



**Kent Taylor Civic Hall
City Council Chambers
200 NE Second Street
McMinnville, OR 97128**

**Special Called City Council Meeting Agenda
Wednesday, February 21, 2018
5:30 PM**

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. DISCUSSION ON RV PARKING/ VEHICULAR CAMPING
4. DISCUSSION ON PARKS ORDINANCE AND LARGE EVENTS
5. EXECUTIVE SESSION: PURSUANT TO ORS 192.660(2)(F) TO CONSIDER INFORMATION OR RECORDS THAT ARE EXEMPT BY LAW FROM PUBLIC INSPECTION.
6. ADJOURNMENT

Kent Taylor Civic Hall is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made a least 48 hours before the meeting to the City Recorder (503) 435-5702. For TTY services, please dial 711.



**City of McMinnville
Police Department**
121 SW Adams Street
McMinnville, OR 97128
(503) 434-7307

www.mcminnvilleoregon.gov

STAFF REPORT

DATE: February 16, 2018
TO: Jeff Towery, City Manager
FROM: Matt Scales, Chief of Police; Tim Symons, Police Captain
SUBJECT: RV's and Vehicular Camping

Report in Brief:

This is the first report to the McMinnville City Council regarding recreational vehicles (RV's), campers & vehicle camping that has been affecting our city and citizens for a number of years now. Information contained in the work session will include codified city codes obtained from other Oregon cities that provide avenues to address current vehicular camping concerns our city is struggling with. In addition, this report will discuss City costs in addressing these situations, and provide you with context to how frequently the police department (code enforcement and police officers) deal with these types of calls for service, and provide information about why current City code language makes it extremely difficult to act in a timely manner on these types of complaints.

Background:

Over the last number of months McMinnville has dealt with a growing issue in regards to people living/camping in their RV's, campers, trailers, and vehicles. This is occurring on city streets, public right-of-ways and publicly owned property (i.e. surface parking lots and the parking structure). These situations have caused a significant increase in calls for service to the police department throughout the city. Whether it is in a residential, industrial or commercial zone, the Police Department has been called to deal with people living out of their RV's, campers or vehicles. During recent City Council sessions there have been numerous citizens voicing concerns that the inaction by the City has impacted the livability of their neighborhoods or their businesses. The citizens voiced concerns that people sleeping in these vehicles are causing safety issues with loose dogs running around, littering, public urination, defecation, or in general public health issues.

Worth noting is that in responding to these complaints, the problems mentioned at city council meetings do exist, however these issues do not exist with every complaint we go to, or every vehicular camper we contact. The testimony from the citizens should not be taken as all inclusive, there are some vehicular campers who do obey the laws and respect the neighborhood or areas they are parked in.

It is the police department's belief that proposals made to City Council regarding ordinance language will be done in a thorough and thoughtful manner. Additions or changes to existing McMinnville Municipal Code will be recommended based on the direction City Council wishes to proceed from information provided.

Discussion:

It was extremely difficult to obtain real numbers regarding the number of RV's, campers, and vehicle camping calls for service the police department responds to. Prior to this report, the associated calls for service were either coded as Ordinance Violations, Parking Complaints or Abandoned Vehicles. Unfortunately, this coding doesn't provide actual context to how many calls for service and what the related work product is since all information in each of the listed designations would need to be gone through individually to mine out the needed information. Recently a specific code has been established in YCOM to be able to appropriately parse out the needed information. The new established code is RVORD and should be able to provide a more realistic number of how many calls are received on a daily, weekly, monthly and yearly basis.

Data gathered from YCOM regarding the calls for service specific to abandoned vehicles, which would include calls involving RV's, campers, and vehicle camping showed that the police department responded to 401 complaints from January 1, 2017 to February 8, 2018. Of those abandoned vehicle complaints, 13 were known locations where RV, campers, trailers & vehicle camping complaints have been made. This seems like a relatively small number, however a large portion of these complaints come directly to code enforcement. There have been multiple occasions where a complaint will come in via email or phone call to a specific employee at the police department and passed along to the code enforcement workgroup. Historically, unless it's reached the timeframe established in current City Code to be tagged as an abandoned vehicle, the information wasn't relayed through YCOM to start a tracking mechanism on how many calls for service are generated. The current process has been updated to reflect any time staff respond to a related issue they are providing that information to YCOM for tracking purposes.

It should also be noted that a majority of the enumerated calls involve multiple RV's, campers, and vehicle camping at a single location, but only reflect a singular location and call for service. Even with this information, not all of the complaints are captured.

Humanitarian Impact

Although we often times simply speak of the impact to the complainants of these RV's, campers, and trailers. We would be remiss if we didn't mention the impact to those who either desire to live out of their vehicle, or they have been forced into the situation due to the circumstances beyond their control. We deal with single persons, married couples, families with children and their pets.

This is a very complex issue with many moving parts to consider. If after the City Council discusses this situation and decides to take a more aggressive approach to enforcing vehicular camping to include RV's, there needs to be discussions in where these campers are going if/when their RV's and vehicular campers are going, and how they move forward with their lives. This will be a major event in their lives and will obviously affect their lives for an extended amount of time.

