

Chapter 18 - PARKS AND RECREATION

FOOTNOTE(S):

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Cross reference— Snowmobiles, § 16-76 et seq.

ARTICLE I. - IN GENERAL

Secs. 18-1—18-15. - Reserved.

ARTICLE II. - PARK BOARD

FOOTNOTE(S):

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Cross reference— Boards and commissions generally, § 2-236 et seq.

Sec. 18-16. - Established.

There is established a park board.

Sec. 18-17. - Members.

The park board shall consist of six (6) members.

(Code 1984, Title 3, § 710)

Sec. 18-18. - Meetings.

Meetings of the park board shall be on a regular basis, and at such times as may be deemed necessary, provided adequate notice is furnished.

(Code 1984, Title 3, § 720)

Sec. 18-19. - Functions.

The park board shall:

- (1) Provide recommendations to the council regarding the planning, development, funding, and operation of parks and recreational facilities within the city.
- (2) Receive guidelines and assignments from the city council for study and/or review of park and recreational needs and plans.
- (3) Conduct studies using appropriate resources. If expenditure of funds is necessary for such studies, the board must obtain prior approval from the council.

- (4) Develop rules and regulations to govern the use of city parks and recreational facilities for review by the council.
- (5) Maintain liaison with the city administrator and directors of the community development and community service divisions, to provide guidance on park board matters in the planning stages or policy development review.
- (6) Provide reports and plans to the council.

(Code 1984, Title 3, § 730)

Secs. 18-20—18-30. - Reserved.

ARTICLE III. - PARK RULES

Sec. 18-31. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Director means the person appointed by the city administrator to serve as chief administration officer of the park system.

Drugs means any substance defined as a controlled substance by Minnesota Statutes chapter 152 or federal law or regulation.

Domestic animal means a dog, cat or horse.

Fairmont parks means the organization or system of parks in the city.

Food wagon shall be defined as any vehicle, mobile stand or device used for the purpose of selling food and/or drink ready to be consumed while parked on public property.

Intoxicating liquor means ethyl alcohol, distilled, fermented, spirituous, vinous and malt beverages, containing in excess of three and two-tenths (3.2) percent of alcohol by weight.

Primitive camping means overnight camping using primitive means (no campers or RVs) for not more than 3-days for recreation purposes.

Special event camping means limited camping to coincide with an approved special event, i.e. softball tournament, disc golf, etc.

State Law reference— Similar provisions, M.S. § 340A.101, subd. 14.

Motorized recreation vehicle means any self-propelled off-the-road, or all terrain conveyance including but not limited to a snowmobile, mini bike, amphibious vehicle, motorcycle, go-cart, trail bike, dune buggy or four-wheel drive.

Nonintoxicating malt liquor means malt liquor that contains not less than one-half of one (.5) percent alcohol by volume nor more than three and two-tenths (3.2) percent alcohol by weight.

State Law reference— Similar provisions, M.S. § 340A.101, subd. 19.

Park means any land or water area and all facilities thereon established as part of the Fairmont parks.

Park visitor means any person within a park.

Vehicle means any motorized, propelled, animal drawn, or human powered conveyance.

Weapon means any device from which shots or projectiles of any kind can be discharged by means of an explosive gun, compressed air or otherwise propelled, including but not limited to fire arms, bow and arrows, slings and spring guns.

Wild life means all living creatures, not human, wild by nature endowed by sensation and power or voluntary motion, including equadrupeds, mammals, birds, fish, amphibians, reptiles, crustations and mollusks.

(Ord. No. 86-6, 8-25-86)

Sec. 18-32. - Purpose.

The purpose of this article is to secure the quiet, orderly and suitable use of public parks, trail systems and public access to lakes established by the city council and to further the safety, health, comfort and welfare of all persons in the use thereof.

(Ord. No. 86-6, 8-25-86)

Sec. 18-33. - Waiver.

Any provision of this article may be waived at the discretion and direction of the city council.

(Ord. No. 86-6, 8-25-86)

Sec. 18-34. - Exemption.

