

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

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SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of an Ordinance Relating to )  
Use of County Parks; Prohibiting Certain )  
Activities; Authorizing Citations under the )  
Yamhill County Citation Ordinance; )  
Providing Penalties; Repealing Ordinance )  
196 and amending Ordinance 448; Effective )  
June 4, 1998. )

ORDINANCE 619

Modified by Ord 663

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON ("the Board") sat for the transaction of county business in formal session on March 5, 1998, Commissioners Ted Lopuszynski, Robert Johnstone, and Thomas E.E. Bunn being present.

THE BOARD MAKES THE FOLLOWING FINDINGS:

- A. On March 21, 1979 the Board adopted Ordinance 196 to regulate activities in Yamhill County parks. Based on the recommendation of the Sheriff and the Park Board, promulgation of additional rules of conduct is now necessary. Any rules adopted by Board Order under authority of Ordinance 196 remain in effect unless specifically inconsistent with this ordinance.
- B. Under Ordinance 448, July 1, 1987, the Board established a system to provide for enforcement of enumerated county ordinances by use of a citation to District Court or Justice Court, should a Justice Court be established in Yamhill County. The prohibitions of this ordinance should be enforced in the manner provided by Ordinance 448.
- C. A public hearing was held on this ordinance on February 19, 1998. Adoption of this ordinance is in the best interests of the citizens of Yamhill County. NOW, THEREFORE,

THE YAMHILL COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

Section 1. POLICY, PURPOSE AND TITLE

1.1 POLICY AND PURPOSE. The Board finds that it is necessary to regulate activities in county parks to ensure the public's safety and enjoyable use of county park areas and facilities and to protect park facilities and natural features. Enforcement of the rules established by this ordinance should be accomplished in an understandable manner which allows prompt adjudication of violations under the ordinance.

1.2 TITLE. This ordinance may be cited as the "Yamhill County Parks Ordinance".

**Section 2. RULES OF CONSTRUCTION.**

2.1 RULES OF CONSTRUCTION. For the purposes of administration and enforcement of this ordinance, unless otherwise stated in this ordinance the following rules of construction shall apply:

- (1) In case of any difference of meaning or implication between the text of this ordinance and any caption, illustration, summary table, or illustrative table, the text shall control.
- (2) The word "shall" is always mandatory and not discretionary; the word "may" is permissive.
- (3) Words used in the present tense shall include the future; words used in the singular shall include the plural and the plural the singular, unless the context clearly indicates the contrary; and use of the masculine gender shall include the feminine gender.
- (4) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and", "or" or "either...or", the conjunction shall be interpreted as follows:
  - (a) "And" indicates that all the connected terms, conditions, provisions or events shall apply.
  - (b) "Or" indicates that the connected items, conditions, or provisions or events may apply singly or in any combination.
  - (c) "Either...or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
- (5) The word "includes" shall not limit a term to the specific example, but is intended to extend its meaning to all other instances or circumstances of like kind or character.

**Section 3. DEFINITIONS.**

3.1 DEFINITIONS. As used in this ordinance, the terms defined in this section shall have the defined meanings unless the context requires otherwise. The following definitions apply:

- (1) An "authorized person" is a person authorized by the governing body of the entity that owns or controls the park to grant relief from the prohibitions of this ordinance where the prohibition specifically bestows that authority on the person.
- (2) The "Board" means the Yamhill County Board of Commissioners.
- (3) "Park areas" shall include all parcels of land or bodies of water owned, leased, controlled or administered by Yamhill County for recreation or open space purposes

which have been designated by the county as a "park" or as "park areas." If an agreement adopted by Yamhill County and another entity so provides, "park areas" shall also include all parcels of land or bodies of water owned, leased, controlled or administered by the other entity for recreation or open space purposes which have been designated by the other entity as a "park" or as a "park area."

- (4) "Park Board" means the Yamhill County Park and Recreation Board appointed by the Board.
- (5) "Sheriff" means the Yamhill County Sheriff or the sheriff's duly appointed deputies.