City Costs

From the data captured in CAD, we estimate that Code Enforcement alone responds to approximately eight (8) abandoned vehicle complaints per week during the listed time above. Each abandon vehicle complaint is estimated to take approximately 90 minutes per call at a cost of \$27.50 per hour **without employee rollups**. The salary alone of one Code Enforcement officer to deal with these complaints is roughly **\$17,160** a year. This doesn't account for secondary staff time costs such as supervisors time to review the work product, and provide direction to the code enforcement employee.

Current Issues with Existing Ordinances:

You have heard from code enforcement and myself describing the current City Ordinances that deal with these problems as full of loopholes and that they are antiquated ordinances.

The existing city ordinance language does not allow for adequate or timely enforcement of vehicular camping complaints. In addition, it is extremely labor and time intensive as it relates to these issues.

For example, our current RV ordinance, which is defined as “trailer houses” are addressed in current city code using language which needs to be updated to reflect the changes that have occurred since it was initially codified in 1960. Currently when the existing code was attempted to be enforced it was deemed to be invalid due to language effectively making it unenforceable. Our McMinnville Municipal Court ruled in order for the RV’s or “trailer house” to be in violation of the current City Ordinance needed to be observed occupied for 4 consecutive hours. The code enforcement team does not have the capacity to do this due to workloads and time constraints. See below for the current City Ordinance.

MMC 15.28.010 Trailer house defined. The term “trailer house” means a vehicle or mobile home used for living or sleeping purposes, which is or has been equipped with wheels for the purpose of transporting the same upon the public streets or highways, and constructed in such a manner as to permit occupancy as a dwelling or sleeping quarters for one or more persons. The term “trailer house” also includes any self-propelled living quarters.

MMC 15.28.030 Parking for more than four hours – Permit required – exceptions.

- A. It is unlawful to park or place any trailer house used for sleeping or living purposes within the city for a period of time exceeding four hours, excepting in a trailer court or within any commercial or industrial zone as designated by the zoning ordinances after obtaining a nontransferable permit from the council as set forth in this chapter. The parking of trailer houses in the city which are not used for sleeping or living quarters are not regulated by this chapter but are regulated by the general ordinances of the city regulating vehicular parking when parked on the city street or alleys.**

It is our recommendation that the code will need to be updated to current best practice standards to provide enforcement tools for staff. Specifically definitions contained in the current ordinance need to be updated as well as any restrictions, exemptions, time frames and what action is to be taken if there isn't voluntary compliance.

With the RV “trailer house” essentially becoming unenforceable. The City’s code enforcement workgroup turned to the abandon vehicle ordinance in an attempt to gain compliance with RV’s, trailers and vehicle campers. As you have heard from my statements during recent City Council meetings. The current abandon vehicle ordinance is also filled with loopholes and is antiquated. As you will read below, from the initial 72 hours vehicles are allowed to park on the City street it will take an additional 144 consecutive hours (totaling 9 days) before RV’s, trailers, and vehicle campers are eligible to be clock starts towed from a location. In addition, if the vehicle moves over 300’ or more during this time frame, the over.

To provide an idea of how labor and time intensive the current abandoned vehicle city code is, to qualify a vehicle must per;

MMC 10.28.080 Parking – For Sale, repair or storage prohibited when.

(E) Storage or as junk for more than seventy-two hours. After a vehicle has been stored on a public street for more than one hundred forty-four consecutive hours and has received two

parking citations for storage or junk, the Chief of Police of his or her designee may cause the vehicle to be towed and stored at the owner's expense. The owner shall be liable for the costs of towing and storing, notwithstanding that the vehicle was parked by another.

1. For purpose of this subsection the following definition is adopted: "storage" means leaving a vehicle parked upon a public street for more than seventy-two hours.
2. Moving a vehicle to a new location more than three hundred feet (as measured in straight line from the site where the violations occurred) shall interrupt the running of the seventy-two hour period.

The areas emphasized; more than seventy-two hours, more than one hundred forty-four consecutive hours and moving three hundred feet interrupting the running time period make it so we currently have to account for an extended period of time prior to being able to remove a vehicle that the owner fails to voluntarily comply with city parking code. If the vehicle is moved to another location that is more than 300' from the initially identified location the time starts over again, but the problem or issue has not resolved itself. More to the point, it has simply moved to a different location that will have an adverse effect on that new location.

Looking Forward to Update City Codes:

We have provided a matrix of City Codes that deal with RV's, trailers, vehicle camping and abandoned vehicle from various jurisdictions in Oregon. Those jurisdictions are; Oregon City, Forest Grove, Newberg, Gresham, Lincoln City, Washington County, Albany and Redmond. None of these jurisdictions have the same city ordinance language with respect to dealing with these issues, but each provides a good idea of how other jurisdictions have dealt with this problem. The only commonalities they each have is that they all seek **voluntary compliance** from the person that is presenting the issue. In fact, all of the jurisdictions that I've been able to speak with have indicated they have not had to "force" a move for those who are in violation of their Recreational Vehicle, camper, trailer and vehicle camping City Codes. The only jurisdiction that has had to "force" a move was Oregon City and that was a number of years ago. To this point, it was so long ago they weren't able to provide any specifics as to what occurred, other than they had to tow the vehicle in question.

