

A BILL FOR AN ORDINANCE CREATING)
CHAPTER 12.14 OF THE LEBANON)
MUNICIPAL CODE, PARK HOURS AND)
PARK CLOSURE, ENACTING PENALTIES)
FOR VIOLATIONS AND DECLARING)
AN EMERGENCY)

Ordinance Bill Number 14
for 2003

Ordinance Number 2350

WHEREAS, the City Council for the City of Lebanon hereby finds that Neighborhood City Parks provide for the enjoyment and recreation of its citizens; and

WHEREAS, the City Council further finds that it is in the best interest of the citizens of the city and in the promotion of safety and the public welfare to enact ordinances to ensure that citizens may enjoy their Neighborhood parks without interruption, breach of the peace or disturbances and at reasonable hours of the day and night; and

WHEREAS, the City Council also finds that there may be circumstances where emergency situations make it desirable and necessary for the best public interest, safety and welfare to close Neighborhood Parks in an efficient, prompt and orderly manner.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF LEBANON DO ORDAIN AS FOLLOWS:

Section 1. There is hereby added to the Lebanon Municipal Code a Chapter 12.14, Park Hours and Park Closure, which shall read as follows:

12.14.010. Definitions.

For the purpose of this chapter, the term “neighborhood park” shall have that meaning as defined in Section 12.12.015 of this Code.

12.14.020 Park Hours.

A. Neighborhood parks shall be closed to access and use by members of the public between the hours of 11:00 p.m. and 6:00 a.m., unless a permit has been issued by the Chief of Police.

B. Permits shall be granted by the Chief of Police if the following occur:

1. An application, in a form prescribed by the Chief of Police, has been completed which identifies a specific applicant, with a designated reason for the use of the neighborhood park after the hours of closure. The Chief of Police may also consider whether or not the applicant has reserved the park in the manner provided in Lebanon Municipal Code Section 12.12.041 in determining whether or not to approve the application. In appropriate situations, the Chief of Police may require the applicant to show proof of adequate liability insurance coverage, with the City listed as an insured.

2. In determining whether or not to grant a permit, the Chief of Police may consider the following:
 - A. The night of the week for which the permit is sought;
 - B. The specific hours past closure of the neighborhood park for which the permit is sought;
 - C. The number of people which may be reasonably expected at the event for which the permit is sought;
 - D. The noise, traffic, parking or other needs which may be required for the event for which the event is sought; or
 - E. Other considerations for which the neighborhood surrounding the neighborhood park may require to preserve the health, safety and welfare for the neighborhood.
3. The Chief of Police may charge an administrative fee in the processing of the application, in an amount to be determined by the City Council by resolution of the Council.

12.14.030 Prohibited Behavior in Public Parks and Facilities.

- A. No person shall sleep on the seats or benches; or make, assist in making, continue, or cause to be made any boisterous, disturbing, threatening, abusive, indecent, or obscene language or gestures or unnecessary noise; or by any other act to breach the public peace; or annoy, disturb, injure, or endanger the comfort, repose, health, safety, welfare, or peace of others while in any park or public facility.
- B. No person shall enter or remain in a park or public facility while in a visibly intoxicated condition.

12.14.040 Exclusion of Persons from Parks and Public Facilities.

- A. If a police officer has probable cause to believe that a person has violated any section of the Lebanon Municipal Code, chapters 5.32, 6.08, 6.12, 6.14, 8.10, 9.08, 9.12, 9.16, 9.20, 12.12, or any laws of the state of Oregon while in a public park or public facility, a police officer may exclude that person from any or all parks or public facilities for a period of not more than thirty (30) days in accordance with the following procedure:
 1. Written notice shall be given to the person to be excluded from a park or public facility. The exclusion period shall take effect immediately upon the giving of the notice.
 2. The notice shall prominently specify the beginning and ending dates of the exclusion period.
 3. The notice shall prominently display a trespass warning describing the potential consequences of unlawful behavior after receipt of an exclusion notice and for entering a park or public place during the exclusion period.

4. At any time within the exclusion period, a person having received a notice may apply in writing to the Chief of Police, or his designate, for a temporary waiver from the exclusion for good reason shown.
5. Any person receiving an exclusion notice may appeal the issuance of such notice by appealing to the City Administrator in a form provided for that purpose. Such written notice shall be delivered within three (3) business days from the date of its issuance to the City Recorder. The City Administrator shall conduct a due process hearing on the appeal within 10 (ten) business days after receipt of the notice. At such hearing, the City Administrator shall offer an opportunity for the appellant to offer evidence. The Chief of Police may appear at such hearing to provide evidence, or may supply the City Administrator with any written reports concerning the reason for the exclusion order. The Oregon Rules of Evidence shall not apply at such hearing, but the City Administrator may rely upon such evidence as is allowed in administrative proceedings under Chapter 183 of the Oregon Revised Statutes.
 - a. After hearing such evidence as may be offered, the City Administrator may modify, affirm or reverse the decision of the Chief of Police as to any exclusion order made. Notice of such decision shall be sent to the appellant, in writing, at the address given by the appellant for such purpose. The decision of the City Administrator shall be made within five (5) business days of the hearing.
 - b. The decision of the City Administrator shall be final and not appealable by the Chief of Police or by the appellant.
 - c. The exclusion order shall remain in effect pending the decision of the City Administrator.

