

## Chapter 13-03

### PUBLIC PARKS

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#### Section 13-03-01 DEFINITIONS

- A. Commission: The Boise City Parks and Recreation Commission.
- B. Department: The Boise City Department of Parks and Recreation.
- C. Director: The Director of the Boise City Department of Parks and Recreation or his/her designee.
- D. Park: Any and all lands, buildings, reserves, sports complexes, swimming pools, golf courses, trails and other special places, including the Boise River Greenbelt, that are owned, operated or maintained by Boise City, and are delineated generally in the publication known as the Department of Parks and Recreation Map, and/or specifically in the Inventory of Park Properties at the office of the Director.

(6539, Amended, 02/13/2007; 6286, Amended, 12/09/2003; 5321, Amended, 06/11/1991)

#### Section 13-03-02 PROHIBITED ACTS RELATING TO PARK PROPERTY

No person in any park shall:

- A. Buildings and Other Property.
  - 1. Disfiguration and Removal. Willfully mark, deface, disfigure, injure, tamper with, displace or remove, any building, bridges, tables, benches, fireplaces, railings, paving or paving material, water lines or other public utilities or parts or appurtenances whatsoever, either real or personal, or have in his possession any of the foregoing things or objects, or any part thereof.
  - 2. Restrooms and Washrooms. Fail to cooperate in maintaining restrooms and washrooms in a neat and sanitary condition. No person over the age of five (5) years shall use the restrooms and washrooms designated for the opposite sex.
  - 3. Erection of Structures. Construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon or across such lands, except by on written permit issued pursuant to this chapter.

4. Fences and Restricted Areas. Climb upon or go inside security fences, maintenance service areas, or other permanent or temporary restricted areas.
- B. Injury and Removal of Trees, Shrubbery and Lawns. Damage, cut, carve, transplant or remove any tree or plant or injure the bark, or pick the flowers or seeds, of any tree or plant. Nor shall any person attach any rope, wire or other contrivance to any tree or plant located in any park except as may be authorized by the City Forester by duly promulgated rule or regulation.. A person shall not dig in or otherwise disturb grass areas, or climb trees, or in any other way injure or impair the natural beauty or usefulness of any area, except that retrieval of personal property unintentionally lodged in a tree or other plant shall be permitted, provided that such removal is achieved safely and without damage to any tree or plant.
- C. Animals and Birds.
1. Hunting. Hunt, molest, harm, frighten, kill, trap, chase, tease, annoy, shoot or throw missiles at any animal, reptile or bird including those confined to the Zoo Boise; nor shall he remove or have in his possession the young of any wild animal, or the eggs or nest, or young of any reptile or bird; nor shall he collect, remove, have in his possession, give away, sell or offer to sell, buy or offer to buy, or accept as a gift, any specimen alive or dead collected from any park areas.
  2. Feeding animals. Give or offer, or attempt to give to any reptile, bird, waterfowl, or other wildlife any tobacco, alcohol or other known noxious substances. Feeding of animals within Zoo Boise is prohibited unless otherwise permitted by duly authorized Zoo Boise personnel.
- D. Horseback Riding.
1. Except for police officers and their service animals in the official performance of their duties, ride a horse except on designated bridle trails and in specially designated park areas. Where permitted, horses shall be thoroughly broken and properly restrained, and ridden with due care, and shall not be allowed to graze or go unattended. The designated bridle paths shall be:
    - a. Along the roadways and trails of Military Reserve.
    - b. Along the west and north boundaries of Hillside Park leading from Hill Road to the equestrian show ring in the southeast corner of the park. The bridle trail shall be marked with signs.
- E. Park Access, Encroachments, Construction Use and Easements.
1. Purpose and Objectives.
    - a. The Department is responsible for the stewardship of all Boise City park properties, and thus any encroachments upon them. The Department shall regulate all non-park related construction activity on or across park property and provide conditions to assure preservation of the public's interest and proper restoration of the parks. Boise City projects shall be subject to internal policies and are specifically exempt from this the provisions of this chapter.
    - b. No person shall use any park property for access to adjoining or nearby property for any purpose, or to construct or install any facility or improvement upon, over or beneath park property except by license or easement issued or granted pursuant to the provisions of the Boise City Code.
  2. Objectives.

