



MONTGOMERY COUNTY DEPARTMENT OF PARKS
MARYLAND-NATIONAL CAPITAL PARK & PLANNING COMMISSION

MCPB Item # _____

January 19, 2017

MEMORANDUM

DATE: January 12, 2017

TO: Montgomery County Planning Board

VIA: Michael F. Riley, Director of Parks *MFR*
Mitra Pedoeem, Deputy Director of Parks for Administration *Mitra*

VIA: Dr. John E. Hench, Ph.D., Chief, Park Planning and Stewardship Division *Jehench*

FROM: Brooke Farquhar, Supervisor, Park Planning and Stewardship Division *Brooke Farquhar*
Nick Dumais, Associate General Counsel

SUBJECT: Briefing on the pending update to the M-NCPPC Park Rules and Regulations in anticipation of their adoption by the full Commission

Staff Recommendation:

Staff recommends that:

1. The Planning Board accept the latest draft of the Park Rules, which reflects changes discussed at previous Planning Board and Commission meetings and one additional rule requiring that bicyclists riding on Park Property before sunrise or after sunset use lights and reflectors on their vehicles; and,
2. The Planning Board provide guidance on the timing of a Full Commission meeting to adopt the new Rules.

Background

Staff was asked by the Planning Board at the end of its Public Meeting on July 28, 2016 on the Comprehensive Update to Parks Rules and Regulations to hold a meeting with concerned citizens and to relay the results of that meeting to the Planning Board. Staff held a meeting on September 30 and sent a draft of this memo to the attendees for comment on November 15, 2016. The attendees of the first meeting requested a second meeting that took place on January 3, 2017. This memo includes a summary of both meetings between staff and concerned citizens and the resulting staff-recommended revision to the Park Rules.

The staff memorandum and exhibits provided to the Planning Board for its July 28, 2016 meeting are available at: <http://www.montgomeryplanningboard.org/agenda/2016/agenda20160728.html>.

Summary

After the July 28, 2016 meeting in Silver Spring with the Montgomery County Planning Board, Commission staff created a new draft of the proposed update to the Park Rules with revisions suggested by the members of the public and by the Montgomery County and Prince George's County Boards in several meetings held in the summer of 2016. This updated draft was labeled "Discussion Draft 3.0."

Major changes in Discussion Draft 3.0 included:¹

- a formal mechanism for the Planning Boards to elect to review proposed Park Directives before they become effective (Chapter I, Section 3(E));
- clarifying that electric bicycles are to be regulated independently from purely mechanical bicycles (Chapter II, Section 1(G) & Chapter V, Section 14(A));
- defining "Organized Play" as including an assemblage of thirty-five people (Chapter II, Section 1(K));
- allowing all paved trails to be used for transient bicycle traffic between the hours of 5:00 am and 12:00 am, in addition to the more general dawn to dusk hours of operation (Chapter III, Section 2(A)(5));
- increasing the threshold for the number of people constituting a group needing a permit to assemble on park property (Chapter III, Section 3(B)) and to picnic (Chapter V, Section 12);
- requiring a permit for the use of amplified sound equipment and lighting equipment (Chapter III, Section 4(A)(9) & Chapter IV, Section 5);
- several changes to the rule on bicycling on Park Property (Chapter V, Section 4); and
- retaining the current rule on horseback riding (Chapter V, Section 10).

In addition, on September 30, 2016, at the request of the Montgomery County Planning Board, staff of the Montgomery County Department of Parks met with several community group representatives to discuss Discussion Draft 3.0. Represented groups included Conservation Montgomery, Mid-Atlantic Off-Road Enthusiasts, Montgomery County Road Runners, and Montgomery Countryside Alliance. At the request of the attendees, a second meeting was held on January 3, 2017.

The meetings largely revolved around three topics: (1) the Rules update process; (2) changes to the Rules regarding bicycle trail use; and (3) the "Park Directive" process.

Rules Update Process

Community group representatives first raised concerns that the Rules update process had proceeded too quickly and without sufficient input from the public. Parks representatives acknowledged that the initial timeline had been overly ambitious and reflected the state-mandated deadline to incorporate rule changes regarding smoking in public parks. Based in part on community feedback, the M-NCPPC revised its timeline to separate the adoption of the new smoking rules from the larger Park Rules update process. The Commission held two meetings to solicit public testimony, one in Laurel before the full Commission and one in Silver Spring before the Montgomery County Planning Board. Some individuals voiced concern that these meetings had been held in the summer, when many citizens are away on vacation. However, Parks representatives assured the meeting attendees that public comments were still welcome, and that the Planning Board had not yet made any final decisions on the new Rules. The Parks Department anticipates that before the Montgomery County Planning

¹ All changes shown in Discussion Draft 3.0 are shown in Discussion Draft 4.1, attached to this memorandum.

Board votes to recommend adoption of the new Park Rules by the full Commission, it will hold a final meeting that will be open to public testimony.

One citizen requested that the Parks Department provide her with a list of all proposed changes between the current rules and the proposed rules. Department representatives explained that the new rules are a comprehensive rewrite of the old rules and incorporate a large variety of changes, some of which are major. Documents describing the most important of those changes, in the eyes of Commission staff, were posted and are still available on the Planning Board's June 30th online agenda. Concerned citizens should also read the new rules to best ensure that their specific interests are met.

Bicycle Trail Use

The meetings also included substantial discussion on the new rules regarding trail use, including the expanded hours of operation for transient bicycle traffic on paved trails and the proposal to allow bicycles on all official paved and natural surface trails unless otherwise posted. A community group representative raised concerns about bicyclist and community safety at night and the need to protect conservation parks. A second representative emphasized the need to accommodate both recreational and commuting bicyclists in Montgomery County.

Ultimately, the group reached a general consensus on the new rules regarding bicycling on park property, with the understanding that (1) the new rules would not supersede existing park plans and allow bicycling in areas where a plan had specifically limited trail use to pedestrians, e.g., in the Serpentine Barrens Conservation Park; and (2) that the Department would continue to review its trail system and open new paved and natural surface trails to bicycle use. Any revisions to park user types in conservation parks would be reviewed through a separate public process involving the Planning Board, as per discussions with the Planning Board during review and approval of the Countywide Park Trails Plan Amendment. After the second meeting, the group also agreed to propose a new rule requiring that bicyclists riding before dawn or after dusk on park property use lights and reflectors on their vehicles.

At the second meeting, one citizen group representative raised more specific concerns about the new rule allowing bicycling on all paved and natural surface trails unless posted otherwise. Staff explained the rule in more detail and committed to posting signs at the trailheads of all limited use trails and indicate limited use trails on the Department's website. Staff will coordinate these efforts with the effective date of the new Park Rules, if adopted by the full Commission.

Park Directives

Finally, Parks representatives described the proposed Park Directive process to the citizen group representatives. They emphasized that "Administrative Directives," as they are currently known, are not new, and that Park Directors in both counties use them occasionally, often to address operational issues related to specific parks. The new Rules flesh out this process and, at the request of both Planning Boards, provide a mechanism for the appropriate Planning Board to review and solicit citizen comment on existing or proposed Park Directives.

Discussion Draft 4.1

In response to the two meetings with citizen group representatives and several internal meetings, Parks staff has proposed three additional revisions to the proposed updated Park Rules:

1. Revise Chapter 5, Section 4(A) to read: "All bicyclists and their passengers operating on Park Property must adhere at all times to applicable state and local laws, including the use of a helmet ~~under~~ as required by Md. Code, Transp. § 21-1207.1, as amended from time to time."
2. Revise Chapter 5, Section 4(E)(2) to eliminate "skateboard equipment" from the list of Park facilities not designed to withstand bicycle use.
3. Add the following as Chapter 5, Section 4(F): "Bicyclists riding on Park Property before dawn or after dusk pursuant to these rules must use a front bicycle lamp that emits a white light and a rear end reflector as described by Section 21-1207(a) of the State Transportation Article."

Next Steps

Based on citizen feedback from the September 30th and January 3rd meetings, and on a final review of the proposed updated Rules by staff, the Montgomery Parks Department recommends that the Planning Board schedule a Full Commission review of the latest version of the updated Park Rules, labeled "Discussion Draft 4.1."

