

ORDINANCE NUMBER _____

An ordinance of the Missoula City Council amending Chapter 12.40, Sections 12.40.010, to come into compliance with the Ninth Circuit decision in *Martin v. City of Boise* by clarifying that not all City lands are closed to overnight camping or sleeping.

Be it ordained that Chapter 12.40 be amended by amending Section 12.40.010 to read as follows:

12.40.010 Parks, Trails, Conservation Lands -- Closed hours.

A. Unless otherwise posted or authorized, all city owned or city managed public parks, trails, and conservation lands shall be closed to all but city authorized persons between the hours of eleven p.m. and six a.m. each day, with the exception of designated Primary Commuter Trails, which shall be open to use 24 hours per day.

~~B. It is unlawful to camp or sleep in any public park, trail, conservation land, public parking lot, boulevard, or any public rights-of-way including beneath or upon any public bridges or along any river, stream or creek. However, this provision shall not apply to attendance at public events, recreational activities or shows lasting in excess of one day if the camping occurs at a location where working public toilet facilities, including port-a-potties, are available for the use of the campers and the camping occurs at a site approved in advance by the City Parks and Recreation Director and the Chief of Police or their designee. Examples of these types of public events, recreational activities or shows include but are not limited to fairs, antique shows, dog shows, sports tournaments, athletic events, or festivals.~~

~~This provision shall also not apply to camping or sleeping overnight in any public place designated by the city for the temporary and safe sleeping and camping of homeless individuals as long as the camping occurs at a location where working public toilet facilities are available for the campers use and the camping occurs at a site previously approved by the City Parks and Recreation Director and the Chief of Police.~~

C. It is unlawful for anyone other than authorized persons to be in any city owned public park, trail, or conservation land if the area has been temporarily closed for fire danger, seasonal closure on behalf of wildlife, erosion control, seeding or other land rehabilitations activity, tree trimming or cutting, public safety, or any other reason deemed necessary for temporary closure purposes by the city pursuant to land management plans or otherwise.

SEVERABILITY

If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, phrase and words thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or words have been for any reason ~~this ordinance should be~~ declared invalid or unconstitutional. If any portion of this ordinance is declared invalid or unlawful, then the remaining ordinance provisions will be in full force and effect.

EFFECTIVE DATE

This Ordinance shall be effective 30 days after its date of final adoption.

First reading and preliminary adoption on the ____ day of _____, 2023, by a vote of ____ ayes ; ____ nays; ____ abstaining; and ____ absent.

Second and final reading and adoption on the __ day of _____, 2023 by a vote of __ ayes; __ nays; __ abstentions; and ____ absent.

ATTEST:

APPROVED:

Martha L. Rehbein
City Clerk

Jordan Hess
Mayor

(SEAL)