


# COUNCIL COMMUNICATION

	Number:	<b>19-325</b>	Meeting:	<b>July 15, 2019</b>
	Agenda Item:	<b>57</b>	Roll Call:	<b>19-1138</b>
	Submitted by:	<b>Benjamin R. Page, Park and Recreation Director</b>		

## AGENDA HEADING:

Recommend approval of proposed amendments of Municipal Code Chapter 74 regarding various changes to clarify intent of ordinance, tobacco use in parks, fees for use of facilities and programs, alcohol use, park facility hours and other various changes.

## SYNOPSIS:

Recommend approval of changes to Municipal Code Chapter 74, including but not limited to:

- Elimination of tobacco use in all City parks and facilities
- Expansion of hours where City parks and facilities are open to the public
- Areas where alcohol is allowed in City parks and facilities
- Change of fees for the following facilities:
  - Enclosed shelter house facilities
  - Community Recreation Centers
- Addition of new fees for the following items:
  - Commercial photography permit fee
  - Creation of annual pass for Community Recreation Centers

## FISCAL IMPACT:

Amount: It is estimated that the proposed fee changes will have minimal impacts to the revenue received by the City.

## ADDITIONAL INFORMATION:

- At the June 25, 2019 Parks and Recreation Board meeting, the board unanimously approved all of the following proposed changes.
- Chapter 74 of the Des Moines Municipal Code is dedicated to the organization and management of the City parks and recreation facilities and outlines the role of the Parks and Recreation Board, the authority of the Parks and Recreation Director, operation of City parks and recreation facilities and the fees for use of facilities and programs.
- In addition to Chapter 74, parks and recreation facility elements can be found in Chapter 34, Cemeteries and Chapter 130, Waterways, but the proposed changes covered by this action are limited to Chapter 74.

- All changes to the City of Des Moines Municipal Code must be approved by the Des Moines City Council.
- The proposed changes to Chapter 74 represent the first review of the entire ordinance since the adoption of LiveDSM, the Parks and Recreation Comprehensive Plan in December of 2018. The result of this ordinance review are many proposed changes to the ordinance to help further the goals that were adopted as part of LiveDSM. These goals include:
  1. Equity – Deliver equitable services and facilities
  2. Attraction – Support year-round programming that attracts people to parks
  3. Heart – Make parks and trails are the heart of the community
  4. Nature – Improve natural systems
  5. Innovation – Launch new approaches to parks and recreation
- Staff also met with the City’s Equity Coordinator to better understand what proposed changes to the ordinance might have on disadvantaged populations in the City and, if some disadvantaged populations are impacted by a change, what can be done to alleviate that impact. Staff believes that the proposed changes to the ordinance will not have a negative impact to disadvantaged populations and that the proposed changes in many cases remove existing barriers to access.

#### Proposed Ordinance Changes

The following summary describes the proposed major changes to the ordinance along with all of the proposed changes to the fees for use of facilities and programs. The Parks and Recreation Board should use this document as a guide to the changes, but still read in detail the proposed marked up copy of Chapter 74 changes for all of the proposed changes.

#### Ordinance Clarity and Intent

Many of the proposed changes to Chapter 74 are to eliminate sections that are outdated and no longer needed or to clarify the role of the Parks and Recreation Board, the authority of the Parks and Recreation Director and operation of the Parks and Recreation Department. Major changes include:

- Park and Recreation Board – Currently written as Park and Recreation Board throughout the ordinance. Recommended to be changed to Parks and Recreation Board.
- Park and Recreation Director – Currently written as Park and Recreation Director throughout the ordinance. Recommended to be changed to Parks and Recreation Director
- Principal Park – Staff recommends the removal of Article V. Principal Park Stadium from Chapter 74 because the operations and maintenance of the stadium are covered under an agreement with the Iowa Cubs. The Legal Department advises that there is no legal need to include these sections in Chapter 74.
- Organization of the Department – The following sections are proposed to be eliminated from the ordinance because they no longer describe how the department is organized and are not needed:
  - Sec. 74-59. Divisions Enumerated
  - Sec. 74-61. Horticulture Division
  - Sec. 74-62. Park Division
  - Sec. 74-63. Cemetery Division
  - Sec. 74-64. Recreation Division

