

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING)	ORDINANCE NO. 23-1505
METRO CODE TO REPEAL SECTION)	
10.03.130 (BLUE LAKE BOATING)	Introduced by Chief Operating Officer
RESTRICTIONS))	Marissa Madrigal in concurrence with
)	Council President Lynn Peterson
)	

WHEREAS, Metro Code Title X sets forth regulations governing Metro owned parks, cemeteries, and natural areas, including Metro Code Chapter 10.03 (Rules and Regulations); and

WHEREAS, Metro Code Section 10.03.130 (Blue Lake Boating Restrictions) restricts access to boating on Blue Lake through size and horsepower restrictions, and prohibits access for members of the public seasonally between May 1 and September 30, while exempting residents of the Interlachen Homeowners Association (HOA) from these restrictions; and

WHEREAS, the access restrictions date back to the transfer of management and operations of Blue Lake Regional Park from Multnomah County to Metro in 1994, when Metro incorporated Multnomah County park regulations into Metro Code through Ordinance No. 96-659A; and

WHEREAS, application and enforcement of the code section has resulted in inequitable access opportunities through the park to Blue Lake for boating and recreation, including prohibiting the general public from accessing the lake for watercraft recreation during the summer months; and

WHEREAS, Metro staff has engaged with HOA representatives to clarify roles, rights, and regulatory authority with respect to lake management, water quality, and recreational uses, as well as changes to Title X and boat ramp access; and

WHEREAS, after Blue Lake Boating restrictions are removed from Metro Code, Metro staff will regulate boating access through park operational rules, as done at other Metro parks and facilities; and

WHEREAS, Metro Code section 10.03.130 should be repealed; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Metro Code section 10.03.130 is repealed in its entirety.
2. The Metro Attorney is authorized to take any action reasonably necessary to correct and update any code chapter or code section reference to implement this ordinance.

ADOPTED by the Metro Council this 4th day of January, 2024.



Lynn Peterson, Council President

Attest:

Approved as to Form:



Connor Ayers, Recording Secretary



Carrie MacLaren, Metro Attorney

IN CONSIDERATION OF ORDINANCE NO. 23-1505, FOR THE PURPOSE OF
AMENDING METRO CODE CHAPTER 10.03 TO REPEAL SECTION 10.03.130 BLUE
LAKE BOATING RESTRICTIONS

Date: November 27, 2023
Department: Parks and Nature
Meeting Date: December 14, 2023

Prepared by: Olena Turula, Principal
Regional Planner
Olena.turula@oregonmetro.gov
Presenter: Jon Blasher, he/him, Parks and
Nature Director
Length: 30 minutes

ISSUE STATEMENT

Title X sets forth the regulations governing Metro owned parks, cemeteries, and natural areas. Adoption of Ordinance No. 23-1505 will amend Metro Code Chapter 10.03 to remove section 10.03.130 Blue Lake Boating Restrictions.

Management and operation of Blue Lake Regional Park was passed from Multnomah County to Metro in 1994. When ownership was transferred in 1996, Metro adopted certain sections of Multnomah County code, including section 10.03.130.

Metro Code Section 10.03.130 restricts access to boating on Blue Lake through size and horsepower restrictions, and prohibits access for members of the public seasonally between May 1 and September 30. The code exempts residents whose watercraft are identified by a decal issued by the Interlachen Homeowners Association (HOA) from these restrictions. The result is that HOA members have enjoyed year-round access through the park to boat, while the general public has been limited to the now discontinued paddle boat vendor, but otherwise prohibited from accessing boating on the lake during the summer season.

The existing code differentiates between the HOA and members of the general public and offers privileged access for the park's neighboring HOA while restricting general public access to the lake. Removing Metro Code Section 10.03.130 will remove differential treatment of HOA members and the general public, and enable Metro to allow recreational access to the lake for the general public during the summer season.

As directed by Metro Council, staff have engaged with HOA representatives to agree on a transition plan that addresses potential impacts to residents with lake front property. A memorandum of understanding (MOU), which details the transition plan as well as other mutual understandings, was signed by the HOA and Metro in October 2023.

ACTION REQUESTED

Adopt Ordinance No. 23-1505, which amends Title X to remove section 10.03.130 Blue Lake Boating Restrictions.

IDENTIFIED POLICY OUTCOMES

Removing section 10.03.130 has the following policy outcomes:

- Removes differential treatment of Blue Lake neighbors and the general public from Title X.
- Enables Metro to invite public access for non-motorized watercraft during the summer months.
- Enables boating access through the park to be regulated through operational rules, which is consistent with other Metro parks and facilities, such as Oxbow Regional Park, Farmington paddle launch, and Metro’s marine parks and boat launches.
- Addresses potential conflicts with state laws governing regulation and use of public bodies of water.

POLICY OPTIONS FOR COUNCIL TO CONSIDER

There are three options for Council to consider:

1. Approve the amendment to Title X as presented. This will remove differential treatment of HOA members and the general public from Metro code and enable Metro to make rules to provide for recreational lake access for the public during the summer season, beginning in May 2024.
2. Reject the amendment. Rejecting the amendment will continue differential treatment of HOA members and the general public. Staff would continue to enforce the code as is. The status quo would continue, under which some residents of the Interlachen HOA have privileged year-round lake access for boating, while restrictions prohibiting public access would remain.
3. Direct staff to evaluate additional considerations. Staff would undergo that effort and bring back updated Title X language for consideration. This process would take some months and be unlikely to conclude and returned to Council in time to allow implementation prior to the 2024 recreational boating season.

