
Report To:	Environment and Regeneration Committee	Date:	5 September 2013
Report By:	Head of Environmental & Commercial Services	Report No:	ECR/ENV/IM/13167
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Subject:	Parks Management Rules		

1.0 PURPOSE

1.1 The purpose of this report is to:

- seek the Committee's approval of the draft Parks Management Rules prior to statutory public consultation thereon;
- seek the Committee's authority to proceed with the statutory public consultation; and
- advise that there will be a further report to the Committee
 - advising of the outcome of the consultation and allowing their consideration of any representations received;
 - seeking approval of any amendments to the rules considered appropriate in light of the same; and
 - seeking authority to report to the Inverclyde Council recommending they formally approve the rules in the terms agreed on following the consultation.
- advise the Committee that thereafter there will be a report to the Inverclyde Council recommending such approval.

2.0 SUMMARY

2.1 As local authority, the Inverclyde Council (the Council) has power to make management rules regulating the use of and conduct of persons while on or in any land or premises owned, occupied, managed or controlled by the Council to which the public have access, in terms Section 112 of the Civic Government (Scotland) Act 1982 (the Act).

2.2 Prior to making management rules, the Council must conduct a statutory public consultation, in terms of which it is required to:

- advertise that it intends to make such rules;
- make copies of the proposed rules available for public inspection throughout that period;
- allow a period of at least one month from the date of the first advertisement for objections; and
- before the management rules are made, take into account any objection received and give any objector the opportunity to be heard by the Council.

2.3 Management rules come into force when they are approved and formally executed by the Council, and unless revoked continue in force for a period of 10 years.

2.4 In terms of the Act:

- an authorised officer of the Council may expel or exclude an individual from the land or premises where they have reasonable grounds for believing that individual has, is or is likely to contravene a management rule affecting that land premises in question;
- it is a criminal offence for an individual on being so expelled to fail to leave the said Land or Premises;
- it is a criminal offence for an individual on being so expelled or excluded to enter or attempt to enter the said Land or Premises;

- the Council may make an Exclusion Order for a period not exceeding one year against an individual who persistently contravenes or attempts to contravene management rules and is, in the opinion of the Council, likely to contravene them again; and
- it is a criminal offence for an individual who is subject to such an Exclusion Order to enter or attempt to enter the Land or Premises that to which the Exclusion Order relates.

3.0 RECOMMENDATIONS

- 3.1** It is recommended that the Committee approve the draft Parks Management Rules for the purposes of statutory public consultation.
- 3.2** It is recommended that the Head of Environmental & Commercial Services be authorised by the Committee to implement the statutory public consultation procedure in connection with the proposed management rules.
- 3.3** It is recommended that it be remitted to the Head of Environmental & Commercial Services to report back to the Committee the outcome of the public consultation exercise to allow the Committee to consider any objections received, and any consequent amendments considered appropriate.
- 3.4** It is recommended that the Committee note that the results of the public consultation exercise and the recommendations of this Committee following that exercise will in due course be reported to the Council and that approval will be sought from the Council for authority to make the management rules.

Ian Moffat

Head of Environmental and Commercial Services

4.0 BACKGROUND

4.1 Under Section 112 of the Civic Government (Scotland) Act 1982 a Local Authority may make management rules in respect of any land or premises owned, occupied or managed by the Authority and to which the public have access in order to regulate:

- the use of such land or premises, and
- the conduct of persons while on or in such land or premises.

4.2 A local authority may, but is not required to, set such management rules. The Council has not previously set Parks Management Rules although its predecessor Inverclyde District Council had made use of powers to set Parks Management Rules. The previous rules expired on or around 2001 without Inverclyde Council extending them.

4.3 At least one month before making management rules, the Council is required to give notice (by advertising in a newspaper or newspapers circulating in the Council's area) of –

- their intention to do so;
- the general purpose of the proposed rules;
- the place where a copy of the proposed rules may be inspected ;
- the fact that and time within which objections may be made;
- the address to which objections may be sent; and
- the fact that copies of the proposed rules are available for public inspection without payment at their offices and so far as the authority consider practicable at the land or premises to which the rules are to apply.

4.4 Any person may, within one month after notice has first been advertised by the Council, notify in writing their objection and the ground of their objection to the Council. Before making management rules, the Council is required take into consideration any objections timeously received by them and give any objector an opportunity to be heard by them.

4.5 Following on the consultation process a further report will be made to the Committee:

- advising of the outcome of the process;
- allowing consideration of any representations received and any amendments considered appropriate in light of those representations; and
- inviting the Committee to recommend such rules for approval by the Council.