Workload Impact

With respect to workload impacts to police department personnel, we do not anticipate seeing a significant increase in work. We are already receiving these calls for service and dealing with them to the best of our ability. If it is the desire of the City Council to move forward with changes to city ordinances this should not impact delivery of other city services.

Attachments:

1. Jurisdictional matrix for Abandoned Vehicle, RV & Camper, Trailer and Vehicle camping City Codes along with fee assessments and permitting language, if any.

Recommendation:

Staff recommends that the City Council take a thoughtful comprehensive review of vehicular camping codes and abandoned vehicle codes from other jurisdictions. Once this review is completed, the Police Department and City Attorney's office will need direction with how best to proceed in drafting an updated ordinance for possible Council consideration.

Jurisdiction	Abandoned Vehicle Ordinance	Duration parked on street	RV/Camper	Duration parked on street	Consequences	Permit	Fine per occurrence	Notes
Oregon City	yes	24 hours	yes	no time	citations, no movement, boot and/or abandoned vehicle procedure	business purposes last for 6 months	\$15 per day	Code enforcement officers will work with citizens who are parking their RV's in front of their residence to get them set for weekend trips, but only if they are parked in front of their residence and are actively being loaded for a close in time trip. No other exceptions are made for on the street parking of RV's. The permit covers trailers for construction purposes. Attempt to gain voluntary compliance first. If officers continue to issue tickets they will eventually start the abandoned vehicle process of 7 consecutive business days and then tow or boot.
Forest Grove	yes	72 hours	yes	no time	citations	none	\$100 per day	Code enforcement officers will work with citizens to gain voluntary compliance. If none then they continue to place citations on the vehicle for RV Stay violations. There is no time identified for RV's on city streets, making it illegal to park them on the street.
Newberg	yes	72 hours	yes	48 hours	citations then into abandoned vehicle tow if not moved.	none	\$500	No RV shall be parked at the curb of any city street for more than 48 hours. Nothing contained herein shall prevent the parking of unoccupied recreational vehicles not in daily use on the owner's property; except the vehicle may not be parked in the required front yard setback for more than 48 hours

Jurisdiction	Abandoned Vehicle Ordinance	Duration parked on street	RV/Camper	Duration parked on street	Consequences	Permit	Fine per occurrence	Notes
Gresham	yes	24 hours	yes	72 hours w/ permit	citations	72 hours 6 times per year	\$250	Permits not to exceed 72 hours. Permits will allow for parking immediately adjacent to the property. Only the lawful owner/tenant of the property will be issued a permit. No more than 6 permits in a 12 month period. Parking without permit subjects the vehicle to be towed with no less than 24 hours notice.
Lincoln City	yes	72 hours	camping Ord		citations	none	\$125 fine for camping	Failure to comply with parking citations. If the operator does not respond to a parking citation attached to the vehicle within 7 working days the municipal court clerk will send a letter to the owner of the vehicle informing them of the violation and giving notice that if the citation is disregarded for a period of 30 days; A. the fine will be doubled; and B. IF the vehicle has 3 or more outstanding citations or \$50.00 or more in unpaid fines, it may be impounded and an impounded vehicle shall not be released until all outstanding fines and charges are paid.

Jurisdiction	Abandoned Vehicle Ordinance	Duration parked on street	RV/Camper	Duration parked on street	Consequences	Permit	Fine per occurrence	Notes
Washington County	yes	24 hours	yes	48 hours w/in 2 mile radius	citations, then into tag and tow		\$250 for first time offense, \$500 for each subsequent offense	No person shall park a RV on a residential street within the Enhanced Sheriff's Patrol District for a period in excess of 4 consecutive days (96 consecutive hours) in a 28 day period. Each day is a new violation for the offending vehicle.
Albany	yes	24 hours	yes	48 hours adjacent to property owner	citations	up to 90 permit with approval from city and adjacent neighbors to alleviate a temporary housing hardship	\$2,500	48 hour allowance with the consent of adjacent property owners on the street. A 90 day allowance can be made to alleviate temporary housing hardships. Stored or junked vehicles not on the street for more than 24 hours. Seeking voluntary compliance and haven't had to force an issue.
Redmond	yes	no more than 7 days in a 6 month period	yes	No more than 72 hours in a 6 month period being used to sleep in, in a residential zone or area	citation	no permit		Abandoned vehicle defined as a vehicle left unoccupied and unclaimed, unregistered or uninsured, inoperable or could not be lawfully operated on the streets or highway, or in a damaged or dismantled condition upon the streets or alleys of the City and includes motor vehicles, boats, trailers or other personal property



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STAFF REPORT

DATE: February 13, 2018
TO: Jeff Towery, City Manager
FROM: Susan Muir, Parks and Recreation Director
SUBJECT: Discussion on parks ordinance and large events

Report in Brief:

The City has been approached by the Walnut City Music Festival organizers to discuss the possibility of the festival moving to lower City Park as the event venue. Lower City Park has suffered some damage (fire) and lack of positive community activity in the new picnic shelter and bridge area over the last several years. In order to partner with events such as the Walnut City Music Festival, the city would need to reconsider the prohibition on alcohol in City Park.

This discussion is to consider:

- Allowing events with alcohol in Lower City Park under certain conditions,
- Delegating authority to create a permitting process for large events in some city parks, and
- Consider including noise ordinance waivers in the park use permit process.

