

ADMINISTRATIVE ORDER NO. 58-24-04
Public Works Department
City of Eugene, Oregon

**REGARDING THE OPPORTUNITY TO COMMENT ON A PROPOSAL TO
AMEND THE CITY'S PARK AND OPEN SPACE RULES.**

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

A. Section 2.019 of the Eugene Code authorizes the City Manager or designee to adopt rules for administration of any provisions of that Code. 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 the City parks and open spaces. The Executive Director has done so through the adoption of the City's Park and Open Space Rules.

B. The proposed amendments include Rule changes that are currently only temporarily in effect and additional changes to the City's Park and Open Space Rules that are needed to protect the public's safety and enjoyment of City parks and open spaces, clarify the standards and procedures used for enforcement of the Park and Open Space Rules, and implement court and/or City Council directives.

THEREFORE, I propose that the City's Park and Open Space Rules be amended as set forth below, and I order that a notice substantially conforming to the Notice attached as Exhibit A to this Order, shall be:

1. Made available to any person who has requested such notice; and
2. Published in the Register Guard Newspaper for at least five days.

**PROPOSED AMENDMENTS TO
PARK AND OPEN SPACE RULES**

(Proposed additions to current Rule are indicated in blue underline;
proposed deletions are indicated in ~~red strikethrough~~.)

Section 1. Subsection 1.005(3) of the Park and Open Space Rules is proposed to be amended as follows:

1.005 ENFORCEMENT.

...

(3) Notice of Restriction of Use.

(a) The City may, in its discretion, notify any person who engages in conduct in a park, open space, recreational facility or at a City sponsored activity that results in the person being asked to leave the park area, open space area, recreational facility, or activity, being issued a Notice of Rule

Violation pursuant to subsection (1)(a)3. of this section, being arrested or cited by a police officer for any violation of park and open space rules, the Eugene Code, 1971, or state or federal law, that they are prohibited from future use of City parks, open space, or facilities, or from participation in City sponsored programs or activities, and their entry therein or thereon will constitute trespassing and that further legal action will be taken accordingly.

1. Generally, the length of time that future use is restricted shall be based on the person's prior history, if any, of receiving Notice(s) of Restriction of Use. The following guidelines apply unless the issuing authority determines that the conduct giving rise to the Notice of Restriction warrants a different restriction period: 14 days for a first Notice, 1 month for a second Notice, 3 months for a third Notice, or 6 months for four or more Notices, within a 12-month period.

2. Generally, the scope of a restriction of use is limited to the specific park, open space, or facility where the conduct giving rise to the Notice of Restriction of Use has occurred. A Notice of Restriction of Use may, however, state that it applies to all City parks, open spaces, and facilities when the issuing authority determines that the prior history of the person being restricted or the conduct giving rise to the Notice of Restriction warrants a broader restriction.

(b) Any person(s) using or renting a park area, open space area, or recreational facility pursuant to a license or permit issued by the City, or any person permitted to participate in City sponsored park, open space, or recreational activities may have that license, or permit or permission revoked and may be immediately removed from a park area, or open space area, recreational facility or activity by authorized City personnel or a police officer if the person is in violation of these park and open space rules or of any term or condition of the license or permit. This remedy is in addition to any other remedies available under these rules or the license or permit.

The City may, in its discretion, notify any person who engages in conduct that results in the person having a license or permit revoked and being removed from a park area, open space area, recreational facility, or any person who engages in conduct that results in the person's permission to participate in City sponsored park, open space, or recreational activities being revoked and being removed from that activity that it may thereafter refuse to accept applications for use of park areas, open space areas, or recreational facilities or may refuse to allow participation in park, open space, or recreational activities by a person who violates these rules, state statutes, the Eugene Code, 1971, or any term or condition of a license or permit issued by the City.

As used in this subsection, "person" includes, but is not limited to, a business, corporation, association or organization.

(c) Notices restricting future use under subsections (3)(a) and (3)(b) of this section shall be issued by the Executive Director or designee, and shall set forth the reason(s) therefore. The Notice shall state the specific time period to which the prohibition on future use applies and the scope of the restriction. If a person is restricted for a period exceeding the guidelines in subsection (3)(a)1 and / or from all City parks, open spaces, and facilities, the Notice shall set forth the basis for the broader restriction.

(d) Any Notice that restricts a person's future use pursuant to subsections (3)(a) and (3)(b) of this section shall contain a statement advising of the right to request a hearing in the manner set forth in section 1.074 or section 1.075 of these rules and explaining that the restriction is stayed upon filing a request for a hearing.

