

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

**AMENDING THE CITY’S PARK AND OPEN SPACE RULES
ADOPTED BY ADMINISTRATIVE ORDER NO. 58-17-07-F;
SUPERSEDING ADMINISTRATIVE ORDER 58-17-07-F; AND
REPEALING ADMINISTRATIVE ORDERS 58-23-41 AND 58-23-43.**

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

A. Section 2.019 of the Eugene Code, 1971, authorizes the City Manager to adopt rules for administration of provisions of the Eugene 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 City parks and open spaces. The Executive Director has done so through the adoption of the City’s Park and Open Space Rules (“the POS Rules”).

B. The most recent changes to the POS Rules were adopted on July 17, 2017, by Administrative Order No. 58-17-07-F, which set out the amended POS Rules in their entirety. A series of temporary amendments to the POS Rules have since been made, most recently by Administrative Order Nos. 58-23-41 and 58-23-43 which are set to expire on June 4 and June 30, 2024, respectively, and which are included in the amendments made by this Administrative Order.

C. On March 18, 2024, I issued Administrative Order No. 58-24-04 ordering that notice be given of the opportunity to submit written comments on proposed amendments to the POS Rules in order to make the changes that are currently only temporarily in effect, and to make additional changes 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 POS Rules, and implement court and/or City Council directives.

D. Notice of the proposed amendments to the POS Rules was given by publishing the Notice in the Register Guard newspaper on April 1, 2, 3, 4, and 5, 2024, and making copies of the Notice available to any person who had requested such notice. The Notice provided interested persons an opportunity to submit comments on the proposed amendments until the end of the day on April 16, 2024. Written comments received during the public comment period are addressed in the Findings in Consideration of Written Submissions attached as Exhibit A to this Order.

On the basis of these findings, I order that:

1. The amendments included in the Park and Open Space Rules set out in this Order are hereby adopted and the unamended provisions of the City’s Park and Open Space Rules

adopted by Administrative Order No. 58-17-07-F are reaffirmed. The City’s Park and Open Space Rules are set out in their entirety in this Order.

2. Administrative Order No. 58-17-07-F is superseded by this Order.
3. Administrative Orders No. 58-23-41 and 58-23-43 are repealed.
4. The Park and Open Space Rules are amended and adopted to provide as follows:

PARK AND OPEN SPACE RULES

1.000 PARK AND OPEN SPACE AREAS COVERED.

The following rules shall apply to all park property and facilities thereon belonging to the City of Eugene, including park property and facilities outside the corporate limits of the City, and to County parks within the corporate limits of the City, except park property and facilities for which other specific rules or regulations have been adopted. The following rules also apply to all “open space” areas. For purposes of these Rules, “open space” areas include all natural areas owned or leased by the City and managed for their natural resource value by the City’s Parks and Open Space Division of the Public Works Department. References herein to “park,” “park area,” or “open space” shall be deemed to include, where applicable, any facilities located thereon or recreational programs conducted therein or thereon.

1.02 RESPONSIBILITY FOR ADMINISTRATION OF RULES.

Responsibility for the acquisition, maintenance, use and operation of City parks, park lands, open space areas, park facilities, and recreation programs has been delegated by the City Manager as follows:

- (1) To the Executive Director of the Public Works Department:
 - (a) The authority under Section 2.019 of the Eugene Code, 1971 to promulgate park rules;
 - (b) The responsibility for the acquisition, maintenance, use and operation of City parks, park lands, and open space areas.
- (2) To the Executive Director of the Library, Recreational & Cultural Services Department (LRCS) the responsibility for the administration, use and operation of park facilities and recreation programs.

Therefore, references to “Executive Director,” “City,” and “authorized City personnel” in these Rules shall be deemed to include the Executive Director of Public Works and personnel from that department. It shall also be deemed to include the Executive Director of LRCS and personnel of

that department when the use, conduct or authority involves recreation programs or activities, or park facilities directly associated with those recreation programs or activities.

1.03 HOURS PARKS AND OPEN SPACE AREAS ARE CLOSED.

(1) Unless a specific exemption has been granted by the City Council, between the hours of 11:00 p.m. of one day and 6:00 a.m. of the succeeding day, no person other than law enforcement or authorized personnel shall be in a park or open space unless driving, bicycling, walking, or otherwise moving through the park or open space on lawful business within the public street right-of-way or officially-designated bicycle path or sidewalk, or authorized to be in the park or open space by the City Manager or the City Manager's designee. In addition to any closures or reductions in services dictated by budgetary constraints, the Director of Public Works may temporarily close all or any portion of a park, open space, or facility upon finding that conditions that threaten the welfare or safety of nearby residents exist, and the need to preserve their welfare and safety outweighs the public's right of access to the park, open space, and/or facility. The Director of Public Works' determination shall be by Administrative Order, shall contain the required findings, set forth the specific area that is closed to entry, the date of closure, and the date upon which it will be reopened. Clearly visible signs shall be posted at park or open space entry points and such other locations deemed appropriate by the Director of Public Works advising the public that entry is prohibited and the penalty for violation. No person other than law enforcement officers or authorized personnel may enter or remain within a park, open space, or facility during the closure period set forth in the Director of Public Works' order.

(2) In addition to a closure ordered under Subsection (1) of this section, the Director of the Public Works Department may restrict vehicular access to City parks or open space during regular open hours upon finding that such restriction is necessary for the preservation of the health, welfare and safety of the citizens of the City of Eugene. Upon such a determination, the gates at park or open space entry points may be closed, and appropriate signs posted indicating the hours that vehicular access is prohibited. A closure under this Subsection shall not limit the public's right of non-vehicular access to a park or open space between 6:00 a.m. and 11:00 p.m.

1.04 USE PERMITS

(1) **Permit Required.** Unless specifically authorized by the City pursuant to a written agreement, license, permit or other Administrative Rule, no person may conduct a public assembly, private gathering, parade, picnic, or other event involving more than 20 individuals in a City park, open space or park facility without first obtaining either a Standard Use Permit or a Special Event Permit.

(a) A request to use a City park, open space or park facility must be submitted to the Public Works Department (1820 Roosevelt Blvd., Eugene, OR 97402) by

completing an application form provided by the City. The application must be accompanied by an application fee as established by Administrative Order of the City Manager pursuant to Section 2.020 of the Eugene Code, 1971. The City will not accept an application for processing if it is not accompanied by the required application fee. Application fees for Standard Use or Special Event permits are not refundable. If an event is canceled, facility rental fees are refundable in the manner prescribed by Administrative Order of the City Manager. Applicants requesting to use a City park, open space or park facility multiple times for a reoccurring Standard Use Permit event need only submit one application form and fee per month.

(b) Permit applications must be accompanied by a signed statement (on a form provided by the City) providing that the applicant will defend, indemnify and hold harmless the City, its officials, agents and employees, for all claims of injury to property or persons that may arise as a result of any activity occurring at the event for which the applicant seeks a City permit.