4.6 Management rules shall come into force on the date of their execution by a Proper Officer on behalf of and with the authority of the Council or on such later date as may be specified in the rules and shall, unless revoked, continue in force for a period of 10 years from that date.

4.7 Management rules made by the Council must, together with a notice stating where copies of the rules may be obtained, be displayed at the entrance to the land or premises to which they apply or elsewhere so that they may be seen by members of the public intending to have access to the land or premises.

4.8 Breach of the management rules does not in itself create any criminal offence which can be subject of prosecution, but the principal sanction available is to allow an authorised Officer of the Council who believes that the rules have been or are about to be breached to either expel or exclude the person(s) concerned from the premises.

4.9 If the authorised Officer requires the person concerned to leave the premises and he fails to do so, or alternatively if the person is excluded from the premises and attempts to re-enter then that action itself is a criminal offence and the individual concerned may be liable, on summary conviction, to a fine not exceeding level 1 on the standard scale, currently £200.00.

4.10 In addition to the procedure for enforcing management rules by way of expelling or excluding individuals, the Council is entitled to determine that if a particular person persistently contravenes or attempts to contravene the management rules and that person is, in the opinion of the Authority, likely to contravene the rules again, then he may be made subject to an

Exclusion Order.

- 4.11** There is a separate procedure which again allows the individual concerned to make direct representations to the Authority before the Order takes effect. The Order is to apply for such period as the Authority may determine, but this is not to exceed one year. A separate offence is created if an individual who is subject to an Exclusion Order enters or attempts to enter the premises to which the Order relates. Again, the individual concerned may be liable, on summary conviction, to a fine not exceeding level 1 on the standard scale, currently £200.00.
- 4.12** Copies of management rules shall be open to public inspection without payment and a copy of them shall on application be furnished to any person on payment of such reasonable charge as the local authority may determine.

5.0 IMPLICATIONS

5.1 Training

Inverclyde Council parks staff and wardens will be required to implement and where necessary enforce the Parks Management Rules once they are adopted. In-house training will take place to ensure that the relevant staff have the required knowledge and skills for the purpose.

5.2 Financial

There will be costs associated with the supply of new signage and one public notice to be placed in the local press. Costs in question will be contained within existing budgets.

Cost Centre	Budget Heading	Budget Year	Proposed Spend this Report	Virement From	Other Comments
Grounds Maintenance	Supplies & Services	2013/2014	£1,500		Signage & Public Notices

5.3 Human Resources

There are no human resources implications associated with the making of these management rules.

5.4 Legal, Equalities & Diversity

It is believed there are no direct issues associated with the making of these management rules however Environmental and Commercial Services will take steps to investigate if there are such issues and will report back to the Committee following the consultation exercise and prior to the Council's promulgation of the rules.

5.5 Population

There are no issues associated with the making of these management rules.

APPENDIX

Management Rules for Public Parks
Draft document for Public Consultation
September 2013

Civic Government (Scotland) Act 1982

Management Rules

Public Parks

These rules (known as Management Rules) have been made by Inverclyde Council and are to control the way people use Public Parks and the behaviour of people while in Public Parks, with a view to ensuring that our Public Parks are able to be enjoyed peaceably by the citizens of Inverclyde and visitors to the area;

The Management Rules **only apply to Public Parks** which are:-

- a) **owned or managed** by the Council (or managed on behalf of the council); and
- b) to which the **public have access** (regardless of whether any fee or other charge is made on entry).

These rules do **not** apply to any Public Parks which have their own specific Management Rules, nor to Country Parks, or informal open spaces.

These rules are made by Inverclyde Council in exercise of the powers conferred on it by Section 112 of the Civic Government (Scotland) Act 1982.

The Rules

1. Meanings of words and phrases

In these Rules certain words and phrases are used and they have the following meanings:

"the Act" means the Civic Government (Scotland) Act 1982 (as amended)

"the Code" means the Scottish Outdoor Access Code published under the Land Reform Act and any guidance or regulations extending or amending the same, including any Supplementary Guidance endorsed by the National Access Forum;

"Corporate Director" means the relevant Corporate Director of the Council, and for any officer to whom he has delegated authority, or such other Director as may from time to time be responsible for enforcement of these Rules.

