

ORDINANCE NO. O-4-15

Adopted July 13, 2015  
Effective August 3, 2015

AN ORDINANCE TO REPEAL AND REENACT WITH AMENDMENTS CHAPTER 15A OF THE CITY CODE, ENTITLED, "PARKS AND OTHER PROPERTIES", AND ENACT NEW SECTIONS ENTITLED, "TOBACCO PRODUCTS," AND "EMERGENCY PARK CLOSURE"

BE IT ORDAINED, by the Mayor and Council of the City of Gaithersburg, in public meeting assembled, that Chapter 15A of the City Code, entitled, "Parks and Other Properties," is hereby amended to read as follows:

**Chapter 15A PARKS AND OTHER PROPERTIES**

Sec. 15A-1. Definitions.

Sec. 15A-2. Applicability.

Sec. 15A-3. Damage to city property.

Sec. 15A-4. Sanitation.

Sec. 15A-5. Fishing; golf; roller skating; flying; similar activities.

Sec. 15A-6. Swimming; bathing; ice skating; wading; boating.

Sec. 15A-7. Alcoholic beverages; controlled substances; prescription drugs.

Sec. 15A-8. Tobacco products.

Sec. 15A-9. Fireworks.

Sec. 15A-10. Weapons.

Sec. 15A-11. Camping.

Sec. 15A-12. Horseback riding.

Sec. 15A-13. Sledding; skiing; snowboarding.

Sec. 15A-14. Picnics; fires.

Sec. 15A-15. Commercial activity on park property.

Sec. 15A-16. Permits.

Sec. 15A-17. Hours and intended use of park property.

Sec. 15A-18. Dog exercise areas.

Sec. 15A-19. Violations; injunctive relief.

Sec. 15A-20. Exemption of persons working on property.

Sec. 15A-21. Emergency park closures.

## **Sec. 15A-1. Definitions.**

For the purposes of this chapter, the following words, terms and phrases shall have the meaning given herein:

*Active Area.* A public, open space within a city park which has been designed, designated and developed primarily for specific athletic activity, such as but not limited to ball fields, ball courts, playgrounds, nature trails, walking trails and bicycle paths. Activity in an Active Area may be allowed, under a Permit by the City, programmed by the City, or a designated area for unscheduled group athletic activity, but is not an appropriate area for passive recreational purposes which would conflict with the athletic activity.

*City Manager.* The city manager of Gaithersburg or designee.

*Department.* The city of Gaithersburg Department of Parks, Recreation & Culture.

*Designated Areas.* Areas marked, separated, or identified by name for a particular purpose.

*Director.* The director of the Gaithersburg Department of Parks, Recreation & Culture.

*Park.* Land or water in the city of Gaithersburg the city owns or holds a leasehold or easement interest and which is managed by the city for the use and benefit of the public for recreational purposes and/or the protection or maintenance of wildlife habitats or natural/scenic properties.

*Passive Area.* A public, open space within a city park which is dedicated for the use and benefit of the public primarily for passive recreational purposes, such as but not limited to persons sitting on blankets, family and group picnics, and casual gatherings. A Passive Area does not provide or afford facilities or equipment for exercise, sports, games or play and has not been designated and developed for athletic activities.

*Playground Area.* A city-designated outdoor area within a city park that includes playground equipment intended for use by minors as well as the safety fall zone around each item of equipment. Such a safety fall zone may include poured in place surfacing, wood fibers, or another material. Playground areas are delineated by a border or by safety surfacing outlining the perimeter of the area on the ground.

*Tobacco Product.* Any tobacco-based product, including cigars, cigarettes, chewing tobacco, pipe tobacco (including hookah), roll-your-own tobacco, smokeless tobacco, and electronic or "e-" cigarettes.

*Vehicle.* Any wheeled conveyance, whether motor powered, animal-drawn or self-propelled, including trailers, but excluding baby carriages, strollers, wheelchairs and other devices designed to assist individuals with physical disabilities, and vehicles in the service of the city.