Nothing in this article shall prevent employees or agents of the park system from performing their assigned duties.

(Ord. No. 86-6, 8-25-86)

Sec. 18-35. - Rules and regulations.

- (a) The city council or director may issue administrative rules and regulations. Such rules must be approved by the council or park board.
- (b) It is unlawful for any person to use any city-owned or maintained parks, playgrounds, or recreational areas in any manner contrary to, or inconsistent with, rules and regulations adopted by the council and sign-posted at the entrance thereto, or sign-posted upon specific facilities to which such rules and regulations relate.

(Code 1984, Title 7, Ch. 9(D); Ord. No. 86-6, 8-25-86)

Sec. 18-36. - Revocation of permits or reservations.

The director shall have the authority to revoke for good cause any permit or reservation issued by him.

(Ord. No. 86-6, 8-25-86)

Sec. 18-37. - Liability of city.

The city shall not be liable for any loss, damage or injury sustained by a park visitor.

(Ord. No. 86-6, 8-25-86)

Sec. 18-38. - Closing parks.

Any park or portion thereof may be declared closed to the public by the city council or the director at any time and for any interval of time or to certain uses, as the city council or director finds reasonably necessary.

(Ord. No. 86-6, 8-25-86)

Sec. 18-39. - Obscene language, indecent conduct, etc.

It shall be unlawful for any person to use threatening, abusive, insulting, obscene or indecent language or to act in an indecent manner, or to do any act which constitutes a breach of the public peace in a park.

(Ord. No. 86-6, 8-25-86)

Sec. 18-40. - Alcoholic beverages.

It shall be unlawful for any person to:

- (1) Have in possession or bring into a park any nonintoxicating malt liquor or intoxicating liquor in kegs or barrels without written permission of the director.
- (2) Consume any alcoholic beverage in a park between ~~10:00~~ 11:00 p.m. and 7:00 a.m.

(Ord. No. 86-6, 8-25-86)

Sec. 18-41. - Disturbing park visitors.

It shall be unlawful for any person to disturb, harass or interfere with any park visitor or a park visitor's property.

(Ord. No. 86-6, 8-25-86)

Sec. 18-42. - Litter control.

It shall be unlawful for any person to:

- (1) Deposit, scatter, drop or abandon in a park any bottles, cans, broken glass, sewage, waste or other material, except in receptacles provided for such purpose. Household garbage is not to be deposited in any park receptacle.
- (2) Enter a park with glass beverage bottles or glass beverage containers.

- (3) Throw, discharge or place on or upon any lake, stream, creek, pond or other body of water in or adjacent to a park, or any tributary, stream, sanitary or storm sewer, or drain flowing into such waters any substance, liquid or gas.

(Ord. No. 86-6, 8-25-86)

Sec. 18-43. - Excavations.

It shall be unlawful for any person to dig trenches or make other excavations in a park.

(Ord. No. 86-6, 8-25-86)

Sec. 18-44. - Fires and fire prevention.

It shall be unlawful for any person to:

- (1) start a fire in a park, except a small fire for culinary purposes in a designated area, or fail to fully extinguish such a fire.
- (2) drop, throw or otherwise leave unattended in a park, lighted matches, burning cigars, cigarettes, tobacco, paper or other combustible material.
- (3) have any open fires at Winnebago Sports Complex and Jeffrey Kot Soccer Fields.

(Ord. No. 86-6, 8-25-86)

Sec. 18-45. - Business activities.

It shall be unlawful for any person to sell, solicit, or carry on any business or commercial enterprise or serve in a park unless during a special event and authorized to do so by the ~~director~~ City Administrator in writing.