- a. This Chapter shall apply only to those properties owned and/or maintained by the Department.
  - b. Evaluation of the impact of the proposed project shall be made in terms of the site and the associated public use to determine the merit of granting the work.
  - c. Work will be allowed only by and/or with the approval of the Department for a project that meets the Department's construction and restoration requirements.
  - d. This ordinance provides for regulation of non-park related access across, or construction activities on park property, and does not, in itself, provide a permanent easement or lease on a park property.
  - e. Routine maintenance of improvements located on a park property that are addressed by an established easement and maintenance agreement or license agreement are specifically exempt from the provisions of this ordinance. For purposes of this ordinance "routine" is defined as maintenance activities which do not require: placing undue restrictions on a park road, pathway, or recreation facility; excavation; or damage to park grounds or improvements unless otherwise specified by an established easement and maintenance agreement or license agreement.
3. Definitions.
- a. Construction Use License means authorized use of public park property by a private individual, contractor, utility company, firm or other entity for a specified purpose, activity, location and period of time. Uses include but are not limited to: limited vehicular trespass across public park property for purposes of accessing an adjoining private property, above ground utility work, trenching, grading, construction staging, or manipulation of park land or facilities for private purposes.
4. Construction Use License.
- a.. Application: An application for a construction use license is required in any case where an adjoining property owner, business, utility company, or other entity is requesting access through a park site or permission to stage, grade, or modify, in any manner, a public park property. The purpose of the license is to provide review of proposed non-park related activity on park property to ensure the contemplated activity does not present a safety hazard to park users or pose an undue burden on park property, and to provide for assurances that the property owner, utility company or their authorized contractor, assumes all responsibility for any resulting damage to the park grounds, sprinkler systems, or other public park facilities that may occur as a result of the licensed activity on park property.
  - b. Process and Fee Requirement
    - i. Applicants shall complete a Construction Use License application to initiate the license process and include the application fee of \$25.00. The application shall include:
      - (a) The name, address and phone number of the property owner;
      - (b) The name, address and phone number of authorized contractor who will perform the work;
      - (c) A description of access needs, including a description the the type and purpose of work to be preformed on park property, the location of the proposed activity;
      - (d) The dates access is being requested;
      - (e) A park site plan showing the proposed access route relative to locations of park trees, structures, and other improvements and features;

- (f) A description and the weight of the equipment that is proposed to be used on park property; and,
- (g) A description of the length and area of the park to be used or otherwise disturbed;
- (h) Proposed mitigation measures that will be employed to address safety concerns and minimize damage to the park, including a description of all work that is anticipated to be required for restoring the park to its original condition including anticipated quantities of materials such as: soil, turf, irrigation system, trees, shrubs, asphalt and curbing.
  - ii. The applicant shall be required to enter into an agreement acknowledging responsibility to pay for all costs to repair damages to park property. The applicant shall also indemnify the City for liability.

The Department shall prepare a standard agreement outlining the applicant's obligations, including any conditions or fees.

- iii. The Director is authorized to review the required approval standards and/or criteria for construction use licenses and issue final approval, approval with conditions, or withhold final approval for the City. The Director's decision on construction use licenses shall be final unless an appeal is made as hereinafter provided.
- iv. Upon expiration of the construction use license, the Department will inspect the park property for damage connected to the permitted activity on park property. In the event damage to the park site is found, the applicant shall be contacted by the Department to effect restoration within ten (10) working days using an approved and bonded contractor or pay the City for repairs. The Department shall specify the extent of damages found, the scope of required repair and replacement work, the procedure for performing the work, and any allowances for additional time to complete the work in the event weather or site conditions would warrant such an allowance.
- v. The City reserves the right to file claims for damages against the applicant or the applicant's authorized contractor in the event the applicant fails to effect the required restoration work within the required time frame. The City may also elect to impose penalties in accordance with the penalty provisions of this ordinance.

