



## SEATTLE PARKS AND RECREATION

### MEMORANDUM

TO: Board of Park Commissioners  
FROM: Karen Tsao  
DATE: November 13, 2008  
SUBJECT: Rule Relating to Public Nudity in Parks

#### Requested Board Action

The Board will hear a briefing on November 13, 2008 regarding a proposed rule for parks relating to nudity. A public hearing is scheduled for January 8, 2009, and the Board discussion and recommendation are scheduled for January 22, 2009.

#### Proposed Rule

The proposed rule of conduct would prohibit nudity in any public park or park facility open to the public. Violation of the rule may lead to the withdrawal of permission to remain in the park or park facility for a period of twenty-four hours or exclusion from parks, depending on the circumstances. There would be exceptions for children under the age of five, nursing mothers, and in restrooms, locker rooms and indoor showers.

This rule will support the Superintendent in his function to coordinate uses of park spaces. Nudity affects a potentially large extent of public space and disrupts use of parks by other people. In particular, it will enable the Superintendent to grant, withhold or revoke permits in a manner that consistent with that function. It is based on the power of the Superintendent to make rules regulating the use of parks and the conduct in parks.

#### Background

Parks staff researched the experience and regulation of other west coast and Puget Sound jurisdictions regarding nudity (exposure) in parks and parks facilities. The range of existing regulations includes:

- making exposure a misdemeanor (Tacoma, Everett, Berkeley, Portland),
- prohibiting exposure (San Francisco, Los Angeles County), and
- requiring a standard of dress at facilities (King County, Vancouver BC).

Seattle appears to be unique in receiving nudist request for use of park facilities. None of the cities contacted appears to have the same level of request for nude activities as does Seattle, possibly due to their having some regulation of nudity in public places. Nudity

per se is not illegal under Washington state law (cited in the Appendix). Seattle has no law regulating public nudity.

### **Public Involvement Process**

The Park Board briefing will be the first public airing of the proposed rule. The public hearing in 2009 will occur two months after the proposed rule has been made publicly available. There will be broad outreach prior to the public hearing. We welcome the Board's input on whether Parks should conduct additional public engagement.

### **Issues**

*Facility rentals* – Nudist/naturist groups have rented City swimming pools for swim nights after the pool is closed to the public. Parks has approved such requests, requiring that Parks life guards work the duty on a voluntary basis and must be over age 21. Parks as the facility owner retains essentially all liability for activities. Therefore it is very important to ensure that any lifeguards are capable of an effective response to emergencies. Some lifeguards who have volunteered to staff the clothing optional event chose not to volunteer again. The proposed Rule will not alter peoples' ability to rent a facility for a private clothing optional event.

*Beach use* – Through the Strategic Action Plan public process, there were requests for designation of clothing optional beach(es) in Seattle. There are about 30 beaches of any sort in City Parks' ownership, extending approximately a total of three linear miles. Many can be viewed from other areas of the adjacent parks, public roads and nearby residences. For those where a lifeguard is located, users frequently include children under age 14. In isolated areas of parks, a few beaches have become unofficially used as clothing optional, and behavior at them is informally and unofficially managed by nudist/naturist users. The proposed Rule will make it clear that informal clothing optional beaches are prohibited.

*Event permits* – The two most frequent requests for event permits are related to the beginning and stopover locations for the World Naked Bike Ride and for picnics at Magnuson Park. Recent World Naked Bike Ride events have resulted in complaints from citizens to the Seattle Police Department. These permits have been issued as the Superintendent does not now have a basis in law or regulation for denying an event permit as long as the permittee agrees to abide by applicable laws, rules and regulations, as is currently required by the permit. The proposed Rule will prohibit nude, or clothing optional events even under special permit. The Superintendent will no longer authorize permits for events where it is clear public nudity is planned.

There are no budget impacts.

### **Schedule**

Parks is prepared to advertise in the Daily Journal of Commerce, following the public hearing, as required by Section 3.02 of the Administrative Code, a notice of the Superintendent's intent to sign the rule.

**Staff Recommendation**

Parks and Recreation will request a Board recommendation at the January 22, 2009 meeting.

**Additional Information**

Attached are the text of the proposed rule and an appendix of how other jurisdictions address the issue.