"the Council" means Inverclyde Council, constituted under the Local Government (Scotland) Act 1994;

"the Land Reform Act" means the Land Reform (Scotland) Act 2003 and any Acts or regulations extending or amending the same, and any related guidance;

"Officer" means any Officer of the Council or any person employed by the Council in connection with the management or operation of any Public Park;

"Public Park" means those parks owned, leased or managed by or on behalf of the Council specified in the Schedule annexed to the Rules, or any part thereof and includes any buildings in the Public Park;

"Sign" means any sign or notice or notice board or plate, and includes, where the context so requires, any pole, mounting or other means of affixing the sign in place; and

"Vehicles" means any vehicle regardless of whether it has its own engine or is manually propelled and includes any trailers or caravans attached to or pulled by a vehicle or animal.

2. Consequences of Breaking the Rules

- 2.1 The Land Reform Act gives the public the right of responsible access to Public Parks and people should comply with their responsibilities under the Land Reform Act and the Code. The Council reserves the right to refuse admission to any person, group, body or organisation to any Public Park and its decision to do so shall be final.
- 2.2 Any person who has broken or is about to break any of these Rules may be expelled from the Public Park.
- 2.3 Any person who is about to break one or more of these Rules may be refused entry to a Public Park.
- 2.4 If the Council believes that a person who has persistently broken or attempted to break these Rules is likely to do so again, they may make an Exclusion Order in terms of Section 117 of the Act forbidding that person from entering any Public Park mentioned in the Order. The person may be excluded for up to one year.
- 2.5 Any person who:-
- a) refuses to leave when requested to do so by an Officer;
 - b) enters or attempts to enter a Public Park despite being informed by an Officer that he/she is being refused entry; or
 - c) enters or attempts to enter a Public Park when not allowed to do so because of an Exclusion Order.

is **guilty** of a criminal offence and may be liable to a **fine**. Currently, the maximum fine which may be imposed is £200. This maximum level may be increased by Parliament.

3. Access to Public Parks

- 3.1 The Council may temporarily close a Public Park for such time as is considered necessary. The Council, in doing so, will post notices at the entrance to the Park specifying the times of closure.
- 3.2 No person may enter a Public Park that is closed. Any person who is within a Public Park after it has been closed:-
- a) either at the end of any opening hours fixed by the Council; or
 - b) temporarily within those hours

must leave the Public Park when requested to do so.

- 3.3 Under Section 11 of the Land Reform Act, the Council may, by Order, for a particular purpose specified in the Order, exempt any Public Park from the access rights which would otherwise be exercisable during such times as may be specified by the Order. Such exemptions may be made to allow a charge to be levied for admission to a particular event, in the interests of safety and security, or for ensuring the protection of privacy.

4. General Behaviour

The Code gives a general overview of activities which are prohibited by statute and by common law. In addition to those prohibited activities and restrictions:-

Annoyance to Other People

- 4.1 Nobody is to:
- Fight or cause a disturbance or use violent, abusive or obscene language whilst in a Public Park;

- Cause a Breach of the Peace;
- Bring any weapons of any sort into a Public Park;
- Act in any way that risks causing harm, annoyance or concern to any other person using the Public Park; and
- Act in a way that hinders or obstructs an Officer in the performance of his/her duties.

Damaging Council Property

4.3 Nobody is to damage in any way any Public Park or its contents. This includes damaging, defacing or removing any of the following:-

- any part of any building;
- any fences, gates, walls, fire barriers or railings;
- fountains;
- statues or monuments;
- seats;
- notice boards, signs or plates including any poles;
- trees, shrubs and plants, including grassed areas;
- play equipment or other apparatus;
- any paths, steps, access controls or access information; and
- rubbish bins.

Putting Up Signs and Notices

4.4 Nobody is to put up any sign in any Public Park without first obtaining the written consent of the Corporate Director.

Protection of Animals, Birds and their Habitats and Nests

4.5.1 Nobody is to move, disturb or destroy any wild birds' nests or eggs or harm, remove or kill any wild bird or animal unless allowed to do so in terms of the Wildlife and Countryside Act 1982, as amended. Prior to doing so, the person must obtain a special licence in terms of the 1982 Act, any other statutory consent required, and the written consent in writing of the Corporate Director.

4.5.2 Nobody is to set or use any snare or other means for taking, harming or killing any wild bird or animal unless allowed to do so in terms of the Wildlife and Countryside Act 1981, as amended. Prior to doing so, the person must obtain a special licence in terms of the 1981 Act, any other statutory consent required, and the written consent in writing of the Corporate Director.

Litter

4.6 Nobody is to drop litter of any sort in a Public Park other than in a bin provided.

Selling Goods

4.7 Nobody is to offer to, or to sell, or let or hire any goods or provide any services in a Public Park without prior written consent of the Corporate Director.