## 5. ACTION ON CONSTRUCTION USE LICENSE APPLICATIONS

- a. The following shall be considered by the Director prior to approving or denying a construction use license application:
  - i. The proposal is permissible under federal, state, and local laws; and
  - ii. The proposal does not conflict with the location of existing or planned park improvements or other public facilities and improvements or established easements such as, but not limited to sewer and utility lines, flood control, wells, and communications facilities.
  - iii. The proposed project can not be reasonably accomplished or accessed by another way or means, other than through park property; and,

- iv. No permanent disruption or damage to an active park use area would occur due to the proposed project or access, nor would a scheduled recreation program be affected; and,
  - v. The site conditions and access route are such that potential damages to park property are avoided or minimized; and,
  - vi. The time of year and weather conditions will help minimize potential damage to park property; and
  - vii. The project or access will not result in an excessive number of trips through the park property; and,
  - viii. Appropriate provisions for recovery of extraordinary costs to the City for temporary use of property, restoration (Section 5), inspection and monitoring of the proposed project are addressed; and,
  - ix. The proposed project is not specifically covered by an existing approved easement and maintenance agreement.
- b. The Director shall make a final determination on all applications for construction use licenses within fifteen (15) working days of receipt of a complete application. The Director's action on applications shall be to deny, approve or approve with conditions. A license issued with conditions may be monitored by Department staff for compliance with requirements to protect the safety of park users and protect park property and improvements from undue damage or loss. Failure to abide by conditions shall result in revocation of the license and suspension of licensee's activity on park property.
  - c. An applicant may appeal denial of a construction use license application by written request to the Commission. The appeal must be made within ten (10) working days of written notification of the denial and include an appeal fee of \$100.00.

6. Restoration.

- a. Provisions for restoration shall be addressed as part of the conditions for a construction use license. All restoration of park property shall comply with Department standards and specifications. Department specifications are available upon request. Each restoration project will have its own list of specific requirements. Requirements for enacting restoration work shall be performed according to the Department's direction:
  - i. Department Restoration. The Department may restore a construction site to ensure park properties are quickly and safely restored and repaired. All costs associated with labor and materials to restore property to the Department's satisfaction shall be paid by Applicant.
  - ii. Applicant Restoration. The Department may direct that an applicant restore a construction site through an approved contractor with demonstrated expertise in the repair work required. All contractors must be licensed and bonded for the work to be done. All work shall be accomplished in accordance with Department construction standards and materials specifications. The Department shall impose a time limit for an applicant's restoration requirements to be completed by the approved contractor. Department staff shall inspect the contractor's work for completeness and quality. Failure to meet restoration requirements in a satisfactory or timely manner shall be subject to the violation provisions of this chapter.

7. Easements.

- a. Applicant.  
No individual, business, Public Utilities Commission regulated utility company, or other entity shall install a facility such as, but not limited to: pipe, wire, fiber optic, tower, or any other structure, either temporarily or permanently, without first securing an easement therefore in accordance with the provisions of this chapter.
- b. Process and Fee Requirements.
  - i. Applicant shall complete a Request for Easement and submit it to the Department together with a twenty five (\$25.00) application fee. The request shall contain the applicant's name, contact person, a description of the proposed easement, the park and the specific area over which the applicant seeks the easement.
  - ii. Applicant shall supply a written legal description and a map, stamped by a surveyor or engineer licensed by the State of Idaho, showing the line of the proposed easement and all trees, shrubs, sidewalks, driveways, buildings, etc. within ten (10) feet of the outer edges of the easement.
  - iii. Applicant shall provide an appraisal of the property proposed for the easement valuing it for its highest and best use.
  - iv. If approved, the applicant shall to pay the Department fifty percent (50%) of the appraised value of the property for the easement. Calculated cost shall be based on the square footage of the easement.
  - v. Applicant may be required to provide written proof of insurance and/or bonding verification. The Department may require additional bonding for large projects.
- c. Government & Approved Public Utility Commission (PUC) Regulated Applicant Process.

