

ORDINANCE NO. 691

AN ORDINANCE OF THE AUMSVILLE CITY COUNCIL REGULATING THE USE OF PARKS, PARKWAYS, PUBLIC SQUARES, PUBLIC GROUNDS, STREETS, BOULEVARDS, PATHS, SIDEWALKS, GREENWAYS, REST AREAS, PLAYGROUNDS, AND OTHER AREAS, REPEALING ORDINANCE 505 AND AMENDED BY ORDINANCE 714

The City of Aumsville ordains as follows:

Section 1. Purpose, Policy, and Scope.

- (A) Council, except as otherwise expressly provided, declares its intention to exercise general supervision, management, and control of all public parks, public parkways, public squares and public ground, including but not restricted to streets, boulevards, paths, sidewalks, greenways, rest areas, playgrounds, and other areas, hereinafter collectively referred to as "public areas" whether publicly owned, dedicated, leased, or otherwise set aside for public use and not under the supervision or control of any other public agency.
- (B) All public areas as herein designated for general public use shall be kept and maintained for the use and benefit of the public, subject to such reasonable and necessary rules and regulations as herein prescribed or as may be from time to time adopted to protect and preserve the enjoyment, convenience, and safety of the general public in the use thereof.
- (C) In order to protect the health, safety, and welfare of the general public, Council declares its intention to prescribe rules and regulations as set forth or from time to time as necessary with respect to such public areas.
- (D) Parks are defined as those areas that are designated as parks by Council. It is the express intent of Council, in some circumstances, to regulate activity only in the city parks set forth herein. In those instances, the ordinance section shall designate that the conduct or activity is prohibited in the park.
- (E) In the event that someone or some organization want to use the parks and/or public areas for an event such as a demonstration/contest, a festival, a carnival, or the like, Council authorizes the City Administrator to modify, change, or delete the rules and regulations that are contained in this ordinance as the circumstances may dictate; taking into account what is in the best interest of the City and its citizens. However, the City Administrator shall not allow the use of alcoholic beverages on public property.

Section 2. Delegation of Authority. The City Administrator is authorized to make such reasonable rules and regulations not inconsistent with this and other city ordinances and the policies of Council as herein enunciated, as may be necessary for the control and management of the public areas hereinabove designated.

All such rules and regulations shall be set forth in writing and, to the extent deemed necessary by the City Administrator, shall be posted in conspicuous places in the areas affected thereby, for the guidance of the general public and individual users.

If any person feels aggrieved by any such rule or regulation, they may appeal to Council by filing with the City Administrator an opposition against such rule or regulation, which shall be placed on the agenda of Council at its next regular meeting and, until amended or repealed by Council, such rule or regulation shall remain in full force and effect.

Section 3. Regulations Prescribed by Council. Council finds that it is in the public interest and necessary for the peace, health, and safety of the general public that the rules and regulations set forth in this ordinance be enforced as reasonably practicable, and for the purposes herein set forth are adopted.

Section 4. City Employees Not Affected. Nothing contained herein shall prevent the performance of any act or duty by City Employees that has been duly authorized by the City Administrator or Public Works or Police Department.

Section 5. Closures. No person shall ride, drive, or walk on parts or portions of the public areas or pavements as are closed at that time to public travel, or interfere with barriers erected to prevent public access to designated areas of a d during private events as permitted by the City.

Section 6. Conduct.

- (A) No person shall use or play loud, boisterous, threatening, abusive language, behave in a disorderly manner, or act in any way tending to a breach of the public peace.
- (B) Consistent with Section 3 of Ordinance 715, it is unlawful for any person to camp in Parks.

Section 7. Damage - Payment for Restoration.

- (A) Owners or persons in control of, or persons who permit the entry of any dog, horse, or other animal into any public area under the control of the City, in addition to any remedies imposed by this ordinance or state law for such violation may be liable for the full value of repair or restoration of any property damaged or destroyed, and if not paid upon written demand by the City, recovery may be sought by the City in any court of competent jurisdiction.
- (B) Any person who shall utilize the public areas herein described and who shall damage or destroy any public property under the control of the City, in addition to any remedies imposed by this ordinance or state law for such violation may be liable for the full value of repair or restoration of any property damaged or destroyed, and if not paid upon written demand by the City, recovery may be sought by the City in any court of competent jurisdiction.

Section 8. Commercial Activity on Public Property.

- (A) It is unlawful to engage in any commercial enterprise or activity in or on any public area under the control of the City without a permit for such commercial enterprise or activity issued by the City Administrator or their designee.
- (B) As used in subsection (1) above, "commercial enterprise or activity" means either a regular course of commercial conduct or particular transaction(s) or act(s). The commercial character of an activity is determined by reference to the nature of the course of conduct or particular transaction or act rather than by reference to its purpose.

Section 9. Installations on Public Property.

