

ORDINANCE NO. 1675

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to City park use regulations, and amending chapter 19.08 DMMC to update the City's Parks and Recreation Code.

WHEREAS, the City's park use regulations require periodic updating to ensure that City parks remain inviting to the public and well maintained, and

WHEREAS, the City's park use regulations have been reviewed and the amendments prepared address issues that have arisen since the last update, and

WHEREAS, the City Council finds that it is in the best interest of the public health, safety, and general welfare to establish comprehensive, uniform, and current provisions for the City's park use regulations, now therefore,

THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:

Sec. 1. DMMC 19.08.010 and section 1 of Ordinance No. 758 as amended by section 20 of Ordinance No. 993 are amended to read as follows:

Definitions. As used in this Title, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings.

"Alcoholic beverages" or "liquor" includes the four varieties of liquor defined as alcohol, spirits, wine, and beer, all fermented, spirituous, vinous, or malt liquor, and all other intoxicating beverages, and every liquor, solid or semisolid or other substance, patented or not containing alcohol, spirits, wine, or beer. A liquor, semisolid, solid, or other substance that contains more than one percent alcohol by weight is conclusively deemed to be intoxicating.

"Drug use" includes the possession, consumption by mouth, inhalation or injection, sale and distribution or cultivation while in a park of any

cannabis, illegal narcotic or dangerous drug capable of producing a state of intoxication or euphoria.

"Camping" means erecting a tent or shelter or arranging bedding or both for the purpose of remaining overnight, or parking a trailer, camper, or other vehicle for the purpose of remaining overnight.

"Department" means the City Parks, Recreation and Senior Services Department.

"Facility" or "facilities" means a park building, park structure, or park area operated by the City.

"Motor vehicle" means a self-propelled device capable of being moved upon a street and in which persons or property may be transported, and shall include, but shall not be limited to, automobiles, trucks, motorcycles, motor scooters, recreational vehicles, utility vehicles, vans, and jeeps or similar type four-wheel drive vehicles, but shall exclude motorized wheelchairs.

"Park" means an area under the ownership, management, or control of the City used for public recreation, leisure, and park purposes, and excluding any commercially zoned marina property.

"Trail" means a path or track designed for use by pedestrians, bicycles, or equestrians, which is not of sufficient width, nor graded or paved so as to permit its use by automobiles and other rights-of-way specifically posted and designated for non-vehicular use.

Sec. 2. DMMC 19.08.020 and section 2 of Ordinance No. 758 are amended to read as follows:

Administration.

(1) The City Manager or City Manager's designee shall have the authority to promulgate

rules setting forth the times and conditions upon which City parks and park facilities will be open, closed, or used by the public.

(2) Persons or community groups desiring to use park buildings or structures shall obtain a permit from the City Manager or the City Manager's designee.

(3) Religious services or group rallies may be permitted in City parks where facilities are adequate, and where such activities will not conflict with normal park usage. A special event permit must be obtained 90 days prior to the service or rally.

(4) All persons must leave park buildings and structures in a condition satisfactory to the department. No person shall conduct activities causing damage to park buildings and structures. The department may require a damage and cleaning deposit sufficient to cover possible added custodial costs.

(5) Persons using facilities by permit will be required to protect, defend, save, and hold the City, its elected and appointed officials and employees, while acting within the scope of their duties, harmless from and against all claims, demands, and causes of action of any kind or character, including the cost of defense thereof, arising in favor of a person or group's members or employees or third parties on account of any action, including but limited to personal injuries, death, or damage to property arising out of the use of premises, or in any way arising out of the acts or omissions of the person, group, and/or its agents, employees or representatives.

(6) During all periods of use, persons using facilities by permit shall obtain and maintain public liability insurance in such form and amounts as determined by the City Manager or City Manager's designee.

(7) The use of park facilities for financial gain shall be allowed only through concession contracts with the City or by written permit from the City Manager or the City Manager's designee.

Sec. 3. DMMC 19.08.030 and section 3 of Ordinance No. 758 as amended by section 1 of Ordinance No. 1030 as amended by section 5 of Ordinance No. 1455 are amended to read as follows:

Regulations and prohibited activities.

