

★ **Roll Call Number**

Agenda Item Number

45

Date May 21, 2012

An Ordinance entitled, "AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by amending Section 74-101 and adding and enacting a new Section 74-101.5, relating to park facility hours and overnight use of parks by special permit",

presented.

Moved by _____ that this ordinance be considered and given first vote for passage.

FORM APPROVED:

(First of three required readings)

Ann DiDonato
Ann DiDonato
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				

MOTION CARRIED

APPROVED

Mayor

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

City Clerk

ORDINANCE NO. _____

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by amending Section 74-101 and adding and enacting a new Section 74-101.5, relating to park facility hours and overnight use of parks by special permit.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, is hereby amended by amending Section 74-101 and adding and enacting a new Section 74-101.5, relating to park facility hours and overnight use of parks by special permit, as follows:

Sec. 74-101. Park facility hours.

The hours of operation for all public parks, community centers, and city recreational facilities, except for the Botanical Center and Zoo, shall be established by the Des Moines park and recreation board and must receive two readings for final approval. The park and recreation director shall thereafter have authority to adjust park and recreation facility hours, except for the Botanical Center and Zoo, for a period of one season, unless otherwise directed by the Des Moines park and recreation board. For the purposes of this section, "one season" shall mean the first weekend in April through the last weekend in October and the Monday following the last weekend of October up to the first weekend in April.

- (a) No person shall remain in any public park, community center or city recreational facility during the periods of time set by this section unless special permission shall have been given by the park and recreation director for such persons or group of persons to remain there. Such permit shall not allow use of the park for more than two (2) hours prior to its opening time or more than two (2) hours after its closing time, unless issued in compliance with section 74-101.5.
- (b) No person shall remain in or on any city park, inclusive of municipal golf courses, and Waveland tennis courts, from one-half hour after sunset to 6:00 a.m. during central standard time.

- (c) Exceptions are made for:
 - (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) Birdland Tennis Courts. This facility may remain open until 11:00 p.m.
 - (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) Park between Tenth and Fifteenth Streets and Grand Avenue and Locust Street. This facility may remain open until 12:00 midnight.

Sec. 74-101.5 Overnight use of parks by special permit.

- (a) Purpose. The city's parks and park facilities were not designed for unlimited overnight use. The unlimited use of city parks after hours of operation, such as for camping or storage of personal property, interferes with the rights of others to use the parks for the recreational, leisure and environmental purposes for which they were intended. The purpose of this section is to allow the city's parks to be maintained in a clean and accessible condition and to protect the health, safety and welfare of the city and its residents, while recognizing that infrequent overnight use, subject to reasonable conditions, can be beneficial to the recreational, cultural or educational needs of the community.
- (b) For purpose of this section, overnight use shall mean remaining in or being in a park during hours when the park is not open for operation. Overnight use does not include storage of equipment, vehicles, or buildings or structures as defined in chapter 134 of this code, which:
 - (1) is intended for use and is used during the hours of operation of the park; and
 - (2) is not intended or used for sleeping or residing; and
 - (3) which does not remain in the park for more than fourteen
(14) consecutive days.
- (c) The park and recreation director, after consultation with the park and recreation board, shall adopt a policy designating the city parks and areas within such parks in which overnight use shall be permitted and providing reasonable conditions on such use, including camping. Overnight use shall be allowed only by permit issued by the director. No more than ten (10) days of overnight use per calendar year per park shall be allowed. No person shall be permitted overnight use of a city park for more than three (3) days per calendar year per park, unless permitted by the city manager for a compelling recreational, cultural or educational need of the community.

Commercially manufactured tents designed for no more than eight (8) persons may be permitted with overnight use of a park, although no other buildings or structures as defined in chapter 134 of this code or which are regulated by chapters 26 or 42 of this code shall be allowed for overnight use.

- (d) Overnight use of the cabins at Ewing Park shall be exempt from the calendar year day limits of this section.
- (e) Overnight use of the parks for city sponsored or hosted events, activities, and programs shall be exempt from the requirements of this section.

Section 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

Ann DiDonato
 Ann DiDonato
 Assistant City Attorney

May 18, 2012



The Honorable Mayor
and
Members of the City Council
City of Des Moines

Re: Camping Ordinance

Dear Mayor and City Council Members:

On January 9, 2012, by Roll Call No. 12-0056, the City Council asked for an ordinance that would restrict camping in the City's parks and clarify where, when, and under what circumstances infrequent overnight use of the City's parks would be permitted. Such an ordinance was prepared collaboratively with Park and Recreation Department staff and constitutional and enforcement issues were discussed in detail. That ordinance is attached and on the May 21, 2012 Council agenda for approval.

Subsequent to this collaborative draft, the Park and Recreation Board reviewed the ordinance at its March 27, 2012 and April 24, 2012 meetings and supported the majority of the limitations it provided, offering two substantive changes which would expand the utilization of City park resources for overnight activities beyond that originally envisioned in this proposed ordinance. The Board's recommended additions to the proposed ordinance were to designate a few sites along the American Discovery Trail where overnight use would be permitted for up to two days without a permit and to allow overnight use for up to 50 days a year in up to 5 parks. There are some enforcement concerns with those Board proposed substantive changes that have not yet been resolved, so the current draft of the ordinance is submitted for Council review and approval at this time. Police, Legal, and City Manager's Office staff will work with Park and Recreation Department staff and the Park and Recreation Board to resolve enforcement concerns while enhancing park utilization for future consideration by the Council.