Staff would suggest this be a discussion item and we are looking for consensus direction on the three issues outlined below.

Background:

Issue 1:

Ordinance 4698 (attached) was adopted in May, 1999 and established basic park rules. Under the 'General Prohibitions' §6.7(8), the ordinance prohibits use or possession of alcohol in any city park. Some other provisions of the ordinance are waivable by the Parks and Recreation Director, however the prohibition on alcohol is not administratively waivable.

Issue 2:

The City has several types of parks, community parks, mini-parks, special use parks, greenways and linear/trail parks as outlined in our 1999 Parks Master Plan. We administratively allow people to reserve picnic shelter areas in our community parks where shelters exist, including Wortman (both east and west), Discovery Meadows and (lower) City

Park. Due to the mini-park purpose being to serve the immediate neighborhood, we do not allow reservations there and would not want to allow larger events.

For larger events sponsored by organizations, churches, clubs and special interest groups that propose “open to the public” events, camps or activities with an attendance of 75 or more, we require park use authorization by the Parks and Recreation Director. However, we do not have a very formal process for permitting or reviewing those requests when we do receive them. We do receive inquiries and requests for things such as local church hosted ‘movies in the park’ events at Joe Dancer, or large rally’s and other events that are not city sponsored. And, we have occasionally allowed some of the events.

If the event does not conflict with an already planned city recreation program, we may move the conversation forward and see if we can accommodate it considering things such as impact to the park, disruption of normal park activities, etc. We also typically require an insurance certificate of coverage, we review sanitation, security, lighting and other considerations. We also coordinate closely with the Fire Marshall and they often permit these under their special event permit process.

It would be helpful to have more formal administrative policies and procedures in place that both people wanting to know the rules could refer to, and the city staff could rely on to be consistent about permitting. In addition, if alcohol is allowed in City Park, we would want to ensure we have the proper mechanisms in place to make sure the events are safe and fun as well as have little impact to the park environment.

Staff has already begun pulling model permit requirements from cities and plan on utilizing language already existing and in use in similarly sized cities and would address the following:

- Insurance/Bonding requirements
- Cost Recovery provisions for required city services (req’d up front)
- Permit fees (req’d up front)
- Approval criteria (schedule, availability of services including hydrants, hardship to businesses or residents, not enough city staff to provide support, incomplete/false information, no record of non-compliance, normal park hours, etc.)
- Hold harmless agreements
- Notification requirements (neighbors)
- Law enforcement and security
- Recycling
- Alcohol – OLCC – (limit to beer & wine)
- Clean up
- Sanitation
- Health Department Coordination
- Sound
- ADA compliance requirements
- Fire Marshall sign off
- Use of vendors
- Vehicles in the park (not on parking lot/paving)
- An inter-departmental city coordination meeting and process.

Issue 3:

Noise Ordinance Waiver – currently the McMinnville code requires the City Council to waive the noise section of our municipal code (for example, the City Council waived that code for the Walnut City Music Festival on August 8, 2017). As part of the city permitting process for events in city parks, the noise waiver could be administered by staff if delegated by the City Council.

The McMinnville Municipal Code, Section 8.16.150 specifies that:

- A. No person shall make, assist in making or permit any loud, disturbing or unnecessary noise which either annoys, disturbs, injures or endangers the comfort, repose, health, safety or peace of others.
- B. The following acts are declared (sic) to be loud, disturbing and unnecessary noises in violation of this section...

11. The use or operation of any...loudspeakers or any instrument for sound producing or any sound-amplifying device so loudly as to disturb person in the vicinity thereof or in such a manner as renders the use thereof a nuisance; provided, however, that upon application to the common council, permits maybe granted to responsible persons or organizations to broadcast programs of music, news, speeches or general entertainment.

Discussion:

Issue 1:

City staff believes lifting the alcohol prohibition at Lower City Park could be a good opportunity to bring more events into our parks system and in downtown, and start to bring additional programming to an underutilized, yet important and valuable asset in our community. Bringing more vibrant, well attended positive events into our core might also help with some of the negative behaviors in our downtown core. This could be considered a trial applied just to City Park, and if successful and helps in bringing good, safe, community events to parks, be considered in other parks as well at a later date.

Under certain permitted & controlled circumstances, does the City Council want to permit activities that allow alcohol in City Park?

- ☐ If yes, the Council should give staff direction to bring back an ordinance amending ordinance 4698 to allow alcohol in City Park under certain circumstances (see below).
- ☐ If no, no further action is required.

Issue 2:

Is the City Council comfortable delegating authority to allow city staff to adopt administrative rules related to regulating large events in city parks?

- ☐ If yes, the Council should address delegating authority in the parks ordinance and direct staff to bring back an ordinance amending ordinance 4698 to delegate authority to permit large events, under certain circumstances to the City Manager or their designee.
- ☐ If no, staff will continue to work under the informal administrative process we currently follow which would result in not very many large events occurring in city parks.

Issue 3:

To encourage events and programming in city parks, noise could be looked at comprehensively with the entire event approval process and the waiver could be administratively processed. While not required, this would allow more of a 'one stop shop' for events in parks that could streamline the process. The regulations from other cities the staff is currently reviewing allow for requiring event organizers to notify neighbors of events that may go past certain hours or be amplified.

