

## **CHAPTER 10.02**

### **PERMITS, ENFORCEMENT AND APPEALS**

- 10.02.010 Purpose
- 10.02.020 Policy
- 10.02.030 Enforcement Authority
- 10.02.040 Exceptions; Authorized Acts by Permit
- 10.02.050 Permits Required
- 10.02.060 Permit Revocation
- 10.02.070 Display of Permits Required
- 10.02.080 Interference with Permittees Prohibited
- 10.02.090 Posting of Rules
- 10.02.100 Enforcement Personnel
- 10.02.110 Citation, Ejectment and Exclusion, Hearing
- 10.02.120 Seizure of Property
- 10.02.130 Hearing Regarding Seized Property
- 10.02.140 Other Laws Applicable
- 10.02.150 Severability

### **10.02.010 Purpose**

The purpose of this Title X is to provide rules and regulations governing the use of Metro's Parks, Cemeteries and Natural Areas by members of the public, in order to protect lands, habitat, wildlife, plants and improvements, to provide for the safety of employees and visitors, and to further the enjoyment of any person visiting these facilities. Additional rules and regulations governing Cemeteries are set forth in Chapter 10.05. [Ord. 96-659A, Sec. 1.; Ord. 15-1366; Ord. 18-1419.]

### **10.02.020 Policy**

The Metro Council has determined that it is necessary to adopt these Code provisions in order to further the safe and efficient operation, protection and maintenance of Metro's Parks, Cemeteries and Natural Areas and to protect the health, safety and welfare of the public and Metro's employees; therefore, Title X will be liberally construed to effectuate this purpose. [Ord. 96-659A, Sec. 1.; Ord. 15-1366; Ord. 18-1419.]

### **10.02.030 Enforcement Authority**

- (a) The Director has the authority to enforce all of the provisions of Title X, including but not limited to the authority to enforce any Rules adopted pursuant to this Section.
- (b) The Director has the authority to establish Rules that are not inconsistent with the provisions of Title X, including but not limited to, rules governing fees and penalties, Property-Specific Rules, and rules governing Interment and Inurnment, as defined in Chapter 10.05. Said rules must be in writing, posted on Metro's website, and filed with the Metro Council.
- (c) No person may violate any Rule established by the Director. [Ord. 96-659A, Sec. 1; Ord. 18-1419.]

### **10.02.040 Exceptions; Authorized Acts by Permit**

Notwithstanding anything to the contrary in Title X, the following are not violations of Title X or of any Rules:

- (a) The acts of Metro elected officials and Employees constituting official duties.
- (b) The authorized acts of Metro-approved volunteers.
- (c) The acts of agents and contractors authorized by agreement with Metro.
- (d) Acts of third parties or the public officially authorized by agreement with Metro, or by Permit. [Ord. 18-1419.]

### **10.02.050 Permits Required**

No person may, within the boundary of any Property, conduct or participate in any activity for which a Permit is required, unless Metro has issued a Permit for the activity. A permit is required under the following circumstances and for the following activities:

- (a) Film or television filming, production, or commercial photography.
- (b) Any organized sporting event or competition, including but not limited to team sports, fishing, water-skiing, disc golf, wakeboarding, track and field, triathlon or duathlon.
- (c) Special educational events or festivals, except those specifically hosted by Metro.
- (d) Amplified sound, pony rides, dunk tanks, or carnival games.
- (e) Consumption of alcohol in designated locations.
- (f) Landing of helicopters, small planes, sea planes, float planes or similar.
- (g) Camping overnight or longer.
- (h) Any organized event or activity involving 25 persons or more, except for picnics where a reservation has been secured.
- (i) Any event where the person or persons engaged in the activity seek to exclude, or to have the right to exclude, any member of the public from the activity or from any area of any Property. For example, a reservation is required for a picnic shelter if the person making the reservation seeks to exclude other members of the public from the shelter during the period of the reservation.
- (j) Any activity which is otherwise prohibited by this Metro Code Chapter 10.02.
- (k) Any use of Historic Cemeteries other than as described in Metro Code Section 10.05.070. [Ord. 96-659A, Sec. 1; Ord. 18-1419.]

### **10.02.060 Permit Revocation**

Any Permit granted hereunder may be revoked at the discretion of the Director or his/her designee, with a full refund. If the Director revokes a Permit under this Section upon a finding of violation of Title X, or any Rule, ordinance, statute, or conditions of the Permit, no refund may be given. [Ord. 96-659A, Sec. 1; Ord. 18-1419.]

