

Ordinance 3641

An ordinance of the Missoula City Council amending Missoula Municipal Code Title 12, Chapter 12.40 entitled "City Parks" revising the ordinance to include provisions for electric vehicles and provisions prohibiting certain behavior at all Missoula City Parks, updating and revising the alcohol in parks provisions, and clarifying enforcement and penalties for violations of Missoula Municipal Code.

Be it ordained that Chapter 12.40 Missoula Municipal Code is hereby amended to read:

Section 1

Chapter 12.40

CITY PARKS

Sections:

[12.40.005 Purpose.](#)

[12.40.007 Definitions](#)

[12.40.010 Parks, Trails, Conservation Lands -- Closed hours.](#)

[12.40.020 Parks, Trails, Conservation Lands – operation and parking of electric or internal combustion motorized vehicles.](#)

[12.40.030 \(Repealed\).](#)

[12.40.035 Parks, Trails, Conservation Lands – Public Safety.](#)

[12.40.040 Alcoholic Beverages in City Parks.](#)

[12.40.050 \(Repealed\).](#)

[12.40.055 \(Repealed\).](#)

[12.40.057 Alcohol Beverage Permit](#)

[12.40.060 \(Repealed\).](#)

[12.40.065 Prohibited Conduct at City of Missoula parks, trails, and conservation lands.](#)

[12.40.070 \(Repealed\).](#)

[12.40.080 Enforcement and Penalties.](#)

12.40.005 Purpose. It is the purpose of this chapter to encourage and enhance the public's recreational experience and use of City owned public parks, trails, and conservation lands within the City; while at the same time establishing reasonable restrictions and limitations intended to preserve and protect these lands and the people using these lands as well as the native vegetation on some of these lands and the wildlife that live in or use these lands and to allow the public's shared multi-purpose use of these lands to be a more satisfying and pleasurable recreational experience. Many of these lands will also be administered and managed pursuant to City adopted land management plans. (Ord. 2999, 1996)

12.40.007 Definitions. The following definitions shall be applicable to the provisions of this chapter:

Authorized Persons shall mean City employees acting within the course and scope of their employment as well as individuals authorized by the Mayor, City Police or Fire Chief or Parks and Recreation Department Director or their designee and employees of the County Sheriff, Montana Fish, Wildlife and Parks and State Department of Natural Resources and Conservation and United States Department of Agriculture and of public utilities responding to an emergency.

Conservation Lands are public lands that exist in a primarily natural state. They support wildlife and native plants and may also serve to store flood water and recharge our aquifer. Conservation Lands also may support secondary uses such as developed recreation and education areas and related facilities, where such activities are compatible.

Motorized Vehicle means a vehicle propelled by internal combustion or electric motor, including but not limited to: automobiles, motorized bicycles, scooters and skateboards; motorcycles; utility terrain or utility task vehicles (UTVs); and all-terrain vehicles (ATV).

Park Lands are public lands dedicated for park and recreation use. These lands are often, but not always developed with recreational facilities and landscaping. They also may have natural values and functions.

Primary Commuter Trails are trails with the primary management goal being to move commuters through the City, along with the benefits of supporting recreation activities. They include the Northside Greenway, the Bitterroot Trail, Ron's River Trail, the Milwaukee Trail, Grant Creek Trail, Rattlesnake-University Connection (RUX), and other trails and connectors as shown in Exhibit A, and any trail officially designated and posted as a Primary Commuter Trail.

Trails are paved or unpaved paths that serve as connectors, recreation areas, and fitness loops for walking, hiking, biking, horseback riding and other activities which allow one to move from one point to another for purposes of travel, fitness, recreation, and access. Trails may be multi-use or single-use.

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 overnight 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.

12.40.020 Parks, Trails, Conservation Lands – operation and parking of motorized vehicles.

A. It is unlawful for any person or persons to operate or park any motorized vehicle as defined in Section 12.40.007 within any city owned public park, trail or conservation land under the supervision and management of the city unless otherwise specifically provided for in this section; with the following exceptions:

1. Motorized vehicles may only be operated or parked in designated parking lanes, parking areas, and parking lots within City parks and open space trailheads for the purpose of park and trail use, and shall comply with posted time limits, and

2. Class 1 and class 2 electrically assisted bicycles, as defined in Section 10.02.094 MMC, may be operated upon Primary Commuter Trails.