Attachments: Park Rules Discussion Draft 4.1

cc:

M-NCPPC Department of Parks

John Nissel, Deputy Director of Operations, Montgomery County
Antonio DeVaul, Chief, Park Police, Montgomery County
Kristi Williams, Chief, Public Affairs and Community Partnerships
Melissa Chotiner, Media Relations Manager
Chuck Kines, Planner Coordinator, Park Planning & Stewardship Division
Nicholas Dumais, Associate General Counsel, M-NCPPC General Counsel's Office
Bill Tyler, Chief, Southern Parks
Doug Ludwig, Chief, Northern Parks

Community Members

Ginny Barnes, Conservation Montgomery
Diane Cameron, Audubon Naturalist Society
Jennifer Chambers, Hiking Along with Kids, Potomac Appalachian Trail Club
Joe Fritsch, Mid-Atlantic Off-Road Enthusiasts
Ron McNab, Trail Riders of Today, Maryland Horse Council
George Tarrico, Montgomery County Road Runners
Caroline Taylor, Montgomery Countryside Alliance
Jack Cochrane, Montgomery Bike Advocates
Austin Steo, Trail Conservancy

Park Rules and Regulations

GOVERNING USE OF COMMISSION PARKS AND RECREATION FACILITIES IN PRINCE GEORGE'S AND MONTGOMERY COUNTIES

Effective **[TO BE DETERMINED]**

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Chapter I: Purpose, Authority and Other Matters

Section 1. Purpose

The Commission has a responsibility to establish rules and regulations: to provide for the safe and peaceful use of Commission property and parks by the public; for the cultural, educational and recreational benefit and enjoyment of the public; and for the sustainable protection and preservation of the property, facilities, and natural resources entrusted to Commission stewardship.

Section 2. Authority

These Regulations are promulgated pursuant to the Laws of Maryland, including the ~~Maryland Code Ann., Land Use Article, Sections Md. Code, Land Use §§ 20-204 17-101(d), 17-207, 17-208, 17-209, 17-302(b)(4), 25-804, and 25-807(c)~~, each as amended from time to time.

Section 3. ~~Administrative Park Directives~~

(A) Subject to the limitation provided below in Subsection (D), the Commission authorizes a Director to issue ~~Administrative Park Directives~~ appropriate for the purposes enumerated in these Regulations.

Revisers' Note #1:

Draft 4.1 includes a formal mechanism for each department director to adopt more granular, customized operating directives to implement broader policy choices and other functional details that are specifically delegated under the agency-wide rules. This draft employs the term "Park Directive" – which was preferred over the term "Administrative Directive" that appeared in previous drafts – without any substantive distinction intended.

(B) A Director must promulgate, modify, or rescind any ~~Administrative Park Directive~~ in writing, and must then:

(1) Transmit the ~~Administrative Park Directive~~ to the Planning Board of that county for publication together with its agenda advertising a regular meeting occurring at

least ten (10) days after such transmittal. Publication with the agenda is for the purpose of providing public notice only, and no further action of the Planning Board is required.

(2) Cause the ~~Administrative Park~~ Directive, or the pertinent provisions thereof, to be: (a) published and maintained on the appropriate Commission website or websites; and (b) posted by signs affixed in appropriate places as required under these Regulations.

(3) Transmit the ~~Administrative Park~~ Directive to the Park Police and the Executive Director, Secretary-Treasurer, and General Counsel of the Commission.

(C) The adoption or modification of an ~~Administrative a Park~~ Directive is effective on and after the later of: (1) the date specified therein as its effective date; or (2) the first date it has been both published and posted as provided above in Subsection (B). ~~An Administrative A Park~~ Directive shall continue in full force and effect until a termination date specified therein or, if no such termination date is specified, indefinitely until it is modified or rescinded.

(D) A Director shall not issue any ~~Administrative Park~~ Directive that conflicts with these Regulations, or with any Commission Practice or other rule, regulation or policy of general applicability adopted by resolution, or other binding corporate action of the Commission.

(E) Subject to the following procedures, a Planning Board may consider and act upon a proposed or effective Park Directive:

(1) A Planning Board member may move in open session to consider a proposed or effective Park Directive applicable only to that county. If the motion is seconded, and if a majority of board members meeting in open session vote in favor of the motion, the Planning Board chair must schedule a discussion of the Park Directive on the board's agenda when practicable for consideration.

(2) If a Planning Board votes to consider a proposed Park Directive, the Park Directive will not become effective unless the board votes to order the Director to promulgate it. If a Planning Board votes to consider a Park Directive already in effect,

that Park Directive remains operative and in effect unless the Board votes to order the Director to modify or rescind it.

(3) Upon a favorable vote to consider a Park Directive proposed or in effect, the chair shall include notice of the pending board discussion for at least ten (10) days to offer the opportunity for members of the public to provide comment, except that, in the event of an exigency or other due cause as determined by the chair, the board consideration and any subsequent vote may be taken with less notice.

(4) After considering the Park Directive and any public comments, the Planning Board may, by a vote of a majority of members meeting in open session, order the applicable Director to promulgate, modify, or rescind the Park Directive.

Revisers' Note #2:

Commissioners have expressed a desire to include a mechanism for each Planning Board to exercise its authority affirmatively to revise any Park Directive during (or after) promulgation by the respective department director. The above condition is an effort to spell-out a procedure for initiating Planning Board review on a case-by-case basis while, at the same time, maintaining a process that is transparent to streamline most directives that will not be taken up for detailed Planning Board review.

Section 4. Effective Date

These Regulations will be effective at 12:01 ~~AM~~a.m. on **[TO BE DETERMINED]**, and remain in effect until such time as they may be modified or revoked as provided by law.

Chapter II: Definitions and Construction

Section 1. Definitions

Terms capitalized in these Regulations are given the meanings prescribed in this Section.

~~(A) **Administrative Directive:** A policy, rule, procedure, mandate, or similar directive promulgated by a Director pursuant to Chapter I, Section 3 of these Regulations: (1) as applicable with respect to one or more specified Park Properties, Facilities, or Park Programs; and (2) for a purpose authorized by these Regulations.~~

~~(A) (B) **Authorized Person:** A Director or another person who is authorized by the Director to take an action or make a determination on the Director's behalf as enabled or required by these Regulations.~~

~~(B) (C) **Bicycle:** A self-propelled bicycle or tricycle ~~that is self-propelled, and not including any Electric Bicycle, motorized or other similar electronic-electronically assisted vehicle.~~~~

Revisers' Note #3:

Some public comments advocate for treating electric bicycles in the same manner as regular (pedal-only) bicycles, rather than like Segways, mopeds, and other motorized vehicles with two wheels that are prohibited under the current rules. Based on indications from the Commissioners, this draft includes a definition of Electronic Bicycle only for clarity and the ease of future policy changes, but also prohibits their use until appropriate enforcement mechanisms are developed. (XREF: Chapter V §14 (Segways and Other Motorized Devices)).

~~(C) (D) **Commercial Activity:** Any activity on Park Property, whether for profit or not, that solicits, promotes, or effectuates a transaction for value with Commission patrons or visitors, or that otherwise employs Park Property, patrons, or visitors for a commercial purpose, including,~~

~~(1) selling, vending, or peddling of any sort (food, beverages, merchandise, amusements, services, etc.);~~

(2) advertising or promoting merchandise, services, memberships, events, amusements, etcetera (by distributing handbills, displaying signs, or otherwise);

(3) instructing or demonstrating anything for hire (classes for athletics, sports, dancing, tutoring, etcetera);

(4) holding any event open for admission to the general public in exchange for money or anything of value; and,

(5) producing commercial photography, videography, or films.

~~(D)~~ ~~(E)~~ **Commission:** The Maryland-National Capital Park and Planning Commission.

~~(E)~~ ~~(F)~~ **Department:** The Montgomery County Department of Parks and the Prince George’s County Department of Parks and Recreation (or a successor department).