(c) Except as provided in subsection (d) below, permit applications will be accepted only for the current calendar year and permit applications will be processed in the order of receipt, beginning on the first working day in January. The order of receipt of applications received prior to 9 a.m. on the first working day in January shall be determined by lottery.

(d) The City will accept permit applications for the next calendar year if the applicant can demonstrate that the subject event has been permitted by the City for the last three consecutive years at a specific location on a specified weekend or specific date(s). The City will accept these applications no sooner than the December prior to the year of the event.

(e) A person must obtain a Standard Use Permit to reserve a City park, open space or park facility for private gatherings of invited guests, such as weddings, bar mitzvahs, birthday parties, scheduled business gatherings, etc.

(f) A person must obtain a Special Event Permit to hold an event in a City park, open space or facility if the event will:

1. Have a controlled admission; or,
2. Require the erection of canopies, tents, booths, or stages; or,
3. Be advertised as a public event; or,
4. Amplify sound; or,
5. Use a park or open space facility as a staging site for a public event.

(g) Use permits will be issued consistent with park classifications and in accordance with this subsection. Park classifications are shown on Map 1 of the City's Parks, Recreation and Open Space Project and Priority Plan, adopted by City Council Resolution No. 4863.

1. Neighborhood parks are intended to primarily serve residents living within a ½ mile radius of the park; on-site parking is not generally provided. Unless the event receives endorsement from the governing neighborhood association, the City will not issue a use permit for a neighborhood park if the anticipated attendance of the proposed event will exceed 250 people or if the event is being advertised as a community-wide event.
2. Community parks are intended to serve the meeting and recreational needs of more than one neighborhood; on-site parking is generally provided. If a person applies for a neighborhood park use permit but the proposed attendance of the event will exceed 250 people or the event is being advertised as a community-wide event, unless the park permit application is denied pursuant to Section 1.004(8) of these Rules, the City shall offer to issue the park use permit for a community park if one is available.

(h) Up to twenty-four (24) months prior to the date of an event, a person may obtain a "Date Hold" for the event.

1. Date Hold requests must be submitted to the Public Works Department (1820 Roosevelt Blvd., Eugene, OR 97402) by completing an application form provided by the City. The application must be accompanied by a Date Hold application fee, as established by Administrative Order of the City Manager pursuant to Section 2.020 of the Eugene Code, 1971. The City will not accept a Date Hold application for processing if it is not accompanied by the required application fee. Date Hold application fees are not refundable, however, at the time of Special Event Permit application submission, a portion of the Date Hold application fee will be applied to the Special Event Application fee and facility fees in accordance with an Administrative Order of the City Manager adopted pursuant to Section 2.020 of the Eugene Code, 1971.
2. If a date is held for an event in accordance with this sub-section, but the responsible person does not submit a Special Event Permit application in December prior to the year of the event, the held date will be released on January 1 of the year of the event.

3. An event qualifies for a Date Hold if all of the following conditions are met:
 - i. A person has submitted a complete Date Hold application, including the required non-refundable Date Hold application fee; and,
 - ii. The anticipated attendance of the event will exceed 500 people; and,
 - iii. A person has submitted to the Eugene Special Events Team (ESET) an Event Notification Form and ESET has made a recommendation regarding the event; and,
 - iv. The City has not permitted an event at the requested location and on the requested date for the last two consecutive years; and,
 - v. The applicant has demonstrated that the proposed event complies with Section 1.004(1)(g) of these Rules.

(2) Special Event Permit Applications Must Include:

- (a)** For events with an anticipated attendance exceeding 500 people, a certificate of insurance naming the City of Eugene as an additional insured. The certificate must demonstrate that the special event organizers maintain a commercial general liability insurance policy with coverage of at least \$2,000,000, combined single limit per occurrence. The policy must be a primary policy, not a policy that contributes to any coverage that the City may carry.
- (b)** A site plan for the park or open space, if the permit holder intends to bring to the park or open space equipment, booths, garbage dump boxes, portable restrooms or a stage.
- (c)** A schedule of entertainment, if the permit holder intends to use amplified sound.
- (d)** A route map for the park and streets, if the permit holder intends to use the park to hold a race/walk/bike event. If the proposed event will impact public ways that are usually open to two-way traffic, the route map must address how the applicant intends to mitigate the impact on the two-way traffic by showing how two-way traffic will be maintained during the event or showing how and where two-way traffic will be controlled and diverted.
- (e)** A traffic control and parking plan, if the permit holder anticipates that attendance at the event will exceed 500 people. The traffic control and parking plan

must specify where parking will be provided for the anticipated number of event attendees, where vendor parking will be provided and where the applicant intends to provide overflow parking if event attendance exceeds the anticipated number of persons. If the proposed event will impact public ways that are usually open to two-way traffic, the traffic control and parking plan must address how the applicant intends to mitigate the impact on the two-way traffic by showing how two-way traffic will be maintained during the event or showing how and where two-way traffic will be controlled and diverted.

(f) For events with an anticipated attendance exceeding 500 people, a roster/schedule that identifies the contact person(s) that will be on-site at the event and provides the telephone number of the cell phone that the contact person(s) will be carrying while at the event site. The roster/schedule must cover every hour of the event and the identified contact persons(s) must have the authority to correct problems that arise at the event.

(g) The applicant's consent to attend a pre-event conference and/or post-event conference with City staff, if a request for one or both of these conferences is made by the City.

(3) Alcoholic Beverages.

(a) The consumption and/or sale of alcohol at an event for which the City has issued a permit must comply with Section 1.007 of these Rules and all rules established by the Oregon Liquor Control Commission (OLCC).

(b) If an event involves the consumption or sale of alcoholic beverages, event organizers must maintain a commercial liquor liability insurance policy and submit a certificate of insurance with the permit application.

1. Standard Event Permit holders must maintain liquor liability coverage of at least \$2,000,000, combined single limit per occurrence.
2. Special Event Permit holders must maintain liquor liability coverage of at least \$2,000,000, combined single limit per occurrence.

(c) If an event involves the consumption or sale of alcoholic beverages but no permit is required for the event, event organizers must maintain commercial liquor liability insurance with liability coverage of at least \$2,000,000, combined single limit per occurrence, and submit a certificate of insurance to the City prior to the event.

(d) If an event involves the sale of alcoholic beverage, event organizers must obtain an OLCC license and provide the City with a copy of the license at least 20 days prior to the date of the event.

(e) Even if an event organizer is not required to obtain insurance pursuant to another provision of these Rules, if alcoholic beverages will be consumed as part of an event, or by event attendees, the City will not issue a Standard Use Permit or a Special Event Permit, or enter into a rental agreement for a community center or a senior center, unless the event organizer has provided the City with proof of insurance coverage for the event.