### **10.02.070 Display of Permits Required**

It is unlawful for any person to:

- (a) Fail to produce and display any required Metro Permit or receipt, upon request of any Employee or agent of Metro.
- (b) Fail to clearly display at all times, while within the boundaries of any Property, any required proof of parking fee payment or waiver on the dashboard of the person's

vehicle so that such proof is plainly visible from the exterior of the vehicle. [Ord. 96-659A, Sec. 1; Ord. 18-1419.]

### **10.02.080 Interference with Permittees Prohibited**

No person may disturb or interfere unreasonably with any person or party occupying or participating in any activity in a Property under the authority of a Permit. Unreasonable interference includes, but is not limited to, conduct that substantially prevents any person from viewing or hearing the permitted activity, or substantially preventing the free passage, ingress and egress of event participants or attendees. [Ord. 96-659A, Sec. 1; Ord. 18-1419.]

### **10.02.090 Posting of Rules**

Rules and provisions for use and administration of Parks, Cemeteries and Natural Areas, must be in writing, and made reasonably available to the public by, for example and in the discretion of the Director, posting on Metro's website, keeping a copy at each Property office for inspection, posting signage, or by displaying as otherwise required by this Chapter. [Ord. 96-659A, Sec. 1; Ord. 18-1419.]

### **10.02.100 Enforcement Personnel**

- (a) The Director and the Director's authorized representatives must, in connection with their duties imposed by law, diligently enforce the provisions of Title X and any Rules.
- (b) It is unlawful for any person to harass, obstruct, interfere with or disobey the direction of any authorized Metro employee or agent carrying out the enforcement of Title X or any Rules. [Ord. 96-659A, Sec. 1; Ord. 18-1419.]

### **10.02.110 Citation, Ejectment and Exclusion, Hearing**

- (a) The Director and the Director's authorized enforcement personnel have the authority to cite for civil penalties in the manner set forth in Metro Code Chapter 2.03 for any violation pertaining to its parks, cemeteries, and natural areas; or eject from any Property any person acting in violation of Title X, any Rules, or the laws of the State of Oregon. A civil penalty issued under the authority of this section may not be less than \$25 nor more than \$500.
- (b) Written notice must be given to any person excluded from Metro Property. The notice must specify the violation of Title X, the Rule violated, or the law of the State of Oregon that is the basis for the exclusion and must specify the dates covered by the exclusion. The notice must contain a statement of the person's right to request a hearing and to be represented by legal counsel. The notice must be signed by the issuing party. The consequences of failing to comply with the exclusion notice must be prominently displayed on the notice.

- (c) A person receiving an exclusion notice may request a hearing to appeal the exclusion by sending a written request for a hearing to the Director by registered or certified mail.
- (d) At any time during the period of the exclusion, a person receiving an exclusion notice may apply in writing to the Director for a temporary waiver from the exclusion. The Director may grant a temporary waiver of an exclusion based upon a showing of good cause for said waiver. [Ord. 96-659A, Sec. 1.; Ord. 15-1366; Ord. 18-1419; Ord. 23-1500.]

#### **10.02.120 Seizure of Property**

The Director and any authorized enforcement personnel has the authority to seize and confiscate any property, thing or device held, kept or used in violation of Title X or any Rule. [Ord. 96-659A, Sec. 1; Ord. 18-1419.]

#### **10.02.130 Hearing Regarding Seized Property**

- (a) Persons who have had any personal property, thing or device confiscated under this Chapter may request a hearing to appeal the confiscation by sending a written request for hearing to the Director by registered or certified mail.
- (b) The hearing shall be conducted in accord with the applicable contested case procedures set forth in Metro Code Chapter 2.05.
- (c) Any property, thing or device which was not wrongfully confiscated will become the property of Metro and may be disposed of in a manner to be determined by the Director. [Ord. 96-659A, Sec. 1.; Ord. 15-1366; Ord. 18-1419.]

#### **10.02.140 Other Laws Applicable**

Title X and the Rules adopted in its authority and do not eliminate the necessity of conforming with any and all state laws and rules and other ordinances which are now or may be in the future in effect which relate to the activities regulated in Title X, including but not limited to City or County ordinances containing regulations and prohibitions pertaining to firearms and dangerous or deadly weapons. [Ord. 96-659A, Sec. 1.; Ord. 10-1230, Sec. 4; Ord. 18-1419.]

#### **10.02.150 Severability**

If any section, subsection, sentence, clause, phrase or portion of Title X is for any reason held invalid or unconstitutional by a court of competent jurisdiction, that portion shall be considered a separate, distinct and independent provision, and the holding will not affect the validity of the remaining portion of Title X. [Ord. 96-659A, Sec. 1; Ord. 18-1419.]