

## **ARTICLE II: PARKS**

### **Section 8.201: DEFINITIONS**

- A. For the purpose of this Ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words in the singular number include the plural number. The word shall is always mandatory and not merely directory.
1. "City" is the City of Portsmouth.
  2. "Director" is a person immediately in charge of any park area and its activities, and to whom all park attendants of such area are responsible.
  3. "Park" is a park, reservation, playground, swimming pool, recreation center, or any other area in the City and devoted to active or passive recreation.
  4. "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.
  5. "Vehicle" is any wheeled conveyance, whether animal drawn, motor powered, or self propelled. The term shall include any trailer in tow of any size, kind or description. Exception is made for baby carriages and vehicles in the service of the City parks.

### **Section 8.202: PARK PROPERTY**

#### **A. Buildings and Property**

No person in a park shall:

1. Willfully mark, deface, disfigure, injure, tamper with, or displace or remove, any paving or paving material, water lines or other public utilities or part or appurtenances thereof, signs, notices or placards whether temporary or permanent, monuments, stakes, posts or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal.
2. Fail to cooperate in maintaining restrooms and washrooms in a neat and sanitary condition. No person over the age of 5 years shall use the restrooms and washrooms of the opposite sex.
3. Dig or remove any beach sand, whether submerged or not or any soil, rock, stones, trees, shrubs, plants, down-timber or other wood or materials, or make any excavation by tool, equipment, blasting or other means or agency.
4. Construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon, or across such lands, except on special written permit issued hereunder.

B. Trees, Shrubbery, Lawns

No person in a park shall:

1. Damage, cut, carve, transplant or remove any tree or plant or injure the bark, or pick the flowers or seeds, of any tree or plant. Nor shall any person attach any rope, wire or other contrivance to any tree or plant. A person shall not dig or in other ways disturb grass areas, or in any other way injure or impair the natural beauty or usefulness of any area.
2. Climb any tree or walk, stand or sit upon monuments, vases, fountains, railings, fences, or gun carriages or upon any other property not designated or customarily used for such purposes.
3. Tie or hitch a horse or other animal to any tree or plant.

C. Wild Animals, Birds, Etc.

No person in a park shall:

1. Hunt, molest, harm, frighten, kill, trap, chase, tease, shoot or throw missiles at any animal, reptile, bird or shall he remove or have in his possession the young of any wild animal, or the eggs or nest, or young of any reptile or bird; nor shall he collect, remove, have in his possession, give away, sell or offer to sell, or buy or offer to buy, or accept as a gift, any specimen, alive or dead, of any of the group of tree snails. Exception to the foregoing is made in those snakes known to be deadly poisonous such as rattle snakes, moccasins, coral snakes, or other deadly reptiles, may be killed on sight.
2. Give or offer or attempt to give to any animal or bird any tobacco, alcohol or other known noxious substances.

D. Dogs

No person shall allow any dog, whether on a leash or off a leash to be in any area in any park in which the Recreation Department holds scheduled programs. Such areas shall be posted by the City to indicate that no dogs are allowed at any time. (Amended 5/16/05)

E. Use of Piers, Floats and any other docking locations

The use of piers, floats and any other docking locations at Prescott Park from the northerly boundary of the park to the Peirce Island Bridge shall be limited and regulated as follows:

1. No commercial craft shall be secured at any such docking location;
2. No pleasure craft in excess of 70 feet in length shall be secured at any such docking location without written permission from the Trustees;
3. No craft may be "rafted", (secured to another craft) which is secured at any such docking location;
4. No craft shall remain secured at the floats in excess of seventy-two (72) consecutive hours per docking, after which, at least twenty-four (24) hours shall have elapsed before the craft may be permitted to re-secure except to load or unload. A craft may be secured in 24-hour increments in excess of 72 hours when

the dockmaster has determined that there is no other demand for the space;  
(Amended 9/21/98)