- (A) It is unlawful to place, erect, install, or position any physical item or structure of any kind in any public area without a permit for such item(s) or structure(s) first being issued by the City Administrator.

Section 10. Parks - Intoxicating Liquor Prohibited. Unless authorized by a vote of Council of the City of Aumsville for a community wide event, it is unlawful for any person to:

- (A) Take into or upon any park any alcoholic beverage; or
- (B) Sell or dispense any alcoholic beverage in any park.

Section 11. Rubbish Accumulation Prohibited. It is unlawful for any person to obstruct the free use and enjoyment of any public areas by misuse of refuse containers or by placing any straw, dirt, chips, paper, shavings, shells, ashes, swill or garbage, or other rubbish, or refuse or debris, in or upon any public areas, except in designated trash receptacle.

Section 12. Vandalism Prohibited.

- (A) It is unlawful for any person to remove, destroy, break, injure, mutilate, deface, or damage in any way, any structure, monument, statue, case, fountain, wall, fence, railing, vehicle, bench, tree, shrub, fern, plant, flower, or other property in any public areas unless otherwise licensed or privileged to do so.
- (B) It is unlawful for any person to injure, deface, damage, or destroy any notice of the rules and regulations for the government of the public areas, which shall have been posted or permanently fixed by order or permission of the City Administrator.

Section 13. Gambling Prohibited. It is unlawful for any person to play any game of chance or to carry on betting of any kind within public areas.

Section 14. Firearms or Fireworks Prohibited. It is unlawful for any person to use, carry, or display, firecrackers, fireworks, or explosives of any kind in any park. Except as allowed by ORS 166.172 and 166.173 (2020), it is unlawful for any person to either discharge a firearm or carry a loaded firearm in any park.

Section 15. Parks - Molesting Animals, Birds, and Fish Prohibited. It is unlawful to destroy, injure, disturb, or molest any wild or domestic animal within any park limits. It is unlawful for any person to give, offer, or attempt to give or offer any animal with the park any noxious articles or anything prohibited by notices conspicuously posted therein.

Section 16. Animals.

- (A) It is unlawful for the owner, possessor, or keeper of any animal to permit such animal to roam at large or otherwise be not physically controlled in any public area except:
 - 1. those areas posted for this purpose.
 - 2. in a city designated off-leash area.
- (B) If such animal is found in any public areas, it may be impounded.
- (C) No one shall ride any horse, or other animal, in any part of a city park unless specified in an approved events permit with the City.
- (D) No one shall hitch horses or other animals to any tree, shrub, fence, railing, or other structure within any part of a park.
- (E) It is unlawful for the owner, possessor, or keeper of any animal to leave behind any excrement on any public property or right of way.

Section 17. Parks - Use of Established Entrance. No one shall enter or leave the parks in a motor vehicle, except at an established entrance, and no one shall enter or remain in the parks after the hours fixed by regulation.

Section 18. No Admittance Areas. No person shall enter any building, enclosure, or place within any public area where the words "No Admittance" are displayed or posted.

Section 19. Parks - Public Restroom Facility.

- (A) It is unlawful to blow, spread, or place any nasal or other bodily discharge, or spit, urinate, or defecate on the floors, walls, partitions, furniture, fittings, or on any portion of any public restroom facility except directly into the particular fixture provided for that purpose.
- (B) It is unlawful to place any bottle, can, cloth, rag, or metal, wood, or stone in any of the plumbing fixtures in such facility.
- (C) It is unlawful for any person to:
 - 1. stand or climb on any part of a toilet, basin, partition, or other furniture or fitting;
 - 2. loiter about or push, crowd, or otherwise act in a disorderly manner;
 - 3. interfere with any attendant in the discharge of his or her duties;
 - 4. use loud or boisterous language within any public restroom facility or at or near the entrance thereto;
 - 5. cut, deface, mar, destroy, break, remove, or write on or scratch any wall, floor, ceiling, partition, fixture, or furniture;

6. use towels in any improper manner; or
7. waste soap, toilet paper, or other items provided in the City's restroom facilities.

Section 20. Parks - Traffic Regulations.

- (A) No person shall ride, drive, or operate any bicycle, motorcycle, motor vehicle, truck, wagon, or any other vehicle, in any part of a park, except on the drives designated therefor.
- (B) No person may park any motor vehicle on any city park or playground except in designated parking areas. The City may cause any vehicle found parked in areas not designated therefor to be impounded and impose and collect charges therefor prior to the release of the vehicle.
- (C) It is unlawful for any person to store, park, or leave unattended any motor vehicle, boat, trailer, conveyance, or other personal property within any public area under the City's control for a continuous period of more than twenty-four hours.
- (D) No person shall ride or stand upon any device or conveyance other than roller skates, in-line roller skates, scooters, or a skateboard within the boundaries of the skate park.

