

AN ORDINANCE CONFIRMING A CERTAIN RESOLUTION ADOPTED BY THE MIDDLEBURY PARK AND RECREATION DEPARTMENT, DEFINING THE CONSTRUCTION AND SCOPE, PROHIBITING CERTAIN ACTS AND ACTIVITIES, REGULATING USES IN THE PARKS, REGULATING AND RESTRICTING VEHICULAR TRAFFIC, PROTECTING PLANTS AND SHRUBS, PROVIDING FOR PENALTIES, REPEALING ALL ORDINANCES IN CONFLICT AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, by resolution duly adopted, the Middlebury Park and Recreation Department within the Town of Middlebury, has prohibited certain acts and conduct within the property of, and under the jurisdiction of said Middlebury Park and Recreation Department;

WHEREAS, by law, the Middlebury Park and Recreation Department may in the future adopt certain additional rules and regulations prohibiting certain acts and conduct within the property of the Town of Middlebury under the jurisdiction of said Middlebury Park and Recreation Department;

WHEREAS, pursuant to Indiana Code Sections 36-1-3-1 et. seq., the Board of Trustees of the Town of Middlebury are empowered to pass local ordinances and provide for the imposition of a fine for the violation thereof;

WHEREAS, the Middlebury Park and Recreation Department has requested that the Board of Trustees of the Town of Middlebury adopt an ordinance consistent with present and future Park Department rules and regulations, which ordinance would impose a fine and/or other punishment or penalties for the violation thereof.

NOW, THEREFORE, BE IT ORDAINED by the Board of Trustees of the Town of Middlebury:

ARTICLE I

Section 1. Possession or Use of Alcoholic Beverages Prohibited.

It shall be unlawful for any person to bring into any park or use, consume, sell, give away or have in his possession any alcoholic beverage.

Section 2. Possession of Firearms and Weapons Prohibited.

It shall be unlawful for any person to bring into any park, or have in his possession any weapons, missile propelling devices, ammunition, fireworks, or other explosive devices. Further, it shall be unlawful for any person to bring into any park, or have in his possession any firearm, unless licensed, permitted, and authorized by the appropriate police department having jurisdiction over said individual and/or park to carry or possess such firearm.

Section 3. Inflicting Injury to Wildlife and Vegetation Prohibited.

(a) It shall be unlawful for any person to kill, wound, hunt, trap, shoot, throw rocks or missiles at, chase, molest or remove, or have in his possession any feral animal, reptile, bird, bird's nest, squirrel's nest, or remove the young of any such animal, or the eggs or young of any such reptile or bird, or knowingly buy, receive, have in his possession, sell or give away any such animal, reptile, bird or egg so killed or taken within any park boundary. Notwithstanding the above, the Park Board reserves the right to grant its express written permission to allow the hunting or trapping of certain species under restricted conditions to protect against species over-population.

(b) It shall be unlawful for any person to harvest, remove, cut, break, disturb, set fire to or otherwise damage any vegetation or other growing thing within the boundaries of any park. The word "vegetation" includes, but is not limited to, any plant, flower, flowerbed, shrub, tree growth, or any branch, stem, fruit, or leaf thereof. No person shall attach a rope, tether, cable or other contrivance to any such vegetation. Notwithstanding the above, the ripe fruit and seeds of plants and trees may be collected from the ground.

Section 4. Causing Damage to Signs, Shelters, and other Structures Prohibited.

It shall be unlawful for any person to deface, remove, set fire to, tamper with, damage or destroy any artificial structure within the park boundaries or use any such structure for purposes other than that for which it was intended. Artificial structures include, but are not limited to, any drive, walk, bridge, wall, monument, statue, sign, building, tower, parking lot, post, gate, recreational equipment, etc. No person shall displace or carry away any asphalt, curb, rock, stone, gravel, sand or make any excavation of any kind within the boundaries of any park.

Section 5. Swimming Prohibited.

It shall be unlawful for any person to swim, wade, bathe, or engage in scuba diving in any waters which are within the boundaries of the park or within the jurisdiction or control of the Park Board, with the exception that wading in such waters as part of entering or disembarking from a boat or canoe shall not be prohibited.

Section 6. Camping Prohibited.

It shall be unlawful for any person to pitch or maintain a tent or other improvised shelter, or otherwise camp within any park boundary without the express written permission of the Park Board, which permission must be conspicuously posted at the campsite.