5. No craft may be docked or secured at any location in Prescott Park other than at the northerly or southerly floats;
6. One float in both the northerly and southerly sections shall be designated by the Dock Master for loading and unloading and shall be restricted to one-half hour use at no cost;
7. Docking Fees:
  - a. Emergency Docking: (Adopted 6/2/86)
    1. When necessary, due to an emergency, any craft shall be permitted to secure to the pier or floats, without charge, for up to four hours, after which, docking fees will be assessed;
    2. "Emergency" is a sudden unexpected happening requiring the immediate attention of the operator or a passenger of the craft.
  - b. Daytime docking fees to be determined in accordance with Chapter 1, Article XVI or similar wording. (Amended 3/18/2002).
  - c. Persons wishing to secure a craft for a twenty-four (24) hour period shall pay a fee to be determined in accordance with Chapter 1, Article XVI or similar wording. (Amended 7/9/90) (Amended 3/18/2002).
8. The Dock Master may inquire of the person in charge of any craft to be secured to the floats, the intended length of stay and may collect in advance the appropriate fee.
9. Any person, firm, or corporation who secures a craft or allows a craft under its ownership or control to be secured in violation of the terms of this ordinance shall be subject to the following:
  - a. a fine of not more than One Hundred (\$100) dollars per day;
  - b. prosecution under the New Hampshire Criminal Code;
  - c. a civil assessment payable to the City of Portsmouth in the amount of any docking fees which are not paid.
10. The provisions of this ordinance shall be posted in plain view at the piers, floats, and along the seawall at Prescott Park.

(8.202.E Amended 7/9/84 in its entirety; 8.202.E Amended 5/6/85 in its entirety)

F. Dock Master

Enforcement of the provisions of Section 8.202.D of these ordinances and collection of any and all docking fees created thereunder, shall be within the authority and responsibility of a Dock Master, who shall be appointed by and be under the direction and control of the Trustees of Trust Funds. (Adopted 7/9/84)

G. Municipal Floats, Docks and Piers Trust

All fees collected under the provisions of Section 8.202 D shall be held in trust by the Trustees of the Trust Fund for the purpose of repair, maintenance and safe operation of municipal floats, docks and piers. (Subsection F adopted 8/18/97)

### **Section 8.203: SANITATION**

- A. **Pollution of Waters:** No person in a park shall throw, discharge, or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream, bay or other body of water in or adjacent to any park or tributary, stream, storm sewer or drain flowing into such waters, any substance, matter or thing, liquid or solid, which will or may result in the pollution of said waters.
- B. **Refuse and Trash:** No person in a park shall have brought in or shall dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, or refuse, or other trash. No such refuse or trash shall be placed in any waters in or contiguous to any park, or left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided; where receptacles are not so provided all such rubbish or waste shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere.

### **Section 8.204: TRAFFIC**

- A. **State Motor Vehicle Laws Apply:** No person in a park shall fail to comply with all applicable provisions of the state motor vehicle traffic laws in regard to equipment and operation of vehicles together with such regulations as are contained in this and other Ordinances.
- B. **Enforcement of Traffic Regulations:** No person in a park shall fail to obey all traffic officers and park employees, such persons being hereby authorized and instructed to direct traffic whenever and wherever needed in the parks and on the highways, streets or roads immediately adjacent thereto in accordance with the provisions of these regulations and such supplementary regulations as may be issued subsequently by the Director.
- C. **Obey Traffic Signs:** No person in a park shall fail to observe carefully all traffic signs indicating speed, direction, caution, stopping or parking, and all others posted for proper control and to safeguard life and property.
- D. **Speed of Vehicles:** No person in a park shall ride or drive a vehicle at a rate of speed exceeding 15 mph except upon such roads as the Director may designate, by posted signs, for speedier travel.
- E. **Operation Confined to Roads:** No person in a park shall drive any vehicle on any area except the park roads or parking areas, or such other areas as may on occasion by specifically designated as temporary parking areas by the Director.
- F. **Parking:** No person in a park shall:
  - 1. Park a vehicle in other than an established or designated parking area and such use shall be in accordance with the posted directions there at and with the instructions of any attendant who may be present.