~~(F)~~ ~~(G)~~ **Director:** A person

(1) appointed pursuant to the ~~Maryland Code Ann., Land Use Article, Section~~ Md. Code, Land Use § 20-204, respectively as the

(a) Director of the Commission’s Montgomery County Department of Parks (or successor department thereto); or

(b) Director of the Commission’s Prince George’s County Department of Parks and Recreation (or successor department thereto);

or

(2) authorized to discharge a Director’s responsibilities during his or her extended absence or incapacitation

~~(G)~~ ~~(H)~~ **Electric Bicycle:** A vehicle that

(1) is designed to be operated by human power with the assistance of an electric motor;

(2) is equipped with fully operable pedals;

(3) has two or three wheels;

(4) has a motor with a rating of 500 watts or less; and

_____ (5) is capable of a maximum speed of 20 miles per hour on a level surface when powered by the motor.

Revisers' Note #4:

This draft includes a definition of Electric Bicycle for clarity and to ease any future changes in policy; but enforces their use like Segways and other motorized devices until appropriate enforcement mechanisms are developed. This definition is derived from the Maryland Code, Transportation Article. (XREF: Md. Code, Transp. § 11-117.1)

(H) **Electronic Personal Assistive Mobility Device (EPAMD):** A pedestrian device that (1) has two (2) nontandem wheels; (2) is self-balancing; (3) is powered by an electric propulsion system; (4) has a maximum speed capability of fifteen (15) miles per hour; and (5) is designed to transport one person.

(I) ~~(J)~~ **Encroach:** To cause any unauthorized use, occupation, possession, or obstruction of, or other interference with, Park Property, anything on Park Property, or the existing state of Park Property.

(J) ~~(K)~~ **Facility:** Any structural or other improvement to Park Property. Facilities include ball fields, pavilions and other improvements to property that are not necessarily enclosed.

(K) ~~(L)~~ **Organized Play:** Any sport or athletic contest or event that includes uniformed players and an assemblage of at least ~~twenty five (25)~~ thirty-five (35) people that may include contestants, officials, or spectators.

Revisers' Note #5:

This draft includes a definition of "Organized Play" to trigger a permit requirement for the use of certain fields and facilities. The Montgomery County Park Police Division expressed concern that if a threshold was too low, avoidable friction with the community could result. After further discussion with the Prince George's County Park Police Division, a consensus developed for the trigger at 35 people. (XREF: Chapter III §4(A)(2) (Permits)).

(L) ~~(A)~~ **Park Directive:** A policy, rule, procedure, mandate, or similar directive promulgated by a Director pursuant to Chapter I, Section 3 of these Regulations: (1) as applicable with respect to one or more specified Park Properties, Facilities, or Park Programs; and (2) for a purpose authorized by these Regulations.

(M) ~~(L)~~ **Park Police:** The police officers appointed by the Commission pursuant to the ~~Maryland Code Ann., Land Use Article, Section~~ Md. Code, Land Use § 17-301.

(N) ~~(M)~~ **Park Program:** Any activity, program or event utilizing Park Property that is sponsored by the Commission and open to public attendance or participation.

(O) ~~(N)~~ **Park Property:** Any land or water, devoted to park or recreation uses and owned, operated, or established otherwise by the Commission, and all vegetation or natural substances, and including any Parkway, Facility, and other buildings, fixtures, monuments, structures, and their contents located on such land or water.

(P) ~~(O)~~ **Parkway:** Sligo Creek Parkway, Beach Drive, or Little Falls Parkway.

(Q) ~~(P)~~ **Permit:** A document issued by a Director or an Authorized Person affirmatively granting permission for its holder to undertake a specified act or activity otherwise prohibited by these Regulations, or for which these Regulations require a Permit as a condition of such act or activity. For the purpose of these Regulations, a Permit may include a contract, license or lease, Facility rental, Park Program or event, or a similar agreement made by the Commission in the ordinary course and which reasonably includes a grant of permission for the act or activity taken.

Revisers' Note #6:

Staff has carefully considered the existing park permit process and how it is designed to serve many different functions and situations. To accommodate the

wide array of differing circumstances, the term Permit is used in a very generic sense to cover all forms of documents that grant formal permission to do various activities on Park Property – including leases, concession agreement, and similar documents that are authorized and issued in the ordinary course of conducting business.

(R) ~~(Q)~~ **Regulations:** These Park Rules and Regulations adopted by the Commission as of June , 2016 **[DATE TO BE DETERMINED]**.

(S) ~~(R)~~ **Smoke:** Any use of a lighted cigarette, cigar, pipe, or similar device that is designed to ignite a solid material (including tobacco, cloves, marijuana, and similar materials of any nature) and deliver the resultant smoke for ingestion as an inhalant. Smoking does not include Vaping.

(T) ~~(S)~~ **Vaping:** Using e-cigarettes, vaping, and other devices that utilize electronic technologies to vaporize a liquid or sublimate a solid material to produce a gaseous discharge or vapor for ingestion as an inhalant. Vaping does not include Smoking.

Section 2. Rules of Construction

(A) When used in these Regulations, the terms “include” or “including” are used by way of example or illustration only, and not in any case for the purpose of limitation.

(B) When used in these Regulations, the singular form shall include the plural, the masculine shall include the feminine and neuter, and the feminine shall include the masculine and neuter.

Chapter III: Regulation of Public Use

Section 1. Preamble

The Commission celebrates diversity and welcomes the general public to share Park Property, Facilities, and Park Programs without regard to any person's race, sex, age, color, creed, national origin, marital status, sexual orientation, gender identity, or disability. The Commission may implement administrative policies, practices, and procedures complimentary to its abiding value of providing equal access and equitable opportunities for everyone to enjoy the property and experiences entrusted to the Commission stewardship.

Section 2. Hours of Operation, Unauthorized Presence

(A) Park Property and Facilities are open daily to the public from sunrise to sunset, except:

(1) ~~An Administrative~~ A Park Directive may provide alternate hours of operation for a Park Property or Facility, including alternate hours deemed appropriate for any trail or trail segments that facilitate ~~to~~ Bicycle and pedestrian commuting, urban parks, athletic fields, tennis and basketball courts with lighting, and other facilities or areas as appropriate.

(2) A Park Program on Park Property or in Facilities may operate during extended hours.

(3) A Permit may authorize alternate hours of operation or the extended use of a Park Property or Facility.

(4) Parkways remain open twenty-four (24) hours a day for transient motor vehicle traffic only.

(5) Paved trails on Park Property remain open between the hours of 5:00 a.m. and 12 midnight for transient Bicycle traffic only, unless posted otherwise.

Revisers' Note #7:

A significant number of public comments argued in favor of allowing 24-hour access to paved trails for bicycle use, while other public comments opposed that concept. In response, most Commissioners have expressed support for expanded hours. After further discussions among staff of the Prince George's

County Dept. of Parks and Recreation, Montgomery County Parks Department, and both Park Police Divisions, consensus among their senior leadership has emerged to propose the expanded hours of operation provided in this paragraph, together with the additional rules for bicyclists who use the paved trails after hours discussed further below. (XREF: Chapter V §4 (Bicycling)).

(6) ~~(5)~~ An Authorized Person may establish a temporary holiday schedule for a Park Property or Facility.

(7) ~~(6)~~ Operating hours are subject to applicable terms, conditions, and rules limiting access, use or participation, including the payment of applicable fees or similar charges for admission.

(B) The Park Police or other Authorized Person may open or close any Park Property, Facility or Parkway in the event of any exigent circumstance, emergency, inclement weather, or other appropriate official purpose. Such opening or closing will be posted in advance when possible for public notice.

(C) (1) No person shall enter, or be present within, a Park Property or Facility when closed. Violation of the foregoing may subject the violator to civil or criminal penalties.

(2) No person shall enter, or be present within, a business office or other area that is closed to public access. Violation of the foregoing may subject the violator to civil or criminal penalties.

Section 3. Regulation of Certain Assemblies

(A) Any group of people that assembles to constitute or participate in a parade, procession, special event, demonstration, picket line, rally, or similar event on Park Property is required to procure a Permit authorizing such assembly, except as provided below in Subsection (B).

