

ORDINANCE NO. 1933

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE OREGON, AMENDING THE MILWAUKIE MUNICIPAL CODE BY ADDING A NEW CHAPTER 9.28 INCORPORATING NORTH CLACKAMAS PARKS AND RECREATION DISTRICT PARK RULES AND PROVIDING FOR ENFORCEMENT IN MILWAUKIE-OWNED PARKS BY CIVIL INFRACTION PROCEEDINGS IN MUNICIPAL COURT.

WHEREAS: The North Clackamas Parks and Recreation District (NCPRD) has adopted park rules for use in all District owned, operated and managed parks and recreational areas;

WHEREAS: The City of Milwaukie would like to assist with the implementation of these rules wherever possible;

NOW THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. Milwaukie Municipal Code is amended by adding a new Chapter 9.28 -- "Milwaukie Park Rules" to include Sections III through XVII of the NCPRD Park rules as they appear in Exhibit 1. The codification of those rules shall conform to standard Municipal Code numbering format.

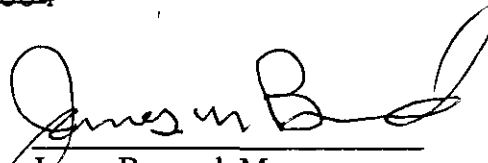
Section 2. In addition to the District and County personnel authorized to enforce the park rules, Milwaukie Code Enforcement personnel are authorized to enforce the park rules in parks owned by the City.

Section 3. City law and code enforcement personnel may cite violators of these park rules into municipal court using the civil infraction procedures of Chapter 1.04 of the Milwaukie municipal code. Civil penalties collected in the municipal court from violators of these park rules shall be placed in a park fund and be used for the maintenance and operation of parks within the City of Milwaukie.

Read the first time on July 20, 2004, and moved to second reading by 3-0 vote of the City Council.

Read the second time and adopted by the City Council on July 20, 2004.

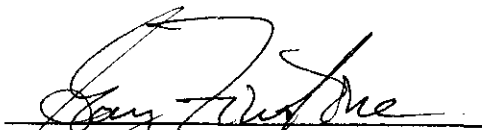
Signed by the Mayor on July 20, 2004


James Bernard, Mayor

ATTEST:

APPROVED AS TO FORM:
Ramis, Crew, Corrigan & Bachrach, LLP


Pat DuVal, City Recorder


City Attorney

NORTH CLACKAMAS PARKS AND RECREATION DISTRICT

PARK RULES ORDINANCE

An ordinance providing rules for the use of all District owned, operated or managed parks and recreational areas.

The North Clackamas Parks and Recreation District (NCPRD) Board of Directors ordains as follows:

I. TITLE AND AREA OF APPLICATION

This ordinance shall be known as the North Clackamas Parks and Recreation District Park Rules Ordinance, may be so pleaded and referred to, and shall apply to all properties which are owned, operated, or managed by the District.

II. POLICY AND PURPOSE

The purpose of this ordinance is to establish rules adopted for the District and provide for legal remedies for violation of said rules, in order to protect District park, forest, and recreational areas, protect the health, safety, and welfare of the public using such areas, and insure the best use of and benefits from such areas.

III. DEFINITIONS

- A. “Board” means the Board of County Commissioners serving as the NCPRD Board of Directors.
- B. “District” means North Clackamas Parks and Recreation District and its employees.
- C. “Horse” means horses, mules, donkeys and other rideable animals.
- D. “Park area” means any District park, forest, or recreational area under the jurisdiction or management of the Board.
- E. “District employee” means an individual employed by the Clackamas County and assigned to the District.
- F. “Director” means the person designated by the County Administrator to administer the District’s programs and policies for District parks, forests, and recreation areas.
- G. “Law Enforcement Officer” means a sworn sheriff, deputy sheriff, municipal police officer, Oregon State police officer, and such other persons as may be designated by law.