(Ord. No. O-2-75, § 1)

## **Sec. 15A-2. Applicability.**

- (a) The regulations contained in this chapter shall apply to all land and buildings in the city of which the city is owner or lessee, and all other land and buildings in the city including, but not limited to, land and buildings owned by the Montgomery County Board of Education, while being used for any program sponsored by the city and supervised by a city employee.

(Ord. No. O-2-75, § 2)

## **Sec. 15A-3. Damage to city property.**

The following activities and conduct are prohibited within or upon property owned or under control of the city:

- (a) No person shall deliberately or negligently mark, deface, disfigure, injure, tamper with, displace or remove any park structures or amenities, including but not limited to buildings, bridges, tables, benches, fireplaces, railing, paving, water lines, sewer lines, gas lines, power lines, telephone lines, signs, notices, monuments, stakes, posts, public art, boundary markers, or other structures or equipment, facilities or property, or appurtenances whatsoever without approval from the city manager or designee.
- (b) No person shall construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or install any utility line, except pursuant to written permit or revocable agreement issued by the city manager or designee.
- (c) No person shall dig or remove any soil, rock, stones, trees, shrubs or plants; down-timber or other wood or materials; or make any excavation by tool, equipment, blasting or other means or agency without approval from the city manager or designee.
- (d) No person shall damage, cut, carve, transplant or remove any tree or plant or injure the bark or pick the flowers or seeds of any tree or plant; nor attach any rope, wire or other contrivance to any tree or plant; nor dig in or otherwise disturb grass areas, or in any other way injure or impair the natural beauty or usefulness of any area without approval from the city manager or designee.
- (e) No person shall climb any tree or walk, stand or sit upon any monument, vase, fountain, public art, railing, fence or any other property not designated or customarily used for such purposes.
- (f) No person shall tie or hitch a horse or other animal to any tree or plant without approval from the city manager or designee.
- (g) No person shall feed, hunt, molest, harm, frighten, kill, trap, chase, tease, shoot or throw missiles at any animal, or remove or have in their possession the eggs, nest, or young of any animal without approval from the city manager or designee.
- (h) The use of metal detectors is strictly prohibited without approval from the city manager or designee.

(Ord. No. O-2-75, § 3; Ord. No. O-7-01, 4-2-01)

#### **Sec. 15A-4. Sanitation.**

- (a) No person shall throw, discharge or otherwise place or cause to be placed in the waters of any pond, lake, stream, fountain or other body of water in any city property or in any stream, storm sewer or drain flowing into such waters any substance, matter or thing, liquid or solid, which will or may result in the pollution of said waters without approval from the city manager or designee.
- (b) No person shall dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage or refuse or other trash, except in a receptacle designed for the public use thereof, or place any such item in any pond, lake, stream, fountain or other body of water.

(Ord. No. O-2-75, § 4; Ord. No. O-11-82; Ord. No. O-7-01, 4-2-01)

#### **Sec. 15A-5. Fishing; golf; roller skating; flying; similar activities.**

- (a) Fishing within city parks or other lands controlled by the city is permitted only in designated areas. All persons over the age of sixteen (16) must have a valid Maryland Fresh Water Fishing License. All persons engaged in fishing within city parks or on lands of the city must comply with Maryland's recreational fishing requirements. Commercial fishing is prohibited.
- (b) No person shall use any slingshot, boomerang, golf equipment, archery equipment, or any device capable of launching a projectile, in or upon any park, except in areas specifically designated or provided for that particular use, and under the supervision of city personnel.

- (c) Roller skating, roller blading, in-line skating, skateboarding, and use of non-motorized scooters is permitted within city parks only in areas designated for such use, including upon asphalt paths and at Skate Spots and the Skate Park.
- (d) Launching, operating, and/or landing any rocket is not permitted within city parks without approval from the city manager or designee.