(e) Nothing in this Section shall be construed to authorize the exclusion of any person lawfully exercising free speech rights or other rights protected by the state or federal constitution. However, a person engaged in such protected activity who also commits acts that are not protected and that violate applicable provisions of law, shall be subject to exclusion as provided in this Section.

Section 2. Subsection 1.007(2)(b) of the Park and Open Space Rules is proposed to be amended as follows:

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:

- ...
21. Mangan Park; **and**
22. Within Community Gardens;
23. Gilbert Park.

Section 3. Subsections 1.010(2), (16), (17) and (22) of the Park and Open Space Rules are proposed to be amended as follows:

1.010 PROHIBITED ACTIVITIES.

In addition to any other prohibitions in these rules, the following activities are prohibited within a park or open space area:

.....
(2) Setting up or constructing any temporary structures or enclosures, including, but not limited to canopies, ~~sleeping bags~~, artificial lighting generators, and tents, without written permission of the City.
.....

~~(16) Engaging in any activity or conduct which is disruptive or incompatible with the appropriate use of the premises or which interferes with the reasonable use and enjoyment of the park, open space area, or park facility by others, including, but not limited to, u~~Using playground equipment, sports courts, picnic tables or picnic shelters for reasons other than their intended use.

(17) Engaging in any activity or conduct which is disruptive or interferes with the enjoyment by others of a City event or an event for which the City has issued a Special Event Permit~~City sponsored park, open space, or recreational programs or activities.~~

.....

(22) Possessing:
(a) ~~f~~Five or more bicycles, more than three bicycles if parts are missing, a bicycle frame with either gears or brake cables cut, or more than four bicycle parts.

(b) Household furniture (such as a couch, non-collapsible chair or table, mattress that cannot be folded or rolled for personal portability) without the written permission of the City.

(c) Automotive parts (such as a catalytic converter, car stereo, tire, wheel, rim, battery, tailgate, license plate, airbag, seat).

Section 4. Subsection 1.074 of the Park and Open Space Rules is proposed to be amended as follows:

1.074 PARKS AND OPEN SPACE DIVISION HEARING AND APPEAL PROCEDURE.

(1) Any person who has received a notice issued pursuant to subsections (3)(a) or (3)(b) of Rule 1.005 that restricts their future use of park or open space areas may request an informal hearing to contest 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);

(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.

(2) The request for an informal hearing must be made within 48 hours (exclusive of weekends) of receipt of the notice and must be made either: (1) in writing ~~and filed with the Parks & Open Space Division Director ("the Division Director")~~ at the location indicated on the ~~n~~Notice or the email address on the Notice; or, (2) by calling the phone number provided on the Notice and either speaking to City staff or leaving a message with the case number and contact information~~within 48 hours (exclusive of weekends) of receipt of the notice.~~

(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)~~ seven days from the ~~of~~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).

(4) At the informal hearing the Division Director shall consider testimony from the City personnel involved in the incident that resulted in the notice, testimony from the person requesting the hearing, and testimony from any other witnesses to the incident. The Division Director may exclude anyone from the informal hearing, other than the person that requested the hearing, that is not presenting testimony to the Division Director.

(5) Within ~~72 hours~~five 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 ~~by appearing at~~ Municipal Court within 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 18 day of March, 2024.



Matthew Rodrigues (Mar 18, 2024 14:18 PDT)

Matthew Rodrigues
Public Works Executive Director

**NOTICE OF OPPORTUNITY TO COMMENT ON PROPOSED
AMENDMENT OF THE EUGENE PARK AND OPEN SPACE RULES.**

Pursuant to Section 2.019 of the Eugene Code and Administrative Order No. 21-03-12, the City of Eugene is proposing to amend its Park and Open Space Rules to make changes that are currently only temporarily in effect and additional changes to protect the public's safety and enjoyment of City parks and open spaces, clarify the standards and procedures used for enforcement of the Park and Open Space Rules, and implement court and/or City Council directives.

The proposed Rules may be reviewed at Parks and Open Space Division, 1820 Roosevelt Blvd., Eugene, Oregon, during normal business hours or on the City of Eugene's website at <https://www.eugene-or.gov/520/Administrative-Order>.

Comments on the proposed Rule amendments must be submitted in writing to City of Eugene Parks and Open Space Division, Attn: Community Engagement Manager, 1820 Roosevelt Blvd., Eugene, Oregon, 97401, or via e-mail to POS@eugene-or.gov. To be considered, written and e-mail comments must be received within 15 days of the first date of publication as indicated below.

Dates of Publication: April 1, 2, 3, 4, and 5, 2024.