STAFF RECOMMENDATIONS

Staff recommends that Metro Council adopt the Title X amendments to repeal section 10.03.130.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

Parks and Nature’s mission is to protect water quality and wildlife habitat and provide opportunities to connect with nature close to home.

Blue Lake Regional Park has over 300,000 visitors a year and is currently undergoing infrastructure renovations funded by the 2019 Parks and Nature bond, and planning for

future improvements to park amenities. Racial equity and climate resilience are the guiding principles of the 2019 bond measure.

Partner and community engagement

Through community engagement both leading up to the 2019 bond measure and during bond refinement, Metro staff have heard that access to water is a community priority. In community engagement specifically about Blue Lake Regional Park, community has expressed a desire to access non-motorized boating on the lake during the summer. Perpetuating the status-quo in which neighbors have privileged access to boating on Blue Lake through the park would be inconsistent with community priorities and with Metro values.

Staff engaged with HOA representatives to clarify roles, rights, and regulatory authority of the HOA, Metro, and state agencies with respect to lake management, water quality, and recreational uses. Metro and the HOA signed an MOU in October 2023 (Exhibit A).

The MOU details historical context and articulates understandings around: 1) proposed changes to Metro Code Title X; 2) HOA motorized boat ramp access; 3) Oregon State Marine Board (OSMB) boating regulation and safety; and 4) continued communication and information sharing about lake water quality. The MOU documents mutual understandings to provide for a safe and smooth transition for proposed changes to Title X, and resulting operational changes to lake access through the park.

Metro engaged with staff from OSMB to inform them of the MOU, and proposed amendment to Title X. OSMB staff expressed support for the approach, and Metro will continue to engage with OSMB for review and guidance as new rules are developed and go into effect.

Metro informed City of Fairview staff of ongoing negotiations with HOA and proposed changes to Title X.

Legal antecedents

Blue Lake was mapped by the General Land Office survey, which would indicate that Blue Lake would be state owned under ORS 274.430 and held in public trust. However, a property dispute between two private parties over ownership interest in parcels adjacent to Blue Lake led to an Oregon Supreme Court determination that the lands underlying the lake were privately owned.

In that case, *Luscher v. Reynolds*, the Supreme Court held that Blue Lake was navigable in fact, and title to the bed of the lake was held by adjacent property owners subject to the superior right to water for purposes of commerce and transportation (including recreational purposes).

Resolution 93-1877, an Intergovernmental agreement between Multnomah County and Metro, transferred regional parks, including Blue Lake, natural areas, golf courses, cemeteries, and trade/spectator facilities from Multnomah County to Metro.

Ordinance 96-659A: For the Purpose of Adopting Metro Code Title X, Metro Regional Parks and Greenspaces.

Anticipated Effects

If Metro Council approves ordinance 23-1505, Metro will develop rules regarding boating access through the park, consistent with the approach for its other parks and boating facilities. It is anticipated that the public will have access to launch non-motorized watercraft on the lake from the park in summer season 2024.

Public access to the lake with motorized boats launched from trailers will continue to be restricted.

OSMB will consult with Metro and HOA representatives, monitor boating use of the lake and regulate activities as authorized.

To allow for a transition period through December 2025, as detailed in the MOU, HOA boat owners will be able to access the boat ramp by notifying and coordinating with staff ahead of time. Beginning January 2026, launching motorized boats will be restricted for all and only allowed with a SUP.

It is anticipated that beginning in summer 2024 Blue Lake Regional Park will see an increase in visitors accessing the lake for paddle activities such as canoeing, kayaking and paddle boarding, resulting in more people recreating on the lake in the summer months. That increased activity provides an increase in public benefit due to increased recreational activities on the lake. There is also inherent risk in paddle activities and water sports, as well as potential conflicts between uses, which will need to be monitored by staff and partner agencies. While Metro doesn't have regulatory authority over activities once people are on the lake, due to our proximity, staff are often first responders in the event of an emergency.

Financial implications

Financial implications are anticipated to be minor. They include cost of new signs, and additional staff time for visitor engagement on rules, expectations, safety awareness and potential user conflicts, as well as to process Special Use Permit requests.

Access to launch non-motorized boats on Blue Lake is also an opportunity to provide inclusive accessible paddle access and staff anticipate developing accessible paddle launch facilities as part of the Blue Lake Regional Park Renovation project. Those facilities would likely be funded by the 2019 Parks and Nature bond, or through supplemental grant funding if available.

BACKGROUND

Metro's Blue Lake Regional Park is on the north and west shore of Blue Lake, located in the City of Fairview. The Interlachen residential neighborhood includes residences along other portions of the Blue Lake shoreline, and the Interlachen HOA represents interests of the

Interlachen neighborhood. Multnomah County purchased Blue Lake Park from a private owner in 1960; management of the park was transferred from Multnomah County to Metro in 1994, while ownership transfer was completed in 1996.