(B) A group consisting of ~~twenty-five (25)~~ thirty-five (35) or fewer people that assembles for an activity described above in Subsection (A) is not required to procure a Permit if all of the following requirements and conditions are met:

Revisers' Note #8:

After extensive discussion, a consensus among staff developed for the trigger at 35 people for requiring a permit for certain group activities. (XREF: Revisers' Note #5).

(1) The group must congregate outdoors in an area of the Park Property or Facility open to the general public, and at time when that area is open to the general public without any fee or charge for admission.

(2) The group must not engage in a Commercial Activity or any other activity for which a Permit is required by these Regulations.

(3) The group may congregate only where it is safe (e.g., without obstructing the flow of vehicle, ~~B~~Bicycle, or pedestrian traffic), and only where the likelihood of damage to any Park Property or Facility is remote (e.g., without risk of damage to fitness equipment, sod, or protective coverings), each as determined in the discretion of the Park Police or other Authorized Person.

(4) The group must not use or assert use of any Park Property or Facility (or any area therein) to the exclusion of others, if the Commission ordinarily requires a Permit for exclusive use of such area (e.g., a pavilion, athletic field, or camping area).

(5) The group must not occupy a space or area that conflicts with, encroaches upon, obstructs, disrupts or otherwise interferes with the conduct of Commission business, or the use, quiet and peaceable enjoyment of a Park Property, Facility, or Park Program by others lawfully present in that space or area (including any such interference with the lawful use pursuant to this Subsection by another group that congregated first in the same area or its vicinity).

(6) The group must not affix signs, banners, or placards of any sort to a Park Property or Facility by any means whatsoever, including by placing stakes into the ground, unless it obtains a Permit.

(7) The group must not utilize equipment to amplify sound.

Section 4. Permits

(A) A Permit is required for any of the following purposes or circumstances:

(1) To reserve the use of a Park Property or Facility to the exclusion of others, including athletic courts or fields, recreation buildings, camping and group picnic areas, designated picnic shelters, and any other such facility as designated by ~~Administrative~~ Park Directive.

(2) To authorize the use of a Park Property or Facility for Organized Play.

Revisers' Note #9:

Staff recommends instituting a definition of "Organized Play" to trigger a permit requirement for certain fields and facilities. After extensive discussion, a consensus among staff developed for the trigger at 35 people. (XREF: Revisers' Note #5).

(3) To authorize the use of a Park Property or Facility for any Commercial Activity.

(4) To authorize the possession or consumption of alcoholic beverages on Park Property or in a Facility in a place where it is not authorized by ~~Administrative Park~~ Directive.

(5) To authorize bus parking.

(6) To authorize the grading, excavation, or disturbance of land for archeological or geological purposes, which must be conducted or overseen by a qualified professional as determined by an Authorized Person.

(7) To authorize any construction activity on Park Property.

(8) To authorize the removal or felling of trees or other vegetation on Park Property.

(9) To authorize the use of amplified sound equipment, lighting equipment or other means of producing ambient lighting on Park Property after dark.

Revisers' Note #10:

In response to instances when groups have resorted to car headlights and other informal devices for lighting to extend the use of ball fields after dark, a civic group recommends a permit requirement to carefully regulate the timing of those activities. (XREF: Chapter IV §5(B)(3)).

(10) ~~(9)~~ To authorize the assembly of any group for which a Permit is required by Section 3 of this Chapter.

(11) ~~(10)~~ To authorize any event, use, or activity for which a Permit is required by these Regulations.

(B) Applying For a Permit

(1) Permit application forms may be obtained on the applicable Department's website, Permit offices, or at other designated locations.

(2) The Commission may require payment of a fee or deposit with the submission of a Permit application.

(3) The Commission may require any supplemental information it deems necessary or appropriate to exercise due diligence in evaluating any Permit application.

(C) Evaluation of Permit Application

An Authorized Person may consider the following factors when evaluating a Permit application:

(1) Whether the requested Facility or activity area within Park Property is: (i) available on the date and time requested or another mutually accepted date and time; (ii) safe and appropriate for the specific event or use proposed in the application; and (iii) able to accommodate the proposed use without a likelihood of conflicts, disruptions, or incompatible experiences with other uses or activities in the Park Property or Facility;

(2) Whether the use or event proposed: (i) is consistent with maintaining the open, unspoiled, natural condition of the applicable Park Property; (ii) would create any unsafe condition in the area within or immediately surrounding the applicable Park Property or Facility; or (iii) would otherwise create or lead to a violation of any local, state or federal law;

(3) Whether any extraordinary security requirements or parking, vehicular and pedestrian traffic control or similar measures would be necessary or appropriate to keep good public order or mitigate public safety risks that may arise during the use proposed;

(4) Whether any measures would be necessary or appropriate to maintain adequate sanitation, provide adequate drinking water, and otherwise protect the public health during the use proposed;

(5) Whether the Permit applicant or any other party affiliated with, controlled by, or legally responsible to the Permit applicant has: (i) provided to the Commission any information in connection with the pending or any previous Permit application that was false or materially misleading; (ii) failed to comply on a prior occasion with the terms or conditions of any Permit issued by the Commission or another park or recreation agency without legal excuse; or (iii) on a prior occasion violated without legal excuse any applicable Commission rule or regulation;

(6) Whether the applicant has the financial capacity and other capabilities necessary to (i) adequately maintain the public health, safety, and welfare during the proposed use or event; and (ii) satisfy the cost of any general liability claims or property damage arising in connection with the applicant's proposed use or event; ~~and~~

(7) Whether the proposed use otherwise comports with the essential operations of the Commission and the general public health, safety, and welfare.

(D) Issuance or Denial of Permit Application

(1) Within a reasonable length of time following receipt of a completed Permit application, all required fees and deposits, and all information requested by an Authorized Person, the Authorized Person shall either issue the Permit or provide the applicant with a written statement indicating the reasons for denying the Permit.

(2) An Authorized Person may issue a Permit subject to any reasonable terms or conditions, including (i) any terms or conditions deemed appropriate to manage or adequately control a situation or factor described above in Subsection (C); or (ii) the terms or conditions described below in Subsection (E).

(3) A Permit may be issued for a single time use, seasonally, or on an indefinite basis as appropriate for the Park Property, Facility or applicable portion thereof.

(4) A written decision signed by the Director to deny a Permit shall constitute a final decision of the Commission.

(E) Permit Terms, Conditions and Special Rules

(1) Each Permit issued will be subject to the following terms and conditions:

(a) The Permit holder must make timely payment of all applicable fees and deposits.

(b) Any person participating in a permitted use or event must comply with all applicable local, state, and federal laws.

(c) Any person participating in a permitted use or event must comply with these Regulations and applicable ~~Administrative~~ Park Directives, unless, and only to the extent, otherwise provided or authorized by that Permit.

(d) Any person participating in a permitted use or event must comply with all terms and conditions included with the Permit.

(e) The Permit holder must maintain physical possession of the Permit onsite during the permitted use or event and must display the Permit upon request by Commission personnel.

(f) The Permit holder assumes liability for all claims for damage, injury, or loss to any persons or property arising in connection with the Permit holder's use or event, including any such claims attributable to a third-party invitee who participates in the Permit holder's use or event.

(g) No person participating in a permitted use or event may (i) in any way obstruct, delay, or interfere with the free movements of any other person; (ii) seek to coerce or physically disturb any other person; (iii) hamper or impede the conduct of any authorized business or activity on Park Property; or (iv) conduct any activities in a misleading or fraudulent manner.

(2) As a condition of issuing a Permit, the Commission may reasonably require the applicant to

(a) pay a reasonable fee or deposit in advance to defray or cover in full the Commission's estimated cost to facilitate the use or event proposed;

(b) procure, at the applicant's sole expense, one or more policies of insurance (i) naming the Commission as an additional insured, (ii) issued by underwriters acceptable to the Commission, and (iii) providing coverage for general liability or property damage at policy limits determined within the Commission's discretion; and

(c) procure, at the applicant's sole expense, one or more bonds issued by a surety acceptable to the Commission as necessary to guaranty the applicant's compliance with, and timely performance of, various obligations required as terms and conditions of the issuance of a Permit.