2. Leave any vehicle anywhere in the park with one or more wheels chained or with motor set in gears and doors locked, or in any manner fixed or arranged so that such vehicle cannot readily be moved by hand.
  3. Double park any vehicle on any road or parkway unless directed by a park official.
- G. Bicycles: No person in a park shall:
1. Ride a bicycle on other than a vehicular road or park path designated for that purpose. A bicyclist shall be permitted to wheel or push a bicycle by hand over any grassy area or wooded trail or on any paved area reserved for pedestrian travel.
  2. Ride a bicycle other than in full compliance with the traffic regulation of the City of Portsmouth.
  3. Leave a bicycle lying on the ground or pavement or set against trees, or in any place or position where other persons may trip over or be injured by it or leave bicycle in a place other than a bicycle rack when such is provided and there is space available.
- H. Skateboards and In-line Skates (Roller Blades): In Prescott Park, no person shall ride a skateboard, or wear either roller skates or in-line skates (Roller Blades). (5/2/94)

**Section 8.205: RECREATIONAL ACTIVITIES**

- A. Bathing and Swimming: No person in a park shall:
1. Swim, bath or wade in any waters in any park except in such waters and at such places as are provided therefor, and in compliance with such regulation as are herein set forth or may be hereafter adopted. Nor shall any person frequent any waters or places customarily designated for the purpose of swimming or bathing, or congregate there when such activity is prohibited by the Director upon a finding that such use of the water could be dangerous or otherwise inadvisable.
  2. Frequent any water or places designated for the purpose of swimming or bathing, or congregate there at except between such hours of the day as shall be designated by the Director for such purposes for each individual area.
  3. Allow himself to be so covered with a bathing suit as to indecently expose his person or call forth merited criticism. No person shall appear in bathing costume at any place in the parks except within the limits of designated bathing places or areas, and all bathing costumes shall conform to commonly accepted standards.
  4. Dress or undress on any beach, or in any vehicle, toilet or other place, except in such bathing house or structures as may be provided for that purpose.
- B. Hunting and Firearms:  
No person in a park shall hunt, trap or pursue wild life at any time. No person shall use, carry or possess firearms of any descriptions or air rifles, spring guns, bow and arrows, slings or any other forms of weapons potentially inimical to wild life and dangerous to human safety, or any instrument that can be loaded with and fire blank cartridges or any kind of trapping device. Shooting into park areas from beyond park boundaries is forbidden.

- C. Picnic Areas and Use: No person in a park shall:
1. Picnic or lunch in a place other than those designated for that purpose. Attendants shall have the authority to regulate the activities in such areas when necessary to prevent congestion and to secure the maximum use for comfort and convenience to all. Visitors shall comply with any directions given to achieve this end.
  2. Violate the regulation that use of individual fireplaces together with tables and benches follows generally the rule of "first come/first served".
  3. Use any portion of the picnic areas or of any of the buildings or structures therein for the purpose of holding picnics to the exclusion of other persons nor shall any person use such area and facilities for an unreasonable time if the facilities for an unreasonable time if the facilities are crowded.
  4. Leave a picnic area before the fire is completely extinguished and before all trash in the nature of boxes, papers, cans, bottles, garbage, and other refuse is placed in the disposal receptacles where provided. If no such trash receptacles are available, then refuse and trash shall be carried away from the park area by the picnicker to be properly disposed of elsewhere.

- D. Games
- No person in a park shall take part in or abet the playing of games involving thrown or otherwise propelled objects such as balls, stones, arrows, javelins, or model airplanes except in areas set apart for such forms of recreation. The playing of rough or comparatively dangerous games such as football, baseball and quoits is prohibited except on fields and courts provided therefore. Roller-skating and Rollerblading shall be confined to those areas specifically designated for such activities.

**Section 8.206: BEHAVIOR**

- A. Intoxicating Beverages: No person in a park shall:
1. Have brought alcoholic beverages, nor shall any person drink alcoholic beverages at any time in the park.
  2. Have entered or be under the influence of intoxicating liquor at any time in the park.

Upon a conviction of any offense under this ordinance, the person shall be subject to the following penalties: (4/1/02)

|                                           |       |
|-------------------------------------------|-------|
| First offense                             | \$50  |
| Second offense                            | \$75  |
| Third offense and each subsequent offense | \$100 |

Any fine to which a violator is subject under this ordinance may be paid to the Clerk of Court of the Portsmouth District Court at any time prior to trial in any case charged under this ordinance. (12/15/97.)

B. Fireworks and Explosives:

No person in a park shall bring, or have in his possession or set off or otherwise cause to explode or discharge or burn any fire-crackers, torpedoes, rockets, or other fireworks or explosives of flammable materials, or discharge them or throw them into such area from land or highway adjacent thereto. This prohibition includes any substance, compound, mixture, or article that in conjunction with any other substance or compound would be dangerous from any of the foregoing standpoints.