## APPENDIX to Briefing Paper regarding Rule on Public Nudity

### Washington State Law Citation

Title 9A Washington Criminal Code, Chapter 88 Indecent exposure – prostitution.

RCW 9A.88.010 Indecent exposure.

(1) A person is guilty of indecent exposure if he or she intentionally makes any open and obscene exposure of his or her person or the person of another knowing that such conduct is likely to cause reasonable affront or alarm. The act of breastfeeding or expressing breast milk is not indecent exposure.

(2)(a) Except as provided in (b) and (c) of this subsection, indecent exposure is a misdemeanor.

(b) Indecent exposure is a gross misdemeanor on the first offense if the person exposes himself or herself to a person under the age of fourteen years.

(c) Indecent exposure is a class C felony if the person has previously been convicted under this section or of a sex offense as defined in RCW 9.94A.030.

[2003 c 53 § 92; 2001 c 88 § 2; 1990 c 3 § 904; 1987 c 277 § 1; 1975 1st ex.s. c 260 §9A.88.010]

### Other jurisdictions

Tacoma WA – The parks are owned by the Tacoma Metropolitan Park District (TMPD) and that body has no policy about nudity. However, the Tacoma Municipal Code's criminalization of nudity as an indecent act applies to TMPD property as public places.

Everett WA – The City Code prohibits nudity, so this is not an issue for the parks department.

Portland OR – Very little request for use of parks by nudists. Thongs not allowed at pools, as dress must be acceptable to the majority of the public, including families to make everyone feel welcome. The Code of Conduct supports this in requiring dress appropriate for a public place. State law also prohibits exposure for the purposes of arousal. Nude events with no official standing do occur. The Parks Department has tried to engage the sponsoring groups in dialogue with limited success, and to manage the issue on a case-by-case basis. On occasion, they have had to issue cease and desist orders. When there has been City permission, they require advance notice to neighbors and signage posted so as to allow others to avoid the area. Mothers are not allowed to nurse in pools as a health concern.

San Francisco CA – While the City has no nudity prohibiting nudity, the Park Code does prohibit exposure. There have been no requests for use of facilities by nudists. There are no beaches in City ownership.

King County WA – County parks has not received any requests for use of its facilities by nudists. Its rules for facility use require clothing appropriate to community standards. There are no beaches any longer in County ownership.

Vancouver BC – The Park Board by-laws deny access to park facilities if nude or improperly clad. There has had no request for nude event permits, but they has rented facilities to nude

groups. The World Naked Bike Ride has held its event without applying for or receiving a permit. One event that included nudity was permitted, the filming of *Godiva*. Because the public there is fairly conservative, the Park staff requested the production company to put up a black out barrier along the site. Other larger events, such as parades, may include topless women.

The beaches in Vancouver are highly used, so the Park Board has never considered them for clothing optional designation. Wreck Beach, a well-known clothing optional beach is not a park property. It is owned by the local utility district which has not designated it for this unofficial use, though it takes no action to prevent it. This beach is hard to access, being a long walk and 100 steps down to get to.

Bellevue WA – There are no policies or procedures explicitly addressing the question of nudity. However, Bellevue has not received any requests for use of its recreational facilities by nudists. Any incidents of exposure would be handled as a disruption to a park facility under Park and Recreation Facilities Code and result in temporary expulsion. There are no designated nude areas at Bellevue city beaches. Mothers are not allowed to nurse in pools as a health concern.

San Diego CA – The city has no specific policy covering nudity and has never had a request for nudist use of park facilities. In such a case, they would deny the request as it is difficult to accommodate such a request in an urbanized setting because there are no isolated parks. There are some private facilities in San Diego County which cater to this market.

Oregon State Rooster Rock Park – Rooster Rock State Park is very large where few conflicts of use arise. There is limited part where the prohibition on nudity does not apply, while that on lascivious conduct still does. This is based in the state parks authority to regulate recreation activities. The area has signs posted which include a definition of nudity. There is vegetative screening of the area.