Music and Noise

4.8 Nobody is to:-

- play any musical instrument;
- sing;
- perform;
- play a radio, television, tape recorder, compact disc player, dvd player, mp3 player or other music or media player; or

- use any amplifier, megaphone or similar apparatus or any other device which plays music or makes a noise;

in a manner which causes annoyance or disturbance to other users of the Public Park.

Alcohol and Drugs

- 4.9 Nobody is allowed to drink alcoholic liquor (except as follows and except in premises, or in an area in a park, licensed for the sale of alcoholic liquor) or to take drugs in a Public Park.

Fires etc

- 4.10.1 Without the prior written consent of the Corporate Director, nobody is to

- fire any firearm, airgun or other weapon, nor
- light any fireworks or fires (including bonfires) or release Chinese Lanterns;
- light any gas cookers or stoves;
- hold a barbecue (except in any barbecue sites provided by the Council).

- 4.10.2 The Corporate Director may exempt appropriate official organisations from this Rule.

- 4.10.3 All applications for exemption or authorisation must be made in writing to the Corporate Director, prior to the events taking place.

- 4.10.4 All exemptions and authorisations may be subject to such conditions as the Corporate Director considers appropriate.

- 4.10.5 Nothing in this Rule applies to Officers in relation to the performance of their duties connected with the maintenance of a Public Park.

5. Animals

Control of Animals

- 5.1 It is permissible to bring an animal (except a dangerous wild animal as defined under the Dangerous Wild Animals Act 1976) into any Public Park, unless a sign is posted by the Council at the entrance to, or elsewhere in, any Public Park indicating that animals are not permitted in any Public Park always provided that the owner or person in charge of such animal shall keep it under close control or on a short lead.

- 5.2 Any person with any animal in any Public Park must comply with the responsibilities in the Code.

Annoyance to Others

- 5.3 All animals brought in to a Public Park must not be permitted to:-

- worry any animals or birds;
- damage or destroy any flowers, plants, trees, grass or shrubs in a Public Park;
- enter any sports pitch or play area;
- annoy other users of a Public Park.

Racing

- 5.4 Nobody is to train or race any dogs in a Public Park in such a way that it causes annoyance or concern to other users of a Public Park.

Dog Fouling

- 5.5 When a dog fouls in a Public Park the person in control of the dog must place the waste into either a Dog Fouling bin, or if there is no Dog Fouling bin provided, they must either place the waste in any other waste bin, or remove it from the Park.

Dogs

- 5.6 Anyone with a Dog must comply with the Control of Dogs (Scotland) Act 2010.

6. Vehicles

Speed Limit Etc.

- 6.1.1 Nobody is to drive any vehicle or ride any cycle in a Public Park except on roadways created by the Council for that purpose. This Rule does not apply to any vehicles operated by the Council in connection with the maintenance of Public Parks. This Rule does not apply to the use of:
- perambulators,
 - wheelchairs (including motorised wheelchairs and other vehicles being used by disabled persons); or
 - similar vehicles drawn or propelled by hand for use by a child or disabled person, where the surface and terrain of the Public Park in question is suited to such use.
- 6.1.2 Nobody is to drive a vehicle or ride a cycle in a Public Park at a speed exceeding 10 miles per hour. The driver of a vehicle or cycle rider must always give way to pedestrian users.
- 6.1.3 While in a Public Park, the driver of any vehicle, the rider of any cycle or horse or other animal must, observe any statutes, rules and regulations in force regulating driving or riding on public streets or roads and for the exhibition of lights on vehicles.

Car Parking

- 6.2.1 Nobody is to park a vehicle anywhere in a Public Park except in an area designated by the Council as a car park;
- 6.2.2 Designated car parking facilities are for the use only of persons using the Public Park;
- 6.2.3 Nobody is to park a vehicle overnight except with the prior written consent of the Corporate Director;
- 6.2.4 Only drivers of vehicles with registered disabled markers may use designated disabled parking spaces.

Emergency Vehicles Excepted

- 6.3 The preceding rules do not apply to ambulances, fire engines or police cars or other vehicles with the prior written consent of the Corporate Director.

Bicycles, etc

- 6.4 Any person riding a bicycle, scooter, skateboard, roller skates, roller blades or similar equipment in a Public Park must do so in a responsible manner in terms of the Land Reform Act and with the Code, and must keep to walkways and areas designated for such use. Those subject to this Rule must not travel at a speed or in a manner or place which injures, disturbs, obstructs, interrupts or annoys any other person.

