

CHAPTER 5

Regulation of Parks and Navigable Waters

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SECTION 4-5-1 PARK REGULATIONS.

- (a) **Purpose and Definition.** In order to protect the parks, parkways, recreational facilities and conservancy areas within the Town of Middleton from injury, damage or desecration, these regulations are enacted.
- (1) **Park.** The term “park” as hereinafter used in this Chapter, shall include all grounds, structures and watercourses which are or may be located within any area dedicated to the public use as a park, parkway, trail, recreation facility, public easement or conservancy district in the Town of Middleton.
- (2) **Active Parks.** Active parks use areas are characterized by formal fields (baseball, soccer), outdoor courts (basketball, tennis and volleyball), open free play areas, picnic shelters and event areas. Active use park areas may include unstructured areas for softball, soccer, flying disk, basketball or other pick-up games. A good design will include flexible spaces that accommodate a range of occasional activities or events and allow separate activities to be played without disturbing adjacent areas.
- (3) **Passive Parks.** A basic level of passive use is viewing – views of nature, seasonal interests, and human activities that permit or encourage the unobtrusive engagement of viewing. In this context, passive recreation as defined for a passive use park may include hiking, jogging, cross-country skiing, horseback riding in designated areas and other non-motorized outdoor recreation activities that do not materially alter the landscape, degrade environmental quality or disrupt established tranquility. A park that is designated as passive may accommodate activities that are engaged in by individuals or small groups that are not dependent on a delineated area designed for specific activities, for example educational field trips or Audubon groups. No organized sports that require athletic fields or open space such as soccer, baseball or commercial uses are permitted in passive use parks. All Town of Middleton conservancies are restricted to passive use.

(b) Specific Regulations.

- (1) Littering Prohibited. No person shall litter, dump or deposit any rubbish, refuse, earth or other material in any park, except by placing such material in receptacles provided for such purpose.
- (2) Sound Devices. No person shall operate or play any amplifying system unless specific authority is first obtained from the Park Commission or the Town Administrator.
- (3) Animals. No person having control of a dog, cat and other pet or horse shall suffer or permit such dog, cat, other pet or horse to enter or remain in any park (except parks and trails exempted by the Board where animals will be permitted subject to rules established by the Board) as defined by Sec. 4-5-1(a) of this Code. The Park Commission shall cause signs to be posted in parks notifying the public of this prohibition. The provisions of this ordinance shall not apply to blind, deaf or mobility-impaired persons being led by a dog specially trained, to lead blind or deaf persons or to provide support for mobility-impaired persons, or to dogs or horses used by or under local law enforcement officers in the course of official police business.
- (4) Bill Posting. No person shall post, paste, fasten, paint or attach any placard, bill, notice, sign or advertising matter upon any structure, tree or other natural object in any park, except park regulations and other signs authorized by the Town Board.
- (5) Trapping. No person shall trap in any park unless specific written authority is first obtained from the Town Board.
- (6) Making of Fires. No person shall start, tend or maintain a fire except in personal grills or designated fireplaces. Personal grills shall be used only in designated picnic areas. The use of personal grills is permitted provided lawns and vegetation are not endangered. Unburned fuel and ashes shall be disposed of in such a manner as to prevent fire or damage to any park property.
- (7) Protection of Park Property. No person shall kill, injure or disturb or attempt to injure or disturb waterfowl, birds or animals, wild or domestic, within any park. No person shall climb any tree or remove flowers or fruit, wild or cultivated, or break, cut down, trample upon, remove or in any manner injure, deface, write upon or ill use any tree, shrub, flower, flower bed, turf, soil, sand, fountain, ornament, building, structure, apparatus, bench, table, official notice, sign or other property within any park.
- (8) Motorized Vehicles. No person shall operate an unlicensed or licensed motorized vehicles, except for authorized maintenance vehicles, outside of areas specifically

designated as parking areas, except areas where the operation of such vehicles is specifically permitted.