**Section 4. ADMINISTRATION AND ENFORCEMENT**

4.1 Administration. The Sheriff and the Park Board, under the direction of the Board, shall be responsible for the administration and enforcement of this ordinance.

4.2 Authority. The Sheriff shall have the authority to do all things necessary to administer the provisions of this ordinance and the rules and regulations adopted under it.

4.3 Enforcement. The enforcement of this ordinance by the Sheriff is not intended to limit the legal jurisdiction of any federal, state, county or local enforcement agency created by law, including but not limited to a rural fire protection district charged with providing fire protection for park areas.

4.4 Duties of the Sheriff. The Sheriff shall have authority to enforce all provisions of this ordinance.

**Section 5. ESTABLISHMENT OF RULES FOR USE OF PARK AREAS.**

5.1 Upon recommendation of the Sheriff or Park Board or upon its own motion, the Board may, by Board Order, promulgate rules and regulations pertaining to the administration and enforcement of this ordinance and to carry out its purposes. Any rules existing at the time of adoption of this ordinance shall remain in effect until specifically repealed.

**Section 6. PROHIBITIONS.**

**6.1 PROHIBITIONS RELATING TO MOTOR VEHICLES.**

- (1) No person shall operate a motor vehicle in contravention of the Oregon Motor Vehicle Code. (Class D Park Violation.)
- (2) No person may operate a motor vehicle off roads or outside parking areas constructed or designated for motor vehicle use. (Class B Park Violation.)

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- (3) Except where specifically allowed by order of the Board, no person shall allow a vehicle to remain in a park area during the time the park is closed. (Class E Park Violation.)
- (4) No person shall park an automobile, trailer or other vehicle in any place other than a designated parking area. (Class D Park Violation.)
- (5) Unless otherwise authorized by the entity controlling the park, no person shall operate a motor vehicle within a park area at a speed in excess of 10 miles per hour. (Class C Park Violation.)
- (6) No person shall operate a motorized all terrain vehicle within a park area. (Class C Park Violation.)

## 6.2 PROHIBITIONS RELATING TO PETS AND OTHER ANIMALS.

- (1) No person shall bring any dog, cat or other pets into a park area unless the animal is safely contained in a vehicle or on a leash not more than 6 feet long and kept under physical control at all times. (Class E Park Violation.)
- (2) No person shall fail to immediately remove solid animal wastes left by an animal that person brought into a park area. (Class D Park Violation.)
- (3) No person shall allow an animal to go within the park areas not designated for animal use. (Class D Park Violation.)
- (4) Except where specifically authorized by order of the Board, no person shall bring a horse or other livestock into a park area. (Class D Park Violation.)

## 6.3 PROHIBITIONS RELATING TO VANDALISM AND LITTER.

- (1) No person shall pick, cut, mutilate, remove or uproot plant life or natural resources of any type from any park area without written consent from the authority governing the park area. (Class B Park Violation.)
- (2) No person shall place or leave materials for recycling, garbage, sewage, refuse or waste within a park area except in containers provided for that purpose. (Class C Park Violation.)
- (3) No person shall deposit waste not generated by park use, including household, commercial or industrial waste or refuse, within waste containers in a park area. (Class C Park Violation.)
- (4) No person shall mutilate, burn, deface, damage, or remove any property, structure, or facility of any kind within a park area. (Class A Park Violation)

- (5) No person shall dig up, deface, or remove any dirt, stones, rock, or other substance whatever, may any excavation, quarry any stone, lay or set off any blast, or cause or assist in doing any of these things, within a park area, except by special permit from an authorized person. (Class C Park Violation)

6.4 PROHIBITIONS RELATING TO CAMPING.

- (1) Except as specifically authorized in writing by an authorized person, no person shall camp within a park area. (Class E Park Violation.)