Currently the Municipal Code dictates facility hours of public parks, community centers, and recreational facilities to be 6:00 a.m. until one half hour after sunset. Expanded hours of use are allowed at select sites including Gray's Lake Park, Birdland Marina and Tennis Courts, Brenton Skating Plaza, Western Gateway Park, Simon Estes Amphitheatre, and golf course clubhouses. In addition, the Park and Recreation Director has the authority to issue a special permit to remain in a park after-hours. There have been few such requests received by the Park and Recreation Department.

The proposed amendment to Chapter 74 places some limitations on the Park and Recreation Director's existing authority to issue overnight use permits:

- Overnight use is allowed only by permit issued by the director.
- Overnight use shall mean remaining in or being in a park during hours when the park is not open for operation. It is not limited to camping but would allow any lawful use, including special requests such as concerts, runs, non-City sponsored activities such as star-gazing programs, etc.
- No more than ten days of overnight use per calendar year per park shall be allowed.
- No person shall be permitted overnight use of a park for more than three days per calendar year per park except by special permit issued by the City Manager for a compelling recreational, cultural, or educational need of the community.

May 18, 2012

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- A commercially-manufactured tent size limit of no greater than that intended for eight-persons is permitted, although no other buildings or structures as defined in various chapters of the Municipal Code are allowed for overnight use.
- Overnight use does not include storage of equipment, vehicles, or buildings or structures as long as they are intended for use during the hours of operation of the park; and are not intended for sleeping or residing; and do not remain in the park for more than 14 consecutive days.
- Exemption of Ewing Park cabins.
- Exemption of the overnight use of parks for City-sponsored or hosted events.

The ordinance requires the Park and Recreation Director, after consultation with the Park and Recreation Board, to adopt a policy designating the City parks and areas within such parks in which overnight use shall be permitted and any additional rules that should apply to overnight use. Pursuant to those requirements, the attached list of parks in which overnight use may be permitted has been approved by the Park and Recreation Board and the Park and Recreation Director. Generally, cemeteries, small neighborhood-based parks, and downtown parks were excluded, and golf courses and parks that are larger or more distant from neighborhoods were included. Following Park and Recreation Board input, the Park and Recreation Director has also adopted the following overnight use permit conditions, with more to be developed:

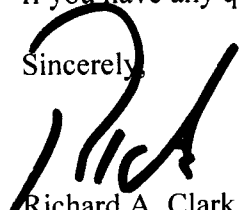
- A permit fee.
- Permittees must have access to or provide appropriate amenities including a restroom facility.
- The Park and Recreation Director has the discretion to deny a permit for issues relating to safety, public welfare, and maintenance and operational needs of a park.

The Park and Recreation Board and Park and Recreation Department staff spent a significant amount of time developing the proposed ordinance and policy changes, and though there is not complete agreement between the Park and Recreation Board, Police, Legal and me, I feel what is being submitted for your consideration Monday night best addresses the issues and concerns raised by Council in January. As mentioned previously, if the staff issues can be addressed that would allow for the expansion of use as desired by the Park and Recreation Board, the ordinance/policy may be revisited at a later date.

I welcome your feedback and recommend the adoption of the proposed amendment to Chapter 74 of the Municipal Code.

If you have any questions or require additional information, please do not hesitate to contact me.

Sincerely,



Richard A. Clark
City Manager

Attachments

cc: Park and Recreation Director
City Attorney
Chief of Police
City Clerk

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FORM APPROVED:

Ann DiDonato
Assistant City Attorney

Designation of Park Sites for Overnight Use



Overnight Use Permitted Up To 10 Days per Year

Allen Park
 Ashby Park
 Ashfield Park
 Ashworth Park
 Beaverdale Park
 Birdland Park
 Brook Run Park
 Cheatom Park
 Chesterfield Park
 Crowley Park
 Easttown Park
 Evelyn K. Davis Park

Ewing Park
 Fairmont Park
 Four Mile Creek Park
 Good Park
 Grandview Park
 Greenwood Park
 James W. Cownie Baseball Park
 James W. Cownie Soccer Park
 MacRae Park
 Martin Luther King Jr. Park

McHenry Park
 Pete Crivaro Park
 Pioneer Park
 Prospect
 Sam Cohen Park
 Sargent Park
 Tower Park
 Union Park
 Waveland Golf Course
 Westchester Park
 Witmer Park

Overnight Use Not Permitted

Bates Park
 Belle M. Turner Park
 Blank Golf Course
 Brody School Park
 Burke Park
 Carney Park
 Chamberlain Park
 Christopher Columbus Park
 Drake Park
 Easton Basin Park
 Edna Griffin Park
 Elm Grove Cemetery
 Evergreen Park
 Frisbie Park
 Glendale Cemetery
 Grandview Golf Course

Gray's Lake Park
 Greater Des Moines Softball Park
 Harmon Park
 Hoover-Meredith School Park
 Jordan Park
 Laurel Hill Cemetery
 Laurel Hill Park
 McCullum-Waveland Tennis Complex
 Melton Field
 Nollen Plaza
 Oak Grove Cemetery
 Pocket Park # 1
 Pocket Park # 2

Principal Riverwalk
 Redhead Park
 Riley Park
 Royal Park
 Sayers Park
 Sheridan Park
 Sims Cemetery
 St. Ambrose Cemetery
 Stewart Square Park
 Stone Park
 Valley High Manor Park
 Western Gateway Park
 Whitmer Park
 Woodland Cemetery
 Woodlawn Park