(3) A Permit authorizes the Permit holder to use the specified Facility or a site within Park Property to the exclusion of others for the limited purposes specified in the Permit, and only for the dates and times specified therein. During the effective period of a Permit, a Permit holder may limit the use of the site or facility more strictly than the limits imposed by these Regulations or applicable ~~Administrative Park Directive~~, provided that any further limitation is lawful.

(4) The holder of an expired Permit and any other person who does not hold a Permit authorizing the use of a specified Facility or a site within Park Property must vacate that site or Facility promptly upon the arrival of a Permit holder who is so entitled.

(5) The Park Police or an Authorized Person may impose temporary rules to control vehicle parking and pedestrian access related to a permitted event, including ceremonial gatherings, rallies, demonstrations, and pageants.

(F) Revocation

Any violation of a rule, term, or condition of a Permit may result in immediate revocation of the Permit, loss of all privileges or authorization otherwise arising under the Permit, and forfeiture of any deposits and fees paid in connection with the Permit.

Chapter IV: Prohibited Activities and Conduct

Section 1. Preamble

The Commission is committed to providing the residents of Montgomery County and Prince George's County with exceptional parks and recreational experiences to enjoy in a safe, healthy, and sustainable environment. Visitors to any Park Property and participants in any Park Program must behave in a manner that is respectful of others and preserves the public investment in assets entrusted to Commission stewardship. Certain activities and conduct described further in this Chapter is accordingly prohibited, and any violation of these Regulations may result in civil or criminal penalties. These Regulations and this Chapter apply in addition to, and not in limitation of, any local, state, or federal law that concurrently prescribes or prohibits the activity or conduct of a person present on Park Property.

Section 2. General Provisions

(A) No person shall enter or be present in any Park Property or Facility when or where it is closed to public access, except as authorized by Permit or other invitation by an Authorized Person.

(B) No Permit holder or other person participating in a permitted use or event on Park Property shall violate any terms or conditions of the Permit, including the terms, conditions, and special rules listed in Chapter III, ~~Section 4, Subsection §4(E)~~.

(C) No person shall fail to promptly comply with a command or direction given by the Park Police or other Authorized Person to implement or enforce a provision of these Regulations, applicable ~~Administrative Park Directive~~, or the terms and conditions of a Permit.

Section 3. Alcohol, Controlled Substances and Smoking

(A) No person shall possess, use, or distribute beverages containing alcohol on Park Property, except as authorized by Permit or ~~Administrative Park Directive~~.

(B) No person shall possess, use, or distribute illegal drugs or any controlled dangerous substance on Park Property if possession thereof is subject to criminal or civil prohibition.

(C) (1) No person shall Smoke on Park Property or in any Commission vehicle, except as authorized for specified areas of designated Park Properties, Facilities or specified areas thereof as provided below at Subsection 2 below. ~~by applicable~~

~~Administrative Directive.~~

(2) The Director of the Commission’s Montgomery County Department of Parks and the Director of its Prince George’s County Department of Parks and Recreation, as the applicable case may be in either county respectively, are hereby authorized to designate one or more areas where Smoking a cigarette, cigar or other tobacco product is not prohibited (a “Designated Smoking Area”), subject to the following:

(a) A Designated Smoking Area must be located within a Park Property or Facility that normally generates admission fees, rental fees or similar charges for use.

(b) Use of the Designated Smoking Area for Smoking may be limited further as to a specific time, manner or place associated with generating the admission fees, rental fees or similar charges for use.

(c) The Director’s designation of a Designated Smoking Area must be made by issuing a Park Directive. The Park Directive will be issued pursuant to Chapter I §3 (Park Directives).

(d) The Director must cause each Designated Smoking Area to be posted with signage appropriate to give conspicuous notice that the area has been designated as such.

(D) No person shall use a Vaping device (1) inside Park Property or in any Commission vehicle; or (2) outside on Park Property in any area where such use is prohibited by posting.

(E) No person shall use chewing tobacco or any other smokeless tobacco product (1) inside Park Property or in any Commission vehicle; or (2) outside on Park Property in any area where such use is prohibited by posting.

Section 4. Indecent Conduct, Harassment

(A) No person shall urinate or defecate on Park Property other than in the restrooms or designated sanitary facilities.

(B) No person shall engage in the act of sexual intercourse or another sexual act of any nature, or shall perform any indecent or obscene act on Park Property.

(C) No person shall verbally threaten or harass another on Park Property, whether the threat or harassment is of a sexual nature or not.

Section 5. Assembly, Obstruction and Interference

(A) No person shall participate in an assembly or group for which a Permit is required by Chapter III, ~~Section~~ §3, unless the required Permit is issued.

(B) Notwithstanding whether a Permit is issued for an assembly or group, no person participating therein shall

(1) occupy a space or area that conflicts with, encroaches upon, obstructs, disrupts, or otherwise interferes with the conduct of Commission business or the use, quiet and peaceable enjoyment of a Park Property, Facility, or Park Program by others lawfully present in that space or area, including for the purpose of ingress, egress, pedestrian access, or traffic flow;

(2) affix signs, banners, or placards of any sort to any Park Property or Facility by any means whatsoever, including by placing stakes into the ground, except as authorized by Permit or ~~Administrative~~ Park Directive; or

(3) utilize equipment to amplify sound or produce ambient lighting after dark.

Section 6. Interference, Official Duties

(A) No person shall obstruct, hinder, or unreasonably interfere with any Commission employee acting in the course of his or her official duties.

(B) No person shall obstruct, hinder, or unreasonably interfere with a first-responder in the performance of his or her official duties.

(C) No person shall obstruct, hinder, or unreasonably interfere with a person engaging in activities pursuant to a valid Permit.

Section 7. Destruction of Park Property

No person shall deface, destroy, injure, misuse, or remove any Park Property.

Section 8. Littering, Dumping and Storage

(A) No person shall litter on Park Property, and all refuse and recyclable materials that originate during a person's presence on Park Property must be placed in designated trash or recycling receptacles.

(B) No person shall deposit any refuse or recyclable materials in a designated trash or recycling receptacle located on Park Property, unless the trash or recyclable materials are generated as such during the person's lawful presence on that Park Property.

(C) No person shall dump, abandon, discard, release, or spill any refuse, bulk trash, liquid or gaseous material, or similar objects or substances on Park Property, except as authorized by Permit, or unless an appropriate receptacle is provided expressly for public use and authorized by posted signage.

(D) No tangible property or material of any kind may be stored or otherwise maintained on Park Property, except as authorized by Permit.

Section 9. Posting Notices

No person shall attach or post any notice, sign, or any similar objects on Park Property, except as authorized by Permit.

Section 10. Erecting Structures, Enclosures

No person shall erect any structure, including a tent or shade canopy, or construct any enclosure on Park Property, whether temporary or permanent in nature, except as authorized by Permit or ~~Administrative Park~~ Directive. Unlawful Encroachment on Park Property is further regulated in Chapter VII.

Section 11. Commercial Activities

No person shall solicit or otherwise undertake any Commercial Activity on Park Property, except as authorized by Permit or ~~Administrative Park~~ Directive.

Section 12. Amplified Sound and Noise

No person shall operate any device to amplify sound or otherwise create excessive noise so as to disturb the peace and public enjoyment of Park Property, except as authorized by Permit or ~~Administrative Park~~ Directive for a particular place or location.

Section 13. Motorized Vehicle Service

No person shall service, repair, clean, or wax any vehicle on Park Property, except in case of a bona fide emergency.

Section 14. Fireworks and Explosives

No person shall possess or discharge any fireworks or other explosive materials or devices on Park Property, except as authorized by Permit.

Section 15. Weapons

No person shall carry, possess, or discharge a bow and arrow, dart, firearm, ammunition for a firearm, knife with a blade longer than three (3) inches, or any other dangerous weapon on Park Property except where authorized in designated areas by ~~Administrative~~

Park Directive; provided, that this provision does not apply to any law enforcement officer.

Section 16. Gambling

No person shall engage in gaming or gambling for money or any other thing of value on Park Property, except as authorized by Permit for charitable purposes.

Section 17. Metal Detectors, Digging

No person shall use a metal detector or dig into the surface of Park Property, except as authorized by Permit.