If the applicant is a governmental entity or a utility regulated by the Idaho Public Utilities Commission and seeks an easement through another regulated utility's previously-approved easement, the applicant shall:

- i. Show written proof the current easement holder has granted use of the easement to the applicant. No application processing fee is required.
- ii. Provide a legal description and/or map, stamped by an Idaho State certified surveyor or engineer, showing the proposed utility location on City park property and its relationship to the other utilities in the easement.
- iii. Applicant may be required to provide written proof of insurance and/or bonding verification. Bonding may be required of large projects.
- iv. If the applicant desires to be on, or go through City park property (where a utility easement does not exist), the applicant must follow the procedure set forth in 7.b. (i.-v.) above.
- d. Government and Public Utilities Commission Regulated Businesses Within Public Utility Corridors.
  - i. If the applicant is a governmental entity or a utility regulated by the Idaho Public Utilities Commission and seeks to be within an established "public utility corridor", the applicant shall submit a legal description and/or map, stamped by a surveyor or engineer licensed in the State of Idaho, showing the proposed utility easement location on City park property and its relationship to existing utility easements.

- ii. The applicant may be required to prove that the corridor in which it seeks to locate is a legally-established public utility corridor.
- iii. Private utilities not regulated by the Idaho Public Utilities Commission may not obtain easements in public utility corridors.
- iv. Fee requirements shall be the same as set forth in subsection 7.b.(i.-v.) of this chapter.
- v. Easement Review Process.  
Upon receipt of a completed application, the Director shall review the application together with the proposed easement and may seek approval of such easement from the City Council.

(6751, Amended, 09/15/2009; 6539, Amended, 02/13/2007; 6286, Amended, 12/09/2003; 5897, Amended, 02/23/1999; 5321, Amended, 06/11/1991)

### **Section 13-03-03 TRAFFIC**

No person in any park shall:

- A. Enforcement of Traffic Regulations. Fail to obey all police officers, park employees, and other such persons authorized and instructed to direct traffic whenever and wherever needed in the parks.
- B. Obey Traffic Signs. Fail to observe all traffic signs indicating speed, direction, caution, stopping or parking, and all others posted for proper control of traffic and to safeguard life and property.
- C. Speed of Vehicles. Ride or drive a vehicle at a rate of speed exceeding fifteen (15) miles per hour, except upon such roads designated, by posted signs, for faster travel.
- D. Operation Confined to Roads. Drive any vehicle on any area except the paved park roads or parking areas, or such other areas as may on occasion be specifically designated as temporary parking areas.
- E. Parking.
  - 1. Designated Areas. Park a vehicle in other than an established or designated parking area, and such use shall be in accordance with the posted directions and with the instructions of any police officers or duly authorized representatives of the Director who may be present. No vehicle shall be allowed to use more than one marked parking space.
  - 2. Night Parking. Leave a vehicle standing or parked after closing hours of the park, except by permit in designated areas.
  - 3. Grass. Park a vehicle on grass or turf, except by permit in designated areas.
- F. Restricted Vehicles. No motor vehicles shall be permitted on any sidewalk or pathway of any park except:
  - 1. Vehicles operated by law enforcement personnel;
  - 2. Emergency vehicles operated for purposes of transporting humans in need of emergency services; and
  - 3. Vehicles authorized or permitted by the Department.
- G. Definitions: For the purposes of this section, the following definitions shall apply:
  - 1. "Pathway" means any constructed trail which has been designated for the use of pedestrians, bicyclists, and other wheeled activities moved solely by human power.