12.14.050 Closure of Parks.

- A. A police officer of the City of Lebanon may close any park, or any part thereof, in accordance with this section, in the interest of public safety, health and welfare in the event that conditions exist in or near the park which involve any of the following, but not limited to the following, circumstances:
 1. Life or property reasonably appear to be endangered and other means cannot reasonably be utilized to eliminate the danger; or
 2. An overcrowding of persons or vehicles has occurred, impairing access of emergency assistance or emergency vehicles; or
 3. Park property or other property located near the park reasonably appear to be endangered; or

4. Persons making, assisting in making, continuing, or causing to be made any boisterous, disturbing, threatening, abusive, indecent, or obscene language or gestures, or unnecessary noise, or by any other act to breach the public peace; or annoying, disturbing, injuring, or endangering the comfort, repose, health, safety, welfare or peace of others in any park or public facility, and is such consequence that cessation of the disturbance cannot otherwise be accomplished; or
 5. A hazardous condition exists; or
 6. That violation(s) of criminal offenses or ordinances is occurring and is caused by sufficient numbers of persons, or is of such consequence that cessation of the disturbance cannot otherwise be accomplished; or
 7. Other conditions exist such that the safety of persons or property cannot reasonably be assured.
- B. Closure of the park, or any part thereof, whether for an emergency or for any reason, may be accomplished at the direction of a police officer by erecting barricades prohibiting access to any such park, or any part thereof, at appropriate locations. Notice that any park, or part thereof, is closed shall be posted at appropriate locations during the period of such closure.
- C. During the closure of a park, or portion thereof, it shall be unlawful for any person to enter the park, or any part thereof, that has been closed or to remain in the park, or part thereof, after having been notified of the closure and having been requested to leave the park, or portion thereof, by a police officer.
- D. An emergency closure under this section shall not exceed eighteen (18) hours without the written approval or direction of the City Administrator to continue the closure beyond that time.

12.14.060 Violation and Penalty.

Violation of any provision of this Chapter shall be punishable by a fine not to exceed five hundred dollars (\$500). Each day of violation shall constitute a separate offense.

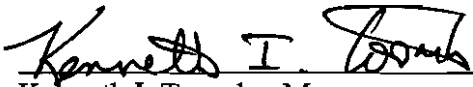
12.14.070 Severability.

Invalidity of a section or part of a section of this Ordinance shall not affect the validity of the remaining section or parts of sections.

Section 2. Emergency.

Inasmuch as the provisions of this Ordinance are necessary for the immediate preservation of the peace, health and safety of the people of the City of Lebanon, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect immediately upon its passage by the Council and approval by the Mayor.

Passed by the City Council on the 23 day of July, 2003 by a vote of 5 for and 0 against.



Kenneth I. Toombs, Mayor [X]
Ron Miller, Council President []

ATTEST:



John E. Hitt, City Recorder



LEBANON POLICE DEPARTMENT MEMORANDUM

TO: John Hitt, City Administrator
FROM: Michael D. Healy, Chief of Police
DATE: July 15, 2003
RE: Proposed Ordinance - Parks

Attached, you will find a copy of the proposed ordinance I would like to put before the Council at their July 23, 2003 meeting. I will be attending the meeting and intend on presenting the background information on the proposal.

As you are aware the disorderly activity in some of our neighborhood parks has, again this year, been very disruptive for the public in and around these parks. Most of the negative behavior seems to be occurring at Ralston Park this year. The activity last year was mainly in Century Park.

In brief the proposed ordinance will:

1. Closes all neighborhood parks from 11:00 p.m. through 6:00 a.m. and establishes a permit process should a citizen want to use a park after the closed hours.
2. Prohibits various disorderly acts within the City's parks.
3. Establishes the authority for police officers to exclude persons from the parks for thirty (30) days under certain conditions.
4. Establishes the authority for police officers to close any parks under certain emergency circumstances.

I feel the proposed ordinance will offer the police department a few more tools we can use to mitigate the problems we respond to each summer as well as during other times of the year.