- Approval of the Aquatics Schedule – Currently the ordinance reads that the Parks and Recreation Board needs to approve the aquatics schedule at two (2) Board meetings. It will be changed to approval one (1) time. The aquatics schedule will still be brought to the Board for consideration two (2) times per year, but will be receive and file the first time and approval the second time instead of approval both times.
- Mobile Food Venders in Designated Parks – Add Simon Estes Amphitheater – plaza area to the list of approved locations for mobile food venders in parks.

Alcohol Use, Sec 74-92.

Currently alcohol use is allowed at some enclosed shelters and not others. To be consistent, staff is recommending alcohol be allowed at all enclosed shelters. Staff is also recommending revisions regarding the use of alcohol at Gray’s Lake Park to be consistent with needs of the upcoming proposed concessionaire agreement to operate the concession stand at the Christine Hensley Terrace at the southwest corner of the park.

The following is the proposed language regarding alcohol use in parks and recreation facilities:

Sec. 74-92. Consumption of alcohol; intoxication.

- (a) It is unlawful for any person to use, possess or consume beer, wine or alcoholic liquor in any City park, including all park roads and parking areas in parks, except by issuance of a permit or pursuant to a concession agreement and either:
  - (1) Approval of the Parks and Recreation Board; or
  - (2) Such use, possession or consumption is in an enclosed park shelter; or
  - (3) Such use, possession or consumption is within the Clare and Miles Mills Rose Garden or the Lilac Arboretum; or
  - (4) Such use, possession or consumption is within specified areas of the Principal Riverwalk including the Hub Spot Plaza, Hub Spot River Plaza, Hub Spot building, Long Look Garden, Brenton Skating Plaza and plaza adjacent to World Food Prize building; or
  - (5) Such use, possession or consumption is within the Robert D. Ray Asian Garden; or
  - (6) Such use, possession or consumption is during an adult event at the Carney Softball, James W. Cownie Soccer and Baseball Parks, Savage Softball Complex, or Greater Des Moines Softball Park. Such use, possession, or consumption is allowed on fields at James W. Cownie Soccer Park, Greater Des Moines Softball Park and Savage Softball complex in use for adult events when other fields are in use for youth events; or
  - (7) Such use, possession or consumption is within the park between Tenth and Fifteenth Streets and Grand Avenue and Locust Street a/k/a “Western Gateway Park”; or
  - (8) Within the service building and designated outdoor areas of Birdland Marina pursuant to a concession agreement; or
  - (9) Within Riverview Park and in conjunction with the Prairie Meadows Stage.
- (b) The permit must be obtained from the Parks and Recreation Director.
- (c) Use, possession or consumption of beer, wine or alcoholic liquor is allowed pursuant to a concession agreement covering:
  - (1) Gray’s Lake Park Christine Hensley Terrace and Terrace building and designated outdoor areas; or

- (2) Birdland Marina service building and designated outdoor areas.
- (d) In addition to the above requirements, a state liquor control license and approval of the Parks and Recreation Board, is required in order to use, possess or consume keg beer or alcoholic liquor, except that Parks and Recreation Board approval is not required for use, possession or consumption within “Western Gateway Park”, Birdland Marina and Christine Hensley Terrace and Terrace building and designated outdoor areas.
- (e) No person shall be intoxicated or simulate intoxication in a City park.

Park and Facility Hours, Sec. 74.101

Currently the hours of use for parks are from 6:00 a.m. to 30 minutes past sunset central standard time unless otherwise noted in the ordinance.

Staff contacted over 20 different park and recreation agencies in the Des Moines area and across the country to better understand what most agencies have for hours of operation for their parks and recreation facilities. Of the communities that were contacted, only one (1) other agency had similar hours of operation to Des Moines. Most communities allow people to begin using park and recreation facilities at either 5:00 a.m. or 6:00 a.m. daily and most closed to the public between 10:00 p.m. and 12:00 a.m. daily with almost every community having some exceptions to the posted hours for specialized parks and recreation facilities.

