

# PRK-X.XX – Park Rule Compliance, Enforcement and Civil Penalty Policies

**Policy category** Park Administration

**Policy number** PRK-X.XX

Adopted by the City Administrator [insert Name] on [insert date]

## I. Purpose

These rules establish decision-making criteria for ensuring compliance with park rules, assessing civil penalty violations, and the process for community members to appeal such penalties.

The goal and purpose of the code compliance program is to ensure, among other things, that:

- A. Portland Parks & Recreation (PP&R) maintains accessible, safe, clean, well-maintained public spaces.
- B. Community members comply with relevant Codes, administrative rules, and policies that promote healthy and safe ecosystems and facilities.
- C. PP&R promotes vibrant community spaces through proper resource and space management, achieved through event reservation programs and impact mitigation efforts.
- D. PP&R effectively responds to community concerns that ensure the impacts of park rule violations are limited.
- E. Ongoing and future permit condition compliance is maintained, especially for commercial ventures in parks.
- F. Education and enforcement are done in a fair, equitable, and appropriate manner.

## II. Definitions

- A. "Cost Recovery" means payment to the City of all reasonable costs incurred by the City which are attributable or associated with a violation or other damage or impact to City Parks as regulated by Portland City Code or associated administrative rules.
- B. "Enforcement Action" means the issuance of a Notice of Warning, Citation, Ejection, Exclusion, and any associated actions. An enforcement action may also include an assessment of penalties and/or cost recovery.
- C. "Notice of Warning" means a written notice or oral warning that a violation has or is occurring. This enforcement action carries no penalties. A notice of warning may be issued for repeat violations and may require a violation to be fixed immediately.
- D. "Technical Assistance" means contacts in the field that are non-regulatory in nature and available for free by providing guided assistance in ensuring compliance with regulations.
- E. "Commercial entity" means a legal entity, such as a business, professional, cooperative, or nonprofit corporation, or limited liability company, engaged in or performing any enterprise, activity, profession, or undertaking of any nature, whether related or unrelated, in the pursuit of profit, gain, or the production of income, including services performed by an individual for remuneration.

## III. Delegation of Authority

The City Administrator is authorized to adopt administrative rules, policies and procedures, pursuant to the City Charter. This administrative rule is for enforcement of Parks Rules under Title 20, and citations under PCC 20.12.260.

The City Administrator delegates to the Deputy City Administrator, over the Service Area to which PP&R is assigned, the City Administrator's authority over Title 20, including but not limited to: managing compliance of Parks rules; issuing warnings, ejections or exclusions; assessing civil penalties.

The Deputy City Administrator may delegate some or all of this authority to the Director of Portland Parks & Recreation through a written delegation. With concurrence from the Deputy City Administrator, the Director may delegate the authority to issue Class III violations to Park Rangers, and Class II violations to Park Ranger Supervisors by written delegation.

Unless the Deputy City Administrator or the Director otherwise directs:

- Notices of Warning may be issued by any Park Officers.
- Ejections and exclusions may be issued by Park Rangers, Parks Supervisors and PPB officers.
- Citations for civil penalties will be issued by the Director or the Deputy City Administrator.

Decisions for other enforcement or legal actions pertaining to violations of Parks Rules or any laws at City parks will be made by the Director with concurrence from the Deputy City Administrator, or by the Deputy City Administrator, and in all cases in consultation and advice from the City Attorney's Office and/or City Risk Management.

## **IV. Complaint and Response Procedures**

The City Administrator, through its designee, may investigate possible City Code, Parks administrative rules, or permit violations in response to community complaints, referrals from City staff or other agencies, or discoveries made during routine inspections of park sites conducted by the City or others.

Due to the volume of calls PP&R receives, PP&R will routinely review "Call for Service" logs to better understand complaint trends (e.g. where are calls occurring, how often, nature of call, etc.). The City Administrator, through its designee with the assistance of other City staff, will prioritize responses to calls. Considerations when prioritizing responses include but are not limited to:

- A. The number, location, and nature of complaints received by PP&R from the public regarding a specific type of code violation;
- B. City staff daily activity log data (e.g. observed on-leash versus off-leash dogs) to substantiate complaints received;
- C. Park staff requests related to violations that impact park resources and health/safety issues (e.g. scoop law violations in sports fields); and,

- D. Overall impacts on the visitor experience by a specific type of violation (e.g. noise, vehicles in parks, unpermitted events with a high degree of impact).