(4) **Food.**

(a) If food at the event is to be sold, catered, or given away for charitable purposes, event organizers must provide the City with a copy of the restaurant license and a certificate of insurance by the last business day of the week prior to the date of the event. If a vendor fails to provide the City with a copy of the license by the last business day of the week prior to the date of the event the vendor is prohibited from setting up at the event. For the purposes of this section, “business day” means Monday through Friday, 9 a.m. to 5 p.m., exclusive of holidays. This food licensing requirement does not extend to personal gatherings where food is exchanged among participants, such as potluck events.

(b) A Special Event Permit holder may restrict event attendants from bringing outside food and non-alcoholic beverages into the areas that are subject to a separate rental agreement with the City and that have a controlled admission. A Special Event Permit holder may not otherwise prohibit outside food and non-alcoholic beverages at special events.

(5) **Signs and Concessions.**

(a) A Special Event Permit holder is exempt from Section 1.060(1) of these Rules which prohibits anyone, except in specifically designated areas, from erecting a sign, marker or inscription of any type within a park or open space area.

(b) A Special Events Permit holder is exempt from Section 1.060(2) of these Rules which prohibits anyone from operating a fixed or mobile concession, soliciting, selling, offering for sale, peddling, hawking or vending any goods or services or advertising any goods or services.

1. Event organizers are responsible for maintaining control over the vendors who sell goods or services at permitted events.
2. Sales of goods and services must be confined to the boundaries of the event.
3. If the City has an existing contract with a vendor for business in a City park or open space, that contract will supersede the event organizer’s permit allowing the organizer to contract with a vendor.

(6) Security/Traffic Control. For special events with an anticipated attendance exceeding 500 people, event organizers must provide security and traffic control personnel for the event. An event organizer must hire enough security/traffic personnel to effectively manage the anticipated size of the event. Event organizers must provide documentation establishing that the personnel hired for traffic control have adequate experience in traffic control to effectively manage the anticipated size of the event. Personnel providing traffic control services must do so in accordance with both state and local law. If an event organizer uses City of Eugene police officers to provide security or traffic control services for the event, the event organizer will be charged for the services provided by the officers. Fees for event services provided by City of Eugene police officers are established by Administrative Order of the City Manager pursuant to Section 2.020 of the Eugene Code.

(7) Vehicle Access to Park Sidewalks, Pathways and Irrigated Turf. Driving or parking motorized vehicles on irrigated turf, internal park sidewalks and pathways or upon the regional pedestrian/bicycle path system is prohibited without written permission from the City. Applicants for a Standard Use Permit or Special Event Use Permit may include with their permit application a request for City permission to have vehicle access to the event site via these prohibited areas. A request for such permission must specify the number of vehicles for which permission is sought, and must specify for what purpose permission is sought. The City will grant permission only for event-necessary activities such as equipment delivery and pick-up. If permission is granted, prior to issuance of the Vehicle Access placard(s) that must be placed on the dashboard of the authorized vehicle(s), the applicant must pay a Vehicle Access fee as established by Administrative Order of the City Manager pursuant to Section 2.020 of the Eugene Code, 1971.

(8) Vehicle Access to Non-Irrigated Grass, Landscaped Areas and Under Tree Canopies.

(a) Driving or parking vehicles on landscaped areas or under tree canopies is prohibited.

(b) Driving or parking vehicles on non-irrigated grass areas is prohibited unless explicitly approved as part of a Standard Use Permit or Special Event Use Permit. A request for such approval must be included with the permit application and must identify the requested parking zone(s). Requests for event participant parking on non-irrigated grass will be considered on a first-come, first-serve basis and will be granted or denied based on the existing condition of the turf one week prior to the scheduled event; if the turf shows discernable tire ruts from one-ton trucks or if the turf has a visible loss of vegetative cover from previous activities, the request may be denied. Requests may be denied based on forecasted wet weather. If approved, prior to the issuance of the event permit the applicant must pay a Vehicle Access fee (for event-necessary activities such as equipment delivery and pick-up) or an Overflow Event Parking fee as established by Administrative Order of the City Manager pursuant to Section 2.020 of the Eugene Code, 1971.

(9) Permit Application Decision. The Executive Director or designee must grant or deny an application for a park use permit within fourteen days of the application being deemed complete, unless the Executive Director or designee extends the processing period by an additional fourteen days by written notice to the applicant. An application is deemed complete upon submission if it contains all of the information required by these Rules. If City staff notifies the applicant of missing application materials, an application is deemed complete upon the applicant's submission of the missing application materials. Regardless of whether an applicant has submitted the missing application materials, the application will be deemed complete thirty (30) days prior to a special event or ten (10) days prior to a standard event. If, after submission of an application but before the Executive Director or designee renders a decision, the applicant submits revised or supplemental application materials, the Executive Director or designee must grant or deny the application within fourteen days of receipt of the revised or supplemental application materials. Any application not acted on by the deadline shall be deemed granted, conditional upon any of the requirements being satisfied.

(10) Permit Denials.

(a) A denial of a permit application must be made in writing and sent by first class mail to the applicant at the address stated in the application. The notice of denial shall set forth the grounds upon which the permit was denied, and where feasible, shall contain a proposal by the Executive Director or designee for measures by which the applicant may cure any defects in the application or otherwise procure a permit.

(b) An applicant may appeal the denial of a permit to a hearings officer in the manner prescribed by Section 2.021 of the Eugene Code. The hearings officer's decision is final. Pursuant to ORS 34.020, an applicant has the right to appeal the hearings officer's final order by filing a Writ of Review in Circuit Court.

(c) To the extent permitted by law, the Executive Director or designee may deny an application for a permit on any of the following grounds:

1. The applicant or the person on whose behalf the application for permit was made has on prior occasions made material misrepresentations regarding the nature or scope of an event or activity previously permitted or has violated the terms of prior permits issued to or on behalf of the applicant;
2. The application for permit (including any required attachments and submissions) is incomplete or improperly executed;
3. The applicant has not tendered the required application fee with the application or has not tendered the required user fee, indemnification agreement, insurance certificate, or security deposit within the times prescribed by the Executive Director or designee;

4. The application for permit contains a material falsehood or misrepresentation;
5. The applicant is legally incompetent to contract or to sue and be sued;
6. The applicant or the person on whose behalf the application for permit was made has on prior occasions damaged City property and has not paid in full for such damage, or has other outstanding and unpaid debts to the City;
7. A fully executed prior application for permit for the same time and place has been received, and a permit has been or will be granted to a prior applicant authorizing uses or activities which do not reasonably permit multiple occupancy of the particular park or part hereof;
8. The use or activity intended by the applicant would conflict with previously planned programs organized and conducted by the City and previously scheduled for the same time and place;
9. The proposed use or activity is prohibited by or inconsistent with the classifications and uses of the park or part thereof designated pursuant to City code or Administrative Rule;
10. The use or activity intended by the applicant would present an unreasonable danger to the health or safety of the applicant, or other users of the park, of City employees or of the public;
11. The applicant has not complied or cannot comply with applicable licensure requirements, ordinances or regulations of the City concerning the sale or offering for sale of any goods or services;
12. The use or activity intended by the applicant is prohibited by law, the City Code, or by the City's administrative rules.