<p>Tacoma Municipal Code applicable to Tacoma Metropolitan Park District</p>	<p>Title 8 Public Safety and Morals. Chapter 8.32 Indecent Acts.        8.32.010 Definitions. A. As used in this chapter, an "indecent act" is:        1. An exposure or display of one's genitals, pubic hair, anus, vulva, or female breasts; or        2. The touching, caressing, or fondling of the genitals, buttocks, or female breasts; or        3. Sexual intercourse which:          a. Has its ordinary meaning and occurs upon any penetration, however slight; and also means          b. Any penetration of the vagina or anus, however slight, by an object, when committed on one person by another, whether such persons are of the same or opposite sex, except when such penetration is accomplished for medically recognized treatment or diagnostic purposes; and also means          c. Any act of sexual contact between persons involving the sex organs of one person and the mouth or anus of another, whether such persons are</p>
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	<p>of the same or opposite sex; or</p> <p>4. Masturbation.</p> <p>....</p> <p>E. "Public place" means an area generally visible to public view, and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles (whether moving or not) and buildings open to the general public, including those which serve food or drink or provide entertainment, and the doorways and entrances to those buildings or dwellings and the grounds enclosing them.</p> <p>8.32.020 Indecent conduct. A person is guilty of indecent conduct if he or she intentionally performs any indecent act in a public place or at a place or under circumstances where such act could be observed by any member of the public.</p> <p>8.32.050 Violation – Penalty Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding \$500.00, or by imprisonment in the Pierce County Jail for a period not exceeding six months, or by both such fine and imprisonment. (Ord. 24870 Sec. 1, 1991; Ord. 22600 Sec. 29, 1981.)</p>
<p>City of Everett Code</p>	<p>Title 9 Public Peace, Morals, and Welfare. Chapter 9.06 Park Code.</p> <p>9.06.144 Lewd conduct.</p> <p>A. A person commits the offense of lewd conduct in a city park if he or she performs any lewd act in a city park when he or she knows such act is likely to be observed by a person and such act is likely to cause reasonable affront or alarm.</p> <p>B. A "lewd act" as used in this section is:</p> <ol style="list-style-type: none"> <li>1. An exposure of one's genitals or female breasts; or</li> <li>2. The touching, caressing or fondling of the genitals or female breasts; or</li> <li>3. Masturbation; or</li> <li>4. Sexual conduct.</li> </ol> <p>C. "Sexual conduct" as used in this section means sexual intercourse in the ordinary meaning thereof, or any touching of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desire of either party, whether such persons are the same or opposite sex.</p> <p>D. Violation of any of the provisions of this section constitutes a misdemeanor, and may be punished by a fine of not more than one thousand dollars or by imprisonment not to exceed ninety days or by both such fine and imprisonment. (Ord. 2442-00 § 6, 2000)</p>
<p>City of Portland, OR Code</p>	<p>Title 14 Public Order and Police. Chapter 14A.40 Interference With Persons And Sexual Misconduct</p> <p>14A.40.030 Indecent Exposure.</p>

	<p>It is unlawful for any person to expose his or her genitalia while in a public place or place visible from a public place, if the public place is open or available to persons of the opposite sex.</p>
<p>City of Berkeley, CA Municipal Code</p>	<p>Title 13 Public Peace, Morals and Welfare. Chapter 13.32 Nudity in Public Places</p> <p>Section 13.32.010 Nudity prohibited in any public place.</p> <p>It shall be either a misdemeanor or an infraction, in the discretion of the prosecutor, for any person to appear nude in any place open to the public or any place visible from a place open to the public. "Nude" within the meaning of this section means the absence of an opaque covering which covers the genitals, pubic hair, buttocks, perineum, anus or anal region of any person or any portion of the breast at or below the areola thereof of any female person. (Ord. 6446-NS Sec. 1, 1998; Ord. 6199-NS Sec. 1, 1993)</p> <p>Section 13.32.020 Exceptions.</p> <p>The provisions of this chapter shall not apply to:</p> <p>A. Any person ten years or younger.</p> <p>B. Any female exposing her breast to the extent such exposure is necessary to breast-feed a child.</p> <p>C. Performers who are engaged in live theatrical performances performed in a theater, concert hall or other such establishment which is primarily devoted to theatrical performances. (Ord. 6446-NS Sec. 2, 1998; Ord. 6199-NS Sec. 2, 1993)</p>
<p>City and County of San Francisco Park Code</p>	<p>SEC. 4.01. DISORDERLY CONDUCT.</p> <p>No person shall, in any park, without permission of the Recreation and Park Department:</p> <p>(a) ... ;</p> <p>(b) Expose his or her genitals, pubic hair, buttocks, perineum, anal region or pubic hair region or any portion of the female breast at or below the areola thereof, except that this section shall not apply to children under the age of five years; ...</p> <p>(Added by Ord. 603-81, App. 12/18/81)</p>
<p>Los Angeles County Code</p>	<p>Title 17 Parks, Beaches and Other Public Areas.</p> <p>Chapter 4 Park and Recreation Areas. 17.04.480 Nudity and disrobing prohibited--Exceptions.</p> <p>A. No person shall appear, bathe, sunbathe, walk, change clothes, disrobe or be in any park in such a manner that the genitals, vulva, pubis, pubic symphysis, pubic hair, buttocks, natal cleft, perineum, anus, anal region or pubic hair region of any person, or any portion of the breast at or below the upper edge of the areola thereof of any female person, is exposed to public view, except in those portions of a comfort station, if any, expressly set aside for such purpose.</p>

