

ADMINISTRATIVE ORDER NO. 58-23-41
of the
Executive Director of the Public Works Department

**EXTENSION OF EMERGENCY AMENDMENT OF PARK AND OPEN
SPACE RULES ADOPTED BY ADMINISTRATIVE ORDER NO. 58-17-07-F.**

The Executive Director of the Public Works Department of the City of Eugene finds that:

A. Section 2.019 of the Eugene Code, 1971 (EC), authorizes the City Manager or designee to adopt rules for implementation of any provisions of that Code. EC 2.019(6) authorizes the City Manager to adopt emergency rules without prior public notice or hearing. Pursuant to the authority of Administrative Order No. 21-03-12 issued by the City Manager, the Executive Director of the Public Works Department is authorized to regulate City parks, protect park visitors and the park environment, and adopt rules regarding the use of parks.

B. On July 17, 2017, Administrative Order No. 58-17-07-F was issued adopting the City's Parks and Open Space Rules.

C. Most recently by Administrative Order No. 58-23-25, which is set to expire on December 6, 2023, Eugene Park and Open Space Rule 1.007(2)(b) was amended to add Gilbert Park to the list of 22 parks and open spaces where no person may consume alcoholic liquor or possess a receptacle containing alcoholic liquor that has been opened or had the seal broken or the contents partially removed in order to address the current and ongoing safety issues and criminal activity attributed, in part, to people that are consuming alcoholic liquor in Gilbert Park. The consumption of alcoholic liquor in Gilbert Park negatively impacts those seeking to utilize the play structure located in the park and those in the surrounding neighborhood. For those reasons, the amendment to Rule 1.007(2)(b) should be extended and action pursuant to EC 2.019(6) is warranted because failure to act promptly to prohibit alcoholic liquor in Gilbert Park will result in serious prejudice to the public interest.

D. Administrative Order No. 58-23-25 also amended Park and Open Space Rule 1.074 to provide for a stay on a Notice of Restriction of Use pending resolution of an appeal in response to a recent federal district court case, and to extend timelines related to such an appeal due to the significant increase in the number of appeals and difficulty for all parties to meet the very short timelines in the Rule since, with the stay in place, the timeline extensions would not compromise anyone's rights. For those reasons, the amendments to Rule 1.074 should be extended and action pursuant to EC 2.019(6) is warranted because failure to act promptly would result in serious prejudice to the interest of individuals that appeal a notice of restriction of parks and open space use.

NOW, THEREFORE, based upon the above findings and pursuant to the authority in subsection (6) of Section 2.019 of the Eugene Code, 1971, I order that the amendments to Park and Open Space Rule 1.007(2)(b) and Rule 1.074(2), (3), (5) and (6), shown in legislative format

below are extended effective December 6, 2023, and shall remain in effect until June 3, 2024 (180 days from December 6, 2023) unless replaced earlier by an emergency rule, temporary rule, or permanent rule adopted in accordance with the provisions of EC 2.019 of the Eugene Code, 1971.

EMERGENCY AMENDMENT TO PARK AND OPEN SPACE RULES

1.007 POSSESSION OR CONSUMPTION OF ALCOHOLIC LIQUOR.

(2) Possession and Consumption.

(b) No person may consume alcoholic liquor or possess a receptacle containing alcoholic liquor that has been opened or had the seal broken or the contents partially removed in the following parks and open spaces:

1. West Eugene Wetlands;
2. Spencer Butte;
3. Ridgeline Park System;
4. Charnel Mulligan Park;
5. Fairmount Park;
6. Hendricks Park (main garden section);
7. Monroe Park;
8. Scobert Park;
9. Sladden Park;
10. University Park;
11. Washburne Park;
12. Washington/Jefferson Park;
13. West University Park;
14. Maurie Jacobs Park (described as that contiguous park land west of Owen Rose Garden to a point on the west boundary where the improved area ends and the natural river front zone begins);
15. The Park Blocks (described as that area generally bounded by East 8th Avenue, West Park Street, and East Park Street);
16. Along the Willamette River between the water's edge and the adjacent pedestrian/bicycle path or, where there is no adjacent path, within 100 feet of the water's edge;
17. Martin Luther King Jr. Park;
18. Golden Gardens Park;
19. Along Amazon Creek between the water's edge and the adjacent pedestrian/bicycle path, whether hard or soft, or, where there is no adjacent path, on the adjacent city-owned natural area;

20. On any pedestrian/bicycle path, whether hard or soft, that is along Amazon Creek and within any city-owned natural area adjacent to a multi-use path that is along Amazon Creek;
21. Mangan Park; ~~and~~
22. Within Community Gardens; *and*
23. *Gilbert Park.*

1.074 PARKS AND OPEN SPACE DIVISION HEARING AND APPEAL PROCEDURE.

(2) The request for an informal hearing must be in writing and filed with the Parks & Open Space Division Director (“the Division Director”) at the location indicated on the notice within 48 hours (exclusive of weekends) of receipt of the notice. *Upon filing a request for an informal hearing, the Notice of Restriction of Use is stayed until:*

(a) *The person fails to appear at the informal hearing as described in subsection (3); or,*

(b) *Fourteen days from the date of the written decision of the Division Director has elapsed and no appeal to Municipal Court is filed; or,*

(c) *A timely filed appeal of the Division Director’s decision is resolved by Municipal Court.*

(3) The Division Director shall schedule a time and place for the informal hearing to be conducted, which shall be not more than [~~72 hours (exclusive of weekends)~~] *7 days from the* receipt of the request for hearing. *If the person that requested the informal hearing fails to appear at the scheduled informal hearing, the Notice of Restriction of Use is final and in effect and cannot be appealed to Municipal Court pursuant to subsection (6).*

(5) Within [~~72 hours~~] *5 days* of the informal hearing the Division Director will issue a written decision affirming, modifying, or canceling the notice. The decision shall be delivered or mailed to the person that requested the hearing on the date issued.

(6) The written decision of the Division Director shall be final unless the person that is subject to the decision appeals the decision *to Municipal Court within* [~~by appearing at Municipal Court at the time specified in the decision for a hearing on the appeal. The appeal hearing date shall be no more than~~] fourteen days from the date of the written decision. The Municipal Judge may affirm, modify or reverse the Division Director’s written decision. [~~If the person to whom the Division Director’s decision is issued does not appear at Municipal Court at~~

~~the time specified for the appeal, the written decision shall become final at the time set for the appeal.]~~

Dated this 8th day of November, 2023.



Matthew Rodrigues (Nov 8, 2023 19:50 PST)

Matthew Rodrigues
Public Works Executive Director