Section 7. Commercial Sales, Solicitations, and Commercial Photography Prohibited.

It shall be unlawful for any person to sell or solicit, advertise, photograph or promote for sale any commercial product or commercial event within the boundaries of any park without the express written permission of the Park Board, which permission must then be conspicuously posted at the side of such activity.

Section 8. Disorderly Behavior Prohibited.

It shall be unlawful for any person within any park boundary to:

(a) Disobey any order of a police officer or park employee designated by the Park Board to give orders; or disobey or disregard the notices, prohibitions, instructions, or directions on any park sign. This includes the rules and regulations of playground areas, recreation centers, shelter houses, museums, and zoological or botanical buildings which rules are posted on the grounds or buildings or structures connected with or used for any purpose under the jurisdiction, control, operation or supervision of the Park Board.

(b) Use threatening, abusive, or insulting language.

(c) Do, engage in, or aid or abet any obscene or indecent act.

(d) Solicit alms, subscriptions or contributions for any purpose.

- (e) Molest or annoy other persons or otherwise interfere with their lawful use of park facilities.
- (f) Interfere with, encumber, obstruct, or render dangerous any part of a part street.
- (g) Climb or lie upon any wall, fence, or shelter.
- (h) Engage in, instigate or encourage a contention or fight.

Section 9. Other Prohibited Activity.

No person shall engage in any conduct or activities dangerous to themselves or others, or use the facilities and structures of the park for purposes other than those for which they were intended. Activities specifically prohibited under this section include, but are not limited to, hang gliding, rappelling from towers, and any other use of the trees, towers, or other structures for technical climbing activities.

Section 10. Speed Limited to Maximum of Fifteen (15) Miles Per Hour: Traffic Control.

(a) The maximum speed of any vehicle operated within the park boundaries is limited to fifteen (15) miles per hour. It shall be unlawful for any person to operate a vehicle in excess of this speed limit.

(b) No person shall cause or permit any vehicle within his use or control to obstruct traffic and shall not stop such vehicle, except at those places specifically designed or designated as parking areas.

Section 11. Vehicle Use Restriction.

(a) No vehicle shall be operated within the park boundaries, except upon the roadway or within any area expressly designated for vehicular traffic. Snowmobiles, minibikes and persons on horseback are restricted to those areas specifically designated for their use.

(b) The parking of vehicles in any park area not designated or designed for parking use is prohibited.

(c) No vehicle shall enter or leave any park except at established entranceways or exits, and except at established times.

Section 12. Vehicles to be Removed Before Park Closing.

No vehicle shall be left within the park boundaries after the park has closed. Any vehicle so left on the park premises may be towed from the park without further notice to the owner or operator. The registered owner shall be responsible for any towing fee so incurred.

Section 13. Pets Must be on a Six (6) Foot Leash.

Dogs and other pets may be brought into the parks providing that they are continuously restrained by a leash, not exceeding six feet (6') in length. No person owning or having control of any such animal shall cause or permit the animal to run at large within the park boundaries.

Section 14. Fire is Restricted to Proper Containers.

No person shall kindle, build, maintain or use a fire except in fireplaces provided for that purpose or under special

written permit. Any fire shall be continuously under the care and direction of a competent person over eighteen (18) years of age from the time it is kindled until it is extinguished. No fire shall be built within ten feet (10') of any tree or building or beneath the branches of any tree or in any underbrush. No person shall throw away or discard a lighted match, cigar or cigarette within the park boundaries.

ARTICLE II

Section 1. Construction and Scope of Ordinance.

Construction: In the interpretation of this Ordinance affecting parks, its provisions shall be construed as follows: (1) any term in the singular shall include the plural; (2) any term in the masculine shall include the feminine and neuter; (3) any requirement or provisions of this Ordinance relating to any act shall respectively extend to and include the causing, procuring, aiding or abetting, directly or indirectly, of such act; or the permitting, or the allowing of any minor in the custody of an adult, doing any act prohibited by any provision hereof; (4) no provision hereof shall make unlawful any act necessarily performed by officers or employees of the Middlebury Park and Recreation Department in line of duty or work as such, or by any person, his agents or employees, in the proper and necessary execution of the terms of any agreement with the Board; (5) any act otherwise prohibited by this Ordinance, provided it is not otherwise prohibited by law or local ordinance, shall be lawful if performed under, by virtue of, and strictly in compliance with, the provisions of a permit and to the extent authorized thereby; (6) this Ordinance is in addition and supplemental to all municipal, state and federal laws and ordinances.