Is the City Council comfortable with staff reviewing and approving noise ordinance waivers for large events in city parks?

- ☐ If yes, the Council should address delegating authority in the city code by directing the City Manager to bring back an ordinance amending the noise section of the city code to allow waivers for variances in certain city parks, under certain circumstances to the City Manager or their designee.
- ☐ If no, staff will continue to bring waivers to the City Council.

Recommendation:

Staff recommends the City Council discuss these three issues and give staff direction on each of them. Allowing alcohol at City Park under certain circumstances could be a positive approach to discouraging negative behavior in the park and this could be considered a pilot or test case for such events. In addition, cleaning up or clarifying delegating authority would be helpful to create a permit process that is equitable and easy to administer (and modify). In addition, if the Council is comfortable delegating noise ordinance waivers when they occur through a park permit, the process for permitting could be streamlined a bit for event organizers.

ORDINANCE NO. 4698

An Ordinance relating to the use of City of McMinnville parks, establishing certain rules pertaining to the use of said parks, prohibiting certain activities, establishing penalties for violations, and repealing a certain conflicting ordinance (Ordinance No. 4176).

RECITALS:

The City of McMinnville Council, its parks department, and citizens have reviewed, discussed, and considered various rules and regulations concerning the use of City parks and have concluded that the adoption of an overall set of standards is appropriate and necessary at this time. The number of park visitors and users has increased with the growth of the community and as a consequence, there is a need to establish the standards of park behavior expected and to adopt an equitable manner in which these rules are applied.

The Council is of the opinion the adoption of these rules and regulations will enhance the public's safety and enjoyability of city park areas and will protect the public's investment in these facilities. Now, therefore,

THE CITY OF McMINNVILLE ORDAINS AS FOLLOWS:

Section 1. Ordinance No. 4176 is hereby repealed.

Section 2. RULES OF CONSTRUCTION

2.1 RULES OF CONSTRUCTION. For the purposes of administration and enforcement of this ordinance, unless otherwise stated in this ordinance the following rules of construction shall apply:

- (1) In case of any difference of meaning or implication between the text of this ordinance and any caption, illustration, summary table, or illustrative table, the text shall control.
- (2) The word "shall" is always mandatory and not discretionary; the word "may" is permissive.
- (3) Words used in the present tense shall include the future; words used in the singular shall include the plural and the plural the singular, unless the context clearly indicates the contrary; and use of the masculine gender shall include the feminine gender.

- (4) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and", "or" or "either ... or", the conjunction shall be interpreted as follows:
 - (a) "And" indicates that all the connected terms, conditions, provisions or events shall apply.
 - (b) "Or" indicates that the connected items, conditions, or provisions or events may apply singly or in any combination.
 - (c) "Either ... or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
- (5) The word "includes" shall not limit a term to the specific example, but is intended to extend its meaning to all other instances or circumstances of like kind or character.

Section 3. DEFINITIONS

3.1 DEFINITIONS. As used in this ordinance, the terms defined in this section shall have the defined meanings unless the context requires otherwise. The following definitions apply:

- (1) "The City" means the City of McMinnville;
- (2) The "Council" means the McMinnville City Council;
- (3) "Park areas" shall include all parcels of land, beaches or bodies of water owned, leased, controlled or administered by the City of McMinnville for recreation or open space purposes which have been designated by the city as a "park," "linear park," "greenway," open space," "playground," "recreation facility" or as "natural areas." For the purpose of this ordinance, the term "park" or "park areas" shall also include the McMinnville Public Library, Aquatic Center, Senior Center, Community Center, and City Hall including the grounds, plazas, and walkways immediately surrounding these facilities.
 - a) If an agreement adopted by the City of McMinnville and another entity so provides, "park areas" shall also include all parcels of land or bodies of water owned,

leased, controlled or administered by the other entity for recreation and other leisure pursuits, or open space purposes which have been designated by the other entity as a "park" or as a "park area".

- (4) "Director" means the Director of Parks and Recreation who is, for the City of McMinnville, the person immediately in charge of and responsible for all park areas and the activities therein, or, the Director's duly appointed staff;
- (5) "Chief" means the Chief of Police for the City of McMinnville or the chief's duly appointed officers, cadets, volunteers, or staff;
- (6) "City Manager" means the person immediately responsible for administering and overseeing all functions of McMinnville city government;
- (7) "Authorized City staff" are employees or volunteers of the City authorized by the City Manager and/or Director to grant relief from the prohibitions of this ordinance where the prohibition specifically bestows that authority on the person;
- (8) "Person" means any person, firm, partnership, association, corporation, company, or organization of any kind;
- (9) "Vehicle" means any wheeled conveyance, whether motor powered, animal drawn, or self propelled. The term includes any trailer in tow of any size, kind, or description. Exception is made for baby carriages, battery operated carts used by individuals with physical impairments, and vehicles in service of City parks.

Section 4. ADMINISTRATION AND ENFORCEMENT

- 4.1 Administration. The Director and Chief, under the direction of the City Manager, shall be responsible for the administration and enforcement of this ordinance.
- 4.2 Authority. The Director and Chief shall have the authority to do all things necessary to administer the provisions of this ordinance and the rules and regulations adopted under it.
- 4.3 Enforcement. The enforcement of this ordinance by the Director and Chief is not intended to limit the legal jurisdiction of any federal, state, county or local enforcement agency created by law.

