

ORDINANCE 2003 - 569

**AN ORDINANCE OF THE CITY OF MILL CREEK,
WASHINGTON REVISING THE USES, REGULATIONS,
OFFENSES AND PENALTIES APPLICABLE TO THE USE OF
CITY PARKS, AMENDING MILL CREEK MUNICIPAL CODE
CHAPTER 12.12; AND ESTABLISHING AN EFFECTIVE DATE**

WHEREAS, the Mill Creek Municipal Code Chapter 12.12, specifies regulations, offenses, and penalties applicable to the use of City parks; and

WHEREAS, the existing code provisions are outdated and insufficient to deal with the recent expansion of the City park system; and

WHEREAS, it is in the public interest, and will advance the public health, safety and welfare, to revise the definitions, regulations, and penalties of activities occurring within the City parks;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MILL CREEK, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. The Mill Creek Municipal Code (MCMC) Chapter 12.12 shall be amended in its entirety and the revised Chapter shall read as follows:

12.12.010 POLICE POWER

This chapter constitutes the park use regulations of the City of Mill Creek and is an exercise of the police power of the City, necessary for the public health, safety and welfare.

12.12.020 DEFINITIONS

The terms used in this chapter, unless clearly contrary to or inconsistent with the context in which used, shall be construed as follows:

1. “City” means the City of Mill Creek.
2. “City Manager” means the City Manager of the City of Mill Creek or his/her designee.

3. “Park” means and includes all parks, squares, greenways, parkways, grounds or other areas maintained by the City of Mill Creek and devoted to purposes of play, recreation and pleasure of the general public.
4. “Structure” means any piece of work artificially built up or composed of parts ~~jointed~~ joined together in some definite manner.
5. “Supplemental Park Permit” means a permit issued under sections 12.12.025, 12.12.026 and 12.12.027 of this chapter.

12.12.025 SUPPLEMENTAL PARK PERMIT AUTHORIZED

The City Manager may issue a supplemental park permit and require a permit for any actions occurring in any park, including but not limited to the following:

- (a) Reserving any room or part of any community center, athletic field, picnic facility, stage, or other defined area of a park for a certain time or series of times; and granting the exclusive use thereof during the time reserved.
- (b) Posting any signs, posters or notices; placing or erecting any structure or obstruction of any kind, whether temporary or permanent; cutting or removing any tree or plant material.
- (c) Making any improvement to or constructing a public work in a park.
- (d) Conducting a commercial activity; using any outdoor electrical power outlet; laying cables or extending wires in, under or over park land; using any park or facility during the hours it is closed to the public.
- (e) Making any use for an event that differs in kind from the use and enjoyment of the park for recreational purposes by the general public.

No permit is required under this section for City activities, including those by employees or authorized City contractors acting in the scope and course of their duties. Exemptions may be made at the discretion of the City Manager for abutting owners who maintain park boulevards with respect to the area maintained; for concessionaires as to the area under concession; and for governmental officials acting under authority of law. Issuance of a permit under this section shall be subject to payment of such fees or charges as required by resolution of the City Council, or as authorized by the City Manager under this section, and shall be subject to such conditions as deemed advisable by the City Manager.

All permits issued under this section shall be wholly of a temporary nature, shall vest no permanent right, and may be immediately revoked at the discretion of the City Manager unless the permit expressly states otherwise. Any permit issued under this section shall not preempt or modify any conditional use or other permit issued or required by the City. The City Manager may issue supplemental park permits directly under the authority of this chapter or may adopt administrative rules for doing so.

12.12.026 TERMS AND CONDITIONS FOR SUPPLEMENTAL PARK PERMITS

The City Manager may condition any supplemental park permit or impose such terms and conditions as appropriate to protect the health, safety and welfare of the public and/or the park; to avoid or limit unnecessary interference with other uses or users of the park; to minimize disturbance of the surrounding neighborhood; and to require the user to leave the area under permit in the same condition after the activity or event as it was beforehand. For this purpose, the City Manager may require the user to furnish and pay for public liability and property damage insurance, naming the City as an additional insured, in such amounts as reasonably necessary to provide full coverage for personal injury, death, and property damage arising from or as a result of the event or activity; execute an indemnity and/or hold harmless agreement; and/or make a reasonable security deposit or provide a bond.