In 1975, the county code regulated recreational activities, including boating on Blue Lake, prohibiting general public boat and watercraft access, powered or not, unless boats were owned by property owners at Blue Lake or were rented from the park. In 1982, the county code was amended to focus on motor-powered watercraft, and was later amended to include further public restrictions and limitations on all watercraft, including periods of use. After the park transfer, Metro adopted the County rules and have continued to restrict public access since.

Under Multnomah County operations, management of the lake, water quality and recreational uses were coordinated between the County and the Interlachen HOA. After the park was transferred to Metro, a level of coordination continued with the HOA through a series of park managers and directors. Metro now wants to transition away from informal coordination and to clarify roles, rights and authority of the HOA, Metro, and state agencies with respect to lake management, water quality and recreational uses.

Metro regulates public recreational access to the lake from Blue Lake Park, while the Oregon State Marine Board has authority to regulate watercraft usage on the lake. The State of Oregon is responsible for water quality management in the lake. The HOA and Blue Lake homeowners have a vested interest in shared water quality management with the State of Oregon and provide annual funding to support this effort.

In 2022 Council directed staff to work with Interlachen HOA to reach an agreement on updates to lake access policies and procedures. That agreement is included as Attachment A: Memorandum of Understanding. Metro now wishes to remove sections of Title X pertaining to boating restrictions on Blue Lake that differentiate between residents of the Interlachen neighborhood and members of the general public. If the code change is approved by Council, Metro plans to make operational changes to allow non-motorized boat (e.g., canoe, kayak, paddleboard) access to the lake through the park year-round, which will be accomplished through engagement with neighbors and stakeholders. These changes would be phased in over time. The waterfront, including the boat ramp area, will be renovated through the ongoing planning and design process, and Metro has committed to provide temporary access for the HOA members until the boat ramp is closed for park renovation construction activities or through the end of 2025, whichever comes first.

ATTACHMENTS

- Memorandum of Understanding

MEMORANDUM OF UNDERSTANDING
Lake access for boats through Blue Lake Regional Park

This Memorandum of Understanding (“MOU”) is between Metro and Interlachen, Inc., an Oregon Nonprofit Corporation (“Interlachen HOA”), in Fairview, Oregon.

RECITALS

WHEREAS, Blue Lake Regional Park is on the north and west shore of Blue Lake, and the Interlachen residential neighborhood includes residences along other portions of the Lake shoreline; and

WHEREAS, Management of Blue Lake Regional Park (“Park”) was transferred from Multnomah County to Metro in 1994, and ownership of the Park was transferred to Metro in 1996; and

WHEREAS, Multnomah Co. purchased Blue Lake Park from a private owner (1960). In 1975, Multnomah County’s code regulated recreational activities, including boating on Blue Lake (“Lake”), prohibiting general public boat and watercraft access, powered or not, unless boats were owned by property owners at Blue Lake or rented from the Park. In 1982, the County code was amended to focus on motor-powered watercraft. The County Code was later amended to include further public restrictions and limitations on all watercraft, including periods of use, as reflected currently in Metro’s code; and

WHEREAS, Under Multnomah County operations, management of the lake, water quality and recreational uses were coordinated between the County and the Interlachen HOA; and

WHEREAS, After the park was transferred to Metro, a level of coordination continued with the HOA through a series of park managers and directors; and

WHEREAS, Metro wants to transition away from informal coordination and clarify roles, rights and authority of the HOA, Metro and state agencies with respect to lake management, water quality and recreational uses; and

WHEREAS, The Interlachen HOA represents the interests of the Interlachen neighborhood; and

WHEREAS, The Oregon Supreme Court has ruled that Title to the Blue Lake lakebed belongs to the adjacent landowners, subject however to the superior right of the public to use the water. The public has an easement to use the waters for the purposes of navigation and commerce, and the court recognized navigation to include pleasure seeking, and therefore recreation; and

WHEREAS, Metro regulates public recreational access to the Lake from its property and provides certain supportive facilities; and

WHEREAS, The Oregon State Marine Board (“OSMB”) has authority to regulate watercraft usage on the Lake; and

WHEREAS, The State of Oregon is responsible for water quality management in the Lake. The HOA and Blue Lake Homeowners have a vested interest in shared water quality management with the State of Oregon and provide annual funding to support this effort; and

WHEREAS, Metro operates a boat ramp (“Boat Ramp”) within the Park; and

WHEREAS, Current Metro rules limit public use of the Boat Ramp between May 1 and Sept 30, but exempts from those limitations residents of the Interlachen neighborhood who obtain HOA-issued permits; and

WHEREAS, Current Metro rules restrict access to the Lake through the Park for all public watercraft (motorized and non-motorized) between May 1 and Sept 30; and

WHEREAS, These Metro rules have been in place since Multnomah County owned and operated the Park; and

WHEREAS, Metro wishes to remove or modify sections of Title X pertaining to Boating Restrictions on Blue Lake that differentiate between residents of the Interlachen neighborhood and members of the public; and

WHEREAS, The Boat Ramp is currently the only operational boat ramp for qualified Interlachen residents to access the Lake with motorized watercraft; and

WHEREAS, The Boat Ramp and access routes to its location were not specifically designed, engineered or maintained to provide heavy public use safely, including both for users of the facility and the surrounding general public; and

WHEREAS, The parties desire to work together to provide a safe and smooth transition for proposed changes to Title X, and resulting operational changes to lake access through the Park; and

WHEREAS, The parties desire to work together to take a holistic and coordinated approach to water quality, using an approach that is informed by science and to work with and follow federal and state laws and guidance on maintaining the Lake’s water quality;

THEREFORE, The parties desire to enter into this MOU to provide for the understandings of the parties with respect to the changes to Metro Code Title X, implementation of operational changes and communication with OSMB on OSMB’s regulatory activities.