	<p>B. This section shall not apply to persons under the age of 10 years, provided such children are sufficiently clothed to conform to accepted community standards.</p> <p>C. This section shall not apply to persons engaged in a live theatrical performance in a theater, concert hall or similar establishment which is primarily devoted to theatrical performances. (Ord. 11175 § 2, 1975: Ord. 10309 Art. 3. § 53, 1971.)</p> <p>Chapter 12 Beaches Sec. 17.12.360 Nudity and disrobing.</p> <p>A. No person shall appear, bathe, sunbathe, walk, change clothes, disrobe or be on any beach in such manner that the genitals, vulva, pubis, pubic symphysis, pubic hair, buttocks, natal cleft, perineum, anus, anal region or pubic hair region of any person, or any portion of the breast at or below the upper edge of the areola thereof of any female person, is exposed to public view, except in those portions of a comfort station, if any, expressly set aside for such purpose.</p> <p>B. This section shall not apply to persons under the age of 10 years, provided such children are sufficiently clothed to conform to accepted community standards.</p> <p>C. This section shall not apply to persons engaged in a live theatrical performance in a theater, concert hall, or similar establishment which is primarily devoted to theatrical performances. (Ord. 11175 § 1, 1975: Ord. 9767 Art. 3 § 51, 1969.)</p>
Vancouver Board of Parks and Recreation By-Laws	<p>Bathing Beaches and Swimming Pools</p> <p>22. No person shall:</p> <ol style="list-style-type: none"> <li>undress or dress in or adjacent to any park, bathing beach or swimming pool except in the places specially provided for such purpose;</li> <li>be allowed use of any park, beach, swimming pool or bath house if nude or improperly clad... (June 1, 2005)</li> </ol>
County of King, WA Code	<p>Title 7 Parks and Recreation. Chapter 12 Rules for Use of Facilities. Sec. 7.12.370 Clothing. Clothing sufficient to conform to community standards shall be worn at all times. (Ord. 6798 Sec. 37, 1984).</p>
San Diego Municipal Code	<p>Chapter 05, Public Safety, Morals and Welfare</p> <p>Art 06 Div 00, No Division Title, Article Title: Disorderly Conduct, Places and Publications - Gambling</p> <p>Sec. 56.27 Disorderly or Offensive Conduct in Public Places – Prohibited. That is shall be and is hereby declared to be unlawful for any person to be guilty of any offensive or disorderly conduct in or upon any of the streets, alleys, sidewalks, squares, parks, or in any store, or other public place in said City, and it shall be unlawful for any person to make any loud noise... (Incorp. 1-22-1952 by O-5046 N.S, contained in O-567 N.S. adopted 12-12-1934.)</p>

