherwise posted.

5.3. Any person whose dog or other domesticated animal is in any park or cemetery shall be responsible for the conduct of the animal and shall promptly remove and properly dispose of all animal waste deposited by such animal.

5.4. No person shall allow his or her dog or other pet or domesticated animal to commit any of the following acts:

A. to bite, disturb, or harass any park or cemetery user, wildlife, or other animals.

B. to bark or make noise continuously or with such frequency or volume as to disturb the peace and tranquillity of the park or cemetery.

C. to damage, destroy or remove park or cemetery vegetation.

SECTION 6: HORSES & OTHER QUADRUPEDS PROHIBITED

Horses and other quadrupeds are not permitted in any park or cemetery at any time except with the written permission of the Director or within areas specifically designated for such use.

SECTION 7: SELLING REFRESHMENTS OR MERCHANDISE PROHIBITED

It is unlawful to sell refreshments, merchandise, or any other thing in any park or cemetery without the prior written consent of the Director or without a valid concession contract with the City and being the holder of such other licenses and permits as are required by any applicable state law or city ordinance.

SECTION 8: SOLICITING PROHIBITED

Except as may be specifically provided by law, no person shall solicit contributions for himself or others in any park or cemetery.

SECTION 9: USE BY GROUPS OR ASSEMBLIES

Parks and associated facilities shall be available for any person, group, or assembly on a first come, first served basis, subject to priority use through a supplemental park permit issued by the Director or for classes, special events, public forums, or athletic programs as determined by the Director.

SECTION 10: VEHICLE AND ANIMAL USE RESTRICTED

10.1. It is unlawful to operate, ride, or drive any wheeled device, sled, vehicle, or animal over, across, or through any park or cemetery, except along designated paths, drives, or streets, provided however, motorized devices are restricted solely to streets, parking lots, and drives.

10.2. It is unlawful to operate, ride, or drive any wheeled device, vehicle, or animal at a speed in excess of five

(5) miles per hour in any park or cemetery unless a different speed limit is posted.

10.3. It is unlawful to stand or park any vehicle except where so designated and posted. It is unlawful to use or operate vehicles in any portion of a park devoted to skateboards.

10.4. No device, referred to generically as "toy wheels", shall be utilized in an area in which their use is specifically prohibited. For purposes of this section, a "toy wheel" shall include, but is not limited to, skateboards, roller blades, roller skates, scooters, bicycles, and similar wheeled devices.

10.5. The restrictions imposed pursuant this section shall not apply to such wheeled items as carriages for infants, children's wagons, and similar items nor, as to use in a park, to snow sleds intended for individual use so long as such utilization does not harm park property.

#### SECTION 11: CAMPING PROHIBITED

It is unlawful to camp in any cemetery nor shall any camping be allowed in any park except at places within a park so designated and posted and with the prior written approval of the Director.

#### SECTION 12: GOLF PROHIBITED

Golf activities shall not be permitted in any cemetery nor in any park unless a supplemental park permit or the written

consent of the Director is obtained prior to commencement of the activity.

SECTION 13: ENDANGERING PERSONS OR PROPERTY PROHIBITED

It is unlawful to knowingly hurl or propel any object or to take any physical action in any park or cemetery which endangers or is likely to endanger any persons or property or interfere with park or cemetery purposes: PROVIDED THAT, this prohibition shall not apply if such action occurs as an anticipated element of any authorized event. This shall include baseball games, soccer games, and similar events.

SECTION 14: FIRES PROHIBITED

It is unlawful to build or have any fire in any cemetery or in any park except where so designated and posted. Appliances such as portable grills, barbecues, or hibachis are permitted in parks so long as they do not otherwise violate any section of this ordinance nor any chapter of the Municipal Code. In recognition of the possible hazard resulting from such action, no ash or similar by-product resulting from the permitted use of such an appliance shall be deposited in any garbage receptacle maintained within a park or cemetery nor otherwise disposed of within a park or cemetery.