The daily closure of parks and recreation facilities at 30 minutes past sunset creates an uneven approach to closure each day that can be difficult for the Parks and Recreation staff and the Police Department to enforce.

Staff is recommending that the hours of operation for parks and recreation facilities be from 6:00 a.m. to 10:00 p.m. daily with the following exceptions:

- (1) *Clubhouses and related facilities on golf courses.* These facilities may remain open until 2:00 a.m.
- (2) *Concerts at the Simon Estes Amphitheater.* This facility may remain open until 12:00 midnight.
- (3) *Riverview Park Prairie Meadows Stage.* This facility may remain open until 12:00 midnight.
- (4) *Birdland Marina.* This facility may remain open until 11:00 p.m.
- (5) *Brenton Skating Plaza.* This facility may remain open until 12:00 midnight.
- (6) *Western Gateway Park and John and Mary Pappajohn Sculpture Park.* This facility may remain open until 12:00 midnight.
- (7) *Gray’s Lake Park.* This facility may remain open from 6:00 a.m. until 10:00 p.m. from November 1-March 31 and from 5:00 a.m. until 10:00 p.m. from April 1-October 31.
- (8) *Principal Riverwalk (excluding trails and trail heads):* These facilities may remain open until 2:00 a.m.
- (9) *Multi-use recreational trails* shall be open at all times.
- (10) *Sports complexes* may remain open until 12:00 a.m.

Staff believes that the consistent hours of operation will provide more opportunities for use of parks and recreation facilities while making it easier to enforce for staff and the Police Department.

Tobacco Use in City Parks and Facilities, Sec. 74-116.

Currently the ordinance prohibits smoking within 25 feet of most recreation facilities and at activities for youth, department sponsored events and programs and department sponsored concerts.

Staff recommends that smoking and the use of all tobacco products be prohibited upon the premises of any City park or recreation facility property, including sports facilities, golf courses, trails and community recreation centers. The following is the proposed language for the ordinance:

Sec. 74-116. Smoking Prohibited

- (a) No person shall smoke upon the premises of any City park or recreation facility property, including sports facilities, golf courses, trails and community recreation centers.
- (b) No person shall smoke within 25 feet of the entrance to any City park or recreation facility property. For purposes of this section "smoke" or "smoking" means to carry or exercise control over a lighted cigar, cigarette, pipe, or other lighted smoking equipment.
- (c) No person shall use tobacco of any kind upon the premises of any City or recreation facility property, including sports facilities, golf courses, trails and community recreation centers. "Tobacco" means any product made or derived from tobacco that is intended for human use, including both cigarettes and tobacco products as both are defined in Iowa Code Section 453A.1, and also including any kind of vapor product as defined in Iowa Code Section 453A.1 or any kind of electronic smoking device. "Electronic smoking devices" means any device that can be used to deliver an aerosolized solution that may or may not contain nicotine to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, e-hookah, or other simulated smoking device. Nicotine products approved by the United States Food and Drug Administration for tobacco cessation shall be allowed in or on park property.
- (d) This section does not apply to the Botanical Garden, Zoo or Principal Park.

Signage in Parks, Sec. 74-103

Currently the ordinance allows neighborhood signs within parks if they can meet the specified guidelines established in this section of the ordinance.

Staff recommends that the provision to allow neighborhood signs be removed from the ordinance and replaced with the following:

Sec. 74-103. Signage in parks and land and facilities managed by the parks and recreation department.

Only signs which are City signs, or sponsorship or donor signage authorized by an agreement with the City, are permitted in City parks and land and facilities managed by the parks and recreation department. Such signs shall be deemed to be City signs and are under the control of the parks and recreation department. Temporary signage in connection with an event during the time of the event may be permitted by the director of parks and recreation.

Article V. Fees

The following are the proposed changes to the fees section of the ordinance:

- *Sec. 74-175. Tennis courts.* – Proposed change is clarification that charge to rent court is per hour and per court.
- *Sec. 74-176. (b)(1) Ball diamonds and soccer fields.* – Add Savage Softball Complex.