- 4.4 Duties of the Director and Chief. The Director and Chief shall have the duty to enforce all provisions of this ordinance.

Section 5. ESTABLISHMENT OF RULES FOR USE OF PARK AREAS

- 5.1 Upon recommendation of the City Manager or upon its own motion, the City Council may promulgate rules and regulations pertaining to the administration and enforcement of this ordinance and to carry out its purposes. Any rules existing at the time of adoption of this ordinance shall remain in effect until specifically repealed.
- 5.2 Any section or part of any park may be declared closed to the public by the Director at any time and for any interval of time, either temporarily or at regular intervals (daily or otherwise) and either entirely or merely to certain uses and/or users, as the Director finds reasonably necessary to ensure the health, safety, and enjoyment of all park users.

Section 6. PROHIBITIONS

6.1 PROHIBITIONS RELATING TO VEHICLES WITHIN PARKS AREAS

- (1) No person shall operate a motor vehicle in contravention of the Oregon Motor Vehicle Code. (Class D Park Violation).
- (2) No person may operate any vehicle off roads or outside parking areas constructed or designated for motor vehicle use unless otherwise directed by authorized City staff. (Class B Park Violation).
- (3) Except where specifically allowed by order of the Director, no person shall allow a vehicle to remain in a park area during the time the park is closed. (Class D Park Violation).
- (4) No person shall park an automobile, trailer or other vehicle in any place other than an established or designated parking area. Such use shall be in accordance with posted instructions or in compliance with the instructions of any attendant who may be present. (Class D Park Violation).
- (5) No person shall double park any vehicle on any road or parkway unless directed by a traffic officer or other authorized city staff. (Class D Park Violation).

- (6) Unless otherwise authorized by the Director, no person shall operate a vehicle within a park area at a speed in excess 15 miles per hour. (Class C Park Violation).

6.2 PROHIBITIONS RELATING TO PETS AND OTHER ANIMALS

- (1) Authorized City staff may require a person in charge of an animal to undertake any measure including the removal of the animal from the park area, if necessary, to prevent interference by the animal with the safety, comfort, or well being of park visitors or resources. For the health and safety of all park visitors, the City may designate specific park system areas in which animals are prohibited.
- (2) No person shall bring any dog, cat or other domestic pet into a park area unless the animal is safely contained in a vehicle or on a leash and kept under physical control at all times. To avoid annoyance to other park users, leashes may not exceed six feet in length when the animal is within 100' of other park visitors. Nothing herein shall be construed as permitting the running of dogs at large. (Class D Park Violation). Exception: Police canines in the course of duty.
- (3) No person shall fail to immediately and thoroughly remove all solid animal waste deposited in the parks by their animal. (Class D Park Violation). Authorized City staff may direct any person to remove their animal from any City park if that person fails to perform this duty.
- (4) No person shall allow their animal to go within any playground or play structure area; No person shall allow their animal in other designated park system areas in which animals are prohibited. Exception: Police canines in the course of duty, seeing-eye dogs in direct service of a blind individuals, and other animals trained for and directly serving the needs of physically disabled individuals (Class D Park Violation).
- (5) No person shall tie up any animal in his/her custody or control and leave such animal unattended. (Class D Park Violation).
- (6) Except where specifically authorized by the Director, no person shall bring a horse or other livestock into a park area. (Class D Park Violation).

6.3 PROHIBITIONS RELATING TO VANDALISM AND LITTER

- (1) No person shall pick, cut, mutilate, remove or uproot plant life or natural resources of any type from any park area without written consent from the Director. (Class B Park Violation).
- (2) No person shall place or leave garbage, materials for recycling, sewage, refuse or waste within a park area except in containers provided for that purpose. (Class C Park Violation).
- (3) No person shall deposit waste not generated by park use, including household, commercial or industrial waste or refuse, within any park area including waste containers within a park area. (Class C Park Violation).
- (4) No person shall mutilate, etch, paint, write upon, burn, or otherwise deface, vandalize or cause damage to any park property, facility or structure. No person shall move or remove any property, structure, or facility of any kind within a park area. (Class A Park Violation).
- (5) No unauthorized person within a City park shall have in his/her possession, cans of spray paint, aerosol or pressurized containers of paint or similar substances, or other paint or ink related tools, applicators and materials. (Class C Park Violation).
- (6) No person shall 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, or cause or assist in doing any of these things, within a park area, except by special permit from the Director. (Class C Park Violation).

6.4 PROHIBITIONS RELATING TO CAMPING

- (1) Except as specifically authorized in writing by the Director, no person shall camp overnight within a park area. (Class D Park Violation).

6.5 PROHIBITIONS RELATING TO HUNTING, FIREARMS, AND WEAPONS

- (1) Other than police officers in performance of their duties, no person shall carry or display any weapon of any kind within the McMinnville park system. (Class B Park Violation).