SECTION 15: FIREWORKS PROHIBITED

It is unlawful in any park or cemetery to use, exhibit, display, or possess any fireworks or common fireworks as those terms are defined in the Municipal Code unless authorized by the

Director and so long as any necessary permit has been obtained from all governmental agencies having jurisdiction over such actions.

SECTION 16: SOUND-AMPLIFYING DEVICES

16.1. Except as authorized by use agreement or by the prior written permission of the Director, or except as necessary for the preservation of public peace or safety, it is unlawful to use any public address system, loudspeaker, or other sound amplifying device in any park or cemetery other than in compliance with §16.2 of this Section. This section shall not apply to such instruments utilized during the ordinary course of a funeral ceremony.

16.2. Unless operated by a user during the course of an activity of which the Director has authorized such use, no person shall use, operate, or play in any park a radio, tape player, disc player, television, musical instrument, record player, or any other machine or device capable of producing sound (1) without the use of headphones or a similar personal listening device or (2) at a volume level where discernible noise can be heard more than ten feet from the device or (3) in such a manner as violates any other provision of the Municipal Code.

SECTION 17: INTOXICATING LIQUOR PROHIBITED

It is unlawful to possess a container of any alcoholic beverage, whether opened or unopened, while in any park or cemetery or in any publicly owned parking area associated with a



park or cemetery. For purposes of this section, possession means having a container within one's immediate reach or control and not secured in a location such as a vehicle's trunk or storage compartment.

SECTION 18: LITTERING -- TRASH DEPOSIT

It is unlawful to commit any of the following acts:

A. throw or deposit any refuse or other material in any park or cemetery, including, but not limited to, any artificial surfaces, play fields, or picnic areas, except in designated receptacles; or

B. to take garbage or refuse to a park or cemetery for disposal; or

C. to deposit garbage or refuse generated outside a park or cemetery in a receptacle provided for deposit of trash by the public using the park or cemetery or in any publicly owned parking area associated with a park or cemetery.

D. to violate the provisions of Section 14 by the deposit of any ash or similar by-product in any receptacle.

SECTION 19: PARK OR CEMETERY HOURS, AREAS OF RESTRICTED OCCUPANCY, & RIGHT TO PROHIBIT CONTINUED USE

19.1. Park or cemeteries are open to the public daily from 6:30 a.m. to 10:00 p.m. unless other hours are posted at the entrances to a park or cemetery.

19.2. The Director shall have the following authority:

A. To make and enforce special park or cemetery closure hours for specific areas within them if the Director determines that such special closure hours are necessary or appropriate to protect public property or public safety, to prevent public nuisances, or to prevent breaches of the peace.

B. In the Director's sole discretion, to permit special hours of utilization by written authorization in the course of utilization for special events, sport leagues, and tournaments so long as the applicant submits a written request no less than one week prior to the intended date or dates of utilization. The request shall contain such information as may be required by the Director. If the Director authorizes the utilization, it shall be the responsibility of the applicant to provide written notice of such authorization to each residence which abuts the park or cemetery to be utilized. If the residence is an apartment building, notification to the manager of the building shall be deemed adequate notice.

19.3. It is unlawful for any person to enter or remain in a closed park or cemetery unless permitted and authorized in advance by the Director.

19.4. No person except an authorized City employee or other person duly authorized pursuant to law shall enter or go upon or into any park or cemetery area which has been posted as a "No Admittance" or "No Trespassing" area, or at a time a park or cemetery is closed to the public.

19.5. The misuse of a park or cemetery facility, the failure to conform with any of the provisions of this ordinance, or the failure or refusal to comply with the directions of City employees shall be good cause for requiring the individual to exit the park or cemetery and to prohibit the individual from reentering the park or cemetery in the future.

19.6. Any person violating this section is guilty of a misdemeanor and upon conviction shall be subject to punishment as provided in Section 21 of this ordinance.

SECTION 20: SKATEBOARD PARK AREAS

To the extent that any area of a park is now or may hereafter be devoted to skateboards, its use shall be governed by rules promulgated by the Director, and as may be posted at the entrance to the skateboard area. A violation of any such rules, whether or not posted, shall be a violation of this chapter.