2. "Pedestrian" means any person afoot and any person operating a wheelchair or motorized wheelchair. As used in this section, the definition of "pedestrian" does not include persons operating an electric personal assistive mobility device as defined in Idaho Code Title 49.
3. "Motor Vehicle" means every vehicle which is self-propelled, except vehicles moved solely by human power and motorized wheelchairs. As used in this section, the definition of "motor vehicle" includes persons operating an electric personal assistive mobility device as defined in Idaho Code Title 49.

H. A violation of this Section shall be an infraction. An infraction is a civil public offense, not constituting a crime, which is punishable by the penalty set forth in Idaho Infraction Rule 9(b)(36).

(6703, Added, 02/17/2009; 6539, Amended, 02/13/2007; 6286, Amended, 12/09/2003; 3243, Added, 10/21/1971)

#### **Section 13-03-04 RECREATIONAL ACTIVITIES**

A. Boating, Swimming or Wading.

No person in any park shall boat, windsurf, swim, bathe or wade in any water or waterways, or pool in any park, except in such water and at such places as are provided therefor and in compliance with such rules and regulations promulgated and posted by the Commission.

B. Fishing.

No person in any park shall fish in any waters in any park, whether by the use of a hook and line net, trap, or other device, except in waters designated for that use and under such regulations and restrictions as have been or may be promulgated and posted by the Commission.

C. Hunting, Firearms and Projectiles.

1. No person in any park shall:

- a. Use firearms of any description including, but not limited to, air rifles, spring guns, bow and arrows, rockets, slings, paint guns, or any other forms of weapons potentially harmful to wildlife or dangerous to human safety.
- b. Use any instrument that can be loaded with and fire blank cartridges, except as provided in subsection C.3. below.
- c. Use any kind of trapping device.
- d. Discharge, or have in his possession, any fireworks, except as provided in subsection C.3. below.
- e. Discharge or shoot firearms of any description as defined in C.1.a. above, into any park from beyond park boundaries.

2. Exceptions:

- a. It shall be lawful for police officers or other duly authorized officers to use and carry firearms while on duty;
- b. An archery range may be located and used in such portions of a park designated by the Commission, and subject to rules and regulations promulgated and posted by the Commission.
- c. This provision shall not apply to lawful use, possession, and transportation of firearms on designated firing ranges.

3. Fireworks Permits.

- a. The City Clerk, pursuant to the provisions of Boise City Code Section 7-01-06 and any rules, regulations or policies promulgated thereunder, may grant or deny a permit for the use of any instrument described in subsection C.1.b. above or for the use of fireworks as defined in Boise City Code Section 7-01-66 within Ann Morrison Park only.
- b. The issuance or denial of such permit shall be subject to prior review and approval by the Commission.
- c. Issuance of a permit by the City Clerk shall be subject to such other reasonable conditions as the City Clerk may prescribe, so long as a denial of a permit or any conditions imposed on the granting of the permit are reasonably necessary for protection of the public health, safety and welfare.

D. Picnic and Park Areas and Use.

No person in any park shall:

- 1. Regulated. Fail or refuse to comply with directions given by police officers or duly authorized representatives of the Director in regulating the activities in any area when necessary to prevent congestion and to secure the maximum use for the comfort and convenience of all.
- 2. Availability. Violate the regulation that use of the individual fireplaces, tables and benches follows generally the rules of "First come, first served."
- 3. Non-Exclusive. Use any portion of the picnic areas or of any building or structure within the park system for the purpose of holding events to the exclusion of other persons, nor shall any person use such area and facilities for an unreasonable time if the facilities are crowded; provided, however, reservations in advance may be made for any park facility where diamonds, courts, halls, rooms, gyms, gardens, picnic shelters, archery ranges or fireplaces are provided. All persons requesting advance reservation shall pay a fee as provided by the Department and approved by the Commission and shall observe all Department rules and regulations. Failure to observe such Department rules and regulations shall, in addition to other applicable penalties, result in the immediate termination of the advance reservation.
- 4. Permit Required. Conduct, sponsor, promote or publicly advertise any meeting, concert, theater, athletic event or other public activity in park facilities or any activities which include amplified sound, use of equipment or apparatus, sales, closing parkways, fund raising, or interference with the normal and regular use or maintenance of the park without obtaining a park use permit.
- 5. Moving Tables. Move reserved tables without consulting a duly authorized representative of the Director.
- 6. Duty of Reservation Holder. Violate the duty to leave all halls, rooms, gyms and other building and park facilities reserved for use in a condition identical to that when those facilities were permitted to the reservation holder for use. All trash in the nature of boxes, papers, cans, bottles, garbage and other refuse is placed in disposal receptacles where provided. If no such trash receptacles are available, then refuse and trash shall be carried away from the park area to be properly disposed of elsewhere.