6.5 PROHIBITIONS RELATING TO HUNTING AND FIREARMS.

- (1) No person shall hunt, pursue, trap, kill, injure, harass, or molest any wildlife within a park area. (Class B Park Violation.)
- (2) No person shall disturb any wildlife habitat within a park area. (Class C Park Violation.)
- (3) No person shall remove any wildlife animal from a park area. (Class C Park Violation.)
- (4) No person within a park area shall discharge or fire any firearm, bb or pellet gun, bow and arrow, slingshot, or other weapon capable of injuring any person or wildlife. (Class A Park Violation.)

6.6 PROHIBITIONS RELATING TO FIRES.

- (1) Unless permitted by an authorized person, no person shall start or operate a fire within a park area except within park camp stoves or fireplaces provided for such purposes or within portable stoves in established park picnic areas. (Class D Park Violation.)
- (2) No person shall leave a fire unattended within a park area. (Class A Park Violation)
- (3) No person shall allow a fire to cause damage to park facilities or areas. (Class A Park Violation.)
- (4) No person who starts a fire shall leave the park area without first extinguishing the fire. (Class C Park Violation.)
- (5) No person shall start or operate a fire within a park area in contravention of an order of the fire marshal or fire chief. (Class D Park Violation.)

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## 6.7 GENERAL PROHIBITIONS.

- (1) No person within a park area shall use or operate any noise producing machine, device or instrument in a manner that, in the judgment of the enforcement officer, substantially diminishes the ability of other park area visitors to enjoy the park or subjects persons occupying residences adjacent to or near the park to inconvenience, annoyance or alarm. (Class C Park Violation.)
- (2) No person within a park area shall possess, discharge, or cause to be discharged any firecrackers, explosives, torpedoes, rockets, fireworks or other substances within a park area without the written permission of an authorized person. (Class D Park Violation.)
- (3) Except as authorized by permit of the governing body of the entity owning or controlling the park, no person within a park area shall use a public address system or other device to mechanically or electronically amplify sound. (Class D Park Violation.)
- (4) No person within a park area shall block, obstruct or interfere with vehicular or pedestrian traffic on any road, parking area, trail, walkway, pathway or common area. (Class D Park Violation.)
- (5) No person within a park area shall occupy or interfere with access to any structure, office, lavatory or other facility in a manner which impairs the intended use of the structure or facility by park users. (Class D Park Violation.)
- (6) No person shall use alcohol or possess an open container of alcohol in a park area designated "Alcohol Free" by order of the governing body of the entity owning or controlling the park. (Class D Park Violation.)
- (7) Except as approved by an authorized person, no person shall remain within a park area between dusk and dawn. (Class E Park Violation.)
- (8) No person shall display, sell offer for sale, peddle, hawk or vend any goods, wares, merchandise, food, liquids or services within any park area without a permit or license from an authorized person. (Class D Park Violation.)
- (9) No person shall operate a concession either fixed or mobile within any park, except by special permit from an authorized person. (Class D Park Violation.)
- (10) No person shall erect any permanent signs or temporary signs of a commercial nature, or inscriptions of any type within any park, except by special permit from an authorized person. (Class D Park Violation.)

**Section 7. SPECIAL PROVISIONS FOR SEIZURE OF WEAPONS; TOWING OF VEHICLES.**

7.1 Upon issuance of a citation for violation of Section 6.5(4) of this ordinance, the peace officer issuing the citation shall immediately take the weapon into possession. The weapon shall be placed into evidence at the appropriate law enforcement agency. Upon conviction, the court may forfeit the weapon as a public nuisance or return the weapon to the defendant; provided, however, that the weapon shall not be returned if seizure is mandated by any provision of Oregon law.

7.2 Upon issuance of a citation for violation of Section 6.1(3) of this ordinance, the peace officer issuing the citation may authorize the offending vehicle to be removed if the peace officer reasonably believes that the vehicle may be damaged if left within the park area. The owner of the vehicle shall be responsible for all towing costs.

**Section 8. PENALTIES; BAIL SCHEDULES; DISTRIBUTION OF PROCEEDS.**

8.1 Penalties. Violation of this ordinance shall be punishable, upon conviction, by a fine of not more than \$500 for a noncontinuing offense and a fine of not more than \$1,000 for a continuing offense.