B. This section shall not be construed to prohibit vehicles operated by Authorized Persons from use of any park, trail, or conservation land; nor shall it be construed to limit the right of individuals with disabilities from using other mechanical or electrical powered mobility devices (also known as other power-driven mobility devices, or OPDMs, as further defined by federal law) as allowed by the Americans with Disabilities Act. Employees of public utilities acting in the scope and course of their employment may operate vehicles in parks, trails and conservations lands pursuant to applicable easement terms; where the easement is silent regarding notice, such public utilities must give at least 72 hours advance notice to the City Parks and Recreation Department Director or their designee.

12.40.030 (Repealed).

12.40.035 Parks, Trails, Conservation Lands – Public Safety.

A. Trail Safety. The Parks and Recreation Board or the Parks and Recreation Director may establish administrative operating rules and polices applicable to any City trail. The Missoula City Council hereby declares that it is unlawful for any person to engage in any of the following conduct on a City trail:

1. Travelling on trails in excess of any posted speed limit, or failing to travel in a careful and prudent manner and at a reduced rate of speed no greater than is reasonable and prudent under the conditions existing, taking into account the amount and character of traffic, other trail users' safety, visibility, weather, and trail conditions.
2. Operating a bicycle or scooter and failing to yield the right-of-way to any pedestrian, horseback rider, or failing to give an audible warning before overtaking and passing such a pedestrian, horseback rider, or another cyclist. The audible warning may be given by the voice or by a bell or other lawful device capable of giving an audible signal to the person or persons being overtaken and passed.

B. City of Missoula Skatepark Safety. The City Parks and Recreation Board or the City Parks and Recreation Director may establish administrative operating rules and polices applicable to any City skatepark. The Missoula City Council hereby declares that it is unlawful for any person to engage in any of the following conduct within any City skatepark:

1. If under the age of 18, skateboarding, inline skating, or scooter riding on skateable surfaces without wearing a properly fastened helmet that is specifically sold as a helmet for skateboarding or inline skating. Helmets are strongly recommended for all users.
2. Skateboarding, inline skating, and use of non-motorized scooters or otherwise being present on the skateable surfaces during any hours when posted signs indicate that such skatepark is closed and usage is not allowed.
3. Using bicycles or motorized vehicles on the skateable surfaces within the skatepark area.
4. Placing or using ramps, tables, benches or other objects not constructed as an integral part of the skatepark within the skateable surface areas.
5. Skating, scootering, or attempting to skate on the skateable surface areas during rain, sleet, or snowy conditions or when the surface of the skatepark is wet, snowy, or icy.

6. Using alcohol, tobacco, including vaping and e-cigarettes, or unlawful drugs within any part of the skatepark area.
7. Allowing or possessing any animals within the skatepark skate area.
8. Littering or defacing features, including placing stickers or graffiti, within the skatepark complex.
9. Possessing any glass or ceramic container while on the skatepark skateable surface areas.

C. Bike Park Safety. The Parks and Recreation Board or the Parks and Recreation Director may establish administrative operating rules and policies applicable to any City bike park. The Missoula City Council hereby declares that it is unlawful for any person to engage in any of the following conduct within any City bike park:

1. Being present in the bike park after dusk or after 10p.m., whichever is earlier.
2. If under the age of 18, riding without wearing a properly fastened helmet that is specifically sold as a helmet for bicycling. Helmets are strongly recommended for all users.
3. Riding on park features, turf, or trails when they are wet, icy, or slippery.
4. Altering the course or adding features or other obstacles.
5. Using alcohol, tobacco, including vaping and e-cigarettes, or unlawful drugs within any part of the bike park area.
6. Allowing or possessing any animals within the bike course skills area.
7. Littering within the bike park complex.
8. Possessing any glass or ceramic container.