C. Domestic Animals: (deleted in its entirety 10/19/87)

D. Reservation of Facilities

No person in a park shall occupy any seat or bench or enter into or loiter or remain in any pavilion or other park structure or section thereof which may be reserved and designated by the Director for the use of the opposite sex. Exception is made for children under 6 years of age.

E. Dress

No person in a park shall appear at any place in other than proper clothing. With the exception of the restricted bathing area, "proper clothing" shall be construed to prohibit the wearing of trunks or clothing that does not cover the upper portion of the body.

F. Alms

No person in a park shall solicit alms for any purpose, whether public or private. Non-profit organizations may solicit contributions during those times when they have been specifically authorized to use park property by the City Council. (Adopted 3/20/89)

G. Fires

No person in a park shall build or attempt to build a fire except in such areas and under such regulations as may be designated by the Director. No person shall drop, throw, or otherwise scatter lighted matches, burning cigarettes or cigars, tobacco paper or other flammable material, within any park area or on any highway, road or street abutting or contiguous thereto.

H. Closed Areas

No person in a park shall enter an area posted as "Closed to the Public" nor shall any person use or abet the use of any area in violation of posted notices.

I. Games of Chance

No person in a park shall gamble or participate in or abet any game of chance.

Raffles shall not be considered a game of chance for the purpose of this section and shall be permitted by non-profit organizations during those times when they have been specifically authorized to use park property by the appropriate City department. (4/03/89)

J. Loitering and Boisterousness

No person in a park shall sleep or protractedly lounge on the seats or benches or other areas or engage in loud, boisterous, threatening, abusive, insulting or indecent language, or engage in any disorderly conduct or behavior tending to a breach of the peace.

Upon a conviction of any offense under this ordinance, the person shall be subject to the following penalties: (Amended 4/1/2002)

|                                   |       |
|-----------------------------------|-------|
| First offense                     | \$50  |
| Second offense                    | \$75  |
| Third and each subsequent offense | \$100 |

Any fine to which a violator is subject under this ordinance may be paid to the Clerk of Court of the Portsmouth District Court at any time prior to trial in any case charged under this ordinance. (Amended 12/15/97)

**K. Exhibit Permits**

No person in a park shall fail to produce and exhibit any permit from the Director upon request of any authorized person who shall desire to inspect the same for the purpose of enforcing compliance with any Ordinance or rule.

**L. Interference with Permittees**

No person in a park shall disturb or interfere unreasonable with any person or party occupying any area, or participating in any activity under the authority of a permit.

**M. No person shall enter or remain in any park when such park is posted as closed pursuant to Section 8.208 (A).**

Upon a conviction of any offense under this ordinance, which alleges that a person has had one or more convictions under this ordinance within five (5) years preceding the date of the subsequent offense, the person shall be subject to the following penalties:

|                                   |       |
|-----------------------------------|-------|
| First offense                     | \$50  |
| Second offense                    | \$75  |
| Third and each subsequent offense | \$100 |

Any fine to which a violator is subject under this ordinance may be paid to the Clerk of Court of the Portsmouth District Court at any time prior to trial in any case charged under this ordinance. (Amended 12/15/97)

**Section 8.207: MERCHANDISING, ADVERTISING AND SIGNS**

**A. Vending and Peddling**

No person in a park shall expose or offer for sale any article or thing, nor shall he station or place any stand, cart or vehicle for transportation, sale or display of any such article or thing. Exception is here made as to any regularly licensed concessionaire acting by and under the authority and regulation of the Director.

Exception is also made for the concession stand at Prescott Park, the operation of which must be authorized through the City Council. (Adopted 3/20/89)



- B. Advertising  
No person in a park shall announce, advertise or call the public attention in any way to any article or service for sale or hire.
- C. Signs  
No person in a park shall paste, glue, tack or otherwise post any sign, placard, advertisement or inscription whatever nor shall any person erect or cause to be erected any sign whatever on any public lands or highways or roads adjacent to a park.
- D. Location of Sidewalk Vendors, Peddlers  
No vendor or peddler shall station or place one's person, stand, cart or vehicle for transportation, sale or display of any article or thing in the following locations:
1. A point measured at 124 feet from the corner of State Street and Marcy Street extending 60 feet in an easterly direction along the northerly sidewalk of Marcy Street; (Adopted 6/20/88)
  2. A point measured at 334 feet from the corner of State Street and Marcy Street extending 155 feet in an easterly direction along the northerly sidewalk of Marcy Street. (Adopted 6/20/88)