SECTION 21: USER'S FAILURE TO FOLLOW PARK OR CEMETERY RULES - PENALTIES & PROHIBITION FROM REENTRY

21.1. Fiscal Penalties: Any violation of or any failure to comply with any of the provisions of this ordinance which is not defined as a criminal law violation by the municipal code or state law and for which no penalty is otherwise specified by the municipal code or state law shall constitute a civil infraction as contemplated by RCW 7.80.120. Any person found to have committed such a violation may be punished by a civil fine

or forfeiture in any sum not exceeding \$250.00. The following penalties shall apply:

A. Initial Infraction within any twenty-four calendar month period: Monetary penalty of Fifty Dollars (\$50.00);

B. Second Infraction within any twenty-four calendar month period: Monetary penalty of One Hundred Dollars (\$100.00);

C. Third Infraction within any twenty-four calendar month period: Monetary penalty of One Hundred Fifty Dollars (\$150.00);

D. Fourth & subsequent violation within any twenty-four calendar month period: Monetary penalty of Two Hundred Fifty Dollars (\$250.00).

21.2. Prohibition From Reentry:

A. Any person who is either sentenced pursuant to 21.1.D of this section or who, regardless of the violator's prior history, is found by the Director to have committed an act or acts which created or resulted in an unreasonable risk to safety of persons or property may be forbidden from reentering the premises of a park or cemetery or its associated public parking areas. The written order prohibiting reentry shall set forth in reasonable detail the reasons for the prohibition and may be for such period as the Director deems appropriate and shall be served upon the violator. In the event that attempts to serve the order are unsuccessful, a record of the efforts shall be maintained in the records of the City and the name of the individual may be

posted at the entry of the City's parks or cemetery upon a document setting forth a listing of any individual subject to such order.

B. Any person who is the subject of an order issued pursuant to §§21.2 shall have the right to appeal that order to the City Council in writing within ten (10) calendar days of the service of the order upon the person. The notice of appeal shall be filed in the Office of the Clerk-treasurer and set forth the name and contact information for the appellant, as well the grounds for the appeal. The Council, after giving written notice to the individual at the address provided in the notice of appeal, shall set a date upon which the appeal shall be heard. The Council may hear such testimony and accept such exhibits as it deems appropriate and issue a written decision with findings. That decision shall be final.

By written resolution, the Council may delegate the duty and authority it possesses under this sub-paragraph to the Hearing Examiner.

SECTION 22: The Director shall be and is hereby authorized to promulgate such written rules and regulations as may be deemed reasonably necessary and appropriate to implement and administer the provisions of this ordinance. Prior to its effectiveness, any proposed rule or regulation shall be submitted to the City Council and Mayor for review. To the extent not disapproved, such rule or regulation shall go into effect upon

the thirtieth day following the first Council Meeting at which they are presented to the Mayor and Council in a written form: PROVIDED that the Council specifically reserves to itself the right (a) to suspend such proposed rule or regulation, (b) authorize its immediate effectiveness, or (c) reject, modify, or supplement such proposed regulations.

SECTION 23: For purposes of this ordinance, the following definitions shall apply:

A. Park: Any land, whether with or without improvements, owned by the City and made available to the public for recreational uses.

B. Cemetery: Any property owned by the City and meeting one, or a combination of more than one, of the following criteria, in a place used, or intended to be used for the placement of human remains and dedicated, for cemetery purposes:

- (a) A burial park, for earth interments.
- (b) A mausoleum, for crypt interments.
- (c) A columbarium, for permanent niche interments; or
- (d) any burial site, burial grounds, or place where five or more human remains are buried.

Unless a cemetery is designated as a parcel of land identifiable and unique as a cemetery within the records of the county assessor, a cemetery's boundaries shall be a minimum of ten feet in any direction from any burials therein.