D. Hunting Pursuant to Block Management.

1. Hunting is not permitted in any city park, trail, or conservation land except when specifically designated in partnership with MT Fish, Wildlife and Parks as a Block Management area for limited archery access.
2. Trapping is not permitted in any city park, trail, or conservation land, except for management as authorized by the Parks and Recreation Director, or their designee.

12.40.040 Alcoholic beverages in parks.

A. Consumption of alcoholic beverages is permitted, with restrictions and requirements, in some City Parks.

1. Unless otherwise authorized by the Parks and Recreation Director or designee, consumption of alcoholic beverages is permitted only during the hours from eleven a.m. to eleven p.m. It shall be unlawful to possess alcoholic beverages in any city park, open space or trail area between the hours of eleven p.m. and eleven a.m. with the exception of Primary Commuter Trails, which allows for transportation of alcoholic beverages only.
2. Glass containers are not allowed; except as authorized by Section 12.40.057, Missoula Municipal Code.

3. Alcoholic beverage means a compound produced and sold for human consumption as a drink that contains more than 0.5% of alcohol by volume. The terms beer, wine, and hard cider are used as defined in § 16-1-106, Montana Code Annotated.

B. It is unlawful for any individual or group of individuals to possess alcoholic beverages of any kind in the follow parks, open space, or trail areas: (1) Greenough including adjoining Alvina Park; (2) Jacobs Island Park; (3) Clark Fork Natural Area; (4) Downtown Lions Park (5) Hellgate Park (6) Kim Williams Natural Area; (7) Ben Hughes Park; (8) West Broadway Island Park; (9) City skate parks and bike parks; (10) any Primary Commuter Trail, including over/under or at grade crossings, pedestrian bridges and tunnels, except that possession of unopened alcoholic beverages for the purposes of transport is authorized; (11) any park, open space, or trail area that serves primarily as a wetlands, or does not have public restrooms available within the specific park, open space, or trail area; (12) school-partnership parks lands, including Toole Park, Westside Park, Rattlesnake (PEAS) Farm and Playing Field; (13) at, in, upon, or within any children's playground or spray deck, or within any playing field or dugout during a game or practice, (13) any parking lot within or serving a trailhead for conservation lands or trails, or a park, unless expressly authorized by the Parks and Recreation Director or designee, and (14) any park, trail, or open space posted as alcohol free or alcohol-prohibited or officially designated as being alcohol-free in the attached Exhibit B.

C. For persons who pursuant to Montana law are legally old enough to consume and possess alcoholic beverages, such beverages are allowed to be possessed and consumed in certain parks and conservations lands as authorized and provided below. See Missoula Municipal Code sections 12.40.040 A and B and 12.40.057 for requirements and limitations. See Exhibit B for a listing of locations, allowances, permit types.

- 1) In McCormick Park, McCormick Park Recreation Building/aquatics facility, Caras and East Parks, Bess Reed, BN/Circle Square, Kiwanis Park, Memorial Rose Garden Park, Playfair Park, Silver Park, and Fort Missoula Regional Park the possession or consumption of beer, wine, and hard cider by an individual or group is allowed only pursuant to a permit obtained from the City Parks and Recreation Department pursuant to section 12.40.057, Missoula Municipal Code. Possession of alcoholic beverages in any of the parks listed in this subsection without a permit is unlawful, except that unopened alcoholic beverages may be transported through these parks lawfully and without a permit.
- 2) Possession and consumption of beer, wine and hard cider is allowed for individuals or small groups of six or less without permit, or for groups of seven or more with a permit, in parks not listed in subsection B or C.1 above where a restroom or portable toilet is provided and is available, see Exhibit B for a list of parks where possession and consumption of beer, wine, and hard cider is allowed pursuant to this section.
- 3) It is unlawful for any individual or group of individuals to possess an alcoholic beverage for the purpose of consumption upon City Conservation Lands; with the exception that the possession and consumption of beer, wine, and hard cider is allowed for individuals or groups of four or less on City Conservation Trails and Overlooks if they are at least 100 yards away from any parking area, street right-of-way, trailhead, private property, wetland, stream or creek.
- 4) With the exception of beer, wine, and hard cider, possession or consumption of an alcoholic beverage is not allowed at any City Park or Conservation Land; however, the City may authorize the possession and consumption of all alcoholic beverages within the Caras Park Pavilion and the Fort Missoula Bella Vista Pavilion pursuant to a permit issued under 12.40.057, Missoula Municipal Code.
- 5) Alcoholic beverages are allowed at Public Markets where authorized by City Council by Resolution, subject to the hours and rules listed in the applicable Resolution.

