

1 Chapter 12.25 - PUBLIC PARKS

12.25.010 - Definitions.

For the purposes of this chapter:

"Person" means any person, firm, corporation, but excluding those acting under direct authority of the city council.

"Public parks" means all property owned or controlled by the city, whether within or without the city limits, and operated for the use of the public for park purposes.

12.25.020 - Regulations.

A. It is unlawful for any person to:

1. Be in any public park between the hours of ten p.m. and five a.m., except vehicular or pedestrian traffic utilizing public streets, sidewalks, or designated paths and trails, persons attending events sanctioned by the city, persons acting under special permit issued by the city, persons staying at approved campsites in a public park or licensed fishermen going directly to or from fishing activities; said hours are designated as "quiet hours." During said hours, noises and sounds of all types that are audible from a distance of more than 15 feet are prohibited.
2. Litter any public park or deposit any litter, garbage, trash or other rubbish in receptacles in public parks except such as is generated incidental to use of the park;
3. Build a fire in a public park except in a stove or fireplace provided for this purpose, leave a fire unattended or fail to extinguish a fire when leaving the area;
4. Operate or park a motor vehicle in a public park except on roads or designated parking areas;
5. While in a public park, hunt, pursue, trap, kill or disturb any animal or bird or its habitat;
6. Sell any goods or services in a public park without permission of the city;
7. Erect any signs, markers or written notices without permission of the city;
8. Ride or operate a skateboard on any brickwork, or ornamental surface, picnic table, tennis court, fountain area, wading pool, planter, or sculpture located in a public park or cemetery.
9. Use tobacco in any public park. To "use tobacco" shall mean the possession of any lighted pipe, lighted cigar, the use of an electronic cigarette or a similar device intended to emulate smoking, which permits a person to inhale vapors or mists that may or may not include nicotine, or lighted cigarette of any kind, or the lighting of a pipe, cigar, or cigarette of any kind, including, but not limited to, any tobacco or cannabis product, or any other weed or plant capable of being smoked. In addition, to "use tobacco" shall mean to ingest or place within the mouth or nose any type of tobacco product, including chewing tobacco, snus, snuff or dip.

- B. The city administrator or other entity designated by the mayor is hereby authorized to adopt such additional rules and regulations not in conflict with the ordinances of the city as the manager finds necessary for the control and management of the city's parks. If any person feels aggrieved by any such rule or regulation, the person may request city council review regarding the adoption, amendment or repeal of the rule or regulation by filing with the city recorder a petition that shall be presented to the city council at its next regular meeting. Until and unless amended or repealed by the council, any rule or regulation made by the director shall be in full force and effect as if it were an ordinance.

12.25.030 - Group picnics.

Any group desiring to reserve any portion of a public park for picnics or social functions shall make written application therefor to the city manager at least one week prior to the event.

12.25.040 - Camping prohibited.

- A. It is unlawful to camp in or upon any sidewalk, street, alley, lane, public right-of-way, public park or any other place to which the general public has access.
- B. "To camp" is defined as setting up or remaining at a campsite.
- C. "Campsite" is defined as any place where any bedding, sleeping bag or other sleeping matter, or any stove or fire is placed, established or maintained, whether or not such place incorporates the use of any tent, lean-to, shack, or any other structure, or any vehicle or part thereof, for the purpose of maintaining a temporary place to live.
- D. It shall be an affirmative defense to this section that the individual charged had written consent of the person or other authority owning or entitled to possession of the location where the campsite was located.

12.25.050 - Possession of alcoholic beverages prohibited.

It is unlawful for any person to possess, control or consume any alcoholic beverage in Rainier City Parks unless as permitted by the Mayor for special events.

12.25.060 – Animals

Animals in parks shall be limited to domesticated canines and felines, including certified companion animals. Animals must always be under physical control, not just voice commands or eye contact. A collar and leash must always be in use, with the leash not being longer than seven feet in length.

Feces produced by the animals shall be collected and properly disposed of by the handler in possession of the animal. Proper disposal is defined as placed in a refuse receptacle or removed from park property for disposal.

12.25.070 - Violation—Penalty.

Any person convicted of a violation of this chapter shall be fined in a sum not to exceed five hundred dollars.

12.25.080 - Park exclusions.