(11) Security Deposit. When a permit application is approved, at the time of permit issuance, the applicant must submit to the City a security deposit and, if applicable, a key deposit, as established by Administrative Order of the City Manager pursuant to Section 2.020 of the Eugene Code, 1971. Refunded security deposits will be mailed to the permit applicant two weeks following the event. Unless the City has a reason to withhold the security deposit, an applicant may pick up the security deposit at 1820 Roosevelt Blvd. in Eugene when keys are returned. Security deposits paid by cash must be picked up in person by the permit applicant. The security deposit is fully refundable unless:

- (a) The event extends beyond the permitted time;
- (b) The facility, structures, amenities or turf areas are damaged;
- (c) City property is missing or damaged;
- (d) Activities at the event required police assistance; or
- (e) The facility or park was not returned to its original condition, including but not limited to, failure to remove litter or other debris, failure to remove bagged garbage or recycling.

1.05 ENFORCEMENT.

(1) Enforcement by City of Eugene Police Officers.

(a) In addition to any other existing authority for citation and/or arrest, if a violation of these Rules takes place in the presence of a police officer, the violator may be subject to arrest by the officer or the officer may issue a misdemeanor citation in lieu of arrest.

(b) A police officer may also take a person into custody or issue a misdemeanor citation for trespass to a person if the officer is contacted and advised by authorized City personnel or other person in lawful charge of premises that the person:

1. Has failed to comply with a request by authorized City personnel or other person in lawful charge of the premises to leave the park area, open space area, recreational facility, or activity; or
2. Is in violation of a previously issued Notice of Restriction of Use issued pursuant to subsection (2) of this section which excludes the violator from park and open space areas, recreational facilities or activities.

(2) Notice of Restriction of Use.

(a) A police officer may, in their discretion, also issue a Notice of Restriction of Use to any person being arrested or cited for any violation of Park and Open Space Rules or for conduct that occurred in a park, open space, or facility therein that violates the Eugene Code or state or federal law. A Notice of Restriction of Use prohibits its recipient from future use of one or more City parks, open spaces, or facilities thereon, or from participation in City sponsored programs or activities thereon for a specific period of time. Violation of a Notice of Restriction of Use will constitute trespassing and 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 police officer determines that the conduct giving rise to the Notice of Restriction of Use 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 police officer determines that the prior history of the person being restricted or the conduct giving rise to the Notice of Restriction of Use 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) A Notice of Restriction of Use shall set forth the reason(s) therefore. The Notice shall state the specific time period to which the restriction applies and the scope of the restriction. If a person is restricted for a period exceeding the guidelines

in subsection (2)(a)1 and / or from all City parks, open spaces, and facilities, the Notice shall set forth the basis for the broader restriction.

(d) A Notice of Restriction of Use 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 issuance of a Notice of Restriction of Use to 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, may be issued a Notice of Restriction of Use for that unlawful conduct as provided in this section.

1.007 POSSESSION OR CONSUMPTION OF ALCOHOLIC LIQUOR.

(1) **Definitions.** For purposes of this Rule, alcoholic liquor and hard liquor mean:

(a) **Alcoholic liquor.** An alcoholic beverage containing more than one-half of one percent of alcohol by volume, including but not limited to beer, ale, porter, stout, and wine.

(b) **Hard liquor.** An alcoholic beverage, including sweet wines and all spirituous liquors, containing 14 percent or more of alcohol by volume.

(2) **Possession and Consumption.**

(a) No person may consume hard liquor or possess a receptacle containing hard liquor that has been opened or had the seal broken or the contents partially removed in any park or open space.

(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;
22. Within Community Gardens; and
23. Gilbert Park.

(c) Unless the City has authorized the possession and consumption of alcoholic liquor therein as part of a Standard Use Permit or a Special Event Permit, 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. Alton Baker Park;
2. Owen Memorial Rose Garden; and
3. Westmoreland Park.

(d) If a park or open space is not identified in subsection (b) above, alcoholic liquor may be possessed and consumed within the park and open space. However, within such park and open space 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 within 25 feet of the following:

1. Children's playground areas;
2. Athletic fields;
3. Wading pools;
4. Tennis courts;
5. Parking lots;
6. Skateboard facilities;

7. Rest rooms; and
8. Sheltered picnic areas, unless explicitly authorized by the City in writing in conjunction with the rental of a sheltered picnic area.

(e) 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 within the following facilities or within 200 feet of the following facilities, unless explicitly permitted by the facility supervisor or the person in charge of the facility (indicated in parenthesis):

1. Amazon Community Center;
2. Amazon Pool;
3. Celeste Campbell Senior Center;
4. Cuthbert Amphitheater;
5. Echo Hollow Pool;
6. Hilyard Community Center;
7. Petersen Park Barn;
8. Sheldon Community Center;
9. Sheldon Pool;
10. River House;
11. Washington Park Center;
12. Laurelwood Golf Course, Pro-Shop, Upstairs rental space (Golf course operator);
13. Shelton McMurphy Johnson House (Non-profit group);
14. Trude Kaufman Senior Center (Non-profit group);
15. Wayne Morse Ranch Park (Caretaker);
16. Westmoreland Community Center (Non-profit group);
17. The Science Factory (Lessee);
18. Lamb Cottage;
19. Disc Golf Course at Alton Baker Park (Contract course operator);
and
20. Alton Baker BMX Track (Emerald Valley BMX).

1.008 USE OF TOBACCO PRODUCTS AND SMOKING INSTRUMENTS.

The use of any smoking instrument or device is prohibited in all park and open space areas and facilities thereon. This prohibition also applies to the areas outside park and open space facilities that are within 25 feet of doors, entries, or pathways thereto, such as patios, walkways, and sidewalks. The oral use of tobacco products (i.e., chewing tobacco) is prohibited within all public restrooms, parking lots, pools, playgrounds, skate bowls and community centers.

As used herein, "smoking instrument or device" is defined as cigarettes, cigarillos, cigars, clove cigarettes, e-cigarettes, pipes, and other related products. This prohibition shall be incorporated in and made a part of all permits or licenses for use of City Park and Open Space facilities.