(1) Food wagons

- a. Permit required. It is unlawful for any person to operate a food wagon without a permit from the City. Operations meeting the definition of a food wagon and operating under a valid food wagon permit do not need a solicitor's license as required Chapter 19-16 of the City Code.
- b. Permit issuance fee and display. Permits, include number, location and dates for which issued, shall be plainly visible on the outside of the food wagon. Permits will be issued on a per event basis for the duration of the event. An application on the form prescribed by the City shall be completed by the applicant and shall be accompanied by a fee as established by ordinance.
- c. Indemnification. Before a food wagon permit is issued by the City, the permittee shall execute and deliver to the City Clerk, on a form prescribed by the City, an Indemnification Agreement holding the City harmless for any personal injury or property damage resulting from the operation of the food wagon.
- d. Restrictions.
 - i. Food wagons shall be allowed only at approved locations within the City and shall not travel from point to point around the City.
 - ii. No food wagon shall be allowed to dispense food on public right-of-way.

- e. Regulations.
 - i. No food shall be sold except directly from the food wagon.
 - ii. Radios and other audio devices shall be permitted only inside the food wagon. No music or noise shall be permitted that is audible 30 feet from the food wagon. No amplification device shall be permitted on the exterior of any food wagon.
 - iii. Food wagon sales shall be permitted only between the hours 7:00 a.m. and 11:00 p.m.
 - iv. Food wagon owners shall provide appropriate number of trash receptacles and remove all trash around their food wagons at the end of each business day.
 - v. All food wagons shall be kept in good repair and order.
 - vi. Must follow all applicable Department of Health regulations.
 - vii. There shall be no drainage of liquids allowed from the food wagon onto public property or public sewers.
 - viii. No permit shall be issued to any food wagon until proof of all appropriate and necessary licensure by the State of Minnesota and/or Martin County is provided.
 - ix. Food wagons shall provide their own utilities; they cannot connect to City water, sewer or electricity.
 - x. No city staff or city equipment will be provided to any food wagon. All food wagons should provide their owner seating and staffing.
- f. Forfeiture and revocation. A food wagon license may be revoked or forfeited for violation of any of the provisions of this Section or any other violation of the City Code or other applicable laws and regulations. Food wagon licenses are not transferable.

(Ord. No. 86-6, 8-25-86)

Sec. 18-46. - Noise control.

It shall be unlawful for any person to:

- (1) Use loudspeakers or other amplifying systems in a park except with written permission from the director.
- (2) Operate sound producing radios or tape players at a level loud enough to disturb other park users.
- (3) Create any unnecessary noise between ~~40:00~~ 11:00 p.m. and 7:00 a.m. that may disturb neighbors to the park or park users.

(Ord. No. 86-6, 8-25-85)

Cross reference— Noise generally, § 15-3.

Sec. 18-47. - Protection of natural resources and wildlife.

It shall be unlawful for any person to:

- (1) Injure, destroy, or remove any tree, flower, shrub, plant, rock, soil, and mineral in a park, including dead or fallen trees.

- (2) Kill, trap, hunt, pursue or in any manner disturb or cause to be disturbed any species of wildlife within a park except that fishing may be permitted in designated areas.
- (3) Bring a dog, cat, or other domestic animal into a park unless under the control of the owner or attendant and such custodian shall have the responsibility of cleaning up any feces of any animal and shall dispose of such in a sanitary manner. "Under control" shall mean appropriately leashed and tended. An exception to the leash requirement will be allowed only when a handler is working a retriever dog within fifty (50) feet of a boat launching area or within the City's designated dog park.
- (4) Bring or permit any domestic animal to enter a beach area, nature center area, picnic area, park building or skating rink.
- (5) Permit a domestic animal to disturb, harass or interfere with any park visitor or park visitor's property.
- (6) Release within a park any plant, chemical or other agent potentially harmful to the vegetation or wildlife or the park.
- (7) Remove any animal, living or dead, from a park and any animal so removed or taken contrary to the provisions of any city ordinance or law of the state shall be considered contraband and subject to seizure and confiscation.
- (8) Set, lay, prepare or have in his possession any trap, snare, artificial light, net, bird line, or any contrivance whatever, for the purpose of catching, taking, injuring, or killing any bird or animal in any park.
- (9) Feed any wild animals, including birds, except pursuant to a city approved program.