- H. "Person" as used in this Ordinance does not include a district employee as defined above.
- I. "Reservation" includes, but is not limited to, calling or writing in advance to obtain a picnic area or day use area permit, or secure, for private use, any District facility.

IV. GENERAL RULES

- A. The Director is hereby authorized to close to public use any District owned and/or maintained park or portion thereof, restrict the times when any District park owned or maintained area shall be open to such use, and limit or prohibit a recreation use whenever such action is necessary to protect the health or safety of the public or the safety of the park area or its facilities. Cause for park area closure or limitation on use may include sanitary conditions, protection of the watershed, park area construction or repairs, conservation of fish and wildlife, excessive traffic, unsafe or overcrowded shoreline, ramp, parking or road conditions, the prevention of damage to the park or any of its facilities, or any dangerous, unsafe or unhealthful conditions.
- B. The Director or any law enforcement officer may revoke any permit that has been issued erroneously or when a law enforcement officer has probable cause to believe the permit holder or any person in his or her custody, control, or family under that permit, has violated any of the provisions of these rules or any state, county, or federal law. Any person whose permit has been revoked and all other persons in his or her custody, control, and family under that permit shall immediately leave the park.
- C. Authorized District employees and law enforcement officers shall have the authority to cite or eject from a District park any person who violates any of the rules herein or an exclusion order.
- D. No person who has been ordered to leave a District park area by a law enforcement officer or District employee shall remain therein.
- E. No person, other than law enforcement officers or authorized District employees, shall enter or remain in any park area, or leave a vehicle parked there, after the daily closing time and before the daily opening time as established by the Director and posted at the entrance to any park area without permission of the Director. Vehicles in violation of this regulation are subject to tow in accordance with Clackamas County Code Chapter 7.01.

- F. Hours: Parks are open half an hour before sunrise and close half an hour after sunset unless otherwise established by the Director and indicated on park signs.

V. FIRES

- A. No person shall build a fire in any park area, except in:
 - 1. Park barbeques provided for such purpose.
 - 2. Fire pits provided by the District for such purpose.
 - 3. Personal barbeques.
- B. No person shall leave any fire unattended, and every fire user shall extinguish the fire before leaving the park area.
- C. No person shall build, light or maintain any fire so as to constitute a hazard by its proximity to any pile of wood, grass, tree, underbrush, park improvement or other flammable material.

VI. HUNTING, FIREWORKS AND WEAPONS

No person shall within any park:

- A. Hunt, pursue, trap, kill, injure, or molest any bird or animal, or have in possession any wild animal, bird, fish or reptile or the eggs or nest of any bird or reptile except for county, state or federal officers enlisted to remove dangerous or threatening wildlife. However, sport angling is permitted in compliance with rules and regulations promulgated by the Oregon Department of Fish and Wildlife. From time to time the Director may permit the collection of fish or wildlife specimens for the purpose of scientific study when such collection has been authorized by the Oregon Department of Fish and Wildlife.
- B. Discharge, for any reason, any firearm, pellet gun, paint ball gun, bow and arrow, slingshot, or other weapon, except for a law enforcement officer in the discharge of his/her official duties;
- C. Possess any loaded firearm, except for a law enforcement officer in the discharge of his/her official duties ; or
- D. Possess or use fireworks or other explosives. The Director, however, may issue a special fireworks permit in accordance with state laws.

- E. Remove any weapon from the owner's vehicle while in a park except for a law enforcement officer. All weapons that are stored in a vehicle, in a park, shall be completely unloaded at all times except for a law enforcement officer.

VII. CONSUMPTION OF ALCOHOLIC BEVERAGES LIMITED

No person shall in any park area:

- A. Possess or consume alcoholic beverages in any park except as provided in subsections B and C.
- B. The Director may, from time to time, designate certain parks or park areas where alcohol may be brought for use in meal preparation or consumption by issuing a permit for this purpose. Said permit will be in addition to any permit required by the Oregon Liquor Control Commission.
- C. The Director may, by issuance of a permit, allow the sale of alcoholic beverages on the premises of designated facilities when duly licensed by the Oregon Liquor Control Commission. For parks located within the City of Milwaukie, such permits shall be administered and issued by the City.

