



## MEMO

TO: President and Members of Council

FROM: Town Manager

SUBJECT: Park Rules

DATE: August 16, 2021

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### **Background**

At the Direction of Park Board, Mark Heintz solicited feedback from the Park Board and Staff to develop new park rules. He then formulated them into varying levels of fees based upon the severity of the violation and if it was the first, second or third time being cited for such a violation. This was done after input from the Police department along with the comments that were passed along from the prosecuting Attorney for the Town.

These proposed rules would replace the current ambiguous suggestion of a fee not to exceed \$2,500 for any violation which made it difficult for the individual writing a citation to know the fee being imposed. The added levels of fees and corresponding occurrence for each violation aimed remove any question for individuals when citing someone for a violation of park rules.

### **Methodology**

Once the Park Board approved these rules by resolution, they were shared with the Town Council.

From there, the discussion pivoted to how these rules could be codified. In a collaboration between our Town Attorney Ms. Bennett, Mr. Heintz, and Councilor Gardiner, the proposed rules were incorporated into the broader context of our entire municipal code. This was necessary because there were references to various elements in both the Park Rules and the Town Code that had different rules and definitions. In order to defensibly enforce the rules, those rules need to be uniform throughout the entire Code of Ordinances.

Examples of this include:

- Sec. 1-7 - This is the general penalty section for Town violations, including Park violations. Modifications are to correct errors; remove option to pay at rate of \$5.00 /mo. (which the court will not allow.)
- Sec. 1-8 - Established the Ordinance Violations Bureau which allows for payments of certain violations to be paid to the Clerk-Treasurer Office instead of going to court. In the process of including violations of Park rules, Lightning Prediction system, smoking, and fireworks in the schedule of payments, as required by law, the modifications are corrections to the required procedure, authority of Clerk-Treasurer, and removal of repealed ordinance sections.
- Secs. 18-51, 18-52, 18-56, 18-61 - Revisions to the current smoking ordinance incorporated specific recreational facilities into the "prohibited" outdoor areas. Specifically, bike paths, temporary and permanent spectator areas of sporting events, and "playgrounds" (with a more specific definition than "any park.") Also removed 'warning' as a penalty for a 1st offense (cannot prove "warning")

occurred so as to permit conviction on 2nd offense) and removed liability to the Town as "manager" of arenas, stadiums, playgrounds, etc.

- Sec. 30-8 - Excluded parks and recreation areas from the fireworks ordinance that permits fireworks in Town on specified dates and times.
- Secs. 46-400, 46-401 - Revisions to the current special event permit process requires application for a special event in a park or recreation area to be filed with the Parks Dept, instead of Town Manager's office.
- Sec. 46-406 - Penalty for violating terms of a Special Event Permit is currently a fine of \$5,000. However, the maximum fine allowed by state statute for a violation of an ordinance is \$2,500. Thus, the proposed revision reduces the fine to \$2,500.
- Sec. 54-2, 54-3 - Traffic and vehicles section also applies to traffic in the permitted areas of the parks. Revisions include deleting language that is contrary to Indiana law, specifically: allowing payments of penalties for moving traffic violations to be paid to the Clerk-Treasurer's office; providing for the Clerk-Treasurer to collect court costs; establishing an ordinance violation as a misdemeanor.
- Sec. 54-12 - Changing "Use of Town Bike Path" to "Traffic Regulations in Bike Lane." As part of the Traffic and Vehicle section of the Code, this section should not include a bike path or bike trail in a park or rec area (or even sidewalk) where vehicles are prohibited. The revisions distinguish "bike lane" (as a portion of the roadway) separately from "bike path" (multi-use path dedicated for recreation purposes). This section, if amended, provides for permitted and prohibited activities in the bike lane of the roadway, only. The rules applicable to the bike paths or bike trails are thus eliminated from the Traffic Code. Last, revisions incorporate "electric personal assistive mobility device" and "electric foot scooter" as permitted uses, as required by law.
- Sec. 54-16 - Ordinance Deferral Program - revisions have been needed for some time to bring this section into compliance with current code.
- Sec. 54-261- Revisions expands the "bicycle" definition to include "electric foot scooter," as required by law. Per Indiana code, electric foot scooters must be permitted wherever a bicycle is permitted.

### **Recommendation**

By motion and voice vote accept the draft rule changes and set a public hearing and potential adoption of the rules at Council's September 20<sup>th</sup> meeting.