- (9) Reckless Driving in Parks Prohibited. No person shall operate a motor vehicle in a reckless manner in any of the public parks of the Town.
- (10) Parking in Parks. No person shall park any motor vehicle in any park in the Town except in a designated parking area.
- (11) Illegal Entry. It shall be unlawful for any person to enter in any way any park building, installation or area after the posted closing time or before the posted opening time, or contrary to posted notices.
- (12) Throwing Stones and Missiles Prohibited. No person shall throw stones or other missiles in or into any park.
- (13) Removal of Park Equipment Prohibited. No person shall remove benches, seats, tables, or other park equipment from any park.
- (14) Closing Hours. It shall be unlawful for any person to be or remain in any public park in the Town of Middleton between the hours of 10:00 p.m. to 6:00 a.m., provided, however, that the closed hours for trails not located in parks are from ½ hour after sunset to ½ hour before sunrise and further provided that this Subsection shall not apply to those parks which have regularly scheduled recreational activities which conclude after 10:00 p.m. The Park Commission and/or Town Board may by resolution permit specific parks to be open after 10:00 p.m. for designated events.
- (15) Speed Limit. No other person shall operate any vehicle in a Town park in excess of ten (10) miles per hour unless otherwise posted.
- (16) Firearms. Within a Town park it shall be unlawful for any unauthorized person to have in his possession or under his control:
 - a. Any firearm or airgun as defined in the Wisconsin Statutes and including gas operated guns, pellet guns or any device which will propel projectiles, unless the same is unloaded and enclosed in a carrying case.
 - b. A bow, unless the same is unstrung or enclosed in a carrying case or unless written permission has first been granted by the Town Board to use a bow in a specific, supervised sport or activity, and then only within a designated area, provided, however, that it shall be unlawful to engage in any sport or activity involving a strung bow that constitutes a safety hazard in the judgment of any law officer or town board personnel. Hunting is prohibited in all Town parks and recreational areas.
 - c. No person shall carry, shoot, fire or discharge any gun pistol, slingshot, rocket, torpedo, or any fireworks of any description within or into any park unless

written authority is obtained from the Park Commission or Town Board and all required permits have been obtained.

- (17) Vending. Vending is prohibited in Town parks unless authorized by the Town Board.
- (18) Plant Materials. No unauthorized removal of any plant materials or plants from any park.
- (19) Structures. No temporary or permanent structures are to be erected in a park without specific approval of the Park Commission.
- (20) Snowmobiles. No personal shall operate a snowmobile in a Town park except in designated areas. Snowmobiles shall only be operated on designated trails to conform with state statutes.
- (21) Golfing and Sporting Activities. It shall be unlawful for any person, group, organization or business to play, cause to be played or permit to be played any organized game, match, tournament, practice, training session or class on any park that has been designated as “passive.” Furthermore, no personal shall golf or practice golf in a Town park or recreation area. All sporting activities must be held in areas so designated for that purpose. It should be noted that upon prior authorization of the Park Commission, school districts are exempt from the provisions of this ordinance for the purpose of recreational programs or classes that they sponsor or conduct
- (22) Camping. No overnight camping shall be permitted in a Town park, unless written authority is obtained from the Park Commission or the Town Board.
- (23) Interference with Permit Holder. No person shall, in any manner harass, disturb, or interfere with persons holding written permits or reservations approved by the Town Administrator or the Parks Commission for the use of park or recreation facilities or park shelters.
- (24) Dumping. No person shall dump or deposit any rubbish, refuse, earth or other material in a Town park except in designated containers. Coals from grills or any fires may not be placed in park containers and must be removed from the park or recreation area.

SECTION 4-5-2 RADIO-CONTROLLED MODEL AIRPLANES PROHIBITED IN PARKS.

No person shall fly a radio-controlled model airplane in any park in the Town of Middleton except in areas specifically designated and posted for such purpose.

SECTION 4-5-3 USE OF METAL DETECTORS ON PUBLIC PROPERTY.

Absent authorization by the Town Board, the use of metal detectors and digging for buried objects on Town property is prohibited.

SECTION 4-5-4 FEES AND USER REGULATIONS.

- (a) **Fee Schedule.** It shall be unlawful for any person to use any Town of Middleton park facility, shelter, land, or recreational area for which a fee or charge has been approved by the Board without payment of such fee or charge. Fees and charges shall be reviewed annually following a recommendation from the Park Commission.
- (b) **Special Fees.** Any park structure, facility, or area other than the above may be reserved or rented for special purposes subject to the approval of the Park Commission. Fees may be established for recreational programs where costs warrant them.
- (c) **Additional Rules.** Rules and regulations may be made from time to time by the Park Commission and/or Town Board governing the further use of and enjoyment of Town parks, parkways, playgrounds, campgrounds, and its facilities. Any who shall violate such rules or regulations may be excluded from the use of such facility.
- (d) **Permits.** Any person to whom a permit shall have been issued by the Town Board or agent thereof shall be bound by the provisions of all ordinances and rules of the Town of Middleton as fully as though the laws were inserted in each permit.

SECTION 4-5-5 PUBLIC UTILITIES AND PRIVATE CONSTRUCTION.

- (a) **Public Utilities – Location.** The location of all sewers and receivers, gas pipes, water pipes, stopcock boxes, hydrants, lamp posts, telegraph, telephone and electric power posts and lines, manholes, conduits, and pumps within any Town park or parkway shall be subject to the jurisdiction and control of the Town Board, and their construction, repair or relocation shall be undertaken only after written permission is received from the Town Board or Park Commission.

(b) Private Construction.

- (1) No curb, whether stone, concrete, or gas, shall be cut for the purpose of constructing a private driveway across any parkway border, nor for any other purpose, without the written permission of the Town Board or Park Commission.
- (2) The location, width, grade, and construction of all paths, driveways, and roadways across any sidewalk bordering along any parkway shall be subject to the approval of the Town Board or Park Commission and constructed only after written permission is obtained from the Town Board or Park Commission.