<p>City of Bellevue Code</p>	<p>Parks and Recreation Facilities Code Sec. 3.43.320 Expulsion from parks.</p> <p>A. The city manager or his or her designee or his or her authorized agent may order the expulsion of any person from any park for a period of one to seven days if he or she observes such person:</p> <ol style="list-style-type: none"> <li>1. Using abusive or disruptive language or engaging in conduct which disrupts a park facility or program;</li> <li>2...</li> </ol> <p>C. Any order of expulsion under this section shall be in writing and shall be sent by certified mail to the person expelled at his last known address.</p> <p>D. Any person who enters a park during a period during which he had been expelled under subsection A or B of this section is guilty of a misdemeanor. (Ord. 4480 Sec. 21, 1993; Ord. 4071 Sec. 1, 1989.)</p>
<p>Oregon State Parks, Oregon Administrative Rules.</p>	<p>Div 10 General Park Area Rules. 736-010-0065 Rooster Rock State Park -- Nudity</p> <p>(1) A person of post-pubescent age or over 12 years of age is prohibited from engaging in nudity, as defined in ORS 167.060, in any area west of the boundary established by a line running north and south from 100 yards east of the easternmost beach access stairway and south of a line running east and west along the approximate high water mark of the Columbia River in Rooster Rock State Park.</p> <p>(2) Section (1) applies only where the person engaging in nudity is in public view. Section (1) does not apply to nudity in a public bathhouse, lavatory, or within tents, campers or other enclosures which are screened so that the nudity cannot be viewed by the public.</p> <p>Stat. Auth: ORS 390.124 Stats. Implemented: ORS 390.111</p>

## DRAFT Rule Regarding Public Nudity

<b>Subject:</b>  <b>SEATTLE DEPARTMENT OF PARKS AND RECREATION</b>  <b>ADMINISTRATIVE RULES</b>  Rule Prohibiting Public Nudity	<b>Number:</b> _____  <b>Effective:</b> _____, 2008
<b>Approved:</b>  <div style="text-align: center;">           _____            Superintendent, (Date)            Seattle Department of            Parks and Recreation         </div>	

**1.0 PURPOSE**

The purpose of this administrative rule is to specify that public nudity is prohibited anywhere within parks property or facilities, with some limited exceptions. The rule is intended to prevent park visitors from unwillingly being exposed to public nudity.

**2.0 REFERENCES AND AUTHORITY**

- 2.1 This administrative rule is authorized by and promulgated as provided in the City Administrative Code (SMC 3.26.040).
- 2.2 SMC 18.12.278 "Park Exclusion"

**3.0 NUDITY IN PUBLIC PLACES**

**Public Nudity is prohibited in any public park or park facility.**

In addition to violating any applicable laws or other rules, public nudity in a park is a violation of this rule, and may subject the violator to the enforcement measures described below.

**4.0 DEFINITIONS**

- 4.1 "Nude" or "nudity" within the meaning of this rule means the absence of an opaque material covering which covers the genitals, pubic area, buttocks, perineum, anus or anal region of any person or any portion of the

## DRAFT Rule Regarding Public Nudity

breast at or below the areola thereof of any person with a natural or artificial breast.

4.2 **"Public Nudity"** means nudity that occurs within any park:

- a. in a place that is open to the public; OR
- b. in a place that is visible from a place that is open to the public.

4.3 **"Open to the public"** means a place where the general public has a right to be. It does not include indoor areas that are subject to exclusive use by a private party under an exclusive use rental agreement or an exclusive use permit. However, nudity is prohibited in such exclusive use areas if the exclusive use area is visible from an area that is open to the public.

4.4 **Exceptions**

The provisions of this rule shall not apply:

- a. To any person five (5) years or younger.
- b. To any female exposing her breast to the extent such exposure is necessary to breast-feed a child. This exception shall not apply in the pool of a public swimming facility.
- c. Within a restroom, indoor shower, or locker room.

## 5.0 ENFORCEMENT

5.1 This rule applies on all property and facilities under the jurisdiction of the Department of Parks and Recreation. The rule does not itself provide for a criminal or civil penalty. However, a violator's permission to remain on the property may be withdrawn and/or the person may be issued a Parks Notice of Exclusion as provided in SMC 18.12.278.

5.2 **Violations of This Rule.**

A violation of this Rule may result in:

- a. Issuance of a Parks Exclusion Notice as provided in SMC 18.12.278 and Department Policy and Procedure 060-P 7.15 (adopted in 1997); and/or
- b. An authorized City employee's notification to a person that his or her permission to remain on the premises has been withdrawn for up to twenty-four (24) hours.

5.3 **Criminal Trespass.**

A person's presence on the premises after being notified that their permission to remain on the premises has been withdrawn, or a person's violation of a Parks Notice of Exclusion, may subject the violator to prosecution for criminal trespass.