- *Sec. 74-176. (b)(2) Ball diamonds and soccer fields.* – Proposed change is to eliminate field rental of \$35 per field after 5pm and clarification of when fields will be chalked and the addition of a \$25 fee if renter requests fields be chalked between each game.
- *Sec. 74-176. (c)(3) Ball diamonds and soccer fields.* – Proposed change to the price per team in a competitive tournament from the current \$25 per team to \$40 per team in 2019 and 2020 and \$45 per team starting in 2021.
- *Sec. 74-178. Temporary concession.* – Proposed change is to simplify the fees based upon the number or persons attending the event. Proposed fees are \$100 per vender for less than 5,000 persons attending and \$300 for more than 5,000 persons attending.
- *Sec. 74-179. Park between Tenth and Fifteenth Streets and Grand Avenue and Locust Street a/k/a “Western Gateway Park”- Rentals.* – Proposed changes are to charge the renter for seeding and sodding damages based on the contractor cost and not per square yard.
- *Sec. 74-180. Community recreation center building rentals.* – Proposed change to add a \$100 per year annual pass to the community recreation centers.
- *Sec. 74-180. Community recreation center building rentals.* – Proposed changes are to decrease the holiday rate for the gymnasium rental from \$65 to \$60 per hour and increase the rental cost of the upper floor at Pioneer-Columbus from \$55 to \$60 per hour. Both changes are to make the holiday rental rates consistent with the multi-purpose room rental rate of \$60 per hour
- *Sec. 74-182.(1)(b) Lodge, park shelter and other park rentals.* – Proposed change increases the fee to rent Sylvan Amphitheater in Greenwood Park from \$300 to \$350 for the first two (2) hours of rental.
- *Sec. 74-182.(2)(a) Lodge, park shelter and other park rentals.* – Proposed change increases the fee to rent Clare and Miles Mills Rose Garden in Greenwood Park from \$300 to \$350 for the first two (2) hours of rental.
- *Sec. 74-182.(2)(c) Lodge, park shelter and other park rentals.* – Proposed change creates a fee to rent the Lilac Arboretum Plaza in Ewing Park for \$20 per hour with a three (3) hour minimum.
- *Sec. 74-182.(3)(a)(8) Lodge, park shelter and other park rentals.* – Proposed change creates a fee for the new enclosed shelter in Columbus Park that is expected to begin rentals in August of 2019. Proposed rental rates are \$160 per session Monday – Thursday and \$250 per session Friday, Saturday and Sunday.
- *Sec. 74-182.(3)(a)(9) Lodge, park shelter and other park rentals.* – Proposed change adjusts the rates for the Ding Darling Shelter House in Birdland Park.
  - Decrease the rate from \$200 to \$160 per session Monday – Thursday
  - Increase the rates from \$240 to \$300 per session Friday, Saturday and Sunday.
- *Sec. 74-182.(3)(b)(1) Lodge, park shelter and other park rentals.* – Proposed change increases the rates to rent an open-air shelter from \$40 to \$50 per day.
- *Sec. 74-182.(3)(b)(2) Lodge, park shelter and other park rentals.* – Proposed change increases the rates to rent a large open-air shelter from \$60 to \$75 per session and adds a fee for \$140 to rent for a 11 hour session.
- *Sec. 74-182.(4) Lodge, park shelter and other park rentals.* – Proposed change increases the rates to the stage at Stewart Square Park from \$30 to \$50 per day for 11 hours.
- *Sec. 74-182.(5) Lodge, park shelter and other park rentals.* – Proposed change increases the rates to rent watercraft at Gray’s Lake Park from \$5 per half hour to \$8 per half hour or \$15 per hour. Proposed change also adds a fee to rent sailboats for \$25 per half hour.
- *Sec. 74-182.(9) Lodge, park shelter and other park rentals.* – Proposed change adds fees to the following items:
  - Snowshoe rental - \$5 per day or \$10 per weekend
  - Additional picnic tables or trash cans for events - \$10 per item