VIII. PARK PROPERTY

No person shall within any park:

- A. Mutilate, deface, damage, move or remove any table, bench, building, sign, marker, monument, fence, barrier, fountain, faucet, traffic recorder, or other structure or facility of any kind.
- B. Dig up, deface, or remove any dirt, stones, rock, or other substance whatever, make any excavation, quarry any stone, lay or set off any blast, roll any stones or other objects, or cause or assist in any of the foregoing activities.
- C. Plant any tree or shrub in any park area without written permission of the Director.
- D. Except in designated areas, erect temporary signs, markers, or inscriptions of any type without permission from a District park employee.
- E. Set up or use a public address system without having secured a special use permit from the District Director.
- F. Throw, discharge, or otherwise place or cause to be placed in the soils of any park or the waters of any fountain, pond, lake, stream or other body of

water any matter or thing which will or may result in the pollution of those waters or soils.

- G. Use abusive or threatening language or gestures, create any public disturbance, panhandle, or engage in riotous behavior.
- H. Operate or use any noise-producing machine, vehicle, device, or instrument in a manner that is disturbing to other park area visitors.
- I. Pick, cut, mutilate, or remove any flowers, shrubs, foliage, trees, or plant life or products of any type. However, from time to time the Director may authorize the removal of non-native species or issue a special use permit for the collection of plant material for the purpose of scientific study.

IX. CONCESSIONS AND SOLICITATIONS

No person shall in any park area:

- A. Operate a concession, either fixed or mobile, without having obtained a permit or contract from the Director;
- B. Solicit, sell or offer for sale, peddle, hawk, or vend any goods, wares, merchandise, food, liquids or services without having obtained a permit or contract from the Director;
- C. Advertise any goods or services, except signs painted or mounted on vehicles in personal use, without having obtained a permit from the Director;

X. ANIMALS

No person in any park area shall:

- A. Ride, drive, lead, or keep a horse or other livestock in any park area except in areas specifically designated for that purpose, except when used for official business by a law enforcement officer.
- B. Bring into or keep in any park area a dog, cat, or other animal of any kind unless confined or controlled on a maximum 6-foot long leash except in those areas that have been specifically designated and posted as "off-leash areas." A District park employee or law enforcement officer may require a person keeping an animal to undertake any necessary measure, including removal of the animal from the park area, to prevent interference by the animal with the safety, comfort, and well-being of park users, or the creation of unsightly or unsanitary conditions.

- C. Bring any animal, other than seeing-eye dog or hearing-ear dog into any park area building except as may be permitted by the Director for special events.
- D. Allow any animal in his or her custody or control to annoy, molest, bark continuously, attack, or injure any person or animal in the park area.
- E. Tie up any animal in his or her custody or control and leave such animal unattended.
- F. Leave their animal's waste within a park unless it is placed in a bag or container and left in a designated waste receptacle.

XI. MOTOR VEHICLES

No person shall in any park area:

- A. Operate any motor vehicle in violation of the State Motor Vehicle Code and other laws.
- B. Operate any motor vehicle at a speed in excess of 10 miles per hour unless otherwise designated.
- C. Park a motor vehicle any place other than in designated parking areas.
- D. Operate a motor vehicle or bicycle on any area or trail that is not specifically designated for motor vehicle or bicycle use, that is posted as closed to the public, or on which signs have been placed by authority of the Director prohibiting the operation of motor vehicles or bicycles.
- E. Leave any vehicle in any park after hours or overnight without having obtained written permission from the Director.

XII. WASTE DISPOSAL

- A. All bottles, cans, ashes, waste, paper, garbage, sewage, fish entrails and other rubbish or refuse shall be left only in receptacles designated for that purpose.
- B. No person shall bring into a park area any trash, refuse, garbage, litter, waste material or vehicles for the purpose of leaving them there.