The terms and conditions of a supplemental park permit (including providing insurance and/or security deposit) shall not infringe upon rights of petition, assembly, or free expression protected by the First Amendment of the United States Constitution and/or Article I, Sections 3, 4, and 5 of the Washington Constitution. If an applicant asserts that a term or condition proposed by the City Manager infringes upon a constitutional right, the City Manager shall have the burden of showing that the proposed term or condition is a reasonable restriction on the time, place and manner of exercising the right.

12.12.027 DEPOSITS AND FEES FOR SUPPLEMENTAL PARK PERMITS

No refund of fees, charges or expenses shall be made except upon timely cancellation of an event or activity authorized by a supplemental park permit. The City Manager is authorized to make refunds of fees and to return all or any portion of any security deposit when no longer needed and after all costs that may be charged against the supplemental park permit have been paid. If costs exceed the amount of any deposit or financial security, the City Manager is authorized to bill the supplemental park permit holder, who shall remit such charges within thirty (30) days. Delinquent accounts may be sent to collection. So supplemental park permit shall be issued to any entity having a delinquent account.

12.12.030 SIGN POSTING AND STRUCTURES PROHIBITED

It is unlawful to place or erect any sign, board, billboard or similar device of any kind in any park without the prior written consent of the City Manager. It is unlawful to create, place or erect any structure in any park without obtaining a supplemental park permit. ~~the prior written consent the City Manager.~~

12.12.033 DISTRIBUTION OF HANDBILLS

It is unlawful to exhibit or distribute any handbills, circulars, or signs in any park in any manner that interferes with or obstructs the normal use of the park or the normal passage of people or vehicles within or through the park.

12.12.035 EQUIPMENT REGULATIONS

The misuse of a park facility or the failure to conform with any of the regulations of this chapter, the instructions of City employees, the conditions of a supplemental park permit, or other permit shall be sufficient reason for revoking said permit and/or denying any future permits.

12.12.037 STORAGE OF EQUIPMENT

Persons using parks should not expect storage space for equipment necessary for their activity. If temporary storage is provided, the City shall not be responsible for loss or damage to the equipment or property stored.

12.12.040 REMOVAL OR DESTRUCTION OF PARK PROPERTY PROHIBITED

It is unlawful to remove, destroy, mutilate or deface any structure, monument, statue, fountain, wall, fence, railing, vehicle, bench, shrub, tree, lawn, grass, plant, flower, lighting system or sprinkling system or any other property or thing lawfully in any park. No foreign matter of any sort (including without limitation such as sawdust or sand) may be added to any field for any reason without the prior written consent of the City Manager.

12.12.050 MOLESTING WILD ANIMALS PROHIBITED

It is unlawful to tease, feed, annoy, disturb, molest, catch, injure, threaten, kill, throw any stone or missile of any kind at, strike with any stick or weapon, or to fetter any animal, bird, fowl or fish in any park.

12.12.055 PETS IN PARKS

A. Dogs, pets or domestic animals are not permitted on any artificial turf, picnic area, tennis courts or play area in any park or in any park structure unless specifically permitted by posting. This section shall not apply to animal guides or service dogs.

B. Dogs and other pets or domestic animals shall be kept on a leash no greater than fifteen feet in length, and under control at all times.

C. Any person whose dog or other pet is in any park shall be responsible for the conduct of the animal and shall promptly remove and dispose of properly all animal waste deposited by such animal.

D. No person shall allow his or her dog or other pet to bite, disturb, or harass any park user, wildlife, or other pets. No person shall allow his or her dog or other pet to bark or make noise continuously or otherwise disturb the peace and tranquillity of the park. No person shall permit his or her dog or other pet or domestic animal to damage, destroy or remove park vegetation.