Each day a person or commercial entity violates or fails to comply with park regulations may be considered a separate violation for which a citation may be issued, or further enforcement action may be taken.

## V. Compliance Tools

The following enforcement tools may be used by the City. Failure to take required corrective actions may result in additional enforcement and increased penalty assessments. The City may undertake one or more of these enforcement actions, in any order.

- A. **Permit Revocation.** To the extent allowed under City Code, the City Administrator or designee may revoke a permit or specific portions of a permit. This may occur when the City Administrator or designee determines that a permit is not being abided by, or payment has not been made for the full amount due on a permit issued, or other safety, health, or violations of law are occurring.
- B. **Ejection per PCC 20.12.265.**
- C. **Exclusions per PCC 20.12.265.**
- D. **Citation (Civil Penalty).** The City Administrator may issue citations for instances of unabated park rule violations.
- E. **Legal Action.** The City may file suit in any court of competent jurisdiction for any failure of a person to take required corrective action.
- F. **Referral to Other Agencies.** The City may refer civil and criminal violations to federal, state, or local agencies.

## VI. Correctable Violations

Correctable citations, sometimes known as “fix it tickets”, are one tool PP&R uses to encourage parties to comply with park rules without further punitive action. Through this program, a civil penalty may be waived if, within 30 calendar days of receiving the citation, the cited party properly completes a permit application, pays all fees associated with that permit (or sets up a payment plan), and receives the proper permit. The permit fees will include a “late application” fee typically assessed to individuals and businesses. In addition, any applicable fees associated with an

event or construction project that has already occurred, such as added fees for utilities, impact, or clean-up, may be assessed to the cited party.

### **A. Applicability**

This option is for first-time offenses only and applies to individuals who do not have any applicable permit for the violative activity. It will be offered for:

- i. PCC 20.12.020 Commercial entity operating in a park (first offense).
- ii. PCC 20.08.070 Construction in a park (Non-Park Use).
- iii. PCC 20.12.060 Permit required for park use.

The City Administrator may amend the above through amendments of this administrative rule.

A corrective permit for continued use of a site may not be issued in all situations to the cited party where the violative activities are not permitted. In these cases, the violative activities will be a non-conforming permitted activity. The retroactive fee assessed will be based on the best available comparable activity area or the square footage used, and all future activities must be moved to a reservable area, or, in the case of construction, prior work will need to be removed or relocated at the City Administrator or designee's sole discretion.

### **B. Process**

A cited party having been issued a civil penalty for one of the code violations listed under Section A. Applicability will have 30 calendar days from the citation issuance date to apply for and receive a corrective permit.

- i. The cited party must contact a PP&R Permit Coordinator via phone at 311, in person at 1120 SW 5th Ave, Portland, OR, or online at [portland.gov/parks](http://portland.gov/parks) and by clicking on Customer Service. For permits related to construction activity or other non-park use, the cited party must complete the forms available at [portland.gov/parks/non-park-use-permits](http://portland.gov/parks/non-park-use-permits).
- ii. A copy of the violation notice must accompany the permit application.
- iii. A Permit Coordinator will review the application, provide technical assistance on what other documentation may be needed, advise on

fees, and ensure all insurance and liability information is current (for commercial or construction activity).

- iv. The Permit Coordinator will provide options for payment plans for qualifying cited parties.
- v. The citation will be void if, at the discretion of the City Administrator or designee: the permit application fulfills the requirements of this policy and shows a good faith attempt by the cited party to come into compliance; and all applicable fees have been paid or payment on PP&R approved payment plan has been started.

## VII. Fee Schedule

The following civil penalties may be issued for the following park rule violations.

### A. Class III Violations

#	Violation	Presumptive Fine	Notes
1	PCC 20.12.140 B. - Fail to Leash Animal	First Offense: .... \$50 Second Offense: \$100	--
2	PCC 20.12.140 B. - Fail to Scoop	Third Offense.... :\$150	--
3	PCC 19.16.060 D - Moored Over 24 Hours		Issued to vessel operator (if present), or vessel owner on record. May be issued each 24 hours of non-compliance.
4	PCC 19.16.060 I. - PRK-1.17 - Fail to Pay Moorage Fee		

### B. Class II Violations

These are activities that typically require a permit pursuant to PCC 20.04 and are most likely to have a greater impact on the visitor experience, park resources, or both. These activities have an observed calculated permit cost at or above \$250 based on a combination of two or more of the following:

- i. Amplified music or sound that can be heard beyond the park boundary.
- ii. Attendance over 50 people.
- iii. Excluding others from use of a facility or area of a park.