Section 21. Parks - Public Drinking Fountain. It is unlawful for any person to willfully mark, scratch, disfigure, remove, or in any manner damage any public drinking fountain, or throw, place, or deposit in any cup or basin of same any matter or refuse whatever, or obstruct the regular flow of water in any manner whatever.

Section 22. Signs, Lights, Cameras, Call Boxes, Hydrants. It is unlawful for any person to willfully cut, remove, deface, or in any manner damage any street sign, any street, bridge, light or light fixture, or any hydrant, fence, gate, or enclosure, or any part thereof, placed in any public areas.

Section 23. Parks – Exclusion Period.

- (A) In addition to other measures provided for violations of this ordinance or state laws, any peace officer or city employee may exclude any person violating any provision of regulation of any state law while on city property from all or a part of the city's property. The exclusion period may be for any period up to a maximum of 60 days for each occurrence.
- (B) Except as otherwise provided herein, a person excluded under this section shall neither enter nor remain upon city property during the exclusion period. An excluded person entering or remaining on the city property from which they were excluded is deemed a trespasser and may be arrested and prosecuted for criminal trespass in the second degree (ORS 164.245).
- (C) Written notice signed by the issuing party shall be given to a person excluded from city property. The notice will specify:
 1. The reason for the exclusion;
 2. The places and duration of the exclusion;
 3. The consequences for failure to comply with the notice; and

4. The right to appeal the exclusion.
The exclusion commences immediately upon delivery of the notice to the excluded person.

(D) Variance.

1. A person excluded may, at any time during the exclusion period, petition the City Administrator for a waiver or variance of the exclusion. Petitions shall be addressed and delivered to:

City Administrator
City of Aumsville
595 Main St
Aumsville, OR 97325

2. The circumstances and reason for the exclusion and the places and duration of the exclusion will be reviewed by the City Administrator in their consideration of the variance.

(E) Appeal Procedures.

1. Not later than five days after receipt of the notice of exclusion, an excluded person may file a written appeal to the City Administrator for review thereof. Appeals must be addressed or delivered to:

City Administrator
City of Aumsville
595 Main St
Aumsville, OR 97235

2. The appeal may petition for any or all of the following:
 - a. Rescission of the exclusion;
 - b. Altering the locale(s) of exclusion; and/or
 - c. Reduction of the exclusion's duration.
3. An appeal shall contain the following:
 - a. A copy of the exclusion notice;
 - b. A request for either a hearing or written review without a hearing of the exclusion order;
 - c. A statement setting out the reasons the exclusion order is invalid or otherwise improper; and
 - d. A current address and telephone number where the person filing the appeal may be contacted.
4. In the event of an appeal (regardless of whether a written review or hearing has been requested) the exclusion order shall be lifted and the exclusion stayed until such time a written decision thereon is made by the City Administrator.
5. If a hearing is requested as a part of the appeal, the hearing will be conducted by the City Administrator within 10 days after receipt of the appeal and a written decision made within five business days thereafter.
6. At any time during the exclusion period, a person may petition for a temporary waiver of the exclusion under subsection (D) above.

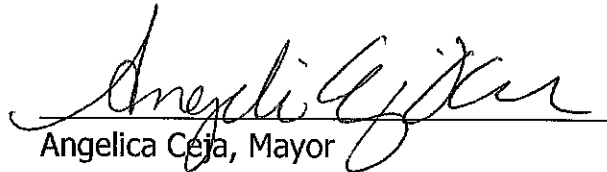
7. No peace officer or City Employee has the authority to grant an excluded person permission to be in or on city property other than the City Administrator through the appeal process.

Section 24. Parks - Penalty for Violation.

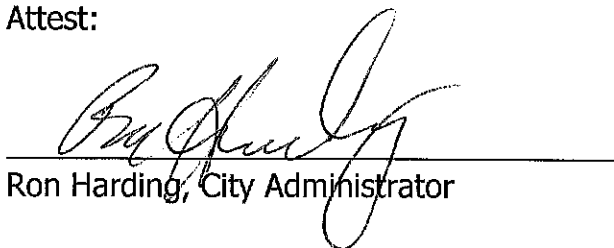
- (A) Any person violating any provision of this ordinance is subject to a civil penalty of no more than \$500.00 for each occurrence except that camping in Parks shall be governed by Ordinance 715 and its penalty provisions. If the person violating this ordinance is under 18 years of age then the person's parent or legal guardian may be cited into the Aumsville Municipal Court.
- (B) Nothing in this ordinance prohibits a person under the age of 18 from being cited into the Aumsville Municipal Court should the City obtain a blanket remand from the Marion County Juvenile Court for violation(s) of this ordinance to the Aumsville Municipal Court.

Section 25. Repeal and Amend. Ordinance 505 is hereby repealed, and Ordinance 691 is hereby amended by Ordinance 714.

Section 26. Effective Date. This ordinance shall take effect on the thirtieth day after its enactment.


Angelica Cera, Mayor

Attest:


Ron Harding, City Administrator