XIII. CAMPING PROHIBITIONS

No person, unless permitted by the Director, shall camp overnight or longer in any park except in those areas that have been specifically developed and designated for that purpose.

XIV. PROHIBITED GAMES

No person shall, within the boundaries of any park, take a part in or abet the playing of any game involving thrown or otherwise propelled objects such as stones, arrows, sharp objects, vehicles, javelins or power model airplanes, rockets, or boats except in areas set apart for those forms of recreation.

XV. PRODUCTION OF PERMITS REQUIRED

No person shall:

- A. Fail to produce and exhibit, upon the request of any law enforcement officer or District employee, any required permit from the Director the person claims to have.
- B. Fail to produce, upon request of any law enforcement officer or District employee, while within the boundaries of any park, any required proof of entrance and/or fee payment.

XVI. INTERFERENCE WITH PERMITTEE PROHIBITED

No person shall disturb or interfere unreasonably with any person or party occupying any park area or participating in any activity in a park under the authority of a permit.

XVII. SPECIAL USE PERMIT

A special use permit shall be obtained prior to pursuing the following activities in any park:

- A. Movie, commercial or television filming, photography, and production.
- B. Organized sporting events, except those specifically hosted by the District or those hosted by the City of Milwaukie when such events are held in City owned parks.
- C. Special educational events or festivals, except those specifically hosted by the District or those hosted by the City of Milwaukie when such events are held in City owned parks.

- D. Amplified sound, pony rides, dunk tanks, or use of alcohol with a reservation permit, except those specifically hosted by the District or those hosted by the City of Milwaukie when such events are held in City owned parks.

XVIII. ENFORCEMENT PERSONNEL

- A. The Director, District employees, and law enforcement officers, in connection with their duties imposed by law, shall diligently enforce the provisions of this ordinance.
- B. No person shall harass, obstruct, interfere with or disobey the direction of any law enforcement officer or District employee carrying out the enforcement of this ordinance or rules adopted under this ordinance.

XIX. OTHER LAWS APPLICABLE

This ordinance shall in no way be substitute for or eliminate the necessity of conforming with any and all state laws and rules and other ordinances which are now or may be in the future in effect which relate to the activities regulated in this ordinance.

XX. SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, that portion shall be considered a separate, distinct and independent provision, and the holding shall not affect the validity of the remaining portion of this ordinance.

XXI. ENFORCEMENT AND PENALTIES

- A. Any employee designated by the Director and any law enforcement officer may enforce these rules, order any person violating these rules to leave the park area, and issue citations for violations of these rules. Only a person expressly authorized under Clackamas County Code Chapter 7.01 may enforce the towing or booting provisions of that chapter. Camp hosts and caretakers who are appointed by the District may notify persons of the requirement of these rules, seek voluntary compliance, and order any person violating the rules to leave the park area.
- B. Violation of any of the foregoing rules is punishable by a fine as set by the Board.
- C. The form for the citation to be issued under this ordinance shall contain:
 - 1. Description of the specific violation alleged;

2. The date, time, and location of its occurrence;
3. The maximum amount of the fine for the violation alleged;
4. A statement that the fine must be paid or a hearing requested within 20 days, and that upon failure to do so within 20 days the opportunity for a hearing is forfeited and the fine doubles;
5. A form for either admitting the violations alleged and paying the fine, or denying the violation alleged, paying the equivalent bail, and requesting a hearing;
6. The address to which the form should be sent;
7. The telephone number of the person or facility which may be contacted for information;
8. The name and address of the violator, or in the case of a parking violation where the operator of the vehicle is not present, the license plate and vehicle number of the vehicle (if visible).