Section 4-5-6 RESERVATION OF PARK SPACE OR SHELTERS.

- (a) Policy on Reservation.** The Town-owned park, park facilities and shelter areas are primarily for the nonexclusive use of the residents and visitors of the Town of Middleton. However, under proper circumstances, exclusive use of the same or parts thereof may be permitted. This Section is intended to regulate exclusive use of the Town-owned parks, park facilities, shelters, or parts thereof in the Town to the end that the general welfare of the Town is protected.
- (b) Reservation of Park Space.** A person or group, firm organization, partnership, or corporation may reserve the use of a park, a park facility or shelter by written application filed with the Town Clerk for a permit for exclusive use of the same. The Clerk shall issue permits for exclusive use of a shelter, while the Park Commission shall issue permits for the exclusive use of Town parks. The Parks Commission shall annually establish a fee to be charged for the rental of any park shelter. Such fee shall apply to a rental period of twenty-four (24) hours or less.
- (c) Application.** Applications shall be filed with the Town Clerk at least fourteen (14) days prior to the date on which the exclusive use of the entire park is requested, or at least three (3) days prior to the date on which shelter is to be used, and shall set forth the following information regarding the proposed exclusive use:

 - (1) The name, address, and telephone number of the applicant.
 - (2) If the exclusive use is proposed for a group, firm, organization, partnership, or corporation, the name, address, and telephone number of the headquarters of the same, and the responsible and authorized heads or partners of the same.
 - (3) The name, address, and telephone number of the person who will be responsible for the use of the said park, area, or facility.
 - (4) The date when the exclusive use is requested and the hours of the proposed exclusive use.

- (5) The anticipated number of persons to use the said park, area, or facility.
 - (6) Any additional information which the Park Commission finds reasonably necessary to a fair determination as to whether a permit should be issued.
- (d) **Deposit.** All applicants for reservation of park space or shelters for which a permit is required shall pay a security deposit of, as determined by the Park Commission, to pay for the Town's maintenance and clean-up expense. The deposit shall be returned if cleanup or repair by the Town is not required. All cleanup and damage is the responsibility of the person serving the shelter or park or recreation facility. If the Town is required to provide any cleanup or maintenance or repairs as a result of the activity included in the reservation or permit, the costs of such activities will be charged to the individual who reserved the shelter or park or recreation facility. Such charges shall include the costs of all materials and supplies required plus a labor charge that reflects the then current Town of Middleton labor rate including fringe benefits plus overhead. The deposit, or portion thereof, shall be returned when all cleanup, repairs and maintenance have been completed.
- (e) **Action on Application.** The Park Commission or appropriate designee thereof shall act promptly on all applications for permits for exclusive park use (not shelter use) after consulting with the applicant, if necessary.
- (f) **Reasons for Denial.** Applications may be denied for any of the following reasons:
- (1) If it is for a use which would involve a violation of federal or state law or any provision of this Code.
 - (2) If the granting of a permit would conflict with another permit already granted or for which application is already pending.
 - (3) If the application does not contain the information required by Subsection (c) above.
 - (4) The application is made less than the required days in advance of the scheduled exclusive use.
 - (5) If it is for a use of the park or park facility at a date and time when, in addition to the proposed use, anticipated nonexclusive use by others of the park or park facility is expected and would be seriously adversely affected.
 - (6) If the law enforcement requirements of the exclusive use will require so large a number of persons as to prevent adequate law enforcement to the park, park facility, or shelter area involved or of the rest of the Town.
 - (7) The exclusive use will reasonably create a substantial risk of injury to persons or damage to property.

- (8) The exclusive use is so poorly organized that participants are likely to engage in aggressive or destructive activities.
- (g) **Indemnification.** Prior to granting any permit for exclusive use of the park, the Town may require the permittee to file evidence of good and sufficient sureties, insurance in force, or other evidence of adequate financial responsibility, running to the Town and such other third parties as may be injured or damaged, in an amount depending upon the likelihood of injury or damage as a direct and proximate result of the exclusive use sufficient to indemnify the Town and such third parties as may be injured or damaged thereby, caused by the permittee, its agents or participants.
- (h) **Permit Not Required for Town Activity.** A permit is not required for exclusive use of the park or a park facility sponsored by the Town.
- (i) **Permit Revocation.** The Town Board or Park Commission, after a permit is granted, may revoke a permit already issued if it is deemed that such action is justified by an actual or potential emergency due to weather, fire, riot, other catastrophe, or likelihood of a breach of the peace or by major change in the conditions forming the basis of the issuance of the permit.
- (j) **Form of Permit.** Each permit shall be in a form prescribed by the Town Board and shall designate the park, park facility, or shelter area involved, date, hours of the exclusive use, purpose of the exclusive use, and the name of the person, group, firm, organization, partnership, or corporation to which the permit is issued.