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:

- (1)** Setting up or using an amplified sound system without the written permission of the City.
- (2)** Setting up or constructing any temporary structures or enclosures, including, but not limited to canopies, artificial lighting generators, and tents, without written permission of the City.
- (3)** Operating or using any battery or vehicle operated noise-producing device in a manner that disturbs other park visitors.
- (4)** Participating in a disturbance or riotous behavior that interferes with the reasonable use by the general public of the park, open space, or facility.
- (5)** Using a metal detector within a park or open space area without the written permission of the City.
- (6)** Use of bicycles on Pre's Trail, Adidas Trail and Rexus Trail.
- (7)** Playing sports outside recreation areas set aside for that purpose if the activity is harmful to plant life or fixtures, or interferes with other uses of the park or open space.
- (8)** Playing golf outside of the areas designated for golf.
- (9)** Playing sports or engaging in other activities in areas set aside for organized sports activities during a time when such areas are scheduled by the City for use without the written permission of the City.
- (10)** Organized non-City sponsored sports activities on athletic facilities without written permission from the City.
- (11)** Organized group events such as picnics, weddings, etc. within the Hendricks Park Rhododendron Garden section, as such activities would disturb the tranquility of the area.
- (12)** Wading, swimming or bathing in any of the pools, ponds, or canals of Alton Baker Park.
- (13)** Unless necessary to assist a disabled person, as defined in ORS 174.407, or a child under the age of eight years old, with his or her use of a restroom, no more than one person at a time may occupy a restroom stall in any park or open space area.

(14) Engaging in any commercial or special use of a park, open space area, or park facility such as, but not limited to, commercial photography and production of videos or movies without first obtaining a license or permit therefore from the City.

(15) Engaging in any activity or conduct within a park, open space area, or park facility that is prohibited by these Rules, state statutes, the Eugene Code, 1971, or posted signs.

(16) 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 disturbs a City event or an event for which the City has issued a Use Permit pursuant to Section 1.004 of these Rules.

(18) Engaging in any of the above activities, or other activities such as, but not limited to, demonstrations, vending, or still photo sessions in a manner that blocks a park or open space entrance or pathway, or interferes with the intended use of that portion of the park or open space.

(19) Entering in or upon a park facility, open space, or park area during the period of time the facility or area is rented or reserved for use by others, and failing to leave the facility or area when requested to do so by the person renting or reserving the park facility, open space, or park area.

(20) Entering in or upon a park facility, open space, or park area, or a portion of such an area, that is posted, delineated, fenced, or barricaded to close it to public use.

(21) Assembling, disassembling, distributing or attempting to distribute bicycles or bicycle parts without the written permission of the City.

(22) Possessing:

(a) 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).

1.015 HUNTING AND FIREARMS.

- (1)** In a park or open space area, no person may:
 - (a)** Hunt, pursue, trap, kill, injure, molest, or disturb any wildlife.
 - (b)** Discharge a firearm, pellet gun, bow and arrow, slingshot, or other weapon capable of injuring a person or wildlife.
- (2)** City staff or staff from other wildlife management agencies are exempt from subsection (1) of this section when performing authorized duties of their position.

1.020 UNCLAIMED ARTICLES.

No person shall leave personal property unattended. An article found in a park or open space area or facility shall be turned over to the City department responsible for the park area, open space area, or facility and disposed of in accordance with applicable City and state law.

1.025 FIRES AND FIREWORKS.

- (1)** Fires are prohibited in Spencer Butte Park and the Ridgeline Park System, except prescribed vegetation management fires conducted by City staff or other authorized personnel.
- (2)** Fires in all other park and open space areas shall be confined to:
 - (a)** Park camp stoves or fireplaces provided for that purpose.
 - (b)** Portable stoves or grills in developed park/picnic areas. Stoves, grills, and other appliances or equipment designed to generate heat shall not be placed on top of picnic tables and must be set at least 25 feet away from picnic shelters or other park structures.
 - (c)** Prescribed vegetation management fires, conducted by City staff or other authorized personnel.
- (3)** No fire in a park or open space area may be left unattended; every fire must be extinguished by the user before leaving the park or open space area.
- (4)** Unless specifically authorized by the Executive Manager or designee, the use of fireworks of all types (including sparklers, cone fountains, snakes and model rockets) is prohibited in park and open space areas.

1.030 VEHICLES.

- (1) No bicycles may be operated on trails designated as foot paths only.
- (2) Motor vehicles may be operated only on roads and in parking areas constructed or designated for motor vehicle use. Vehicles must be parked within designated parking lines and must occupy only one parking space without first obtaining written permission from the City.
- (3) No motor vehicle may be operated on a bicycle or foot path without first obtaining written permission from the City. Persons seeking permission to temporarily operate a motor vehicle on a bicycle or foot path can submit an application for a Vehicle Access permit to the Executive Director or designee. If permission to temporarily operate a motor vehicle on a bicycle or foot path is sought from a property owner for the purpose of accessing their abutting property, there is no fee for obtaining a Vehicle Access permit.
- (4) Motor vehicles and trailers may be parked only in designated parking areas. The parking area is clearly designated in each park or open space area.
- (5) Motor vehicles not parked in a “parking facility”, as that term is defined by EC 5.010, are subject to being cited for violation of these Rules and towed at the owner’s expense.
- (6) No person may park under the canopy of a tree, unless parking in a paved parking area.
- (7) No person may operate a vehicle within a park or open space area at a speed exceeding 20 miles per hour unless the roadway is posted with a greater speed limit.
- (8) No commercial vehicles, or vehicles with the combined weight greater than that of a passenger automobile and its load, shall be permitted to use the roads in any parks or open space areas of the City without first obtaining written permission from the City.
- (9) This section does not apply to maintenance vehicles, emergency vehicles, and wheelchairs (manual and electric).
- (10) Unauthorized motor vehicles and trailers remaining in a park after the park has closed are subject to being cited for violation of these Rules and towed at the owner’s expense.

1.035 WASHINGTON JEFFERSON PARK ZONE 1

- (1) **Zone 1 Boundary.** Washington Jefferson Park Zone 1 is the area of Washington Jefferson Park located north of the railroad tracks, south of West 1st Avenue, between Washington and Jefferson Streets.

(2) **Hours.** Notwithstanding Section 1.003(1) of these Rules, Washington Jefferson Park Zone 1 hours of operation are 6:00 a.m. until 1:00 a.m.

(3) **Prohibited Activities.** In addition to all other prohibitions in these Rules, the following activities are prohibited within Washington Jefferson Park Zone 1:

- (a) Using a bike with metal pegs or pedals;
- (b) Operating or using any motorized device, including scooters, bikes, mopeds motorized skateboards and remote control vehicles.
- (c) Possessing a dog, except a leashed dog traveling on a pathway or a dog assisting an individual with a disability.
- (d) Using any cigarettes, e-cigarettes, cigars, pipes, or chewing tobacco.

1.040 **ENCROACHMENTS.**

(1) **Prohibition.** Unless specifically authorized by the City pursuant to a revocable permit, no person may cause or allow an encroachment upon any park property owned by the City of Eugene.

(a) For purposes of these Rules, “encroachment” means an unlawful, unauthorized or unpermitted use of park property including, but not limited to, placing on park property, either temporarily or permanently, a building, structure, garage, shed, fence, deck, driveway, playhouse, tree house, play equipment, lawn furniture, compost/garbage bin, yard waste pile, landscaping (such as trees, shrubs, grasses or forbs), irrigation system, or using park property as a parking space, patio, garden, or storage area.