(1) No person shall use, place, or erect a signboard, billboard, bulletin board, post, pole, or device of any kind for advertising in parks, or attach a notice, bill, poster, sign, wire, rod, or cord to a tree, shrub, railing, post, or structure within parks, or without a written permit from the department, place or erect in parks a structure of any kind.

(2) No person shall remove, destroy, mutilate, or deface a structure, monument, sculpture, statue, vase, fountain, wall, fence, railing, vehicle, bench, shrub, tree, fern, plant, flower, lighting system, or sprinkling system or other property lawfully in parks.

(3) No person shall allow or permit an animal under that person's control to run at large in parks, or enter a lake, pond, fountain, or stream therein except in designated areas identified with signage or without first obtaining a written permit from the City Manager or the City Manager's designee. A person whose animal is in a Des Moines park is responsible for removing feces deposited by such animal from the park.

(4) No person shall possess, shoot, fire, or explode fireworks, firecrackers, torpedoes, or explosives of any kind or shoot or fire a firearm, air gun, bow and arrow, BB gun, or use a slingshot in parks.

(5) No person shall, in any manner, tease, annoy, disturb, molest, catch, injure, or kill or throw a stone or missile of any kind at or strike with a stick or weapon an animal, bird, fowl, or fish, except as permitted and regulated by the laws of the state relative to fish and game. The feeding of non-domestic animals is prohibited.

(6) No person shall operate a fixed or mobile concession or solicit, sell, peddle, hawk, vend, or advertise any goods or services or conduct any organized classes, group activities or competitions in a park without first entering into a concession contract or obtaining a written permit from the City Manager or City Manager's designee.

(7) No person shall take up collections, or act as or play the vocation of solicitor, agent, peddler, fakir, mendicant, beggar, strolling musician, organ grinder, exhorter, barker, showman, or bootblack; without first obtaining a written permit from the department.

(8) No person shall hold, operate, or conduct a circus, activity with live animals, festival, concert, performance, art display, competition, carnival, movie, or exhibition in parks without first obtaining a written special event permit from the City Manager or the City Manager's designee 90 days prior to the event.

(9) No person shall film, record, or photograph for commercial purposes without first obtaining a written permit from the City Manager or the City Manager's designee.

(10) No person shall use park electrical, gas, water, cable or sewer utilities without first obtaining a written permit from the City Manager or the City Manager's designee.

(11) No person shall hold a religious or political meeting or other group assembly, or distribute literature in parks without first obtaining a written permit from the City Manager or the City Manager's designee.

(12) No person shall have, keep, or operate a power boat, float, raft, or other electrically or mechanically powered watercraft in or upon a bay, lake, slough, river, or creek, within the limits of a park, or launch the same at a point upon the shores thereof bordering upon a park, except nonpowered, hand-carried craft may be launched at places set apart for such purposes by the department and so designated by signs. No boat trailers may be parked in parks without first obtaining a written permit from the City Manager or the City Manager's designee.

(13) No person shall ride or drive a bicycle, tricycle, motorcycle, motor vehicle, horse, or pony over or through a park except along and upon the park drives, parkways, or park boulevards; or at a speed in excess of 20 miles per hour.

(14) No person shall stand or park a vehicle, except in designated areas or in accordance with signs, striping, or other methods that make clear the appropriate method or manner of parking. Improperly parked vehicles including vehicles parked on sidewalks, vehicles left parked for over twenty-four (24) hours, vehicles not associated with the use of the park, and unauthorized vehicles left in the park between dusk and dawn, are subject to ticketing or impound at the expense of the owner. All ways open to the use of the public for purposes of vehicular travel shall be considered public highways for purposes of enforcement of Title 10 DMMC.

(15) No person shall camp on any park property except at places set apart for such purposes by the City Manager or City Manager's designee or

without first obtaining a written permit from the City Manager or City Manager's designee.

(16) Permits and schedules for the use of park facilities are officially issued or distributed by the City Manager or the City Manager's designee. Persons shall yield to the holder of such permits or schedules and shall not unreasonably interfere with other persons' use of or the City's maintenance or operation of park facilities. Persons with or without a permit or schedule shall abide by all park rules and regulations. No persons shall disobey any City-sponsored event park or parking lot signage that relates to special circumstances for that event.

(17) Park facility and parking lot rental policies and fees are adopted in writing by the City Manager or the City Manager's designee.