Section 18. Animals & Wildlife

(A) Except in designated areas, no person shall bring or possess an animal on Park Property without keeping it at all times on a physical leash that is attached to the animal by collar or harness.

(B) No person who brings an animal onto Park Property shall fail to immediately clean up and remove the animal's feces or other waste from the Park Property or dispose of the waste in a receptacle designated for that purpose.

(C) No person shall allow an animal to graze on Park Property, except as provided by Permit.

(D) No person shall abandon or release any animal, whether domestic or wild, anywhere on or about Park Property, except as authorized by Permit or by ~~Administrative Park~~ Park Directive. Domestic animals that are lost, escaped, or abandoned on Park Property may be impounded and shall be treated in accordance with applicable local, state, and federal laws.

(E) No person shall bring or possess a domestic animal, except for a bona fide service animal, on Park Property in any area where such animals are prohibited as indicated by a sign posted by the Commission.

(F) No person shall catch, injure, destroy, or interfere in any way with any wildlife on Park Property, except as otherwise provided by Chapter ~~VI, Section 7, V §8~~ (Fishing) and ~~Section 10, §11~~ (Hunting/Trapping).

Section 19. Trees, Plants and Minerals

(A) No person shall injure, destroy, or interfere in any way with any trees, plants, or minerals on Park Property, except as authorized by Permit or ~~Administrative Park~~ Directive.

(B) No person shall plant or harvest vegetation or cause the planting or harvesting of vegetation on Park Property, except as authorized by Permit or ~~Administrative Park~~ Directive.

(C) No person shall remove, cut, saw, or otherwise attempt to remove in any manner any live or dead trees, limbs, branches, roots, or any other part of a tree on Park Property, except as authorized by Permit.

Section 20. Found Objects

(A) A person shall report and surrender to the Park Police any object or other personal property belonging to someone else promptly upon finding it. A person ~~shall not fail to~~ must report and surrender found personal property as required by this subsection.

(B) Any Commission employee who takes possession of personal property that is found with a fair market value exceeding twenty ~~(20)~~ dollars (\$20.00) must promptly notify the Park Police. The Park Police may take custody of any such item of significant value as determined in its discretion.

(C) The Park Police shall maintain an inventory of the found objects in its custody or otherwise collected by Commission employees, and shall report to the Director periodically on the status thereof.

(D) A person who is the owner of any found item in the custody of the Park Police may recover such property by presenting proper identification and sufficient evidence of ownership at Park Police Headquarters.

(E) Any found items that are not claimed within three (3) months of receipt by the Commission shall be deemed abandoned and may be destroyed, donated to charity, or become the property of the Commission.

Section 21. Archaeological and Cultural Artifacts, Fossils

No person shall ~~dig into the surface of Park Property or~~ remove fossils, archaeological, or cultural artifacts from Park Property, including projectile points, historic bottles, historic coins, and ~~Civil War war~~ relics, except as authorized by Permit.

Section 22. Intended Use of Park Property

No person shall misuse or abuse any Park Property by utilizing it in any manner other than as appropriate according to its intended design or in another manner in which the Commission normally employs that Park Property in the ordinary course.

Chapter V: Regulation of Certain Recreational Activities

Section 1. Aeronautical Activities

(A) Piloted Aircraft. No person shall operate, fly, or launch any airplane, helicopter, gyrocopter, helium or hot-air balloon, hang glider, parachute, ultra-light plane, or similar craft or aerial vehicle that requires an onboard pilot from Park Property, except

(1) as authorized by Permit; or

(2) as authorized expressly for College Park Airport (i) by applicable state and federal aviation laws and regulations; and (ii) subject to applicable ~~Administrative Park~~ Directives.

(B) Remote Controlled and Similar Devices. No person shall operate, fly, control, or launch any model aircraft, model helicopter, model rocket, powered projectile, drone, unpersonned aerial vehicle, or similar airborne device remotely from Park Property, except

(1) as authorized by Permit, and only if conducted in a manner that is not hazardous to Commission personnel or the general public; or

(2) as authorized expressly in designated areas, subject to applicable ~~Administrative Park~~ Directives, and only if conducted in a manner that is not hazardous to Commission personnel or the general public.

(C) Prohibited Devices. Certain powered or unpowered flying devices, including manja or other types of kites or projectiles deemed to be hazardous to Commission personnel or the general public, may be prohibited by ~~Administrative Park~~ Directive.

Section 2. Amusement/Play Equipment

The temporary construction and/or use of amusement play equipment, (including a moon bounce, carousel, dunk tank, ball crawl, and pony ride) is permissible only as authorized by Permit.

Section 3. Athletic Fields

Notwithstanding a Permit previously issued, an Authorized Person may cancel, suspend, or restrict the use of an athletic field if wet grounds or other unsuitable conditions may result in damage to the grounds or related areas.

Section 4. Bicycling

Revisers' Note #11:

Staff and the Planning Boards have discussed a number of possible rules and regulations pertaining to the use of bicycles in general, and on trails in particular. This topic generated substantial discussion within the Commission and outside organizations. As a result of these discussions, this section incorporates a number of substantive changes.

(A) All bicyclists and their passengers operating on Park Property must adhere at all times to applicable state and local laws, including the use of a helmet ~~under~~ as required by Maryland Code, Transportation Section Md. Code, Transp. § 21-1207.1, as amended from time to time.

Revisers' Note #12:

Montgomery County Parks proposes changing “under” to “as required by” for clarity.

(B) Unless otherwise posted, bicycling is permitted on roads on Park Property, including Parkways.

(C) Unless otherwise posted, bicycling is permitted on official paved and natural surface trails on Park Property, subject to the following requirements:

(1) Bicyclists must yield to pedestrians and horseback riders at any trail crossing and must otherwise exercise due care to avoid colliding with any other trail users.

(2) Bicyclists must not operate at a speed exceeding the lesser of:

(a) a posted trail speed limit, ~~or, if no speed limit is posted, 20 miles per hour~~; or

Revisers' Note #13:

Commissioners agreed with revising sub-paragraph (2)(a) above to eliminate the unintended consequences that may result from a blanket rule allowing bicycles to travel at 20 miles per hour – even if only a lower speed is reasonable and prudent. (This change retains the option in (2)(b) of posting speed limits wherever necessary or appropriate).

(b) a speed that is reasonable and prudent under existing conditions or as directed by Park Police or other Authorized Person.

(3) Bicyclists must keep right, except as necessary to pass, and must alert other trail users before passing.

(4) Bicyclists operating on trails must

(a) obey any sign, signal, or other traffic control device at intersecting roadways; and

(b) yield to all vehicular traffic at intersecting roadways if (i) the intersection is not controlled by a sign or signal or (ii) the intersecting roadway is not another trail.

Revisers' Note #14:

This revision was presented after a staff comment raised concerns that an absolute rule mandating bicyclists yield at every intersection may conflict with situations where Maryland Motor Vehicle laws actually obligate another vehicle operator to yield instead. With the input of an experienced attorney affiliated with the Washington Area Bicyclist Association, legal staff has developed this language.

(D) A trail on Park Property where operating a Bicycle is allowed is deemed a “Public Bicycle Area” within the meaning of ~~the Maryland Code, Transportation Article, Title 21, Section~~ Md. Code, Transp. § 21-101(o), as amended from time to time.

(E) No person shall operate a Bicycle on any surface;

(1) that is not a trail or roadway area authorized under this Section, or
(2) in any Facility or other area that is not designed for bicycling or intended to
 withstand Bicycle use without damage, including building interiors, tennis courts,
 basketball courts, athletic fields, landscaped areas, ~~skateboard equipment~~ and other park
 structures.

Revisers' Note #15:

This subsection is revised for clarification as requested by the Montgomery County Planning Board. In addition, Montgomery County Parks requests the removal of "skateboard equipment" from the list of facilities not designed for bicycling. Bicyclists can use certain equipment in skateboard parks in Montgomery County.

(F) Bicyclists riding on Park Property before dawn or after dusk pursuant to these rules
must use a front bicycle lamp that emits a white light and a rear end reflector as described
by Md. Code, Transp. § 21-1207(a), as amended from time to time.