UNDERSTANDINGS

This MOU memorializes understandings between Metro and the Blue Lake Homeowners of the Interlachen HOA with respect to Lake access for boats through the Park, including proposed changes to Metro Code Title X, implementation of operational changes and communication with OSMB on OSMB’s regulating activities.

This MOU is a statement of the good faith effort of the parties and is not a binding legal agreement. The MOU will serve to help the parties to proceed on the following action items:

1) Proposed change to Metro Code Title X

Proposed Title X code change will remove the following section, 10.03.130 Blue Lake Boating Restrictions, from Title X.

“10.03.130 Blue Lake Boating Restrictions

It is unlawful to bring into or launch any watercraft of any type from Blue Lake Park, except as provided in subsections (a) through (c), below. All boating activities must be in accordance with applicable rules of the State of Oregon.

- (a) Watercraft belonging to residents whose property adjoins Blue Lake. Such watercraft must be identified by the current decal and number of the Interlachen Homeowners Association, or its successor organization.
- (b) Watercraft for rent at Blue Lake Park.
- (c) Privately-owned watercraft between October 1st and April 30th of each year provided that they do not exceed 14 feet in length or 17 feet for canoes, and 3.0 horsepower in motor capability. [Ord. 96-659A, Sec. 1; Ord. 18-1419.]”

If this code change is approved by Metro Council, Metro plans to make operational changes to allow non-motorized boat (ex: canoe, kayak, paddleboard) access to the Lake through the Park year-round, which will be accomplished in consultation with the neighbors and stakeholders.

Restrictions on watercraft access through the Park will be maintained through operations rules, like special use permits, signage and enforcement. Metro will continue to provide information and resources to educate park visitors and promote safety and responsible recreation in and on the lake, for example encouraging park visitors who are swimming to stay within an area designated for swimming on the state’s waters, and to respect areas that are private property. Metro will engage the HOA for input in the development of these operational changes and rules.

2) HOA Motorized Boat Ramp Access

Interlachen HOA acknowledges that Metro plans to phase out general public use of the existing Boat Ramp for motorized boats, including for members of the HOA who are currently exempt from seasonal Boat Ramp closures.

To allow for a transition period, Metro will provide for temporary access to the Boat Ramp for the Interlachen HOA members until the Boat Ramp is closed for the purposes of park renovation construction activities or through December 31, 2025, whichever comes first. At a minimum, Metro commits to providing temporary Boat Ramp access through December 31, 2024. Metro and the Interlachen HOA will work on access solutions to ensure public safety, including times and dates for launching and removing watercraft to and from the Lake through the Park.

While the Boat Ramp exists, Metro will continue to allow the ramp to be used for special events and special purposes through Metro’s Special Use Permit process, where Metro controls the who, what, and when for operational efficiencies and public safety. Metro will update review guidance for staff and expectations for the public and HOA to request permits for Boat Ramp use until such time as the Boat Ramp is closed for renovation. Interlachen HOA may submit one Special Use Permit application on behalf of HOA members on an annual basis. With the caveat that there are many unknowns and considerations, insured HOA boat owners (or HOA on their behalf) qualify for a Special Use Permit to use the boat ramp. All members of the public will be required to fill out SUP requests for use of the boat ramp.

The pending planning and design process is going to result in a renovated waterfront, with features and amenities that will be determined through an open, public process. At a minimum, improvements to support emergency and operational boat access to the lake will be developed. The function of that infrastructure to support additional public uses will be determined during the planning and design process.

Once renovation occurs, Metro's special use permit process will still be available for use by the public, including the HOA. Permit applications would be reviewed on a case-by-case basis. Interlachen HOA may submit one Special Use Permit application on behalf of HOA members on an annual basis. See Exhibit B for more details on Special Use Permits. The type of infrastructure constructed and level of access it is able to support, which are currently not known, as well as the access requested, will be factors in reviewing those permit requests. With the caveat that there are many unknowns and considerations, insured HOA boat owners (or HOA on their behalf) qualify for a Special Use Permit to use the boat ramp.

Metro pledges to engage with the HOA as part of the overall park renovation community engagement process, and include an HOA representative on the project's Technical Advisory Committee. The function of waterfront infrastructure to support additional public uses will be determined during the planning and design process. Metro acknowledges HOA's unique perspective and desires with respect to boat access, which will be factored into planning and design alongside other park needs and priorities. Metro will engage with the HOA and the HOA's stated desire for a suitable boat ramp location will be considered as part of the feedback and priorities of the region's broader community of park visitors and potential park visitors.

3) OSMB boating regulation, and safety

Metro and Interlachen HOA acknowledge that OSMB has sole authority to regulate boating on the Lake.