Caravans

- 6.5 Nobody is to park, stop or site any caravan, mobile home or similar vehicle in a Public Park.

7. Use of Public Park

No Access for Public

- 7.1 Nobody is to go into areas marked "Private" or "Staff Only" or "Authorised Personnel Only" or with similar signs unless authorised so to do by the Executive Director or an Officer.

Use

- 7.2.1 Nobody is to play or take part in any game, exercise, ball game or other activity in a Public Park in any area where there is a sign prohibiting these activities.
- 7.2.2 Those taking part in activities in terms of these Rules should ensure that they do not disturb, annoy or interfere with or cause injury to other persons in the proper use and enjoyment of the Public Park.
- 7.2.3 Nobody is to deliberately interfere with or obstruct any person, playing or taking part in any permitted game, exercise, ball game or other activity in a Public Park.

Meetings

- 7.3 Nobody is to hold any public meeting, procession, demonstration, exhibition, military event, religious ceremony, service, political rally or lecture in a Public Park without the prior written consent of the Corporate Director. This includes the distribution of leaflets or setting up stalls to publicise or support particular political or religious events or points of view.

Ornamental Flower Beds etc

- 7.4.1 Subject to Rule 7.4.2 nobody is to pick, cut, destroy, remove or damage any flower, flowerbed, soil, tree, shrubs or plants and fungi in a Public Park, without the prior written consent of the Corporate Director.
- 7.4.2 The picking of wild flowers or plants protected by the Wildlife and Countryside Act 1981 as amended is forbidden, unless the person has first obtained a licence granted in terms of that Act and the prior written consent of the Corporate Director.

Radio Controlled Equipment

- 7.5.1 Nobody may use any radio controlled equipment including radio controlled cars, aeroplanes, boats or robots in a Public Park without the prior written permission of the Corporate Director.
- 7.5.2 Nobody is to use any radio controlled equipment in a Public Park in such a way that it annoys or frightens any other users of the Public Park or any animals in the Public Park.

Metal Detectors

- 7.6 Nobody is to use a metal detector in a Public Park without the prior written permission of the Corporate Director.

Tents etc

- 7.7 Nobody is to put up any posts, rails, fences, poles, tents, stands, marquees or any other structures in a Public Park without the prior written permission of the Corporate Director.

Camping

- 7.8 Nobody is to camp, or sleep overnight in any Public Park except where authorised by the Council.

Photography

7.9 Nobody is to take any photographs for publication or for commercial use without the express written permission of the Corporate Director.

8. Supervision and Fees

Supervision

8.1.1 Every person in a Public Park must follow the instructions of any signs erected by the Council.

8.1.2 Every person in a Public Park must follow the instructions of an Officer. This includes leaving the park when requested to do so and to stop doing anything when instructed to do so.

Fees and Conditions

8.2.1 Nobody is to use any part of a Public Park or any equipment in the Public Park without paying any fee fixed by the Council for such use.

8.2.2 Nobody is to use any part of a Public Park or equipment in a Public Park in any way which breaks any conditions fixed by the Council in connection with the use of that part of the park or equipment.

8.2.3 In accordance with the Council's Policy, the Corporate Director may waive any fees.

8.2.4 The Council may levy a charge or charges for the use of any Public Park or any building thereon or for any facilities or services provided in any Public Park or building thereon all in accordance with the Council's Policy on charging of fees. The Corporate Director may alter such charges without notice.

8.2.5 The Council may make Orders under Section 11 of the Land Reform Act exempting any Park or part of a Park from access rights under the Act, and when an Order is in effect the Corporate Director may impose a charge for entry to the Park.

Made by Inverclyde Council

On the day of Two Thousand and Thirteen

List of Parks

Birkmyre Park, Kilmacolm

West Glen Park, Kilmacolm

Parklea Playing Fields, Port Glasgow

Kelburn Park, Port Glasgow

Newark Park, Port Glasgow

Birkmyre Park, Port Glasgow

Coronation Park, Port Glasgow

Lady Octavia, Park, Greenock

Lauriston Park, Greenock

Wellpark, Greenock

Whinhill Golf Course, Greenock

Broomhill Park, Greenock

Murdieston Park, Greenock

Lady Alice Park, Greenock

Lyle Park, Greenock

Rankin Park, Greenock

Ravenscraig Stadium, Greenock

Battery Park, Greenock

Gourock Park, Gourock

Darroch Park, Gourock

Tower Hill, Gourock

Divert Glen, Gourock

Kirn Drive Playing Fields, Gourock

Wemyss Bay Woods, Wemyss Bay