- Cleaning Fee - \$40 per hour, two (2) hour minimum
- Cancellation/transfer/administrative fee - \$10 for activities and rentals up to \$100, \$30 for activities and rentals over \$100
- *Sec. 74-182.(10) Lodge, park shelter and other park rentals.* – Proposed change increases the fee to rent a wading pool from \$25 to \$35 per hour and reduces the minimum rental from three (3) hours to two (2) hours.
- *Sec. 74-182.(10) Lodge, park shelter and other park rentals.* – Proposed change increases the field permit from \$6 per hour to:
  - \$7 per hour on January 1, 2020
  - \$8 per hour on January 1, 2021
  - \$9 per hour on January 1, 2022
  - \$10 per hour on January 1, 2023
- *Sec. 74-183.(2)(a) Aquatic centers, swimming pools and marina.* – Proposed change is to increase the cost of replacement tags at the aquatic centers from \$5 to \$7 per tag replaced.
- *Sec. 74-183.(2)(b) Aquatic centers, swimming pools and marina.* – Proposed change is to increase the costs for youth agencies as follows:
  - 1 day a week child increases from \$15 to \$20
  - 2 day a week child increases from \$25 to \$30
  - 3 day a week child increases from \$35 to \$40
  - 4 day a week child increases from \$45 to \$50
  - 5 day a week child increases from \$55 to \$60
- *Sec. 74-183. (5) Aquatic centers, swimming pools and marina.* – Proposed changes are to increase the moorage fees at Birdland Marina. Single Access is proposed to increase to \$500 from the current rate of \$475 and double access is proposed to increase to \$550 from the current rate of \$505.
- *Sec. 74-185. Simon Estes Riverfront Amphitheater* – Proposed change increases the block of time that the amphitheater can be rented from four (4) to eight (8) hours. The rental rates for a free event will be \$1,000 and for a fee-based event it will be \$1,500. This results in a lower hourly cost to rent the facility, but longer block of time that the facility is rented each time.
- *Sec. 74-186.(c) Principal Riverwalk* – Proposed change increases the fee to rent the overlooks on the Union Railway Bridge (Red Bridge) from \$30 to \$50 per four (4) hour interval.
- *Sec. 74-186.(e) Principal Riverwalk* – Proposed change creates a fee of \$50 per four (4) hour interval to rent the middle of the Women of Achievement Bridge.
- *Sec. 74-187. Riverview Park.* – Proposed change sets the fees for rental of the Prairie Meadows Stage:
  - *Stage rental.* Rental fees for use of the Prairie Meadows Stage shall be as follows:
    - (1) *Free public event and private parties (weddings):* Per day - \$2,000.
    - (2) *Fee based event:* Per day - \$4,000.
- *Sec. 74-188. Miscellaneous.* – Proposed change is that this is a new section where a \$10 fee has been created for a commercial photography or video permit.

## PREVIOUS COUNCIL ACTION(S):

Date: October 8, 2018

Roll Call Number: [18-1688](#)

Action: [Amending](#) Chapter 74 of the Municipal Code regarding golf course greens fees and season badges. ([Council Communication No. 18-500](#)) Moved by Coleman that this ordinance be considered and given first vote for passage. Motion Carried 7-0.

**BOARD/COMMISSION ACTION(S):**

Board: Parks and Recreation Board

Date: June 25, 2019

Resolution Number: 19-054

Action: Motion by Boggus to approve Chapter 74 changes. Second by Woodard. Motion carried.

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:**

City Council consideration of the second and third reading of ordinance changes.

For more information on this and other agenda items, please call the City Clerk's Office at 515-283-4209 or visit the Clerk's Office on the first floor of City Hall, 400 Robert D Ray Drive. Council agendas are available to the public at the City Clerk's Office on Thursday afternoon preceding Monday's Council meeting. Citizens can also request to receive meeting notices and agendas by email by calling the Clerk's Office or sending their request via email to [cityclerk@dmgov.org](mailto:cityclerk@dmgov.org).