- (2) No person shall hunt, pursue, trap, kill, injure, harass, or molest any wildlife within a park area. (Class B Park Violation).
Exception: Fishing in accordance with Oregon State Sport Fishing Regulations.
- (3) No person shall damage, remove, or purposefully disturb any wildlife habitat within a park area. (Class C Park Violation).
- (4) No person shall remove any wildlife animal from a park area. (Class C Park Violation). Exception: Fish and crawdads legally taken in accordance to the Oregon State Sport Fishing Regulations.
- (5) No person within a park area shall discharge or fire any firearm, bb or pellet gun, bow and arrow (including fishing), slingshot, paintball gun, or other weapon capable of injuring any person or wildlife. (Class A Park Violation).

6.6 PROHIBITIONS RELATING TO FIRES

- (1) Unless permitted by the Director, no person shall start or operate a fire within a park area except within park fireplaces provided for such purposes or within portable stoves or Bar-B-Ques in established park picnic areas. (Class D Park Violation).
- (2) No person shall leave a fire unattended within a park area. (Class A Park Violation.)
- (3) No person shall allow a fire to cause damage to park facilities or areas. (Class A Park Violation.)
- (4) No person who starts a fire shall leave the park area without first extinguishing the fire. (Class C Park Violation).
- (5) No person shall start or operate a fire within a park area in contravention of an order of the Fire Marshal, Fire Chief, Police Chief, or Director. (Class D Park Violation).

6.7 GENERAL PROHIBITIONS

- (1) Unless otherwise approved by the Director, no person within a park area shall use or operate any noise producing machine, device or instrument in a manner that, in the judgment of an authorized City employee, can be heard beyond 50 feet and/or

substantially diminishes the ability of other park area visitors to enjoy the park or subjects persons occupying residences adjacent to or near the park to inconvenience, annoyance or alarm. (Class C Park Violation).

- (2) No person within a park area shall possess, discharge, or cause to be discharged any firecrackers, explosives, torpedoes, rockets, fireworks or other substances within a park area without the written permission of the Director. (Class D Park Violation).
- (3) Except as authorized by the Director no person within a park area shall use a public address system or other device to mechanically or electronically amplify sound. (Class D Park Violation).
- (4) No person within a park shall commit an act of disorderly conduct. Disorderly conduct is defined as follows:

A person commits disorderly conduct when, with the intent to cause public alarm, nuisance, jeopardy or violence, or knowingly or recklessly creating a risk thereof, such person commits any of the following prohibited acts:

- (a) Engages in fighting or threatening, or in violent behavior.
 - (b) Uses language, an utterance, or gesture, or engages in a display or act which is physically threatening or menacing, or done in a manner that is likely to inflict injury or incite an immediate breach of the peace.
 - (c) Makes noise that is unreasonable or unnecessary, considering the nature and purpose of the actor's conduct, location, time of day or night, and other factors that would govern the conduct of a reasonably prudent person under the circumstances.
 - (d) Creates or maintains a hazardous or physically offensive condition.
- (5) No person within a park area shall enter an area posted as "Closed to the Public," violate animal control, skateboard, or smoking prohibitions within any park or park area specifically designated as limiting or prohibiting such activity, or abet the

use of any area in violation of posted notices. (Class D Park Violation).

- (6) No person within a park area shall block, obstruct, or interfere with vehicular or pedestrian traffic on any road, parking area, trail, walkway, pathway, or common area. (Class D Park Violation).
- (7) No person within a park area shall occupy or interfere with access to any structure, office, lavatory, or other facility in a manner which impairs the intended use of the structure or facility by park users. (Class D Park Violation).
- (8) No person shall use alcohol or possess an open container of alcohol in any city park. (Class D Park Violation).
- (9) Except as authorized by the Director, no person shall display, sell, offer for sale, peddle, hawk, or vend any goods, wares, merchandise, food, liquids, or services within any park area. (Class D Park Violation).
- (10) Except as authorized by the Director, no person shall operate a concession either fixed or mobile within any park. (Class D Violation).
- (11) No person shall erect any permanent signs or temporary signs of any type within any park, except by special permit from the Director. (Class D Park Violation).
- (12) No person within a city park shall hit golf balls in areas not designated for such use. (Class D Park Violation).

Section 7. PARK OPERATING POLICY

- 7.1 Except during unusual or unforeseen emergencies, periods of restoration and protection of certain facilities and grounds, and when the general public safety requires closure, McMinnville City Parks are open to the public every day of the year. Unless otherwise posted, all City parks open one hour before sunrise and close one hour after sunset.
- 7.2 Unauthorized use of City of McMinnville Park System facilities during the night-time hours between one hour after sunset and one hour before sunrise is prohibited. No person or persons shall remain within

or otherwise congregate within any City Park during this time period (after dark). (Class D Park Violation).

- (1) Patrons of the McMinnville Aquatic Center, Public Library, Community Center, and Senior Center are subject to the regulated hours of these specific facilities.
- (2) Individuals directly participating in any evening event or program sponsored or otherwise permitted by the City of McMinnville are subject to park closure hours at the conclusion of those programs or events.
- (3) Pedestrian traffic on paved walkways enroute from one point to another and that does not remain in or congregate in a park is authorized during hours in which the park is closed. [NOTE: It is not the intention of this ordinance to prohibit pedestrian traffic (walkers, joggers) after dark on paved walkways within the park system.]

7.3 For the general safety of all park participants and to protect park facilities from damage, no person shall use a skateboard within the upper City Park area west of Adams Street between Park Drive and West Second Street. (Class D Park Violation).

