

TOWN OF MIDDLEBURY
An Ordinance for the Daily Closing of Parks

The Selectmen of the Town of Middlebury, under the authority of 24 V.S.A. Chapter 61, Subchapter 11, Section 104 (b), (i), (l) and (j) of the Middlebury Charter, and such other Statutes as may be applicable, hereby adopt the following Ordinance:

SECTION I --- PURPOSE

101. To preserve and protect public property from willful or malicious destruction or defacement; to prevent theft of public property; and to protect public property from damage or defacement which is not willful or malicious, but which results from the unapproved or nonlegal use of said public property.

SECTION II --- DEFINITIONS

202. "Town Park" means any one of the following:

1. The Middlebury Recreation Park, so-called, lying easterly of Court Street, being all lands owned by or under the control of the Town easterly of Court Street and northerly of the Elementary School in the area of lands of Incorporated School District No. 4, and including all roadways and parking areas incidental to such recreation park.
2. The East Middlebury Recreation Park, lying northerly of Route 125, and being all lands owned by the East Middlebury Fire District No. 1 and under the control of the Town of Middlebury, and including all roadways and parking areas incidental to such recreation park.
3. All lands owned by or under the control of the Town on the parcel of land bounded easterly by South Main Street, southerly by Franklin Street, westerly by the Addison Grammar School lot now under lease to Middlebury College, and northerly by College Street.
4. The Ilsley Library parcel bounded northerly by parcels 24:256 and 24:257, easterly by the Municipal parking lot, southerly by Cross Street and westerly by Main Street.
5. The Battell Woods, so-called, located on the southerly side of Seminary Street Extension. Said lands are bounded northerly by the right-of-way of Seminary Street Extension, by lands of Wilson E. Noyes, and by lands of Alson Drew easterly by lands of Buttolph and lands now or formerly of Hector Sabourin and E. Lawrence Roberts.
6. The D.M. Means Memorial Woods, so called, located on the northerly side of Seminary Street Extension, and being the 29 acre parcel conveyed to the Town of Middlebury by deed of Elinor H. Means, dated 15 August 1969, and recorded in the Middlebury Land Records.
7. The Chipman Hill park, so-called, including all land owned by the Town on Chipman Hill, consisting of the land bequeathed to the Town by Joseph Battell (approximately 130 acres as shown on a map by Lee Lowell and on file in the Town Clerks Office) and land controlled by the Town Water

Department (approximately 20 acres including parcels 28, 29 and 30 on Map 22 of the Town Property Basemaps, on file in the Town Offices).

8. Wright Park, so-called, (formerly known as the Jackson Land) including all land owned by the Town lying westerly of the Vermont Railway tracks, southerly of the New Haven town line, easterly of Otter Creek, and northerly of Seymour Street Extension and the Woodbridge Condominiums, totalling about 177 acres (this land is also identified as parcel 66 on Map 4 of the Town Property Basemaps, on file in the Town Offices).

9. The Village Green and Triangle Park, so-called, including all land owned by the Town, northerly of Merchants Row, easterly of Main Street, southerly of Seymour Street (as extended to Pleasant Street or U. S. 7), and westerly of Pleasant Street or U. S. Route 7, excluding the St. Stephen's Episcopal Church Building.

10. Cannon Park, so-called, being a triangular parcel of land of the Town lying westerly of South Main Street, easterly of Park Street, and southerly of Mill Street or Frog Hollow, so-called, excluding the Building and lands owned by private parties.

11. The parcel of land commonly called "The Happy Trail" , parcel number 24:086:020 bounded on the east and north by Otter creek, east by parcel 24:082, northwest by parcel 24:088, west by parcels 24:086:010, 24:086, and 24:084 and on the south by Mill Street.

12. The parcel of land commonly called the Lazarus Property, 20 Main Street, parcel number 24:123.

13. The parcel of land commonly called The Powerhouse, parcel number 24:132.

SECTION III --- RESTRICTIONS

301. A person shall not enter on to a Town park, or parking areas provided to facilitate public use of the park, during a period when it is closed to the public unless permitted to do so under provisions of Section IV of this ordinance.

302. The following Town parks shall be closed to public use at 9:00 p.m. and shall be reopened at 6:30 a.m.

1. D.M. Means Memorial Woods
2. Battell Woods
3. Chipman Hill Park
4. "The Happy Trail".
5. The Powerhouse

303. All other Town parks shall be closed to public use at 12:00 midnight and shall be reopened at 7:00 a.m.

304. The Wright Park shall be open during day-light hours only.

SECTION IV --- WAIVERS

401. The provisions of Section 301 may be waived for special events or group activities under the following provisions: A person seeking authority for a special event or group activity within a Town park during a time when it is closed to public use shall file with the Town Manager an application containing: (a) The name, address and phone number of the applicant (b) The hours, date and estimated duration of such use of Town park property; (c) The proposed location of the special event or group activity; (d) The purpose of the special event or group activity; (e) The applicants proposed arrangements to insure the safety of the public and persons to be present, and the prevention of damage to Town park property. Applications may be obtained during working hours from the Town Manager's Office.

The application shall be filed at least 15 days prior to the proposed special event or group activity. However, the Town Manager may waive this requirement if determined upon receipt of the application that the applicant has satisfied the requirements of the next succeeding paragraphs.

402. The Town Manager shall determine whether the applicant has: (a) Submitted a complete and accurate application; (b) proposed a special event or group activity which is within the intent or purpose of this Ordinance; (c) Proposed adequate arrangements to insure the safety of the public and persons to be present at the special event or group activity, and the prevention of damage to Town park property.

403. Upon consideration of all items in Section 402, the Town Manager shall approve or disapprove the application, and in either case a decision must be made no later than five (5) days after receipt of the application. If the Manager fails to respond within such five (5) day period, the application shall be deemed approved for the purposes and under the conditions and terms set forth in the application. If the application is disapproved, the Manager, shall with his notice of disapproval, provide written reasons for such disapproval.

404. The Town Manager or the Board of Selectmen may amend or revoke such authorization if it appears that the arrangements contained in the authorization will no longer prevent injury to persons or property due to a change in the circumstances under which the authorization was granted.

A person may appeal to the Selectmen the denial of an application, by filing a written notice within five (5) days of such denial. The Selectmen shall forthwith consider the appeal at a hearing, upon due notice to the applicant, and at which the applicant may be present. The Selectmen may affirm or reverse the Town Manager's decision, or attach such additional conditions to the authorization as will, in their judgement, protect the public safety, and Town park property.

SECTION V --- PENALTIES

501. A person who violates a provision of this Ordinance or of any of the terms or conditions of an authorization, issued under this Ordinance shall be fined not more than \$1,000.00 for each violation.

SECTION VI --- SEVERABILITY

601. If any part of this Ordinance shall be held to be void, invalid, or unconstitutional either under the laws or constitution of the State of Vermont or the United States by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and such portion shall be in full force and effect.

ADOPTED: May 24, 1977

EFFECTIVE: July 3, 1977

AMENDED: October 21, 1986

EFFECTIVE: November 30, 1986

AMENDED: December 30, 1986

EFFECTIVE: February 8, 1987

AMENDED: July 2, 1991

EFFECTIVE: August 11, 1991

AMENDED: May 12, 2015

EFFECTIVE: June 21, 2015

AMENDED: August 13, 2019

EFFECTIVE: September 22, 2019