(18) No person shall dispose of refuse, litter, broken glass, crockery, nails, shrubbery, trimmings, junk, or advertising matter in parks or deposit such material therein, except in designated receptacles.

(19) No person shall deposit refuse or recycling, not generated in parks, in a receptacle within a park.

(20) No person shall engage in, conduct, or hold trials or competitions for speed, endurance, or hill climbing involving a vehicle, watercraft, drone, aircraft, or animal in a park without first obtaining a written permit from the City Manager or City Manager's designee.

(21) No person shall build open fires or use portable barbeques in a park except in designated areas identified with signage or without first obtaining a written permit from the City Manager or the City Manager's designee, or place hot coals onto

park grounds or into trash containers or water bodies.

(22) Drug use is prohibited. No person shall possess, consume by mouth, inhalation or injection, sell, distribute or cultivate while in a park any cannabis, illegal narcotic or dangerous drug capable of producing a state of intoxication or euphoria.

(23) No person shall bring into or consume in a park or facility alcoholic beverages without first obtaining a written permit from the City Manager or City Manager's designee. All alcohol concessions or other events or activities serving alcohol shall first obtain a written permit from the City Manager or the City Manager's designee and comply with all Washington State Liquor and Cannabis Control Board requirements.

(24) No person shall smoke tobacco, tobacco by products, or other smoke emitting substances within 25 feet of any park building, recreation building, building deck or patio, picnic shelter, grandstands or play equipment area.

(25) No person shall play golf, baseball, cricket, soccer, polo or archery, or hurl, or fly any airborne model airplanes, radio-operated airplanes, drones, or other flying devices in parks, except in places and times set apart for such purposes by the department.

(26) It is unlawful to remain in a park after the posted closing time without first obtaining a written permit from the City Manager or the City Manager's designee. Unless posted otherwise, parks are closed from dusk to dawn.

(27) No person shall moor, anchor, dock, or berth a boat overnight in a park without first obtaining a written permit from the City Manager or the City Manager's designee.

(28) All laws, rules, and regulations of the State Department of Fisheries relating to season, limits, and methods of taking, are applicable to the taking of shellfish or food fish in parks and associated marine areas, and in addition to such laws, rules, and regulations, the department may, upon its finding and for good cause, close certain park areas to the taking of shellfish or fish.

(29) No person shall swim or dive (including scuba diving) in waters adjacent to parks except at places set apart for such purposes by the department and so designated by signs, or except as otherwise authorized by the City Manager or the City Manager's designee.

(30) No person shall play radios, stereos, television sets, musical instruments or similar devices or cause vibrations at volumes such that they may be heard over 30 feet from the source. No person shall operate or use loud speakers or other mechanical means of amplifying sound in parks without a written permit from the City Manager or the City Manager's designee.

(31) No person shall loiter in a public restroom or public bathing facility.

(32) No person shall urinate or defecate in a public place or in a place open to public view.

(33) No person shall use a device to detect ores or metals without a written permit from the City Manager or the City Manager's designee.

(34) No person shall construct any structure, wall, fence, footing, drive, walkway, steps or path on park property, or to use or maintain park property as an extension of private property.

(35) In accordance with RCW 35A.21.350, 49.60.500, and 49.60.505, community athletics programs for youths or adults, either operated,

conducted, or administered by the City or a third party who uses City facilities, may not discriminate against any person on the basis of sex.

(36) No person shall willfully violate a posted park rule or an oral directive of a department employee.

Sec. 4. DMMC 19.08.040 and section 4 of Ordinance No. 758 are amended to read as follows:

Ejection of persons. Persons engaged in acts of conduct that create a substantial risk of causing injury to a person, or substantial harm to property, or who have engaged in use or possession of intoxicating liquors or drugs, or who have engaged in conduct which tends to or does disturb the public peace, provoke disorder, or endanger the safety of others, or who have violated a provision of DMMC 19.08.030 may be ordered by a department employee or a law enforcement officer having probable cause to believe that such conduct has occurred to leave any City park. No person who has been ordered to leave a park pursuant to this section shall fail or refuse to leave, or return to the park that day.