(Ord. No. O-2-75, § 5; Ord. No. O-7-01, 4-2-01)

#### **Sec. 15A-6. Swimming; bathing; wading; ice skating; boating.**

- (a) No person shall swim, bathe, wade, walk, ice skate or operate a boat or other craft in/on any lake, pond, stream or other body of water except in areas specifically designated for such purpose and during the hours specified therefore by the city manager or designee.
- (b) These regulations are not intended to apply to the use to amateur remote control boats.

(Ord. No. O-2-75, § 6)

#### **Sec. 15A-7. Alcoholic beverages; controlled substances; prescription drugs.**

- (a) No alcoholic beverages may be consumed or sold except where such consumption or sale is authorized by permit issued by the city manager or designee. Such permit may be issued by the city manager or designee only when he or she is satisfied that the use or sale proposed will not adversely affect the use and enjoyment by other persons of the public facility involved or of other properties. Sale of any alcoholic beverages will also require a liquor license permitting the sale. No such use or sale shall be permitted on land owned by the Montgomery County Board of Education or any facility designated by resolution of the city council.
- (b) Beer and wine may be sold only at an event at which food is also served. No other alcoholic beverage shall be sold or offered for sale. In addition to sales by the drink, a beverage is "sold" within the meaning of this paragraph where it is served at an event for which an admission is charged even though no specific charge be made for the beverage.
- (c) Repealed by Ordinance No. O-11-82.
- (d) No person shall commit any of the following acts in a park:
  1. Sell, distribute, make available, attempt to sell, distribute or make available, or offer to provide a controlled substance or prescription drug to another.
  2. Package, possess, or store a controlled substance with the intent to sell or distribute.
  3. Transport a controlled substance or materials intended to be used in the packaging of a controlled substance with the intent to sell or distribute.
  4. Solicit another to provide, make available, sell, or distribute a controlled substance or prescription drug to any person.
  5. With the intent to engage in any act prohibited by this Section, seek, meet, approach, or encounter another person.

(Ord. No. O-2-75, § 7; Ord. No. O-10-78; Ord. No. O-11-82)

#### **Sec. 15A-8. Tobacco products.**

The use of tobacco products is prohibited within twenty-five feet of playground areas.

- (a) The City Manager may reduce the prohibition area in parks having a substantial portion of the park within twenty-five feet of a playground area, but such designated prohibition area must at least cover the safety fall zones.

- (b) Signage shall for all parks with playground areas note the prohibition and specify the area in which the use of tobacco products is prohibited.

#### **Sec. 15A-9. Fireworks.**

No person shall have in their possession or set off or otherwise cause to explode or discharge or burn any fireworks as that word is defined in the Annotated Code of Maryland; provided, that fireworks displays may be authorized by a written permit issued by the city manager or designee.

(Ord. No. O-2-75, § 8)

#### **Sec. 15A-10. Weapons.**

- (a) It shall be unlawful for any person, other than a law enforcement officer, to have in his possession while on the streets of the city any revolver, pistol, blackjack, brass knuckles, razor or other dangerous weapon, except unloaded guns used for the hunting of game, or by approval of the city manager or designee.
- (b) Unless otherwise permitted under subsection (c) of this section, it shall be unlawful for any person other than a peace officer or animal control officer in the line of duty or a person in the necessary defense of his life or property to discharge any firearm of any kind, or any air compression or spring-type pistol or rifle, or any bow and arrow exerting more than sixteen (16) pounds of thrust within the city without approval of the city manager or designee.
- (c) The city manager may approve the discharge of any weapon described above, other than under the circumstances set forth in subsection (b) of this section. Such approval must be in writing and be requested and approved in advance of any discharge. The city manager may approve a weapons discharge otherwise prohibited by this section in the following circumstances:
1. The discharge of blank cartridges in musical and theatrical performances, parades or sporting events;
  2. For salutes at funerals;
  3. For the discharge of weapons in any city approved target or shooting range; or
  4. When the city manager deems such discharge necessary for the protection of the public health, safety or general welfare.

#### **Sec. 15A-11. Camping.**

Camping shall be permitted only during a city scheduled planned activity or pursuant to the terms of a written permit issued by the city manager or designee.