Territorial Scope: This Ordinance shall be effective within and upon all areas under the jurisdiction of the Park Board, and shall regulate the use thereof by all persons.

Section 2. Definitions.

(a) The word "park" shall include the land and water constituting all parks and other recreation areas within the jurisdiction and control of the Middlebury Park and Recreation Department.

(b) The phrase "Park Board" refers to the Middlebury Park and Recreation Department.

Section 3. Penalties.

Any violation of any of the provisions of this Ordinance shall be punishable by a fine of not more than One Thousand Dollars (\$1,000.00).

Section 4. Enforcement.

For purposes of enforcing the provisions and regulations of this Ordinance, the Middlebury Police Department will be vested with the power to issue notices of violation of this Ordinance. Such notices shall be prepared and issued in accordance with Indiana Code Sections 34-4-32-1 et. seq. and 9-7-7-4.

Section 5. Repeal of Conflicting Ordinances.

All ordinances, or parts thereof, heretofore adopted affecting the parks under the jurisdiction of the Middlebury Park and Recreation Department, inconsistent with or in conflict with the provisions of this Ordinance, insofar as same are inconsistent with or in conflict with this Ordinance, are repealed, but insofar as practicable and possible, the provisions hereof shall be deemed

supplemental to existing ordinances or parts thereof, not in conflict therewith.


Section 6. Severability and Savings Clause.

Each article, section, clause and part of this Ordinance shall be deemed severable from all others and if any provision of this Ordinance is held invalid, such invalidity shall not affect the validity of any other provision, part or portion of this Ordinance, but the remaining portions shall remain in full force and effect.

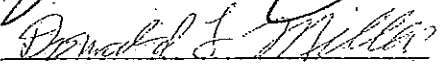
Section 7. Effective Date.

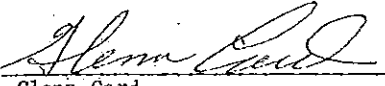
The effective date of this Ordinance is May 27, 1982.

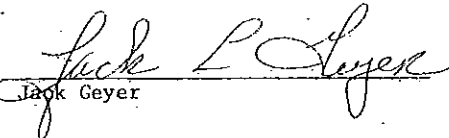
Adopted and approved this 3rd day of May, 1982.


Ernest L. Miller


John Shoup


Donald L. Miller


Glenn Card


Jack Geyer

ORDINANCE NO. 191-A

AN ORDINANCE AMENDING ORDINANCE NO. 191 OF THE TOWN OF
MIDDLEBURY CONCERNING PARK REGULATIONS

WHEREAS Indiana Code Sections 36-1-3 et. seq. permit any town in the State of Indiana to exercise any power or perform any function necessary to the public interest in the context of its municipal or internal affairs, which is not prohibited by the Constitution of the United States or of the State of Indiana, or denied or pre-empted by any other law, or is not expressly granted by any other law to another governmental entity;

WHEREAS the Town of Middlebury, Indiana adopted Ordinance 191 on May 3, 1982 providing for certain park regulations;

WHEREAS the Town Council of the Town of Middlebury, Indiana deems it reasonable and appropriate to amend Ordinance 191 in accordance with the terms and provisions of this Ordinance.

NOW, THEREFORE, BE IT ORDERED, ESTABLISHED, AND ORDAINED by the Town Council of the Town of Middlebury, Indiana as follows:

1. Additional Regulations. Article I of Ordinance 191 is hereby amended by adding the following section:

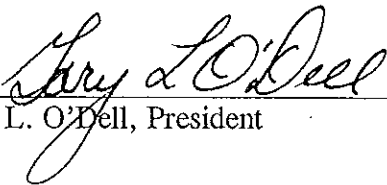
Section 15. Pet Waste. The owner or person having control of any dog or other pet in any park shall immediately remove the animal's excrement and properly dispose of such material in a waste container. Notwithstanding these provisions, a disabled person with a service dog is relieved of the requirement to remove the service dog's excrement to the extent such requirement is impractical for a person

with such disability. For purposes of these provisions, a horse being utilized for transportation purposes is not considered to be a pet.

2. Amendatory Effect. Except as amended herein, all other terms and provisions of Ordinance 191 shall remain in full force and effect.

ORDAINED this 20th day of November, 2006.