- A. In addition to other remedies provided for violation of this code, or of any of the laws of the state of Oregon, any municipal police officer may exclude any person who violates any applicable provision of law in any park from the city's parks in accordance with the provisions of this section. Nothing in this section shall be construed to authorize the exclusion of any person lawfully exercising free speech rights or other rights protected by the state or federal constitutions. However, a person engaged in such protected activity who commits acts that are not protected, but that violate applicable provisions of law, shall be subject to exclusion as provided by this section.
- B. For purposes of this section, "applicable provision of law" includes any applicable provision of Rainier Municipal Code, of any city ordinance, or of any rule or regulation promulgated by the mayor or other designated entity, any applicable criminal or traffic law of the state of Oregon, any law regarding controlled substances or alcoholic beverages and any applicable county ordinance or regulation. For purposes of this section, "applicable" means relating to the person's conduct in the park.
- C. An exclusion issued under the provisions of this section shall be for thirty days. If the person to be excluded has been excluded from city parks at any time within two years before the date of the present exclusion, the exclusion shall be for ninety days. If the person to be excluded has been excluded from city parks on two or more occasions within two years before the date of the present exclusion, the exclusion shall be for 180 days.
- D. An exclusion shall not be issued if the person promptly complies with the direction and desists from the violation. Notwithstanding the provisions of this subsection, no warning shall be required if the person is to be excluded for engaging in conduct that:
 1. Is classified as a felony or as a misdemeanor under the following chapters of the Oregon Revised Statutes, or is an attempt, solicitation or conspiracy to commit any such felony or misdemeanor defined in ORS:
 - a. Chapter 162—Offenses Against the State and Public Justice;
 - b. Chapter 163—Offenses Against Persons;
 - c. Chapter 164—Offenses Against Property, except for ORS 164.805, Offensive Littering;
 - d. Chapter 165—Offenses Involving Fraud or Deception;
 - e. Chapter 166—Offenses Against Public Order; Firearms and Other Weapons; Racketeering;
 - f. Chapter 167—Offenses Against Public Health, Decency and Animals;
 - g. Chapter 475—Controlled Substances; Illegal Drug Cleanup; Paraphernalia; Precursors; or
 2. Otherwise involves a controlled substance or alcoholic beverage; or
 3. Has resulted in injury to any person or damage to any property; or
 4. Constitutes a violation of any of the following provisions of this code:

- a. RMC 12.25.050—Possession of Alcohol;
 - b. RMC 12.25.020—Park Regulations;
 - c. RMC 12.25.040—Camping; or
 - d. RMC 12.25.050—Possession of Alcoholic Beverages
5. Is conduct for which the person previously has been excluded for committing in any park.
- E. Written notice shall be given to any person excluded from the city's parks under this section. The notice shall specify the date and length of the exclusion, shall identify the provision of law the person has violated and shall contain a brief description of the offending conduct. The notice shall inform the excluded person of the right to appeal, including the time limit and the place of delivering the appeal. It shall be signed by the issuing party. Consequences for failure to comply shall be prominently displayed on the notice.
- F. A person receiving such notice of exclusion may appeal to the City of Rainier Municipal Court. Any appeal must be filed within ten days of the exclusion being issued. The municipal court shall uphold the exclusion if, upon judicial review, the preponderance of evidence admissible convinces the court that, more likely than not, the person in fact committed the violation, and if the exclusion is otherwise in accordance with law.
- G. At any time within the period of exclusion, a person receiving such notice of exclusion may apply in writing to the city administrator for a waiver of some or all of the effects of the exclusion for good reason. If the city administrator grants a waiver under this subsection, the city administrator shall promptly notify the police department and the director of public works of such action. In exercising discretion under this subsection, the city administrator shall consider the seriousness of the violation for which the person has been excluded, the particular need of the person to be in a city park during some or all of the period of exclusion, such as for work or to attend or participate in a particular event (without regard to the content of any speech associated with that event), and any other criterion the city administrator determines to be relevant to the determination of whether or not to grant a waiver. Notwithstanding the granting of a waiver under this subsection, the exclusion will be included for purposes of calculating the appropriate length of exclusions under Section 12.25.070(C). The decision of the city administrator to grant or deny, in whole or in part, a waiver under this subsection is committed to the sole discretion of the city administrator and is not subject to appeal or review.
- H. If an appeal of the exclusion is timely filed under Section 12.25.070(F), the effectiveness of the exclusion shall be stayed, pending the outcome of the appeal. If the exclusion is affirmed, the remaining period of exclusion shall be effective immediately upon the issuance of the municipal court decision, unless the municipal court specifies a later effective date.
- I. If a person is issued a subsequent exclusion while a previous exclusion is stayed pending appeal (or pending judicial review, should a court stay the exclusion), the stayed exclusion shall be counted in determining the appropriate length of the subsequent exclusion under Section 12.25.070(C). If the predicate exclusion is set aside, the term of the subsequent exclusion shall be reduced, as if the predicate exclusion had not been issued. If multiple

exclusions issued to a single person are simultaneously stayed pending appeal, the effective periods of those which are affirmed shall run consecutively.

- J. No person shall enter or remain in any park at any time during which there is in effect a notice of exclusion issued under this section excluding that person from that park.