Sec. 5. DMMC 19.08.050 and section 5 of Ordinance No. 758 are amended to read as follows:

Closure of park. The City Manager or the City Manager's designee shall have authority to close any City park if, in the City Manager or the City Manager's designee's opinion, there exists a substantial danger to public safety or property necessitating such closure. Parks and park facilities may be closed to the general public during special events pursuant to issuance of a written permit from the City Manager or the City Manager's designee. No person shall fail or refuse to leave the park, or return to the park during closure.

Sec. 6. DMMC 19.08.060 and section 6(A) of Ordinance No. 758 are amended to read as follows:

Motor vehicle closures - Authority. The City Manager or the City Manager's designee shall have the authority to set hours of closure to all vehicular traffic within City parks, with certain exceptions specified in DMMC 19.08.090. Such hours of closure shall be posted at such locations and in such a manner which reasonably informs the public.

Sec. 7. DMMC 19.08.070 and section 6(B) of Ordinance No. 758 are amended to read as follows:

Motor vehicle trespass - Designated. The operator of a motor vehicle who enters a park during the hours set for closure by the City Manager or the City Manager's designee and posted, or whose vehicle is found in a City park during such hours, commits the traffic infraction of motor vehicle trespass.

Sec. 8. DMMC 19.08.080 and section 6(C) of Ordinance No. 758 are amended to read as follows:

Motor vehicle trespass - Notice of infraction - Presumption. A notice of infraction shall be issued to the operator of such vehicle if the operator can be identified. If the operator cannot be identified, a notice of infraction shall be conspicuously affixed to the vehicle and a duplicate notice of infraction shall be issued by the court and mailed to the registered owner of the vehicle. It shall create a rebuttable presumption that the registered owner of the vehicle committed the infraction.

Sec. 9. DMMC 19.08.090 and section 6(D) of Ordinance No. 758 are amended to read as follows:

Motor vehicle trespass - Exemptions. The following are exempt from the provisions of DMMC 19.08.070 and 19.08.080:

- (1) Residents and guests of residents in possession of a permit issued by the City Manager or the City Manager's designee whose real property

parking is north and west of the main entrance gate of Des Moines Beach Park;

(2) Official federal, state, or local law enforcement, fire, utilities, City or City employee vehicles while in performance of official duties;

(3) Vehicles of persons using facilities by permit issued by the City Manager or the City Manager's designee for specific events.

Sec. 10. DMMC 19.08.100 and section 6(E) of Ordinance No. 758 as amended by section 59 of Ordinance No. 1009 are amended to read as follows:

Motor vehicle trespass - Violation - Penalty.

(1) No person shall violate or fail to comply with this chapter.

(2) A violation of or failure to comply with this section is a civil infraction with a penalty in an amount as set by the Washington State Courts Bail Schedule.

Sec. 11. DMMC 19.08.110 and section 3 of Ordinance No. 1056 are amended to read as follows:

Penalty.

(1) No person shall violate or fail to comply with the provisions of this chapter or fail to comply with a notice posted in accordance with this chapter.

(2) A first or second violation or failure to comply with this section is a class 2 civil infraction.

(3) If the same individual receives two committed findings for violations of the same section of this Chapter within one year, the third

violation within one year from the date of the original citation shall constitute a misdemeanor.

Sec. 12. Severability - Construction.

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

(2) If the provisions of this Ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this Ordinance is deemed to control.

Sec. 13. Effective date. This Ordinance shall take effect and be in full force thirty (30) days after its final passage by the Des Moines City Council in accordance to law.

PASSED BY the City Council of the City of Des Moines this 23rd day of March, 2016 and signed in authentication thereof this 23rd day of March, 2016.


M A Y O R

APPROVED AS TO FORM:


City Attorney

ATTEST:


City Clerk

Published: March 28, 2017

Effective Date: April 22, 2017

LEGAL NOTICE

SUMMARY OF ADOPTED ORDINANCE

CITY OF DES MOINES

ORDINANCE NO. 1675, Adopted March 23, 2017.

DESCRIPTION OF MAIN POINTS OF THE ORDINANCE:

This Ordinance relates to City park use regulations, and amends chapter 19.08 DMMC to update the City's Parks and Recreation Code.

The full text of the Ordinance will be mailed without cost upon request.

Bonnie Wilkins, CMC
City Clerk

Published: March 28, 2017