SECTION 24: Section 12.16.020 MMC and Section II, Ordinance 521 are each amended to read as follows:

When consent or authorization is required prior to the undertaking of an activity specified under the provisions of this ordinance (~~(in Section 12.16.010)~~), that consent or authorization shall be sought as follows:

A. A request shall be directed in writing to the Director of Public Works (~~Mayor~~), detailing with adequate specificity the activity sought to be permitted. Upon receipt of such a request, the designated official (~~mayor~~) shall undertake consideration as to the appropriateness of authorizing the activity. If in the (~~mayor's~~) designated official's opinion and discretion it is deemed necessary to obtain additional information, such request for information shall be responded to by the applicant. In making the determination, the designated official (~~mayor~~) shall consider such factors as may be deemed necessary and appropriate, including but not limited to the impact of the requested utilization upon the use by the facility by other citizens; the demands that may be placed upon public services by the anticipated activity; prior experience or history of the applicant in undertaking similar activities; prior history or experience of the city in the allowance of such similar activities; and such other factors relating to public health, safety, and welfare as may be articulated. The decision of the

designated official ((mayor)) shall be in writing and rendered in a reasonably timely manner after application.

B. If any person is aggrieved by the decision of the responsible official ((mayor)) whether to grant or deny a request, that person may appeal the decision of the responsible official ((mayor)) to the city council, which shall hear the matter at its next regular session or at such other time as it may deem appropriate. The council, after receiving such information as it deems necessary and appropriate, may either affirm, reverse, or modify the responsible official's ((mayor)) decision. The decision of the council shall be final.

SECTION 25: CODIFICATION: Sections 1 through 23 of this ordinance shall constitute new sections in Chapter 12.16 of the McCleary Municipal Code.

SECTION 26: SEVERABILITY:

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases had been declared invalid or unconstitutional, and if for any reason this Ordinance



should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

SECTION 27: EFFECTIVE DATE:

This Ordinance shall take effect upon the fifth day following date of publication.

PASSED THIS 24<sup>th</sup> DAY OF AUGUST, 2011, by the City Council of the City of McCleary, and signed in approval therewith this 24<sup>th</sup> day of August, 2011.

CITY OF McCLEARY:

  
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D. GARY DENT, Mayor

ATTEST:

  
\_\_\_\_\_  
WENDY COLLINS, Clerk-Treasurer

APPROVED AS TO FORM:

*Dan Glenn*

DANIEL O. GLENN, City Attorney

STATE OF WASHINGTON )  
: ss.  
GRAYS HARBOR COUNTY )

I, WENDY COLLINS, being the duly appointed Clerk-Treasurer of the City of McCleary, do certify that I caused to have published in a newspaper of general circulation in the City of McCleary a true and correct summary of Ordinance Number 773 and that said publication was done in the manner required by law. I further certify that a true and correct copy of the summary of Ordinance Number 773, as it was published, is on file in the appropriate records of the City of McCleary.

*Wendy Collins*  
WENDY COLLINS

SIGNED AND SWORN to before me this 29<sup>th</sup> day of August, 2011, by WENDY COLLINS.

*Danette Joane Brannin*

NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, Residing at: Grays Harbor County  
My appointment expires: 3/17/2015



SYNOPSIS OF ORDINANCE NO. 773

**AN ORDINANCE RELATING TO PARKS & CEMETERIES AS AMENDED;  
ESTABLISHING REGULATIONS; GRANTING AUTHORITY; ADDING  
NEW SECTIONS TO CHAPTER 12.16 MMC; IMPOSING PENALTIES;  
AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.**

On August 24, 2011, the City Council of the City of McCleary adopted Ordinance Number 773. The intent and purpose of the Ordinance was adopt a more inclusive set of regulations and guidelines in relation to the use of the parks and cemeteries operated by the City. Provisions included regulating the use of both by visitors, setting forth conditions under which the Director of Public Works may issue rules, regulations, and permit, specifying actions which will be subject to sanctions, and authorizing the imposition of penalties for violation of the provisions.

A complete copy of this Ordinance is available during regular business hours at the Office of the Clerk-Treasurer, City Hall, McCleary, Washington. The Ordinance will be made available for review without cost; a copy will be provided upon request without cost if such request is timely made. This Synopsis is published pursuant to the laws of the State of Washington.

DATED this 30<sup>th</sup> day of August, 2011.

  
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WENDY COLLINS, Clerk-Treasurer