(Ord. No. O-2-75, § 10)

#### **Sec. 15A-12. Horseback riding.**

5. The riding of horses or other animals within city parks or on city lands shall be prohibited unless specifically authorized by the city manager or designee.

(Ord. No. O-2-75, § 11; Ord. No. O-7-01, 4-2-01)

#### **Sec. 15A-13. Sledding; skiing; snowboarding.**

- (a) Sledding, tobogganing, snowboarding, skiing or the use of other vehicles and equipment designed to move over snow or ice shall be permitted in city parks unless otherwise designated as prohibited by posted signage, or by the city manager or designee.

- (b) Snowmobiles or any other motorized equipment are not permitted.

(Ord. No. O-2-75, § 12; Ord. No. O-7-01, 4-2-01)

#### **Sec. 15A-14. Picnics; fires.**

- (a) Picnics or other preparation or consumption of food shall be permitted in any area unless prohibited by posted signage. Picnic tables may be located in any passive area.
- (b) Fires shall be permitted only in fireplaces provided by the city for that purpose; except, that cooking on charcoal grills or stoves using gas or other liquid fuels shall be permitted in designated picnic areas. Personal grills shall be at least 50 feet from any active area, tall grass, tree line, or any object, property, or structure that could be damaged by fire.
- (c) Personal grills shall be placed for use in close proximity to the city provided grills in and around the designated picnic pavilion area. Licensed commercial grade grills shall be used by permit only.
- (d) Fires shall be wet, and all coals thoroughly soaked with water and cold before leaving a site. All coals then must be placed in receptacles specifically designed for this purpose. If a receptacle is not available, coals must be removed from the city property. Under no circumstances should hot coals be placed on the ground, nor should coals of any temperature be deposited into receptacles not specifically intended for such material.
- (e) No person shall leave a fire, hot grill or hot ashes unattended for any reason.
- (f) The use of oil fryers and steamers in city parks is prohibited without approval by the city manager or designee.

(Ord. No. O-2-75, § 13)

#### **Sec. 15A-15. Commercial activity on park property.**

- (a) Except as expressly permitted under the terms of a lease, concession, or permit, the soliciting for or conducting of any business, trade or occupation is prohibited.
- (b) For the purposes of this Section, "soliciting for or conducting of any business" includes, but is not limited to:
  - 1. Selling or offering to sell any article or service.
  - 2. Conducting class instruction for a fee.
  - 3. Displaying goods, or descriptions or depictions of goods or services, with the intent to sell any good or service.
  - 4. Taking photographs and/or videos for commercial use.
  - 5. Performing or engaging in any act with intent or expectation of receiving payment as a result from any person.

(Ord. No. O-2-75, § 14; Ord. No. O-7-01, 4-2-01)

#### **Sec. 15A-16. Permits.**

- (a) In addition to the permits required by this chapter, the city manager or designee has the discretion to authorize, upon request and by permit, the use of any facility, which permit shall entitle the permittee to the exclusive use of such facility during the time period specified in the permit. Refusal by any person other than the permittee or other person acting with the consent of the permittee to desist from the use of such facility during such specified time period shall be a violation of this chapter.
- (b) Permits for the use of facilities, parks, athletic fields and open areas owned by the city shall be issued on a first come, first served, basis except where the city manager shall determine that the public interest requires otherwise. city programming and organizations or groups with a valid city permit will have priority for use of said areas and should be allowed to conduct their program without hindrance.