Metro takes responsibility for coordination and communication with OSMB with respect to Metro's intent to support year-round public access for non-motorized watercraft to the Lake through the Park. The HOA reserves the right to coordinate and communicate their interests directly to the OSMB with regard to private access to Blue Lake.

In good faith, Metro supports the desire of Interlachen HOA's proposal to self-regulate and maintain use of motorized watercraft subject to HOA and OSMB regulations.

Metro and HOA defer to OSMB's authority and expertise with respect to boating rules, safety protocols, and procedures to keep all Lake users safe and minimize opportunities for conflicts.


4) Continued communication and information sharing about Lake water quality

Oregon DEQ has sole authority to regulate water quality of the Lake. The Interlachen HOA and Blue Lake Improvement Association reserve the right to work with the Oregon DEQ and follow their guidelines and recommendations for maintaining and improving lake water quality.

Both parties are committed to ongoing communication and information sharing with respect to the Lake's water quality and pledge to work together on environmental stewardship.

AUTHORIZATION

Each Party represents that this document has been signed by a duly authorized representative.

Metro DocuSigned by:
By: 
A5A4308B394A418...
Print Name: Jon Blasher
Title: Parks and Nature Director
Date: October 26, 2023


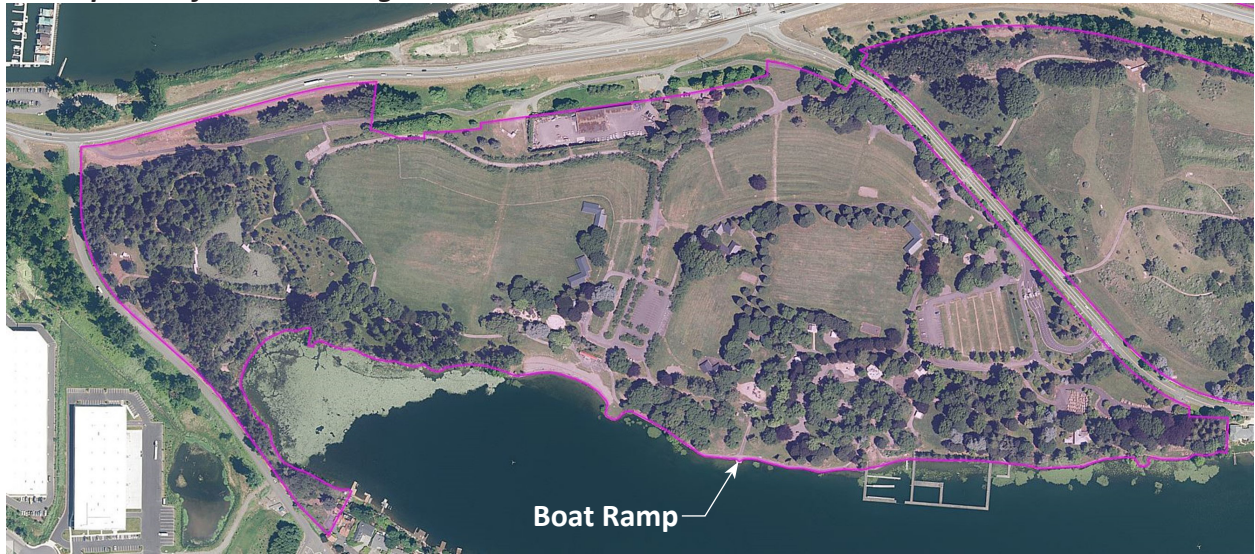
Interlachen Inc DocuSigned by:
By: 
074426E0EF6D4C6...
Print Name: Michael vest
Title: President, Interlachen HOA
Date: October 26, 2023

EXHIBIT A
Aerial photos and photos of Boat Ramp

Aerial photo of Blue Lake Regional Park



Aerial photo of Blue Lake Regional Park Boat Ramp



Boat Ramp



Boat Ramp access path





Special-use permit: Terms and Conditions

THE SIGNED PERMIT MUST BE ON SITE DURING THE REGULATED ACTIVITY OR USE.

General terms and conditions

Permitted activities: Permittee is allowed to conduct the above described activity at listed location(s) and will notify listed Metro contact if: any conditions of this permit cannot be met, issues or questions develop during permitted activity, or access other than foot access is necessary for the activity. Permittee agrees not to bring anything that may damage Metro property or endanger the health or safety of site users, animals, or Metro staff.

Activity report: If accessing the site to study, monitor, or otherwise collect data, permittee must provide Metro a summary or report of the monitoring data, upon request.

Site closures: Areas under restoration may be off limits and marked "Closed" through signage or as directed by staff/contract crews. Any area markers including flagging, corner posts, signage, and whisker flags are not to be removed or disturbed.

Access: Access to the site(s) is permitted on foot only and limited to existing trails; no new trails may be formed as a result of permitted activities.

Material collection: Removing, collecting, or disturbing biological materials (plant material, soil, water, etc.) is prohibited unless specifically allowed by this permit.

Invasive species prevention: Before entering and leaving the site, the permittee is required to clean all boots, clothing and equipment to ensure it is free of seeds, dirt, plant matter or other debris in order to prevent spread of invasive species (seed or plant matter). If available, permittee is required to use provided boot brushes to clean boots before entering and leaving the site.