(Ord. No. 86-6, 8-25-86; Ord. No. 93-15, 10-25-93; Ord. No. 96-5, 6-17-96; Ord. No. 2004-07, 9-27-04)

Sec. 18-48. - Weapons.

It shall be unlawful for any person to:

- (1) Shoot any weapon in to a park from beyond the boundaries of the park;
- (2) Possess any weapon within a park.

(Ord. No. 86-6, 8-25-86)

Sec. 18-49. - Camping.

It shall be unlawful for any person to camp in any Fairmont park except:

- (1) The designated primitive camping area at Cedar Creek Park.
- (2) With a Special Event Camping permit approved by the City Administrator in designated RV camping area in Cedar Creek Park.
- (3) With a Special Event Camping permit approved by the City Administrator in designated RV or Tent camping areas in Winnebago Avenue Sports Complex.

In any case, camping stays are limited to three (3) days at a time; no more than six (6) days per month. These locations shall not be permitted as a temporary residence.

(Ord. No. 86-6, 8-25-86)

Sec. 18-50. - Swimming and beach areas.

It shall be unlawful for any person to:

- (1) Wade or swim within a park except at beaches designated for the purpose, and then only between sunrise and sunset, or such hours as may be designated by the director. Park visitors swim or wade at their own risk.
- (2) Take bottles or glass of any kind, except eyeglasses into a designated beach area.
- (3) Use air mattresses, innertubes or other inflatable devices except in designated beach areas.

(Ord. No. 86-6, 8-25-86)

Sec. 18-51. - Boating.

It shall be unlawful for any person to:

- (1) Launch or land any boat, yacht, canoe, raft or other watercraft upon any water, lagoon, lake, pond or slough within a park except at locations and times designated for that purpose.
- (2) Leave unattended any boat or watercraft except in areas designated for that purpose.
- (3) Operate any watercraft in a designated swimming area or other prohibited area.
- (4) Operate any watercraft in a park in violation of Minnesota Statutes chapter 361.

(Ord. No. 86-6, 8-25-86)

Cross reference— Boats and lakes, Ch. 5.

Sec. 18-52. - Fishing.

It shall be unlawful for any person to:

- (1) Leave any ice fishing shelter in any park for more than five (5) days past the end of game fishing season.
- (2) Leave debris, garbage, etc., around winter fishing shelters in a park or on the ice.
- (3) Deposit fish remains in a park in other than specified containers.

(Ord. No. 86-6, 8-25-86)

Cross reference— Boats and lakes, Ch. 5.

Sec. 18-53. - Horseback riding.

It shall be unlawful for any person to ride a horse or bring an untrailered horse into any park without permission of the public works director, with the exception of Cedar Creek Park.

(Ord. No. 86-6, 8-25-86)

Sec. 18-54. - Meetings, speeches, demonstrations and parades.

It shall be unlawful for any person to conduct public meetings, assemblies, entertainment, parades or demonstrations within a park without first obtaining a ~~written~~ permit from the city, and then only in the area designated in the permit. Such a permit will be issued if the public safety will not be endangered thereby.

(Ord. No. 86-6, 8-25-86)

Sec. 18-55. - Vehicles generally.

It shall be unlawful for any person to:

- (1) Operate any vehicle within a park except upon designated roadways and parking areas.
- (2) Operate a vehicle in a park at a speed in excess of posted speed limits.
- (3) Park or leave standing a vehicle within a park except at a designated parking area.
- (4) Operate a vehicle in a park which emits excessive or unusual noise, noxious fumes, dense smoke or other polluting matter.
- (5) Operate a vehicle in a reckless or careless manner in a park.
- (6) Wash, polish, grease, change oil or repair any vehicle in a park.

(Ord. No. 86-6, 8-25-86)

Cross reference— Motor vehicles and traffic, Ch. 16.

Sec. 18-56. - Motorized recreation vehicles.

It shall be unlawful for any person to operate a motorized recreation vehicle within a park except in or on designated roadways and parking areas.

(Ord. No. 86-6, 8-25-86)

Cross reference— Motor vehicles and traffic, Ch. 16.