- E. Camping. No person in any park shall set up tents, shacks, or any other temporary shelter for the purpose of camping as defined in BCC 9-10-02, except by special permission by the Director, nor shall any person leave in a park after closing hours any movable structure or special vehicle to be used, or that could be used, for such purpose such as a motor home, camp-trailer, or the like.

- F. Fires. No person in any park shall light, build, or maintain a fire in any public park, except for culinary purposes in park grills, fireplaces, or privately owned grills, and no person shall leave the immediate area without first extinguishing such fire.
- G. Games. No person in any park shall take part in or abet the playing of any games involving thrown or otherwise propelled dangerous objects such as stones, arrows or javelins except in areas set apart for such forms of recreation. Golfing or driving golf balls is prohibited except where specific facilities have been provided.
- H. Tennis Courts. No person in any park shall fail to observe and/or violate the rules of the use of such courts as promulgated by the Commission.
- I. Archery Range. No person in any park shall fail to observe and/or violate rules and regulations for the use of such range promulgated by the Commission.
- J. Hot Air Balloons. No person in any park shall tether or launch a hot air balloon except by permit issued pursuant to rules and regulations promulgated by the Commission.
- K. Metal Detectors. No person in any park shall operate a metal detector without obtaining a permit from an authorized agent of the Director. All permittees shall display permit in plain sight and comply with all rules and regulations of the Department.
- L. No vehicle as said term is defined by Section 10-01-01 of the Boise City Code shall be permitted in or upon any park except: (a) Those vehicles operated and used for pleasure and designed to carry passengers, (b) those vehicles employed by the City, and (c) those vehicles making deliveries within a park.
- M. Wheeled Devices. No person in any park shall ride or operate a skateboard, roller skates, scooter, inline skates, bicycle or other wheeled recreation equipment on any brickwork, ornamental surface, picnic table, bench, tennis court, fountain area, wading pool, planter, sculpture or other structure unless otherwise designated as an area where wheeled devices are permitted.  
(6802, Amended, 02/15/2011; 6757, Amended, 11/10/2009; 6539, Amended, 02/13/2007; 6286, Amended, 12/09/2003; 5321, Amended, 06/11/1991; 4924, Added, 05/20/1986)

**Section 13-03-05 BEHAVIOR**

- A. Alcohol
  - 1. Persons may possess beer and wine within a Boise City park or facility except as set forth in Section 13-03-05A.2. The individual possession of more than seven and one-half (7½) gallons of beer or wine shall require a permit from the Department. All applicants for such permit shall make application to the Department, remit a required fee and comply with all rules and regulations related to such use. Groups requesting more than seven and one-half (7.5) gallons of beer or wine and/or where attendance will be greater than fifty (50) persons may require a reservation in advance of the event. A beer and wine permit does not guarantee site availability.
  - 2. Beer/Wine Permit Process & Regulations
    - a. Applications shall be submitted at least one (1) working business day and not greater than ninety (90) business days prior to the event at which beer/wine will be served.