Resource damage: Metro considers its natural area sites sensitive areas as defined by Oregon Department of Fish and Wildlife. Permitted activity must be done in a way that prevents habitat/resource damage.

Equipment and garbage: Permittee must immediately remove all items and debris that permittee has placed or allowed to be placed on or at the site. All garbage must be disposed of in provided containers. If no containers are provided at a site, permittee must remove garbage and litter daily or upon completion of activity, whichever is sooner. Any equipment or property of the permittee, its contractors, agents, employees, guests, or invitees, remaining at the site at the end of the permit period is considered abandoned and, at Metro's sole discretion, may be possessed and disposed of by Metro at permittee's expense. Metro assumes no responsibility for abandoned property or losses suffered by permittee, its contractors, agents, employees, guests, and invitees, including that which occurs by theft, disappearance, or otherwise.

Additional permissions: The signer of this permit is responsible for obtaining any and all required approvals and/or permits from other agencies and/or property owners.

EXHIBIT B1
Special Use Permit terms and conditions (2023)

Laws and Metro Code: This permit incorporates by reference Metro Parks and Nature's rules and regulations. The signer of this permit is responsible for understanding parks and natural area rules as set forth in Metro Code Title X, Metro Rules and Regulations, including the "NO PETS" regulation, and ensuring that users under the permit comply. A copy of all park rules and regulations can be found at: www.oregonmetro.gov. Permittee must promptly comply and cause its contractors, agents, employees, guests, and invitees to comply with all Metro, federal, state, and local laws, rules, regulations, and policies. Metro may, within its discretion, impose additional terms and conditions on any permit.

Event signage: Any signs, banners or other items set up must be approved by Metro and taken down and removed by the end of the event. Permittee must not fasten signs with nails, hooks, adhesive fasteners, tacks, screws or other device that may damage Metro property.

Permit possession: A copy of this signed permit must be in the possession of the permittee while on Metro property.

Non-exclusive use: Metro has the right to use or permit the use of any portion of the site not reserved by permittee under this permit, regardless of the nature of the use.

Termination: This permit may be terminated by Metro if permittee fails to comply with a term or condition, if any part of the site or property is damaged or if in Metro's discretion, use of the site is not in the best interests of Metro. If this permit is terminated for any reason, permittee waives and releases Metro from any claims for damages or compensation, including special, incidental, or consequential damages.

Responsibility: Permittee expressly assumes full responsibility and liability for the conduct of all users, guests, invitees, contractors, and agents accessing and/or using the site under the permit. Any person whose conduct violates any rules or regulations, or is objectionable, disorderly, or threatening to Metro's staff, Metro's use, or site users will be immediately ejected from the site and property. Permittee must restore any area used by permittee to the same condition in which it existed prior to use. Permittee is responsible for any costs to repair or replace Metro property damaged or defaced due to the actions of permittee, its contractors, agents, employees, guests, invitees, and attendees. Permittee is not responsible for normal wear and tear.

Indemnification: Permittee agrees to indemnify, hold harmless, and defend Metro, its elected officials, agents, and employees from and against any and all liabilities, damages, actions, costs, losses, claims and expenses (including attorneys' fees) on account of personal injury, death, damage to, or loss of property, or profits arising out of or relating in whole or in part from any action, use, omission, negligence, fault, or violation of law or ordinance by permittee, its contractors, agents, employees, guests, and invitees, or any other person entering Metro property with the implied or express permission of permittee.

Miscellaneous: This permit is the entire and exclusive agreement between the parties. This permit may not be assigned or transferred by permittee without Metro's prior written approval. If any term or condition is held invalid or unenforceable, the validity of the remaining provisions is not affected. Failure at any time to require performance of any provision does not limit a party's right to enforce the provision. Any waiver of any breach is not a waiver of any succeeding breach or a waiver of any provision. Time is of the essence with respect to every term, condition, obligation, and provision. No rights in the public or third parties are created. This permit may only be amended in writing, signed by all parties.

EXHIBIT B1 Special Use Permit terms and conditions (2023)

Health and Safety: Permittee and site use must comply with State of Oregon, Oregon Health Authority, and Center for Disease Control (CDC) current safety and health requirements and guidelines, as well as all rules and policies adopted by Metro governing use of Metro property and designed to protect the safety and health of Metro employees and the public, as applied to permittee and the use, including any requirements adopted during the term of this permit. Permittee is responsible for researching, understanding, implementing, and keeping up to date on current requirements, guidance and guidelines. Permittee must ensure all visitors are aware of and follow requirements.

Insurance requirements

If Metro or permit conditions require, the permittee must purchase and maintain at permittee's expense the following types of insurance covering the permittee and its employees and agents:

Broad form of comprehensive general liability insurance covering personal injury, property damage and bodily injury, for "Special Events", with automatic coverage for premises and operations and product liability. The policy must be endorsed with contractual liability coverage. If coverage is written with an annual aggregate limit, the limit shall not be less than \$1,000,000.

Metro, its elected officials, departments, employees, and agents must be added as ADDITIONAL INSURED. Notice of any material change or policy cancellation must be provided to Metro thirty (30) days prior to the change.