Secs. 18-57—18-60. - Reserved.

ARTICLE IV. - TREES

Sec. 18-61. - Purpose.

It is the purpose of this article to promote and protect the public health, safety and general welfare by providing for the regulation of the planting, maintenance and removal of trees, shrubs and other plants within the city.

(Ord. No. 90-15, § 2(1), 12-10-90)

Sec. 18-62. - Tree board—Established.

There is hereby created a tree board for the city. The tree board will be one and the same as the park board.

(Ord. No. 90-15, § 2(2), 12-10-90)

Sec. 18-63. - Same—Duties and responsibilities.

It shall be the responsibility of the board to develop a written policy for the care, preservation, pruning, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Once the policy is approved by the city council, the council may direct the board to review and/or update the policy as necessary.

(Ord. No. 90-15, § 2(3), 12-10-90)

Sec. 18-64. - Public tree care.

- (a) The city shall have the right to plant, prune, maintain, remove trees, plants and shrubs within the city right-of-ways and public grounds as may be necessary to insure public safety or to preserve or enhance the beauty of such public grounds.
- (b) The city may remove or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, other public improvements or other trees.

(Ord. No. 90-15, § 2(4), 12-10-90)

Sec. 18-65. - Private tree care.

- (a) The city shall have the right to enter private property, inspect, and declare trees or shrubs or parts thereof a public nuisance. A public nuisance may include trees, branches or shrubs that are diseased, infected, dead or dying, obstructing utility installations or traffic signs, impeding free passage of pedestrians or vehicles or in any other manner posing a threat to public safety.
- (b) Upon declaration of a public nuisance, the city will notify the owners of such tree shrubs or parts thereof in writing. Removal or correction shall be done by said owners at their own expense within sixty (60) days of notice. In the event of failure to comply with such provisions, the city shall have the authority to follow the order of the notice and charge the cost to the owners by property tax notice.

(Ord. No. 90-15, § 2(5), 12-10-90)

Sec. 18-66. - Permitted planting on public property.

- (a) No person shall trim, cut, or remove any part of a tree on public property or right-of-way without first procuring a permit from the city. No person shall plant a tree or trees on the city right-of-way or other public property without first procuring a permit from the city. In either case, the authority of the permit shall not be exceeded.
- (b) A permit required by subsection (a) above may be applied for at city hall. The tree board's designated agent will review the permit and return the permit form to the applicant indicating approval or disapproval of the request and noting suggestions for completion or reasons for denial of the permit.

(Ord. No. 90-15, § 2(6), 12-10-90)

Sec. 18-67. - Interference with city tree care.

It shall be unlawful for any person to prevent, delay or interfere with the city tree board's agent or city crews, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any public trees or shrubs as authorized in this article.

(Ord. No. 90-15, § 2(7), 12-10-90)

Sec. 18-68. - Damage to public trees.

The tree board's agent shall place value on public trees damaged by accident or intention. The cost of repair or replacement of a damaged public tree, shrub or plant shall be borne by the party causing the damage or destruction. The city shall use as a reference "A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs and Evergreens" as published by the International Society of Arboriculture.

(Ord. No. 90-15, § 2(8), 12-10-90)

Sec. 18-69. - Arborish bond.

The city must have in its possession a copy of insurance coverage of anyone contracted to work on public trees. Liability insurance of one million dollars (\$1,000,000.00) bodily injury and one million dollars (\$1,000,000.00) property damage indemnifying the city or any person injured or damage resulting from such contracted work on public trees.

(Ord. No. 90-15, § 2(9), 12-10-90)

Sec. 18-70. - Review by city council.

Any person may appeal any order or ruling of the tree board or its agents to the city council for a final decision.

(Ord. No. 90-15, § 2(10), 12-10-90)

Sec. 18-71. - Violations; penalties.

Any person violating any provision of this article shall be, upon conviction or a plea of guilty, subject to a fine of not more than seven hundred dollars (\$700.00) and/or ninety (90) days in jail.

(Ord. No. 90-15, § 2(11), 12-10-90)