(b) Park encroachments will be permitted by the City only in accordance with these Rules.

(2) **Notification of Encroachment.**

(a) The City will send a Notice of Encroachment to the owner(s) of the property believed to be encroaching upon City park property. The Notice of Encroachment will:

1. Describe the identified encroachment;
2. Describe what actions constitute a removal of the identified encroachment;

3. Set forth the five options, described in Section 1.040(2)(b) of these Rules, available to the property owner(s); and,
4. Include a copy of the Park and Open Space Rule 1.040-Encroachments and applicable forms.

(b) A person that is notified by the City that he/she has caused or allowed an encroachment upon park property must respond in writing to the City within sixty (60) days from the date of the notification. The written response submitted to the City must do one of the following:

1. Inform the City that the identified encroachment has been removed; or
2. Inform the City that the identified encroachment will be removed and request that the City allow a specific amount of time for the removal of the identified encroachment to occur; or
3. Dispute that the identified encroachment is an encroachment upon City owned park property and include supporting documentation; or
4. Request that the City issue a revocable permit for the park encroachment because the encroachment provides access to a residence; or
5. Request that the City issue a revocable permit to allow the gradual removal of a pre-August 3, 2009, encroachment.

(3) Failure to Respond to Notification of Encroachment. If, after forty-five (45) days from the date of the notification, the City has not yet received a response to its encroachment notification, the City will send a reminder to the responsible party requesting a response to the City's notification. If a person notified by the City that he/she has caused or allowed an encroachment upon park property fails to respond in accordance with these Rules, the City will proceed with enforcement action to remove the identified encroachment.

(4) Enforcement Action. If the encroachment has not been voluntarily eliminated or a revocable permit for the encroachment has not been issued, the City may:

(a) Assess penalties against the responsible party in accordance with these Park and Open Space Rules.

1. Unless a later date is specified by the City, daily penalties of up to \$500 begin to accrue on the 61st day following the City's notification of the encroachment.

2. Each day that an encroachment exists constitutes a separate violation of these Park and Open Space Rules.

(b) Take action to eliminate the encroachment.

1. Action to eliminate the encroachment taken by the City includes, but is not limited to, the initiation of City-led work to remove the encroachment and charging fees to defray associated costs for the City-led removal work.

2. If the responsible party does not comply with fee payment for the removal of the encroachment, the City may take additional enforcement action that includes placing a lien on the responsible party's property.

(5) Revocable Permits.

(a) The City is authorized to issue a revocable permit for a pedestrian access encroachment if all of the following conditions are met:

1. The park encroachment provides pedestrian access to the residence; and
2. The park encroachment does not interfere with the public's use and enjoyment of the park; and
3. The park encroachment intrudes on park property only to the extent necessary to provide the pedestrian access; and
4. The park encroachment existed prior to August 3, 2009; and
5. Permittee agrees to pay the annual encroachment fee established by Administrative Order of the City Manager pursuant to Section 2.020 of the Eugene Code, for park property utilized for the pedestrian access.

(b) The City is authorized to issue a revocable permit for a vehicular access encroachment if all of the following conditions are met:

1. The park encroachment provides sole vehicular access to the residence; and
2. The park encroachment does not interfere with the public's use and enjoyment of the park; and
3. The park encroachment intrudes on park property only to the extent necessary to provide the vehicular access; and

4. The park encroachment existed prior to August 3, 2009; and
5. Permittee agrees to pay the annual encroachment fee established by Administrative Order of the City Manager pursuant to Section 2.020 of the Eugene Code, for park property utilized for the vehicular access.

(c) The City is authorized to issue a limited-duration revocable permit to allow for the transition of a non-access encroachment that existed prior to August 3, 2009, if all of the following conditions are met:

1. The Permittee agrees to a specific period of time during which the Permittee will transition the encroached upon parkland back to park use; and
2. The permit sets forth a plan that details how and when the Permittee will remove the encroachment; and
3. The permit requires the Permittee to show steady and verifiable process towards transitioning the encroachment back to park use; and
4. The permit sets forth dates by which transition benchmarks must be achieved by the Permittee. Failure of a Permittee to meet a benchmark date may result in the revocation of the permit and require the Permittee to immediately remove any remaining encroachment; and
5. The Permittee agrees to pay the limited-duration encroachment fee established by Administrative Order of the City Manager pursuant to Section 2.020 of the Eugene Code, for the encroached upon park property being transitioned back to park use.

(d) A request for a revocable permit to encroach upon park property for a vehicle or pedestrian access and a request for a limited-duration revocable permit to allow for the transition of a pre-August 3, 2009, encroachment back to park use must be submitted to the Public Works Department (1820 Roosevelt Blvd., Eugene, OR 97402) by completing an application form provided by the City. The application must be accompanied by an application fee as established by Administrative Order of the City Manager pursuant to Section 2.020 of the Eugene Code.

(e) Permits are revocable upon thirty (30) days' notice or immediately upon failure of the Permittee to comply with the terms and conditions of the Permit.

(f) The terms of the revocable permit will be established by the City and will include a specific duration of time that the encroachment can remain, conditions to minimize damage to City property, fees to defray the cost of evaluating and processing the permit application and monitoring compliance with the permit requirements and any other criteria deemed necessary by the Executive Director or designee. Limited duration revocable permits, issued in accordance with 1.040(5)(c), are valid for one-year with the option to renew.

(g) Permit holders will be assessed an annual encroachment fee as established by Administrative Order of the City Manager pursuant to Section 2.020 of the Eugene Code.

(h) If the City denies a request for a revocable permit, the responsible party will have sixty (60) days from the date of denial to remove the identified encroachment.

(6) **Appeal Rights.** A person aggrieved by a decision made pursuant to Section 1.040 of these Rules may appeal that decision to a hearings officer in the manner prescribed by Section 2.021 of the Eugene Code. The hearings officer's decision is final. A person may appeal the City's determination that there is an encroachment upon City property only if the person complied with Section 1.040(2)(b) of these Rules.

1.045 COMMUNITY GARDENS.

(1) **Plot Use Permit.** Unless specifically authorized by the City pursuant to a written agreement, license, permit or other Administrative Rule, no person may use a Community Garden plot without first obtaining a Plot Use Permit.

(a) A request to use a Community Garden plot must be submitted to the Public Works Department (1820 Roosevelt Blvd., Eugene, OR 97402) by completing an application form (or renewal form) provided by the City. All permit applications and renewal applications must be accompanied by the Plot Use Permit fee as established by Administrative Order of the City Manager pursuant to Section 2.020 of the Eugene Code, 1971 and a signed statement (on a form provided by the City) that the applicant has read and agrees to the Plot Use Permit Terms and Conditions. If an applicant is not issued a Plot Use Permit the City will refund the permit fee.