Permit fees

Permit fees and associated costs are identified in the current Metro's Special Use Permit Fee Schedule. Permit fees indicated in your permit must be paid prior to the activity or event. Permits are not issued until payment is received.

Security deposits: Metro may require a security deposit in your stated permit fees. If a security deposit is included, a portion or all of it may be retained by Metro to cover damages and unexpected expenses resulting from your permitted activity or event, including but not limited to additional staff time or damage to park property or natural resources.

Impact fees: For activities or events with known impacts to Metro staff or resources, Metro's stated permit fees may include an impact fee. An impact fee is in addition to any security deposit required. Impact fees are non-refundable after an activity or event has occurred.

Post-activity fees: In addition to the above, Metro reserves the right to assess permittee for damages and unexpected expenses resulting from your permitted activity or event, including but not limited to additional staff time or damage to park property or natural resources. These include expenses above and beyond a security deposit and/or those included in an impact fee.

Payment of fees: Within 30 days of the event or activity, Metro will provide an invoice accounting for the security deposit and any post-activity fees assessed. Permittee must pay the invoiced amount within 30 day of receipt.

Cancellation and refunds: Metro will provide a full refund if a) a permittee cancels a permitted activity 31 days or more in advance, b) if Metro cancels a permit, or c) if Metro closes a property on the day of a permitted activity. If a permittee cancels a permit fewer than 31 days before a

EXHIBIT B1
Special Use Permit terms and conditions (2023)

permitted activity, shelter fees will not be refunded. Metro may, at its discretion, retain all or a portion of other permit fees (impact fees, direct fees, additional fees, and security deposits) if needed to reimburse Metro for costs and expenses incurred and resulting from the permit. Metro will provide an accounting if other fees are retained. To the extent not retained, Metro will refund other permit fees (impact fees, direct fees, additional fees and security deposits).

Metro Historic Cemetery permit conditions

Parking: Permit holder is responsible for ensuring that attendees park on pavement and are not blocking any roadways.

Filming/photography of graves: Monuments with dates more recent than 50 year prior to activity date cannot be filmed or photographed.

Burial services: Metro will contact permittee if there are scheduled burial services or other activities at the cemetery on the permitted activity date. In the event that there is a burial service, permittee will arrange activities such that they will not interfere nor detract from the burial service.

Metro Cemetery Code: The signer of this permit is responsible for understanding specific cemetery rules as set forth in Metro Code Title 10.05 (Historic Cemeteries) and seeing that the rules are abided by. A copy of cemetery rules and regulations can be found at: www.oregonmetro.gov.

Regional recreation area and nature park permit conditions

Parking: Permit does not cover vehicle fees. Every vehicle entering a site with a parking fee (Oxbow Regional Park, Blue Lake Regional Park, Chinook Landing Marine Park, M. James Gleason Memorial Boat Ramp, Broughton Beach) is required to pay the parking fee (\$5.00 per car, \$7.00 per 12-person capacity or larger van/bus). Annual parking passes are also accepted. Vehicles must park in designated areas. Pre-paid parking passes may be purchased at least **10 business days** before the permitted activity or event. This includes passes bought online, over the phone and in person at the Blue Lake or Oxbow park office. The permit holder is responsible for distribution of passes to attendees prior to the reservation. No exceptions. Vehicles fees may be pre-purchased in advance or paid at the gate on arrival.

Vendors/caterers: Vendors and caterers are prohibited at this event without an additional permit. To authorize a vendor/caterer, permittee and vendor/caterer are required to obtain a Vendor/Caterer Permit from Metro and comply with permit conditions, including providing Metro with a Certificate of Liability Insurance. Access will be provided by an approved park staff member for set up and tear down only and access is not guaranteed. Vehicles are not allowed to remain in areas not designated for parking.

Amplified sound: Permittee will be allowed to have amplified music or sound but should direct all sound so as to not disturb other park user to the north. Music/sound levels must not exceed 75 decibels. Music must be discontinued immediately following the event.

Alcohol: Alcohol use at this event is prohibited without an additional permit. To authorize alcohol use, permittee must obtain an Alcohol Permit from Metro and comply with all Oregon Liquor Control Commission requirements. Alcohol must remain within the permitted area. No alcohol is allowed on any other area in the park.

EXHIBIT B1
Special Use Permit terms and conditions (2023)

Natural area permit conditions

Parking: If permitted site is open to the public, vehicles must park in designated parking areas. If permitted site is not open to the public, all vehicles must park in a location approved by Metro and in a manner that prevents habitat/resource damage.

Access: Permittee must notify listed Metro contact in advance of property access as indicated above. This is to ensure coordination among permittee and other activities and users on the property. The permitted activity will be conducted during the hours indicated on the permit.

Fire protection requirements: Permittee is required to monitor fire season leading up to the date of their permitted activity using the Oregon Department of Forestry IFPL/Fire Season Information and Map: <https://gisapps.odf.oregon.gov/firerestrictions/ifpl.html>.

West side of the Willamette River: Permittee must reference NW-3 Forest Grove to determine if fire season is in effect.

East side of the Willamette River: Permittee must reference CM-1 Mollala to determine if fire season is in effect.