E. This section is in addition to the provisions of Mill Creek Municipal Code Chapter 6.02 (animal control regulations), and shall be supplemental to such Chapter.

12.12.057 HORSES PROHIBITED

Horses are not permitted in any park at any time.

12.12.060 SELLING REFRESHMENTS OR MERCHENDISE PROHIBITED

It is unlawful to sell refreshments, merchandise or any other thing in any park without the prior written consent of the City Manager or ~~without~~ a valid concession contract with the City of Mill Creek.

12.12.065 SOLICITING PROHIBITED

Except as may be specifically provided by law, no person shall solicit contributions for himself or others in any park.

12.12.070 USE BY GROUPS OR ASSEMBLIES

Parks and/or picnic shelters shall be available for any person, group or assembly on a first come, first serve basis, subject to priority use through a supplemental park permit or for classes, special events, public forums, or athletic programs as determined by the City Manager.

12.12.080 VEHICLES AND ANIMALS RESTRICTED

It is unlawful to operate, ride or drive any wheeled device, sled, vehicle, or animal over, across or through any park, except along designated paths, drives or streets, provided however, motorized devices are restricted solely to streets and drives. It is unlawful to operate, ride or drive any wheeled device, vehicle or animal at a speed in excess of ten (10) miles per hour in any park. It is unlawful to stand or park any vehicle except where so designated and posted. It is unlawful to operate, ride or drive any vehicle for the purpose of testing or ascertaining its fitness or service. It is unlawful to use or operate vehicles in any portion of a park devoted to skateboards.

12.12.085 SKATEBOARD PARK AREAS

Any area of a park devoted to skateboards shall be governed by rules promulgated by the City Manager, and as may be posted at the entrance to the skateboard area. A violation of any such rules, whether or not posted, shall be a violation of this chapter.

12.12.090 CAMPING PROHIBITED

It is unlawful to camp in any park except at places so designated and posted.

12.12.095 GOLF PROHIBITED

Golf activities shall not be permitted in any park unless a supplemental park permit is obtained prior to commencement of the activity.

12.12.100 ENDANGERING PERSONS OR PROPERTY PROHIBITED

It is unlawful to knowingly hurl or propel any object or to take any physical action in any park which endangers or is likely to endanger any persons or property or interfere with park purposes.

12.12.110 FIREARMS PROHIBITED

It is unlawful to carry a firearm in any park. This section shall not apply to police officers or to City employees acting pursuant to and in accordance with their authority and applicable law. This section shall not apply in designated and posted shooting, trap-shooting and skeet-shooting ranges in any park.

12.12.115 WEAPONS PROHIBITED

It is unlawful in any park to carry, discharge or use any airgun, bow and arrow, crossbow, slingshot, or other device the purpose of which is to propel an object from the person using it. It is unlawful in any park to use or brandish any knife or any other device in a manner which threatens or endangers any person or property.

12.12.120 FIRES PROHIBITED

It is unlawful to build or have any fire in any park except where so designated and posted. Portable grills, barbecues or hibachis are permitted so long as they do not otherwise violate ~~any section of this ordinance~~ chapter or the Mill Creek Municipal Code.

12.12.125 FIREWORKS PROHIBITED

It is unlawful in any park to use, exhibit, display or possess any fireworks or common fireworks as those terms are defined in Mill Creek Municipal Code Section 5.12.010, ~~as now or hereafter.~~

12.12.127 SOUND-AMPLIFYING DEVICES

Except as authorized by a supplemental park permit, or a conditional use permit, or except as necessary for the preservation of public peace or safety, it is unlawful to use any public address system, loudspeaker, "boombox radio," or other sound amplifying device in any park. No person shall use, operate or play in any park a radio, tape player, disc player, television musical instrument, record player or any other machine or device capable of producing sound without the use of headphones or a similar personal listening device or at a volume level where discernible noise can be heard more than ten feet from the device so long as they do not otherwise violate any section of this Chapter or Mill Creek Municipal Code chapter 9.14.