- (c) The city manager or designee shall have the right to revoke a permit or to refuse to issue a permit where the applicant for a permit has violated any provision of this chapter, or where such revocation is necessary for reasons of public health, safety, or welfare.
- (d) The acceptance of a permit issued pursuant to this chapter shall constitute an agreement on the part of the applicant to pay to the city, upon demand, the reasonable cost of repair of any damage caused to any real or personal property therein by the applicant, or any person present at the invitation (express or implied) of the applicant, and the cost of removing any refuse left by any such person.
- (e) The city manager or designee may require the applicant for a permit, as a condition precedent to the issuance of the permit, to deposit with the city cash or corporate bond in any amount to be determined by the city manager or designee to provide for the payment of any sum pursuant to the preceding paragraph.
- (f) Except otherwise provided in this section, a person, organization, or other entity desiring to hold a public event, picnic, private gathering, or demonstration, or desiring to reserve a park space for their activity shall first obtain a permit from the city Department of Parks, Recreation & Culture.
- (g) When issuing permits for designated areas of city, the city will have priority on all scheduling of parks and facilities.
- (h) The use of playgrounds does not require a permit.
- (i) All parks and facilities rules and regulations are to be followed.  
(Ord. No. O-2-75, § 15; Ord. No. O-7-01, 4-2-01)

#### **Sec. 15A-17. Hours and intended use of park property.**

- (a) City parks shall be open to the public between the hours of sunrise to sunset of each day unless different hours are established by general or specific notification made by the city manager or designee, or by rental or permit as to hours specified.
- (b) Any section or part of any city property may be declared closed to the public by the city manager at any time and for any interval of time, either temporarily or at regular and stated intervals and either entirely or for certain uses, as the city manager or designee shall find necessary.
- (c) No person shall be on park property from sunset to sunrise unless that facility is officially open for public use for an event/planned activity, is designed and equipped with park property lighting which is sufficient for the recreational activity, or as approved by the city manager or designee.
- (d) Use of park property for other than intended purposes is prohibited without prior authorization by the city manager or designee. Outdoor venues are reserved for city sponsored events and may be available to the public by rental and permit only. (A list of such facilities shall be maintained by the Department of Parks, Recreation & Culture.) Any exception must be approved in writing by the city manager or designee.  
(Ord. No. O-2-75, § 16; Ord. No. O-7-01, 4-2-01)

#### **Sec. 15A-18. Dog exercise areas.**

Dog exercise areas are city designated fence enclosed facilities owned, operated or approved by the city for city residents to have owner/custodian supervised "off leash" exercise for their dog(s).

- (a) It shall be unlawful to:
  1. Enter or remain on the facility at hours other than the city designated hours of usage.
  2. Enter or remain on the facility with more than two (2) dogs per individual.
  3. Fail to immediately remove from the facility any dog showing aggression towards people or other dogs in the facility.
  4. Fail to immediately remove from the facility any dog that barks continuously or uncontrollably.

5. Enter or remain on the facility with a female dog "in estrus."
  6. Enter or remain on the facility with a dog that has a transmissible communicable disease.
  7. Enter or remain on the facility with a dog not currently vaccinated against rabies.
  8. Enter or remain on the facility with a dog younger than four (4) months of age.
  9. Fail to immediately leash and restrain a dog in the facility when advised to do so by a city official.
  10. Fail to abide by the rules and regulations posted at the entrance of the facility.
  11. Fail to immediately depart the facility when ordered to do so by a city official.
  12. Falsely obtain a city pet license for another individual's dog to use the facility.
  13. Commit any act that grants access to the facility for a dog that does not belong to a city resident or a city resident's guest.
- (b) City residents must have at all times a current city of Gaithersburg pet license that must be displayed on the dog while it is in a facility. It shall be unlawful to transfer a pet license tag to another dog or to deface the tag in any manner. A pet license tag shall become invalid with the transfer of the dog to a new owner.
- (c) The city manager or designee may order the temporary or permanent banning of an individual and/or dog from the facility if the owner fails to abide by the rules and regulations of the facility or is in violation of any other law, regulation or ordinance.