If the site is in fire season on the date of permitted access, permittee must not park in dry grass and permittee is required to carry the following equipment at all times:

- Fire extinguisher in all vehicles and heavy equipment being staged and/or working on project site
- 5 gallons of water
- Shovel with 8" wide blade

If a fire occurs, the permittee must promptly report the fire to 911 and Metro contact listed on this permit.



EXHIBIT B2 Special Use Permit webpage (2023)



ALERT



PICNICS AND SPECIAL USE

[MORE IN THIS SECTION](#)

Home > Parks > Picnics and special use

Special-use permits

Get up to speed on hosting special events or projects at Metro's regional parks, natural areas and cemeteries.

How do I get a special-use permit?

Start the permit process by completing a special-use permit intake form **at least 30 days prior to your planned activity**. The information you provide will help us begin to evaluate your request related to location, type of activity and requested dates.

Don't worry if you don't have all the information when completing the form. You can contact the special-use permit coordinator at any time with questions or expedited requests at SpecialUsePermits@oregonmetro.gov or 503-349-7087.

Forms submitted more than 365 days before the requested event will not be accepted.

[Apply now](#)

Are you hoping to film a movie, lead a class or host a sporting event at a Metro-managed property? Then you probably need a special-use permit. These contractual agreements give you permission to use one of Metro's regional parks, natural areas or historic cemeteries for a special activity – and help ensure a safe and successful event.

Examples of activities requiring a special-use permit

- Festivals and fundraisers
- Self-guided school field trips
- Sporting events such as runs and disc-golf tournaments
- Operation of fee-based classes and camps
- Commercial, documentary or student videography or photography ([read Filming FAQs](#))
- Access to and use of a Metro natural area that isn't open to the public
- Biological research, scientific collection and harvesting of biological materials
- Organized gatherings of more than 25 people that do not include use of a picnic shelter.

The special-use permit coordinator can help determine if your event requires a permit and guide you through the intake process.

Why do these types of activities require a permit?

EXHIBIT B2

Special Use Permit webpage (2023)

6/16/23, 4:55 PM

Special-use permits | Metro

Metro Parks and Nature protects clean water, restores fish and wildlife habitat and connects people with nature close to home. Special-use permits are agreements that define how we can protect the land and ensure the safety of those in our parks while helping you carry out your activity or event. A special-use permit provides conditional and temporary approval for activities that are typically prohibited by [Metro Code Title X](#).

How much does it cost?

Cost depends on the activity or project and can range from free to more than \$1,000. The special-use permit fee schedule will give you an idea of what different types of activities might cost. The special-use permit coordinator will work with you to explain any estimated fees.

[Special-use permit fee schedule](#)

272.09 KB Adobe Acrobat PDF | Published Apr 13, 2023

What else do I need to know about special-use permits?

- Some permitted activities will require proof of insurance. The special-use permit coordinator will walk you through the process if proof of insurance is required.
- Members of the Native American community seeking access to Metro's parks, natural areas, historic cemeteries or other locations for cultural events, culturally significant plant material harvesting, or ceremony space can visit [Metro's Intertribal cultural resources webpage](#) for information and contact information for the Indigenous community liaison coordinating these events.
- Some activities may not need a permit, but simply a [picnic reservation](#).
- Metro's Community Education and Stewardship team provides [programming for groups](#) at Metro sites.
- All special-use permit requests are reviewed by a team of stakeholders that have in-depth knowledge of specific Metro locations and different types of activities. Approval or denial of a special-use permit will be based on several considerations including, but not limited to conflicts with other Metro activities such as herbicide treatment, tour and/or event, or cemetery burial service, and the extent to which the regulated use is consistent with the highest and best use of Metro's parks, natural areas and historic cemeteries.

RELATED DOCUMENTS

EXHIBIT B2 Special Use Permit webpage (2023)



Special-use permit fee schedule

Apr 2023 | PDF

Special-use permit standard terms and conditions

Mar 2022 | PDF

CONTACT

Special use permits

503-349-7087

specialusepermits@oregonmetro.gov

Is this page helpful?

Did you find the information you were looking for on this page? *

- Yes
- No

EXHIBIT B2 Special Use Permit webpage (2023)

SERVICES OF METRO

- Oregon Zoo
- Oregon Convention Center
- Portland Expo Center
- Portland's Centers for the Arts
- Data Resource Center
- Garbage and recycling facilities
- Metro cemeteries

OPPORTUNITIES

- Jobs
- Contracts
- Grants
- Franchising and licensing

ACCESS

- Know your rights
- Accessibility at Metro
- Language assistance
- Feedback and questions
- Metro Accountability Hotline
- Privacy policy
- Request public records
- Directions

LEADERSHIP

- Metro Council
- Metro Auditor
- MERC
- Committees
- Who's my councilor?

Whether your roots in the region run generations deep or you moved to Oregon last week, you have your own reasons for loving this place – and Metro wants to keep it that way. Help shape the future of the greater Portland region and discover tools, services and places that make life better today.

CONTACT METRO

 503-797-1700

 503-797-1804 TDD


 Send a message

EXHIBIT B2
Special Use Permit webpage (2023)

CONNECT WITH METRO

Subscribe to Metro News

More subscription options

Find Metro on