12.12.130 INTOXICATING LIQUOR PROHIBITED

It is unlawful to possess a container of any alcoholic beverage, whether opened or unopened, while in any park. In addition to any other applicable penalty, any person violating this ~~rule~~ section is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than ~~one hundred dollars (\$100.00)~~ two hundred fifty dollars (\$250.00). For purposes of this section, possession means having a container within one's immediate reach or control.

12.12.135 LITTERING -- TRASH DEPOSIT

It is unlawful to throw or deposit any refuse or other material in any park, including but not limited to any artificial surfaces, play fields or picnic areas, except in designated receptacles; or to take garbage or refuse to a park for disposal; or to deposit garbage or refuse generated outside a park in a receptacle within the park designated for deposit of trash by the public.

12.12.140 PARK HOURS

Parks are open to the public daily from 6:00 a.m. to 10:00 p.m. as posted at each park. Parks are closed to the public daily from 6:00 a.m. to 10:00 p.m. as posted at each park. It is unlawful for any person to enter a closed park unless permitted and authorized in advance by the City Manager except as authorized by a supplemental park permit, or a conditional use permit. Additionally, the City Manager may make and enforce special park closure hours for specific parks or areas within parks if the City Manager determines that such special park closure hours are necessary or appropriate to protect public property or public safety, to prevent public nuisances, or to prevent breaches of the peace. The City Manager may immediately close any park or area within a park at any time for emergencies, temporary cleaning and repair, public safety, or any other similar reason.

~~12.12.150~~ DISORDERLY CONDUCT AND PROFANITY PROHIBITED

It is unlawful to use profane or abusive language or to conduct oneself in a disorderly manner in any park.

12.12.150 TRESPASSING

No person except an authorized City employee or other person duly authorized pursuant to law shall enter or go upon any park area which has been posted as a "No Admittance" or "No Trespassing" area, or at a time a park is closed to the public.

~~12.12.190~~ 12.12.160 DISORDERLY CONDUCT AND PROFANITY PROHIBITED

It is unlawful to use profane or abusive language or to conduct oneself in a disorderly manner, including but not limited to a state of intoxication or being noticeably under the influence of drugs, in any park. Profane or abusive language means obscenity or fighting words constituting unprotected speech.

~~12.12.160~~ 12.12.170 VIOLATION - PENALTY

Any person violating violation of or any failure to comply with any of the rules and regulations in provisions of this chapter in which no penalty is otherwise specified is

~~guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than one thousand dollars (\$1,000.00) and/or imprisonment for not more than ninety (90) days; shall constitute a civil infraction as contemplated by RCW 7.80.120 and any person convicted thereof may be punished by a civil fine or forfeiture in any sum not exceeding \$250.00~~ The following penalties shall apply:

- (a) Initial Infraction. Monetary penalty of Fifty Dollars (\$50.00);
- (b) Second Infraction. Monetary penalty of One Hundred Dollars (\$100.00);
- (c) Third Infraction. Monetary penalty of One Hundred Fifty Dollars (\$150.00);
- (d) Future Infractions. Monetary penalty of Two Hundred Fifty Dollars (\$250.00).

Payment of any civil fine within twenty-four (24) hours of the issuance of the Notice of Infraction issued under this chapter shall reduce the amount of the fine owing by fifty percent (50%).

Section 2. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portion of this ordinance or its application to any other person or situation. The City Council of the City of Mill Creek hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 3. This ordinance shall be in full force and effect five (5) days after publication of the attached summary, which is approved.

Passed by the City Council this _____ day of _____, 2003, by a vote of _____ for, _____ against, and _____ abstaining.

Approved:

MAYOR TERRY Q. RYAN

Attest/Authenticated:

KELLY M. HENNESSEY, CITY CLERK

Approved as to form:
Short Cressman & Burgess PLLC

By: _____
SCOTT M. MISSALL, CITY ATTORNEY

Filed with the City Clerk: _____
Passed by the City Council: _____
Published: _____
Effective Date: _____
Ordinance No.: _____

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