TOWN COUNCIL OF THE TOWN OF
MIDDLEBURY, INDIANA

By: 
Gary L. O'Dell, President

Attest:


Kristi Edlund, Middlebury Deputy Clerk

ORDINANCE NO. 191-B

AN ORDINANCE AMENDING ORDINANCE NO. 191 OF THE TOWN OF
MIDDLEBURY CONCERNING PARK REGULATIONS

WHEREAS Indiana Code Sections 36-1-3 et seq. permit any town in the State of Indiana to exercise any power or perform any function necessary to the public interest in the context of its municipal or internal affairs, which is not prohibited by the Constitution of the United States or of the State of Indiana, or denied or pre-empted by any other law, or is not expressly granted by any other law to another governmental entity;

WHEREAS the Town of Middlebury, Indiana adopted Ordinance 191 on May 3, 1982 providing for certain park regulations;

WHEREAS the Town of Middlebury, Indiana adopted Ordinance 191-A on November 20, 2006 adding certain park regulations;

WHEREAS the Town Council of the Town of Middlebury, Indiana deems it reasonable and appropriate to amend Ordinance 191 in accordance with the terms and provisions of this Ordinance.

NOW, THEREFORE, BE IT ORDERED, ESTABLISHED, AND ORDAINED by the Town Council of the Town of Middlebury, Indiana as follows:

1. Amendatory Regulations. Article I of Ordinance 191 is hereby amended by revising and replacing Section 2 to read as follows:

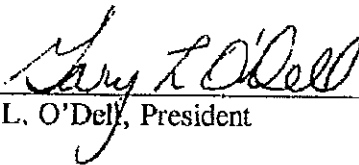
Section 2. Possession of Firearms and Weapons.

It shall be unlawful for any person to bring into any park, or have in his possession any weapons, weapon accessories, missile propelling devices, fireworks, or other explosive devices. This prohibition, however, shall not be applicable to firearms, ammunition, and firearm accessories as provided in Indiana Code § 35-47-11.1 et seq., as amended.

2. Amendatory Effect. Except as amended herein, all other terms and provisions of Ordinance 191 and 191-A shall remain in full force and effect. This Ordinance shall be effective retroactively to July 1, 2011.

ORDAINED this 19th day of December, 2011.

TOWN COUNCIL OF THE TOWN OF
MIDDLEBURY, INDIANA

By: 
Gary L. O'Dell, President

Attest:


Sally A. Musbaum, Middlebury Clerk-Treasurer

**RESOLUTION ESTABLISHING HOURS FOR WHICH THE
TOWN OF MIDDLEBURY PARKS SHALL BE CLOSED**

Whereas Ordinance 191 of the Town of Middlebury, Indiana which was adopted on May 3, 1982 establishes certain governing regulations for the Town of Middlebury Parks:

Whereas Ordinance 191 provides that it is unlawful for any person within any park boundary to disobey or disregard the notices, prohibitions, instructions, or directions on any park sign;

Whereas the Superintendent of the Town of Middlebury Park Department and the Middlebury Town Marshal have recommended that hours be established where the Town of Middlebury parks are closed and that such be posted on park signs so as to be enforceable in the future;

Whereas the Town of Middlebury Park and Recreation Board deems it reasonable and appropriate and in the public interest to establish the hours when the Town of Middlebury parks shall be closed;

NOW, THEREFORE, BE IT RESOLVED by the Town of Middlebury Park and Recreation Board as follows:

1. That all Town of Middlebury parks shall be closed from the hours of 10:00 P.M. to 5:00 A.M., local time, each and every day of the year.
2. That the closed hours for the Town of Middlebury parks shall be posted on the park signs for each and every Town of Middlebury park.
3. That the closed hours for the Town of Middlebury parks shall be effective upon the posting thereof on the respective park signs for each park in the Town of Middlebury.

Dated this 15th day of May, 2002.

TOWN OF MIDDLEBURY PARK AND
RECREATION BOARD

BY: [Signature]
TITLE: President

BY: [Signature]
TITLE: Secretary

APPROVED

RESOLVED AND APPROVED this 20th day of May, 2002.

TOWN COUNCIL OF THE TOWN OF
MIDDLEBURY, INDIANA

BY: [Signature]
Gary L. O'Dell, President

Attest:

[Signature]
Sally A. Nusbaum, Clerk-Treasurer
Town of Middlebury