D. Upon receiving a citation under this ordinance, a person may:

1. Within 20 days, deliver to the Sheriff the form provided with the citation, admitting the violation(s) and forfeiting and paying the amount of the fine(s) indicated on the citation; or
2. Within 20 days, deliver to the Sheriff the form provided with the citation, denying all or part of the violation(s), and posting bail by paying a refundable deposit equivalent to the amount of fine(s) indicated on the citation. If a maximum fine and minimum fine are indicated, the maximum fine shall be posted as bail.
3. Either response may be made by mail but must be actually received by the Sheriff within 20 days from the date of the citation.
4. Failure to respond within 20 days shall be deemed an admission of the violation(s) cited, the fine(s) for the violation(s) shall be doubled, and there shall be no further hearing or appeal.

E. Upon receipt of a denial, the Sheriff's Department shall inform the Hearings Officer, who shall set a hearing for a date within 30 days of the Sheriff's receipt of the denial and bail, and shall notify the person who requested the hearing. Notifications of the hearing date, time, and place shall be mailed by regular first class mail within 15 days of the Sheriff's receipt of the denial and bail.

- F. The Board shall appoint a quasi-judicial hearings officer or officers to hear and determine cases of alleged violations of this ordinance where the allegations have been denied under Section XXI(D).
- G. A vehicle registered to a person who has failed to respond or pay fines as required by this ordinance on three or more vehicle parking citations, may be towed from any park area or booted, without prior notice, in accordance with Clackamas County Code Chapter 7.01, and held until the amounts owed have been paid.

XXII. HEARINGS

- A. Every hearing to determine whether this ordinance has been violated shall be held before a hearings officer. The hearings officer may prescribe procedures for the conduct of such hearings.
- B. Evidence, including rebuttal evidence, may be presented at the hearing and shall be limited to that which is relevant to the violation alleged.
- C. The hearings officer has the authority to administer oaths and take the testimony of witnesses. The hearings officer may issue subpoenas in accordance with Oregon Rule of Civil Procedure 55, provided that if the person who receives a citation desires that witnesses be ordered to appear by subpoena, he must so request in writing either at the time response is made to the citation or subsequently by mail at any time more than five (5) days before the scheduled hearing. A deposit for each witness, in an amount set by the Board, shall accompany the request. The deposit, or appropriate portion thereof, shall be refunded if no fine is assessed or if the total witness cost is less than the amount deposited. Witnesses appearing by subpoena shall be allowed the same fees and mileage as allowed in civil cases in circuit court. If a fine is ordered, the person ordered to pay the fine shall also be ordered to pay all witness fees.
- D. The parties shall have the right to cross-examine witnesses who testify.
- E. After due consideration of the evidence and arguments, the hearings officer shall issue a decision at the hearing or within three business days of the conclusion thereof as to whether the violation as alleged in the complaint has been established. If the violation has been established, the hearings officer shall issue a decision including a brief statement of the findings of facts necessary to establish a violation and ordering the person to pay an appropriate fine and witness costs to be paid into the District General Fund. The fine ordered by the hearings officer shall not be greater than the maximum nor less than the minimum set by the Board. If the violation has not been established, the hearings officer shall order that

any bail which has been posted be refunded within three business days. Bail shall be refunded by regular first class mail, or if requested at the hearing may be picked up at the District offices not later than the third business day after the hearing.

- F. The hearings officer may enter an order for payment of bail or fines to the District and/or issue an exclusion order for a period of up to one year. The District may file and record the order for payment in the County Clerk Lien Record if bail or fines are not paid within 60 days after payment is ordered.

XXIII. FINES

All fines shall be set by resolution of the Board.

XXIV. EFFECTIVE DATE

The Board of Directors hereby finds and declares that an emergency exists inasmuch as the immediate effect of this Ordinance is necessary for the peace, health and welfare of the residents of the District. Accordingly, this Ordinance shall be effective upon adoption.

ADOPTED: _____, 2004

BOARD OF DIRECTORS OF THE NORTH CLACKAMAS PARKS AND RECREATION DISTRICT

Bill Kennemer, Chair

Attest: _____
Recording Secretary