(Ord. No. O-7-01, 4-2-01)

#### **Sec. 15A-19. Violations; injunctive relief.**

- (a) Violations of any provision or requirement of this Chapter other than section 15A-7 and 15A-10 are declared to be municipal infractions and enforceable pursuant to the provisions of section 1-9 of the City Code. The maximum penalty of each initial and repeat violation shall be established by resolution of the city council.
- (b) Any person violating section 15A-7 or 15A-10 of this Chapter shall be guilty of a misdemeanor, punishable as provided in section 1-7.
- (c) In addition thereto, the city may institute injunctive, mandamus or any other appropriate action or proceedings at law or equity for enforcement of this chapter or to correct violations of this chapter, any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions or mandamus or other appropriate form of remedy or relief.
- (d) Any person who shall violate this chapter and shall thereby cause loss or damage to the city shall be liable to the city for the amount of such loss or damage.
- (e) In addition to causing arrests for violations of this chapter, the city manager shall have the authority to cause the removal of any person acting in violation of this chapter and to remove any property, thing or device used, left unattended, or possessed in violation of this chapter.

(Ord. No. O-3-80; Ord. No. O-11-82; Ord. No. O-7-01, 4-2-01)

#### **Sec. 15A-20. Exemption of persons working on property.**

These regulations, with the exception sections 15A-7 and 15A-10, are not intended to apply to city employees or employees of contractors employed by the city while working in or on city property pursuant to proper authority.

(Ord. No. O-2-75, § 19)

#### **Sec. 15A-21. – Emergency park closure.**

- (a) In case of an emergency, or in case where life or property are endangered, all persons, if requested to do so by any police officer, shall depart from the portion of any park as requested, and shall remain off that park or that portion of the park until permission is given to return.
- (b) Whenever it is in the interest of public health or safety to do so, the city manager or designee may close any park or portion thereof, and may compel the erection of barricades prohibiting access to and such park, or portion thereof, at appropriate locations.
- (c) No person shall enter any park or any part thereof that has been closed under this Section, or remain in such park, or part thereof, after having been notified of the closure and having been requested to leave by city personnel.
- (d) When a state of emergency is declared, the city manager or other authorized persons may close any park and recreation facility to normal use or may designate that facility for emergency operations, which operations may include providing emergency services to the public, subject to the following conditions:
  - 1. The scope of use of park facilities during such emergency shall be defined by approved city emergency plans or by the city manager or designee.
  - 2. If emergency services are provided in any park facility, members of the public may be allowed into the facility, subject to the restrictions and conditions established by the organization responsible and authorized to conduct the emergency operations at that facility.
  - 3. As soon as practicable after the state of emergency is officially terminated, any park facility closed on account of the emergency, or used for emergency operations, will reopen for normal use unless the city manager or director orders a delay in reopening based on public health or safety, or additional identified emergency needs.

\* \* \* \*



Bohrer  
Park

Fairbanks Dr



# Bohrer Park

-  Playground
-  Playground with 25 feet buffer



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0 12.5 25 50 Feet



Quince Orchard Blvd

Diamond Farms Park



# Diamond Farms Park

 Playground

 Playground with 25 feet buffer



north

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# Duvall Park

 Playground

 Playground with 25 feet buffer



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0 15 30 60  
Feet



# Green Park

 Playground

 Playground with 25 feet buffer



north

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Griffith Park



# Griffith Park

 Playground

 Playground with 25 feet buffer



north

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Kelley  
Park



# Kelley Park

 Playground

 Playground with 25 feet buffer



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# Lakelands Park

-  Playground
-  Playground with 25 feet buffer



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0 12.5 25 50 Feet

5/21/2015 • ykim



West Side Dr

Malcolm King Park



# Malcolm King Park

 Playground

 Playground with 25 feet buffer



north

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Morris Park

Gaither Rd



# Morris Park



Playground



Playground with 25 feet buffer



north

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Robertson  
Park



# Robertson Park



Playground



Playground with 25 feet buffer



north

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Travis Park

Travis Ave

Travis



# Travis Park

 Playground

 Playground with 25 feet buffer



north

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Walder Park

Cedar Ave



# Walder Park

 Playground

 Playground with 25 feet buffer



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Muddy Branch

Upshire Cir

Washingtonian Woods Park

Cir



# Washingtonian Woods Park

 Playground

 Playground with 25 feet buffer



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