**Section 8.208: PARK OPERATING POLICY**

- A. Hours  
Except for unusual and unforeseen emergencies, parks shall be open to the public every day of the year during hours designated by the City Manager and approved by the Council. The opening and closing hours for each individual park shall be posted therein.
- B. Closed Areas  
Any section or part of any park may be declared closed to the public by the Director at any time and for any interval of time, either temporarily or at regular and stated intervals (daily or otherwise) and either entirely or merely to certain uses as the Director shall find reasonably necessary.
- C. Lost and Found Articles  
The finding of lost articles by park attendants shall be reported to the Director who shall make every reasonable effort to locate the owners. The Director shall make every reasonable effort to find articles reported as lost.
- D. Permit  
A permit shall be obtained from the appropriate Director before participating in the following park activity:
1. Application:
    - a. A person seeking issuance of a permit hereunder shall file an application with the appropriate Director. The application shall state:
      - (1) The name and address of the applicant;
      - (2) The name and address of the person, persons, corporation or association sponsoring the activity if any;
      - (3) The day and hours for which the permit is desired;

- (4) The park or portion thereof for which such permit is desired;
- (5) An estimate of the anticipated attendance;
- (6) Any other information, which the Director shall find reasonably necessary to a fair determination as to whether, a permit should issue hereunder.

2. Standards for Issuance

The Director shall issue a permit hereunder when he finds:

- a. That the proposed activity or use of the park will not unreasonably interfere with or detract from the general public enjoyment of the park;
- b. That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation;
- c. That the proposed activity or use is not reasonably anticipated to incite violence or crime or disorderly conduct;
- d. That the proposed activity will not entail unusual, extraordinary or burdensome expense or police operation by the City;
- e. That the facilities desired have not been reserved for other use at the day and hour required in the application.

3. Appeal

Within 5 days after receipt of an application, the Director shall apprise an applicant in writing of his reasons for refusing a permit, and any aggrieved person shall have the right to appeal in writing within 5 days to the City Council, which shall consider the application under the standards set forth in subsection 2. hereof and sustain or overrule the Director's decision within 5 days after receipt of said appeal in regular session. "Regular session" shall mean a regularly scheduled meeting of the City Council. The decision of the City Council shall be final.

4. Effect of Permit

A permittee shall be bound by all park rules and regulations and all applicable Ordinances fully as though the same were inserted in said permit.

5. Liability of Permittee

The person or persons to whom a permit is issued shall be liable for any loss, damage, or injury sustained by an person whatever by reasons of the negligence of the person or persons to whom such permit shall have been issued.

6. Revocation

The Director shall have the authority to revoke a permit upon a finding of violation of any rule or ordinance, or upon good cause shown.

E. Night Fishing on Peirce Island (Adopted 6/3/96)

Notwithstanding any other provision of this ordinance, the Chief of Police or the Chief's designee is hereby authorized to issue permits to individuals to allow such individuals to fish from Peirce Island during any period of time when the Island has otherwise been closed to the public pursuant to this ordinance. The permits shall be issued for a period of time not to exceed ninety (90) consecutive days at the discretion of the Chief. Such permits shall be issued to any individual requesting the same upon a demonstration by

that individual of proper identification. The permits shall be issued free of charge. Any permit issued pursuant to this provision must be carried on the person of the permittee at all times while on Peirce Island pursuant to the permit and presented upon demand to any law enforcement officer or municipal official making such demand and shall not be transferable to any other person. The Chief of Police or the Chief's designee may refuse to issue a permit under this provision to any individual who has previously been convicted of committing any offense within the physical boundaries of Peirce Island.

**Section 8.209: PENALTIES**

Any person violating the provisions of this Ordinance shall be fined not less than \$20.00 and not more than \$100.00 for each offense, unless otherwise provided herein. (Amended 12/15/97)

**Section 8.210: SEPARABILITY**

Should any section, clause, or provision of Article II be declared by the Court to be invalid, the same shall not effect the validity of the ordinance as a whole or any part thereof, other than the part so declared.