(b) Beginning the first Tuesday in October, gardeners who held Plot Use Permits the previous year may submit a permit renewal application. The City will accept permit renewal applications until 5:00 p.m. on the last Tuesday in October. A garden plot subject to the prior year's Plot Use Permit for which a permit renewal application and fee is not submitted by the October deadline may be made available to new Plot Use Permit applicants.

(c) Beginning the second Tuesday in January, the City will post garden plot availability and will start accepting Plot Use Permit applications. Permit

applications must be accompanied by the Plot Use Permit fee as established by Administrative Order of the City Manager pursuant to Section 2.020 of the Eugene Code, 1971. The City will accept Plot Use Permit applications until 5:00 p.m. on the second Tuesday in February. Except as provided in subsection (d), issuance of Plot Use Permits will be determined by lottery. The initial lottery will be drawn from a pool of City of Eugene residents. If plots are still available after the City-resident lottery is drawn, a second lottery will be drawn from a pool of non-City residents.

1. Individuals chosen by lottery to receive a Plot Use Permit will be assigned a plot based on the preferences stated on the application forms. Individuals receiving a plot assignment will be contacted by telephone and may choose to accept the garden plot; when a plot is accepted the permit issuance process must be completed within 10 days of notification. The permit issuance process is not complete until the individual has paid the non-refundable Plot Use Permit fee as established by Administrative Order of the City Manager pursuant to Section 2.020 of the Eugene Code, 1971. If the permit issuance process for a new plot is not completed within 10 days of plot issuance notification, the plot may be reassigned.
2. Individuals not chosen by lottery will be placed on a waiting list and will be contacted when a plot becomes available.

(d) The Executive Director or designee may deny an application for a Plot Use Permit in accordance with Section 1.004(10) of these Rules.

(e) The Executive Director or designee may revoke a Plot Use Permit in accordance with Section 1.005(2)(b) of these Rules. Prior to revoking a Plot Use Permit, the Executive Director or designee may, in the Executive Director or designee's sole discretion, choose to give a permit holder time to correct the violation.

(2) **Conduct.** In addition to the other requirements of these Rules, Plot Use Permit holders shall:

(a) Keep individual plots free from weeds and debris and in a planted, productive state or cover-cropped or mulched as detailed in the Plot Use Permit Terms and Conditions.

(b) Maintain plots in a working state by the spring deadline, and winterize by the winter deadline as specified in the Plot Use Terms and Conditions.

(c) Not take produce, flowers or other materials from another plot without permission.

- (d) Drive vehicles in the garden only from May through September, and then only to transport gardening produce, materials or supplies. All vehicles are prohibited when soils are wet and soft.
- (e) Not use registered pesticides within a Community Garden or within 25 feet of the outside perimeter of a Community Garden site.
- (f) Not construct or erect permanent structures in the garden plots.

1.050 PETS.

- (1) No pet shall be left unattended and unsupervised in a City park or open space area.
- (2) Except for seeing-eye dogs and other assist dogs, dogs are prohibited in park and open space areas posted as no dog areas, picnic shelters and public restrooms.
- (3) A dog brought into or kept in all other park and open space areas shall be on a leash not more than 8 feet in length, or confined in a vehicle, and must be kept under control at all times.
- (4) No dog may deposit solid waste matter on a park or open space property unless the dog's owner immediately removes the solid waste.
- (5) A dog's owner is responsible for the dog's behavior at all times while the dog is in the park or open space area.
- (6) Authorized City employees may require a person in charge of an animal to undertake any measure, including the removal of the animal from the park or open space area, necessary to prevent interference by the animal with the safety, comfort, or well-being of park or open space area visitors or resources.
- (7) No person may ride, drive, lead, or keep a horse, livestock, or any other animal in a park or open space area except on roads, trails, or areas specifically designated for that purpose, except by special authorization from the City.
- (8) No animal may be hitched to a tree or shrub in a manner that endangers the tree or shrub.
- (9) Dogs may be allowed to run off leash if the City has explicitly given written authorization for the off leash activity. Dogs may also be allowed to run off leash in officially designated and signed off leash dog areas at Candlelight Park, Wayne Morse Ranch, Alton Baker Park, and Amazon Parkway, provided:
 - (a) The dog is properly licensed and has received required vaccinations (rabies);

- (b)** The dog's owner or caretaker:
 - 1. Removes any solid waste deposited by the dog;
 - 2. Keeps the dog within the designated area during all times it is off-leash;
 - 3. Secures the dog by adequate leash when entering or leaving the designated area;
 - 4. Does not take a female dog in estrus into a designated area when other dogs are present, or, if already within a designated area, removes such female dog in estrus when other dogs enter the area;
 - 5. Is present in the designated area and has voice control of his or her dog; and,
 - 6. Uses the "Small Dog" off-leash areas only if the dog weighs 25 pounds or less.

The authorization contained herein shall not extend to a dog classified as a potentially dangerous dog, which must remain secured by an adequate leash during any time it is present within a designated off-leash dog area. No dog shall be permitted to fight, bite, or bark excessively while in a designated off-leash dog area, and the owner of a dog fighting, biting, or barking excessively may be cited therefor and/or required to remove his or her dog from the off-leash area.

1.060 SIGNS AND CONCESSIONS.

- (1)** Except in a specifically designated area, no person may erect signs, markers, or inscriptions of any type within a park or open space area without permission from the City.
- (2)** The following activities are prohibited in a park or open space area unless specifically authorized in writing by the Director of the Parks and Open Space Division or designee:
 - (a)** Operating a fixed or mobile concession.
 - (b)** Soliciting, selling, offering for sale, peddling, hawking, or vending any goods or services.
 - (c)** Advertising any goods or services.

(3) No person may distribute any circular, notice, leaflet, pamphlet, handbill, or written or printed information of any kind, except to a person willing to accept it and it is distributed without charge.

1.70 VANDALISM AND LITTER.

(1) Wood, flowers, seeds, or other vegetation, may not be picked, cut, mutilated, or removed from any park or open space area without written permission from the City.

(2) No person may mutilate, deface, damage, or remove a table, bench, building, sign, marker, monument, fence, barrier, fountain, faucet, traffic recorder, or other structure or facility, or other City property of any kind in a park or open space area. Except for City staff and other authorized personnel, no person may use paint to mark pavement areas, such as roads, bicycle paths, sidewalks, and parking lots, or other traffic lanes such as bridge decks. No person may lie, sleep, urinate in, defecate in, or otherwise damage or deface any landscaped planting area in a City park or open space area. As used in this subsection, “landscaped planting area” means an area within a City park or open space area set aside for the planting of trees, shrubs, ground cover, flowers, or any combinations of the same.

(3) No person may dig up, deface, or remove earth, stones, rock, or other substance, make an excavation, lay or set off any blast, roll any stones or other objects, or assist in doing so in a park or open space area except under authority of the City.

(4) No refuse may be left in a park or open space area unless placed in the receptacles designated for that purpose.

(5) No person may wash any clothing or other material in a park or open space area.

(6) No person may clean fish in a lake or stream in a park or open space area, except at officially designated and signed fish-cleaning stations.