12.40.050 (Repealed)

12.40.055 (Repealed)

12.40.057 Alcohol Beverage Permit.

- A. The permits required by the provisions of 12.40.040, Missoula Municipal Code, shall comply with the conditions and requirements of this Section. A permit issued by the Parks and Recreation Director or designee pursuant to this Section may extend the hours where possession of alcoholic beverages in City parks is authorized.
- B. All permits pertaining to possession of alcohol in any City park shall be subject to the following conditions:
 - 1. Permit fees and deposits shall be established by the City Council pursuant to resolution establishing City park and recreation fees.
 - 2. Any permit fee and/or deposit must be paid prior to alcohol being consumed in any City park.
 - 3. No glass alcohol beverage containers shall be allowed within any Parks, Trails or Conservation Lands, except that state licensed caterers and distributors may possess glass beverage containers for the purpose of pouring into a non-glass consumer container.
 - 4. City park users must clean up the park or area to a state at least as clean as when they arrived and any permit holder shall be solely responsible for the immediate and timely picking up and removal or proper disposal of garbage at the location where the permittee is present within any city park, open space or trail area.
 - 5. The individual or group of individuals in whose name the permit is issued shall be responsible for having the permit present at the site, informing and supervising others with respect to the compliance with state and local law, the safety, sobriety, conduct and behavior of each member of the group as well as cleaning up the park area prior to, during or immediately at the conclusion of the permit's authorized time period for possessing alcohol in the park, open space or trail area. (Ord. 3136, 2000; Ord. 2955, 1995; Ord. 2461 §1, 1985; Ord. 1825, 1977).

12.40.060 (Repealed)

12.40.065 Prohibited Conduct at City of Missoula parks, trails, and conservation lands.

- A. Unless used by Authorized Persons with the authorization of the Director of the City Parks and Recreation Department, the following activities are prohibited in any Missoula city park, trail, or conservation lands, without express written permission of Parks and Recreation Director or his or her designee. The City Parks and Recreation Board or City Parks and Recreation Director may establish administrative operating rules and policies in addition to the prohibitions set forth herein.
 - 1. With the exception of vehicles, leaving personal property unattended (outside of visual sight) Unattended items will be removed from play areas, doorways, pathways, spray decks, pools and placed in Parks and Recreation lost and found for 5 days. Unattended vehicles are subject to removal after 5 days pursuant to Section 61-12-401 MCA;
 - 2. Discharging any bow, crossbow or other similar device which is calculated to propel or project an arrow or dart, unless the City designates an area as a public archery range or within a designated hunting area managed through FWP's block management program;

3. Flying or launching powered model airplanes, rockets, drones, or other unmanned aerial systems except as authorized by permit;
4. Launching or driving golf balls;
5. Cutting or sawing any live or dead trees or woody vegetation or their parts with any type of equipment, power or otherwise or remove any live or dead trees except by written permission of the Parks and Recreation Director or his or her designee in accordance with Chapter 12.32;
6. No signs, notices, decorations or objects of any kind shall be attached to, located on or painted on any part of park property; except as authorized by Parks and Recreation through an approved permit;
7. Installing inflatable structures; except as authorized by Parks and Recreation through an approved permit and only from a vendor who holds an Inflatable Structures Vendor Agreement with the Parks and Recreation Department;
8. Conducting or soliciting of any business, trade or occupation, private or nonprofit, including yard or garage sales, except as authorized by Parks and Recreation through an approved permit;
9. Enclosing any area, erecting any structure, or encroaching in any way onto any Park Lands;
10. Planting of vegetation or causing vegetation to be planted except by written permission of the Parks and Recreation Director or his or her designee in accordance with Chapter 12.32;
11. Digging into the surface of park property;
12. Defacing, destroying, damaging, misusing or removing any park property;
13. Interfering with or purposefully tampering, hindering or impeding with any City employee acting in the course of his or her official duties;
14. Possessing and discharging any fireworks or explosives on park property;
15. Depositing, leaving or spilling refuse or other substances other than in receptacles provided for this purpose;
16. Depositing refuse from private premises in park property trash receptacles;
17. Possessing a glass beverage container at any sports field, aquatic facility, natural pond, dog park, or playground facility;
18. Purposely throwing, tossing or otherwise propelling or breaking any glass object on park property, parking area or access road leading to park property, except that unintentional breaking of glass shall not be a violation if the broken glass is subsequently cleaned up by the party responsible for breaking the glass;
19. Urinating or defecating other than in the designated facilities provided;
20. Violating any of the regulations that are posted at individual recreation centers or Parks facilities;
21. Utilizing a playing field or trail which has been posted as closed for weather, repairs, or safety,;
22. Camping or overnight parking subject to other Missoula Municipal Code provisions authorizing