8.2 Bail Schedule. Bail for offenses stated in Section 6 shall be as stated in the following schedule:

- (1) Class A Park Violation: \$500
- (2) Class B Park Violation: \$250
- (3) Class C Park Violation: \$150
- (4) Class D Park Violation: \$99
- (5) Class E Park Violation: \$67

8.3 Distribution of Amounts received for Payment of Fines. Upon receipt of fines imposed for violations of this ordinance, the Trial Court Clerk shall first deduct and retain the percentage amount otherwise provided for state administrative costs in connection with adjudication of county ordinance violations. The balance shall be deposited with the county treasurer, who shall credit the first \$25 or portion thereof to a dedicated fund for county parks, and the remainder to the general fund.

**Section 9. PROCEDURE FOR CITATION; JURISDICTION; VENUE; PROSECUTION.**

9.1 Procedure. A violation of Section 6 of this ordinance shall be prosecuted in the name of Yamhill County, Oregon, under the Yamhill County Citation Ordinance, No. 448.

9.2 Jurisdiction. Jurisdiction for violations arising under this ordinance is vested in Circuit Court for Yamhill County, Oregon. In the event a Justice Court shall be established in Yamhill County, Justice Court shall have concurrent jurisdiction.

9.3 Venue. An action for an infraction arising under this ordinance shall be commenced in Yamhill County, including any offense committed on any body of water located in or adjacent to Yamhill County.

9.4 Prosecution. At any trial involving a violation arising under this ordinance only, the prosecuting attorney may aid in preparing evidence and obtaining witnesses but shall not appear unless counsel for the defendant appears. As used in this subsection, the "prosecuting attorney" includes the district attorney, a city attorney or the county counsel.

#### **Section 10. REPEAL OF ORDINANCE 196.**

10.1 Ordinance 196 is repealed as of the effective date of this ordinance.

#### **Section 11. AMENDMENT OF ORDINANCE 448**

11.1 Section 4 of Ordinance 448, July 1, 1987 is hereby repealed and replaced in its entirety with the following language:

"Section 4. Laws Enforceable Under this Ordinance. The following ordinances, statutes and regulations shall be enforceable under the provisions of this ordinance:

- (1) Yamhill County Solid Waste Ordinance, 1994.
- (2) Yamhill County Land Division Ordinance No. 497, as amended by Ordinance 529.
- (3) Yamhill County Zoning Ordinance No. 310, as amended.
- (4) ORS Chapter 454, as applicable, and Oregon Administrative Rules Chapter 340, Division 71.
- (5) Yamhill County Building, Mechanical, Plumbing and Electrical Ordinance 446.
- (6) Yamhill County Parks Ordinance, No. 619.
- (7) All amendments to the ordinances listed in this section made subsequent to the adoption of this ordinance."

**Section 12. SEVERABILITY**

12.1 If any clause, section or provision of this ordinance shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said ordinance shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.

**Section 13. EFFECTIVE DATE (June 4, 1998)**

13.1 The first reading of this ordinance was February 19, 1998. The second reading was March 5, 1998. In accordance with ORS 203.045(9), 1997 replacement part, this ordinance shall become effective June 4, 1998.

**RECORD OF VOTE**

AYES: Commissioners Lopuszynski and Johnstone

NAYS: Commissioner Bunn

DONE at McMinnville, Oregon this 5th day of March, 1998.

ATTEST

YAMHILL COUNTY BOARD OF COMMISSIONERS

CHARLES STERN  
County Clerk



By: *Carol Ann White*  
Deputy CAROL ANN WHITE

FORM APPROVED BY:

*John M. Gray Jr.*  
JOHN M. GRAY, JR.  
Yamhill County Counsel

*Ted Lopuszynski*  
Chairman TED LOPUSZYNSKI

*Robert Johnstone*  
Commissioner ROBERT JOHNSTONE

*Thomas E.E. Bunn*  
Commissioner THOMAS E.E. BUNN