Revisers' Note #16:

Montgomery County Parks requested this new rule to address citizen concerns about bicyclist safety raised in the fall of 2016. The rule requires that bicyclists riding on Park Property before dawn and after dusk use the same types of lights and reflectors required under State law for bicyclists riding on roadways in poor visibility conditions.

Section 5. Boating

(A) No person shall operate or launch a boat or other watercraft on any lake, stream, pond, river bank, or other Park Property except as authorized by Permit.

(B) Operators and occupants of permitted watercraft must comply with all applicable ~~Administrative Park Directives~~ and local, state, and federal law governing the use and operation of such watercraft.

Section 6. Camping

No person shall camp on Park Property except as authorized in designated areas by Permit or ~~Administrative Park Directive~~, and subject to payment of applicable fees.

Section 7. Fires

(A) Fires are permissible only in (1) fireplaces or grills designated by the Commission for this purpose; and (2) personal grilling equipment or camp stoves in areas designated for picnics or camping.

(B) Before leaving a site after a fire, a person who makes the fire must

- (1) soak any hot coals with water thoroughly until they are cold; and
- (2) dispose of the wet coals in steel receptacles labeled "COALS ONLY," if available, or, if not available, remove the wet coals from Park Property.

(C) Making fires may be further limited or prohibited by ~~Administrative Park Directive~~.

Section 8. Fishing

Unless otherwise posted, fishing is permissible on Park Property subject to compliance with the angler's licensing and other requirements set forth in ~~the Maryland Code Ann., Natural Resources Article, Md. Code, Nat. Res. Title 4~~, as amended from time to time, or in any other applicable local, state, or federal law.

Section 9. Golf

Playing or practicing golf is permissible only on established golf courses or driving ranges, or other golf practice areas designated by ~~Administrative Park Directive~~.

Section 10. Horseback Riding

Horses are permitted only in designated or established areas and trails.

~~(A) Unless otherwise posted, horseback riding is permissible on designated trails, subject to the following requirements:~~

- ~~—— (1) Horseback riders must yield to pedestrians and bicyclists.~~

———(2) Horseback riders must ride at a speed that is reasonable and prudent under existing conditions or as directed by Park Police or other Authorized Person.

———(3) To the extent possible, horseback riders must keep right, except as necessary to pass, and must alert other trail users before passing.

———(4) Horseback riders must yield to all vehicular traffic at intersecting roadways.

Revisers' Note #17:

Staff in both counties and the Commissioners have concurred with retaining the current rule stating that "Horses are permitted only in designated or established areas and trails."

Section 11. Hunting/Trapping

(A) No person shall hunt on Park Property except

- (1) as authorized by Permit;
- (2) in areas designated by ~~Administrative Park Directive~~; and,
- (3) in compliance with ~~Administrative Park Directives~~ and subject to applicable

local, state, and federal laws.

(B) No person shall trap wildlife on Park Property except as authorized by Permit, which shall only be issued for a scientific or animal control purpose.

Section 12. Picnicking

Picnicking by a group of ~~twenty-five (25)~~ thirty-five (35) or fewer is permissible in designated picnic areas or as authorized by Permit or ~~Administrative Park Directive~~. Picnic areas not requiring a Permit are available on a "first-come, first-served" basis.

Revisers' Note #18:

After extensive discussion, staff reached a consensus for a 35-person trigger for requiring a permit for certain group activities. (XREF: Revisers' Note #5).

Section 13. Roller Skating and Similar Activities

Roller skating, inline skating, roller-blading, self-propelled scooters, skateboarding and operating other self-propelled locomotive devices or equipment are permissible except

(A) in areas where prohibited by ~~Administrative Park Directive~~ and posted accordingly;

or

(B) on any surface, or in any Facility or other area that is not designed or intended to withstand use of such device without damage, including building interiors, athletic fields, playground equipment, landscaped areas, and other park improvements.

Section 14. Segways and Other Motorized Devices

(A) No person shall operate an unlicensed motorized scooter, motorized or electrically assisted bicycle, Electric Bicycle, segway, hover-board or similar motorized personal locomotive device except

(1) as authorized by Permit; or

(2) in areas where expressly designated by ~~Administrative Park Directive~~ and posted accordingly.

Revisers' Note #19:

Staff proposes to enforce the use of Electric Bicycles like Segways and other motorized devices until appropriate alternate enforcement mechanisms are developed. The definition of Electric Bicycle is derived from the Maryland Code, Transportation Article. (XREF: Chapter II §2(C) (Definitions).

(B) The prohibition in this Section shall not apply to motorized wheelchairs and other equipment or devices necessary to accommodate a disability or impairment of personal mobility.

Section 15. Swimming, Water Sports

Swimming, wading, and other water sports in streams, ponds, lakes, and rivers is permissible only in areas authorized by ~~Administrative Park Directive~~ and posted accordingly.

Section 16. Winter Activities

(A) Snowshoeing and cross-country skiing are permissible in areas suitable under the circumstances.

(B) Ice skating, sledding, skiing, snowboarding, snowmobiling, tobogganing, tubing, or any other winter sports are permissible only in areas designated by ~~Administrative~~ Park Directive and posted accordingly.

Chapter VI: Regulation of Traffic and Parking

Section 1. Preamble

(A) To assure the public safety on Park Property, any operator of a vehicle must comply with applicable laws and regulations that pertain to such operation, including these Regulations and the Maryland Vehicle Law (~~Maryland Code Ann., Transportation Article, Md. Code, Transp. Titles 11 through 27~~).

(B) Notwithstanding a law, regulation, or posted traffic instruction, any operator of a vehicle on Park Property must comply with the direction or instruction given by the Park Police or other Authorized Person.

Section 2. Permissible Roadways

No person shall:

(a) Operate any vehicle on Park Property, on a roadway, or street to which public access is prohibited.

(b) Operate any motorized vehicle on Park Property in an area that is not designated as a roadway or street for vehicular traffic.

Section 3. Speed Limit

(A) Except as provided below in Subsection (B), no person shall operate any vehicle on Park Property at a speed exceeding the lesser of

(1) twenty-five (25) miles per hour; or

(2) the posted speed limit; and

(3) a speed that is (i) reasonable and prudent under existing conditions; or (ii) as directed by an Authorized Person.

(B) No person shall operate any vehicle on Little Falls Parkway at a speed exceeding the lesser of

(1) thirty-five (35) miles per hour; or

(2) the posted speed limit; and

(3) a speed that is: (i) reasonable and prudent under existing conditions; or (ii) as directed by an Authorized Person.

Section 4. Vehicle Weight Limit and Certain Activities

(A) No person shall operate or park any vehicle (including a truck, bus or similar commercial vehicle) having a gross vehicle weight exceeding 10,600 pounds on Park Property or a Parkway, except

(1) an emergency vehicle operated by any local, state or federal public safety agency;

(2) a licensed tow truck assisting a vehicle disabled on Park Property;

(3) a licensed commercial bus or school bus collecting or discharging passengers for the purpose of use and enjoyment of Park Property;

(4) as authorized by Permit or ~~Administrative~~ Park Directive; or

(5) as authorized specially for a single occurrence or event by permission granted by the Park Police or an Authorized Person.

(B) The operation of any food or merchandise truck, trailer, cart, gaming, amusement vehicle, or any other similar concession, while on Park Property is prohibited unless authorized by Permit or ~~Administrative~~ Park Directive.

Section 5. Parking Regulations

(A) (1) Vehicle parking on Park Property is allowed only during normal business hours for the use and convenience of Commission employees, patrons, and visitors.

(2) No person shall park any vehicle on Park Property at any time or for any purpose other than his or her lawful use and enjoyment of Park Property.