overnight parking or camping in certain circumstances;

23. Unauthorized changes to trails, signage, structures, or vegetation, including unauthorized picking, trimming, or extraction of material from any tree, bush or other vegetation;
 24. Open burning; and
 25. Discharge of any firearm or projectile weapon or explosive of any kind, including but not limited to BB guns, pellet guns, air guns, paint ball guns, slingshots or other devices capable of causing injury to person or animals or damage or destruction to property.
 26. Impeding travel or blocking any trail, unless specifically authorized by the Parks and Recreation Director or designee.
 27. Travelling off, or leaving the trail on any conservation lands, unless specifically authorized by the Parks and Recreation Director or designee.
 28. Moving, removing, purposefully blocking, tampering with, or altering in any way any surveillance camera or safety equipment.
- B. A person engaging in any prohibited activity may be asked to leave City Parks and Recreation property by any enforcement personnel identified in Section 12.40.080 A. and will be subject to the penalties set forth in 12.40.080 B.

12.40.070 (Repealed).

12.40.080 Enforcement and Penalties.

- A. Enforcement shall be the responsibility of the Parks and Recreation Director or his or her designee, and shall include Parks and Recreation staff and other City employees acting within their official duties, including the Missoula Police Department or the City-County Health Department.
- B. A person convicted of any violation of a provision of this chapter may be punished by a fine of not less than \$25 and not more than five hundred (\$500.00) dollars. Where the activity causes damage, the cost to repair, restore, or mitigate the damage shall be included in the sentencing order in addition to any fine imposed. Incarceration in a detention center shall not be a penalty for a violation of this chapter. City police officers are expressly authorized to cite and release violators of this Chapter. All enforcement personnel referenced in Subsection 12.40.080A shall be authorized to confiscate and dispose of alcohol found on persons in violation of these provisions. (Ord. 3136, 2000)

Section 2. Severability

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, for any reason this ordinance should be declared invalid or unconstitutional, then the remaining ordinance provisions will be in full force and effect.

Effective Date:

This ordinance will be effective 30 days after passage.

First reading and preliminary adoption on the 3rd day of June, 2019, by a vote of 10 ayes, Julie Armstrong, Mirtha Becerra, John DiBari, Heather Harp, Jordan Hess, Gwen Jones, Julie Merritt, Jesse L. Ramos, Bryan von Lossberg, Heidi West; 0 nays; 0 abstaining; and 2 absent, Stacie M. Anderson, Michelle Cares.

Second and final reading and adoption on the 17th day of June, 2019 by a vote of 11 ayes, Stacie M. Anderson, Mirtha Becerra, John DiBari, Michelle Cares, Julie Merritt, Julie Armstrong, Jordan Hess, Gwen Jones, Bryan von Lossberg, Heidi West, Jesse Ramos; 0 nays; 0 abstentions; and 1 absent, Heather Harp.

ATTEST:

APPROVED:

/s/ Martha L. Rehbein

/s/ John Engen

Martha L. Rehbein, CMC
City Clerk

John Engen
Mayor

(S E A L)