- iv. Use of alcohol.
- v. Setup of staging, canopies, or equipment.
- vi. Vending or conducting business in a park, including but not limited to: food carts/trucks in a park, sales, requests for donations for an event/product.
- vii. Use of utilities.
- viii. Damage to soil, vegetation, or park assets, including but not limited to installation of structures, paint, signage, or movement of soil, rock, vegetation, material or equipment staging.
- ix. Construction or development activity.
- x. Driving of vehicles in prohibited areas.
- xi. Generating trash that overflows trash cans or litter that is clearly visible throughout the area.

#	Violation	Presumptive Fine	Notes
5	PCC 20.12.060 - Permit Required For Park Use	Actual cost of permit + 15% fee	Fine waived if work stopped and permit obtained within 30 calendar days; see policies under <i>VI. Correctable Violations</i> .
6	PCC 20.12.020 – Permit Required to Conduct Commercial Business	Actual cost of permit + 15% fee	
7	PCC 20.08.070 - Unpermitted Non-Park Use of Property	Actual cost of permit + 15% fee	

### C. Class I Violations

These violations are considered very high-impact as they are the most likely to have long-term or permanent impacts on park resources and the visitor experience and require some level of remediation or repair by City staff or contractors. For each violation, a civil penalty of up to \$1,000 per day will be assessed. Each day a violation exists or continues will be considered a separate violation.

The following criteria will be considered in determining the amount of the civil penalty to be assessed under this Section:

- i. The nature and extent of the person’s involvement in the violation.
- ii. The benefits, economic, financial, or otherwise, accruing or likely to accrue as a result of the violation.

- iii. Whether the violation was isolated and temporary, or repeated and continuous.
- iv. The magnitude and seriousness of the violation.
- v. The City's costs for investigating and remedying the violation.
- vi. Whether any criminal charges have been brought against the person.
- vii. Any relevant, applicable evidence bearing on the nature and seriousness of the violation.

#	Violation	Presumptive Fine	Notes
8	PCC 20.12.090-B - Dumping	Up to \$1,000	City may recoup additional costs for actual disposal, damage, or repair.
9	PCC 20.12.100-A - Damaging park facility, building, fixture, or amenity	Up to \$1,000	
10	PCC 20.12.120 - Abandoning vessel	Up to \$1,000	
11	PCC 20.12.100-C.2 Removing, destroying, or injuring park vegetation	Up to \$1,000	

#### D. Additional Fees

These additional costs and fees may be recovered related to the abatement of a violation and all outstanding penalties from the person(s) assessed for a violation:

- i. City staff time, including but not limited to the City legal counsel, and any necessary equipment for abatement or repair, through all stages of the City's response to a violation.
- ii. Use of contracted professional and labor services.
- iii. Repair, replacement, or remediation of City infrastructure, including but not limited to pavement and/or vegetation.
- iv. Penalties and assessments related to enforcement against the City by another regulatory agency as a result of the violation.

### VIII. Appeals

A cited party may appeal a citation to the Code Hearings Office. To appeal, a person must file the following with the City's Hearings Office within 10 business days of the date of the citation notice:

- A. A completed APPEAL HEARING REQUEST FORM. These forms are available by contacting the Code Hearing Office at the address below. APPEAL HEARING REQUEST FORMS may also be downloaded or filed online at <https://www.portlandoregon.gov/hearings/article/747356>.
- B. A copy or photo of the citation.
- C. A statement explaining why the cited party believes the decision to issue a citation is invalid, unauthorized, or otherwise improper.
- D. Any supporting documentation the cited party intends to rely on at the appeal hearing. See Portland City Code Section 22.10.030 B.; Hearings Office Rule ARB-ADM-9.05(3)(c)(ii).

No filing fee is required. The amount due will be stayed pending resolution of the appeal. If a person has any questions regarding how to request an appeal, contact the Hearings Office at (503) 823-7307.

Appeals are conducted in accordance with Code Chapter 22.10, available at <https://www.portlandoregon.gov/citycode/28576> and City Administrative Rule ADM-9.05, available at <https://www.portlandoregon.gov/citycode/article/545438>.

The Hearings Office is located at: 1900 SW 4th Avenue, Suite 3100 (third floor), Portland, Oregon 97201.

More information about the Hearings Office is available at: <https://www.portlandoregon.gov/hearings/26645>.