(7) Dumping of yard debris and home garbage in park and open space areas is prohibited.

1.71 GLASS BEVERAGE CONTAINERS.

Except as authorized in writing by the Executive Director or as authorized by a valid park use permit, no person may possess a beverage container made of glass in any City park, open space area, or County park within the City limits, or bring, carry or transport any beverage container made of glass into any City park, open space area, or County park within the City limits.

1.72 WAIVER.

The Executive Director may, by administrative order, temporarily waive any of the requirements of these Rules upon finding that such waiver is in the public interest and will not seriously prejudice or infringe upon the use and enjoyment of a park, open space area, or park facility by others. The order shall specifically state the rule provision being waived, the time period to which the waiver is applicable, and the reason(s) for the waiver, which must support the required finding. Any waiver granted under this authorization shall be limited to the specific time and/or place set forth in each order, and shall not be construed to be a continuing waiver of that or any other provision of these Rules, or an agreement to waive such rule at any future time for that or any other person or entity.

1.74 PARKS AND OPEN SPACE DIVISION HEARING AND APPEAL PROCEDURE.

(1) Any person who has received a Notice of Restriction of Use issued pursuant to Rule 1.005(2) that restricts their future use of park or open space areas may request an informal hearing to contest the Notice of Restriction of Use. 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 at the location indicated on the 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.

(3) The Division Director shall schedule a time and place for the informal hearing to be conducted, which shall be not more than seven 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).

(4) At the informal hearing the Division Director shall consider testimony from the police officer and any other 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 five days of the informal hearing the Division Director will issue a written decision affirming, modifying, or canceling the Notice of Restriction of Use. 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 fourteen days from the date of the written decision. The Municipal Judge may affirm, modify, or reverse the Division Director's written decision.

1.75 RECREATION DIVISION HEARING AND APPEAL PROCEDURE.

(1) Any person who has received a Notice of Restriction of Use issued pursuant to Rule 1.005(2) that restricts, within a park or open space area, their future use of recreation facilities or participation in recreation activities may request an informal hearing to contest the Notice of Restriction of Use.

(2) The request for an informal hearing must be in writing and filed with the Executive Director of the Library, Recreation & Cultural Services Department (“LRCS Executive Director”) or designee at the location indicated on the notice within 48 hours (exclusive of weekends) of receipt of the notice.

(3) LRCS Executive Director or designee shall schedule a time and place for the informal hearing to be conducted, which shall be not more than 72 hours (exclusive of weekends) after receipt of the request for hearing.

(4) At the informal hearing the LRCS Executive Director or designee shall consider testimony from the police officer and any other City personnel involved in the incident that resulted in the Notice of Restriction of Use, testimony from the person requesting the hearing, and testimony from any other witnesses to the incident. The LRCS Executive Director or designee may exclude anyone from the informal hearing, other than the person that requested the hearing, that is not presenting testimony to the LRCS Executive Director or designee.

(5) Within 72 hours of the informal hearing the LRCS Executive Director or designee will issue a written decision affirming, modifying, or canceling the Notice of Restriction of Use. The decision shall be delivered or mailed to the person that requested the hearing on the date issued. The written decision of the LRCS Executive Director or designee shall be final on the 16th day after it is issued unless prior to that time a notice of appeal is filed with the LRCS Executive Director or designee in accordance with Section 2.021 of the Eugene Code, 1971. The appeal shall be heard by a hearings official appointed by the City Manager and the hearings official’s decision shall be the final decision.

1.76 PENALTIES.

Violation of these Park and Open Space Rules adopted under Section 2.019 of the Eugene Code, 1971, is punishable by a fine not to exceed \$500 or confinement in jail not to exceed 30 days, or both such fine and imprisonment. (Subsection 2.1990(2), Eugene Code, 1971.)

Dated and effective this 1st day of May, 2024.



Matthew Rodrigues (May 1, 2024 13:28 PDT)

Matthew Rodrigues
Public Works Executive Director

Summary and Responses to Public Comments on Proposed Amendments to the Park and Open Space Rules

Notice of the proposed amendments to the Park and Open Space Rules (“POS Rules”) was published in the Register-Guard on April 1, 2, 3, 4, and 5, 2024, and was made available to any person who had requested such notice. The proposed amendments were made available for review at the City's Public Works Department, and on the City's website. The Notice provided that written comments would be received for a period of 15 days from the first publication date. A summary of the comments received and findings addressing the comments are set out below.

Comment No. 1

The City received a comment raising a concern about the following text proposed to be added to Rule 1.005, to set out guidelines for Eugene Police to consider when determining the length and scope of a Restriction of Use:

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.

The concern is that these new guidelines would give the “issuing authority” too much discretion to depart from the general guidelines.

Findings

Prior to this amendment, guidelines for the length or scope of a Restriction of Use were not included in the POS Rules. In adding the guidelines to the POS Rules, a “one-size-fits-all” restriction was intentionally not used. The proposed text allows the City to tailor the restriction to individual circumstances (the nature of the conduct giving rise to the Notice of Restriction and prior history of the person being restricted), which in some cases may result in a downward departure of the length of time or scope. Other new text requires that the Notice of Restriction

of Use includes the basis for a restriction that exceeds the time length in the guidelines or that pertains to all City parks, open spaces, and facilities thereon.

A party receiving a Notice of Restriction of Use may request for an informal hearing to contest the Restriction of Use and, once a timely request is received, the Restriction of Use is automatically stayed (See Rule 1.005 and 1.074). At the informal hearing, the party may argue to the hearings official (and later to a Municipal Judge) why the length of time and/or the scope of the restriction should be modified. These two levels of local appeal, during which time the Restriction of Use is not operative, are sufficient to allow a party to articulate why the terms of a Restriction of Use should be modified or cancelled entirely. Based on these findings, the level of discretion allowed will not be changed.

In raising its concern, the commenter placed emphasis on the Rule's use of the term "issuing authority." The POS Rules have been revised to reflect the fact that Eugene Police are the only City staff that issue Notices of Restriction of Use.

Comment No. 2

The City received a comment raising a concern about the following changes proposed to Rule 1.010 (prohibited activities), which were intended to clarify that rule:

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

The commentor expressed concerned that this Rule needs further clarification.

Findings

The POS Rules are further revised as follows:

(17) Engaging in any activity or conduct which ~~is disruptive or interferes with the enjoyment by others of City sponsored park, open space, or recreational programs or activities~~ Special Event Permit ~~disturbs a City event or an event for which the City has issued a Use Permit pursuant to Section 1.004 of these Rules.~~

These revisions further clarify the circumstances that would constitute violation of subsection 1.010(17) of these Rules. Use of the term "disturbs" clarifies the meaning of this prohibition by using a word that aligns with language used at Eugene Code 4.725 and ORS 166.025 in describing the offense of "disorderly conduct" and for which there is a body of caselaw addressing its application.