(B) No person shall stop, stand, idle, or park a vehicle on Park Property

(1) in front of a public or private driveway;*

(2) on a sidewalk;*

(3) at an intersection, or within ~~twenty (20)~~ thirty-five (35) feet of an intersection;*

- (4) ~~on~~in a crosswalk, or within twenty (20) feet of a crosswalk;*
- (5) between a safety zone and the adjacent curb, or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless otherwise indicated by a posted sign, marking, or officer;*
- (6) alongside any obstruction;*
- (7) on a bridge or other elevated structure;*
- (8) contrary to an official sign that prohibits, or regulates, stopping, standing, parking, or the manner of parking in general;*
- (9) on the travel-portion of a roadway or public driveway;
- (10) on or within twenty (20) feet of any bicycle path, hiker path, bridle path, or access road or entrance thereto;
- (11) so as to obstruct another vehicle or traffic;
- (12) so as to occupy more than one parking space or to park across painted parking lines;
- (13) ~~any Park Property~~ when the property is not open to the public;
- (14) on any grassy area, tree, shrub, plant, or vegetation, unless specifically allowed by the Commission;
- (15) ~~on any Park Property~~ other than that designated for vehicular parking;
- (16) within fifteen (15) feet of a fire hydrant; or *
- (17) within thirty (30) feet on the approach to any flashing signal, stop sign, yield sign, or traffic control device located at the side of a roadway.*

** Violations of these provisions ~~are~~ may be subject to additional penalties pursuant to Md. Code ~~Ann.~~, Trans. Art. § 27-101.*

(C) A person who stops or parks any vehicle adjacent to any roadway on Park Property must

- (1) remove the vehicle from the traveled lane or traveled portion of such roadway;
 - (2) stop or park the vehicle in the same direction as authorized traffic movement;
- and

(3) position the vehicle with both sides of the wheels parallel to, and no more than twelve (12) inches from the curb, or the boundary of the roadway.

(D) (1) No person shall park a vehicle or otherwise obstruct any space, curb cut, ramp, passenger loading zone or similar traffic accommodation designated for individuals with disabilities only, except as otherwise provided below in Subsection (D)(2).

(2) Any person who parks a vehicle or otherwise uses a parking space or similar traffic accommodation designated for exclusive use by individuals with disabilities must visibly display on their vehicle the special disability registration placard or license plate issued by the Maryland Motor Vehicle Administration or a comparable agency of another state, territory, or sovereign jurisdiction.*

(E) No person shall park or idle a bus on Park Property except as authorized by Permit, ~~Administrative Park Directive~~, posting in an area designated for bus parking, or temporary permission granted by an Authorized Person.

Section 6. Impoundment of Illegally Parked or Abandoned Vehicles

As provided by law, the Commission may:

(A) Remove and impound any vehicle parked on Park Property illegally at the owner's sole cost and expense.

(B) Remove and impound any vehicle legally parked on Park Property that presents a safety hazard, at the owner's sole cost and expense.

~~(B)~~(C) Sell or destroy a vehicle that remains unclaimed after impounding, upon giving due notice to the vehicle owner, and any other interested party entitled to notice by applicable law.

Chapter VII: Encroaching on Park Property

Section 1. Preamble

As the steward of parkland, open spaces, and natural resources in Montgomery and Prince George's Counties, the Commission must ensure that Park Property is protected for use by the public and preserved for the general health and welfare. The Commission generally prohibits encroachments because they may:

- (A) Affect water quality, forest health, recreational experiences, or complicate intended plans for park uses.

- (B) Restrict or limit the public use and enjoyment of lands and other resources maintained by the Commission for the benefit of all residents.

- (C) Pose a safety hazard to the public and give rise to claims from resultant injuries.

- (D) Damage the natural environment and undermine the Commission's stewardship role in protecting natural features.

- (E) Destabilize public lands and increase the risk of consequential damage to adjacent private lands.

- (F) Result in taxpayer costs to restore degraded public lands.

Section 2. Encroachment Prohibited

No person shall Encroach on Park Property except as authorized by Permit.

Section 3. Examples of Encroachments

Examples of acts that Encroach include:

- (A) Erecting structures, fixtures, or structural elements (e.g., fences, tree-houses, swing sets, decks, pools, sheds, and retaining walls), or altering the property's non-structural features (e.g., pits, ditches, grading, tunnels, and channels).

(B) Taking, planting, or disturbing vegetation (e.g., mowing, harvesting, grooming, applying pesticides, landscaping, gardening, and pruning).

(C) Disposing of, or otherwise discarding, any material or objects (e.g., grass clippings, brush, yard waste, trash, debris, and recycling materials).

(D) Storing personal property, equipment, or materials (e.g., boats, recreational or other vehicles, firewood, supplies, and tools).

Section 4. Enforcement

A person who Encroaches on Park Property is subject to citation for a civil infraction of these Regulations. Such citation shall be in addition to, and not a limitation of, any other legal or equitable relief available in a court of competent jurisdiction.

Chapter VIII: Violations and Miscellaneous Provisions

Section 1. Violations and Penalties

(A) A violation of these Regulations may result in administrative action by the Commission, including,

- (1) a verbal or written warning;
- (2) notification of a parent, guardian, next of kin, or other legally responsible third party;
- (3) revocation or suspension of a Permit; and,
- (4) suspension of future admission to, or participation in, one or more Park Properties, Facilities, sponsored activities, or Park Programs.

(B) In addition to any administrative action taken, a violation of these Regulations may also result in any other action authorized at law or in equity, including,

- (1) civil/traffic citations for infractions with applicable fines or penalties as provided below in Subsection (C);
- (2) civil action seeking a court order to enjoin the violating person and compel or prohibit their future conduct or activities in relation to the Commission business;
- (3) a civil judgment for joint and several liability to pay the Commission and others for damages to Park Property, Facilities, and personal injuries caused alone or in concert with others; and
- (4) criminal prosecution, if applicable, as provided below in Subsection (D).

(C) Civil Penalties for Infractions

(1) Except as otherwise provided in this Section, any violation of these Regulations is subject to civil citation and a fine not to exceed (a) \$50 for the first infraction, (b) \$100 for a second or subsequent infraction, or (c) such greater amount as may be authorized by Maryland law. ~~Maryland Code Ann., Land Use Article, Section Md. Code, Land Use § 17-208.~~

(2) A violation of these Regulations for smoking a cigarette, cigar, or other tobacco product on Park Property in an area that is not ~~designated for smoking a~~ Designated Smoking Area ~~by the Commission~~ as provided in Chapter IV, ~~Section §3,~~ is

subject to civil citation and (a) a warning for a first infraction, (b) a fine of \$25 for a second or subsequent infraction, or (c) such greater amount of a fine as may be authorized by Maryland law. ~~Maryland Code Ann., Land Use Article, Section Md. Code, Land Use § 17-207(b).~~

(3) A violation of these Regulations for hunting or trapping on Park Property without authorization is a misdemeanor punishable by fines, restitution, license suspension, and imprisonment as provided under Maryland law. ~~Maryland Code Ann., Land Use Article, Sections Md. Code, Land Use §§ 17-209(b) and 17-210; Natural Resources Article Section Nat. Res. § 10-1101.1.~~

(4) [Reserved].

(D) In addition to any administrative or civil action, penalty, or liability taken or imposed for a violation of these Regulations, any person who commits a misdemeanor or felony on Park Property is subject to arrest, prosecution and, upon conviction by a court of competent jurisdiction, punishment as provided by applicable local, state, or federal laws.

A person aggrieved by any administrative action taken by the Commission as a result of a violation of these Regulations may make a request for the appropriate Director to review such action. The request must be made in writing delivered within five (5) business days of the action under review, and the Director shall provide a written response to any timely request for such review.

Section 2. Employees Working

These Regulations do not apply to Commission employees working reasonably within the scope of their employment duties or responsibilities to the extent they are assigned by an Authorized Person.

Section 3. Law Enforcement; First Responders

These Regulations do not apply to members of law enforcement agencies, first responders or medical personnel working reasonably within the scope of their employment duties or responsibilities on Park Property.

Section 34. Certain Exception for Park Programs

A person who acts with good cause and reasonably at the direction of an Authorized Person working as part of a Park Program shall be deemed to have not violated these Regulations for such acts.

Section 45. Severability

If any provision of these Regulations, or its application to any person or circumstance, is held invalid for any reason in a court of competent jurisdiction, that invalidity shall not affect other provisions or any other application of these Regulations which can be given effect without the invalid provision or application, and, for this purpose, these Regulations are severable.