7.4 For the general health and safety of all park users, no person shall bring any animal on to the sports field areas (exception noted under Provision 6.2.4). No person shall smoke in Dancer Park except in parking areas. (Class D Park Violation).

7.5 For the general health and safety of all park users, and to help keep park facilities clean and free of damage, no person shall smoke within the upper City Park area west of Adams Street between Park Drive and West Second Street. (Class D Park Violation).

7.6 Because the City of McMinnville does not condone truancy or school drop outs; and, because the City of McMinnville desires to encourage and promote successful school achievement and participation, no person of school age shall be in any park facility during the school hours of 8:00 a.m. to 2:00 p.m. on days during which McMinnville Public Schools are in-session between September 1 and June 20 in any given year, unless accompanied by their parent, legal guardian, or teacher. (Class D Park Violation).

Section 8: PARK EXCLUSION (Trespassing upon City property and may be prosecuted for said offense)

8.1 Any person within a city park found to be in violation of any park ordinance or rules is subject to trespass violations. In addition to other measures provided for violation of this ordinance, or any of the laws of the State of Oregon, the following provisions apply:

(1) the Director or the Chief may exclude from city park system and related facilities operated by the City of McMinnville, any person who violates any provision of this ordinance, the laws of the State of Oregon, or any rule or regulation issued by the City of McMinnville pertaining to city parks.

(a) exclusion under this section may be for a period of not more than 90 days and may apply to all city park areas and facilities owned and operated by the City of McMinnville;

(b) any person who knowingly violates an order of exclusion from city parks and facilities commits the crime of criminal trespass (Class A misdemeanor).

8.2 Written notice shall be given to any person excluded from any city park or facility for a period of more than seven (7) days. The notice shall specify the dates and places of exclusion. It shall be signed by the issuing party. Warning of consequences for failure to comply shall be prominently displayed on the notice.

8.3 If good cause exists, the Director may at any time alter or temporarily waive the effects of the notice of exclusion. Additionally, if the Director finds that the person excluded did not violate any provision of this ordinance, any laws of the State of Oregon, or any policy, rule, or regulation of the City of McMinnville, the Director shall rescind the exclusion.

Section 9 SPECIAL PROVISIONS FOR SEIZURE OF WEAPONS; TOWING OF VEHICLES

9.1 Upon issuance of a citation for violation of Section 6.5 (1 and 5) of this ordinance, the peace officer issuing the citation shall immediately take the weapon into possession. The weapon shall be placed into evidence at the appropriate law enforcement agency. Upon conviction, the court may forfeit the weapon as a public nuisance or return the weapon to the defendant; provided, however, that the

weapon shall not be returned if seizure is mandated or the return is prohibited by any provision of Oregon or Federal law.

- 9.2 Upon issuance of a citation for violation of Section 6.1(3,4, and 5) of this ordinance, the peace officer issuing the citation may authorize the offending vehicle to be removed if the peace officer reasonably believes that the vehicle creates as hazard, impedes traffic, and/or may be damaged if left within the park area. The owner of the vehicle shall be responsible for all towing and storage costs.

Section 10. PENALTIES; BAIL SCHEDULES; DISTRIBUTION OF PROCEEDS

- 10.1 Penalties. Violation of this ordinance shall be punishable, upon conviction by a penalty in accordance with the following schedule:

- | | |
|-----------------------------|-------|
| (1) Class A Park Violation: | \$500 |
| (2) Class B Park Violation: | \$250 |
| (3) Class C Park Violation | \$150 |
| (4) Class D Park Violation | \$100 |

- 10.2 Bail Schedule: Bail on each offense listed in this ordinance shall be not less that fifty percent of the maximum possible fine.

Section 11. PROCEDURE FOR CITATION; JURISDICTION; VENUE; PROSECUTION

- 11.1 Procedure. A violation of any provision set forth within this ordinance may be prosecuted by the City of McMinnville and be issued on a uniform complaint.
- 11.2 Jurisdiction: Jurisdiction for a violation arising from a provision of this ordinance shall be prosecuted in the McMinnville Municipal Court.
- (1) The prosecuting attorney for the City shall not appear in offenses prosecuted under this Ordinance unless the defendant chooses to be represented by legal counsel; except this restriction shall not apply to offenses prosecuted under the provisions of Section ;8.1 a)(2). The prosecuting attorney may assist the issuing officer or citizen in the preparation of the case.

11.3 Standard of Proof: The standard of proof shall be by a preponderance of the evidence. Trial shall be by the Court and no jury trial shall be granted for offenses committed under this Ordinance; except that the standard of proof and granting of a trial for an offense prosecuted under Section 8.1 a)(2).

11.4 Appeal of Decision: A decision by Municipal Court may not be appealed.

Section 12. SEVERABILITY

12.1 If any clause, section or provision of this ordinance shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said ordinance shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.

Section 13. EFFECTIVE DATE OF ORDINANCE

13.1 This Ordinance shall become effective on the 10th of June , 1999.

Passed by the Council this 11th day of May 1999 by the following votes:

Ayes: Aleman, Hughes, Payne, Rabe, Windle

Nays: _____

Approved this 11th day of May 1999.


MAYOR

Attest:


RECORDER (PRO TEM)