- b. Permits issued in conjunction with reservations are valid only for the date and time set forth on the permit.
  - c. The Department shall review all permit applications to determine if an advanced facility reservation is required.
  - d. The applicant or his/her/its representative shall sign all permit applications who shall be responsible for the actions of the participants.
  - e. The representative shall be present at the event site and shall display the permit during the period of the event at which beer or wine will be possessed or consumed.
  - f. Permit applicants shall be at least twenty-one (21) years of age.
  - g. Persons attending an event at which beer or/wine is possessed or served are subject to all federal, state, county and city statutes, ordinances, rules and regulations. Violators shall be subject to ejection from the park and/or prosecution. In the event patrons are ejected from a park or otherwise cited for violation of any alcohol-related statute, rule, regulation or policy, any law enforcement officer responding to a complaint or violation may revoke the permit, confiscate any beer or wine associated with the permit and disband the event.
  - h. In the event the beer/wine use authorized by a permit results in the violation of any of the permit conditions, the individual representative and the group will not be granted another permit for a period of one (1) year.
3. Sale or Distribution.
- a. Any person who seeks a Beer/Wine Short Term Concession Application, shall submit a written proposal describing the purpose of the event to the Director or his/her designee at least ninety (90) days business prior to the event date.
  - b. The proposal shall accurately describe the scope of event including security plans and event logistics.
  - c. Beer/wine sales and consumption shall be limited to a designated, secure area.
  - d. Applicant shall obtain a catering permit as defined in Boise City Code Section 5-05-01 E. from Boise City Clerks Office, and provide liability insurance naming Boise City as additional insured.
  - e. The Department shall review all applications to determine compliance with local and state laws, including Boise's City's Special Event Ordinance.
  - f. All applications require approval by the Boise City Special Events Team and Parks & Recreation Commission.
  - g. Applicants shall be charged fees based on the department's current fee schedule.
  - h. Any person who sells, keeps for sale, or dispenses beer or wine in a Boise City park or facility may do so only as local and state laws and regulations allow.
4. Prohibited Areas
- a. Within Boise City parks and facilities, it shall be unlawful to possess or consume any alcoholic beverage:
    - i. Upon any street, parking lot, restroom, pathway, playground, swimming pool, community center, neighborhood center, skate park, archery range, cemetery, BMX facility or youth sports complex.

- ii. The Boise River Greenbelt and entrances thereto under the jurisdiction or control of the Department, including the area within 250 feet of the Boise Greenbelt.
      - iii. C. W. Moore Park, 150 South 5th Street.
      - iv. Capitol Park, 601 West Jefferson Street.
      - v. Fairview Park, 2300 West Idaho Street.
      - vi. Julia Davis Park, 700 South Capitol Boulevard except as provided in 5.below.
      - vii. Kathryn Albertson Park, 1001 Americana Boulevard.
      - viii. McAuley Park, 1650 West Resseguie Street.
      - ix. Memorial Park, 900 North 6th Street.
      - x. Riverside Park, 1775 West Shoreline Drive.
      - xi. Shoreline Park, 1375 West Shoreline Drive.
    - b. An applicant for a beer and/or wine permit for an event within a Boise City park or facility in which it is unlawful to possess or consume any alcoholic beverage may make application for such permit under the following terms and conditions:
      - i. That the applicant is a non-profit corporation organized exclusively for charitable, religious, educational and scientific purposes.
      - ii. That the event for which the applicant seeks a permit to possess or consume beer and/or wine has taken place at least annually since January 1, 2005, under the same event name and overseen by the same business entity.
      - iii. That the applicant donate all net proceeds from the event to a charitable organization whose purpose is to improve the public's awareness of a health related issue.
      - iv. That the applicant complies with all rules, regulations, terms and conditions of the Department's permit.
5. Restricted Areas.
- a. Beer/wine is allowed in the following riverfront parks within 250' feet of the Boise River greenbelt in conjunction with a reservation or activity and beer and/or wine permit approved and scheduled through the Department. These areas include:
    - i. Ann Morrison Park, 1000 Americana Boulevard.
    - ii. Municipal Park, 500 South Walnut Street.
    - iii. Veteran's Memorial Park, 930 North Veterans Memorial Parkway.
    - iv. Willow Lane Athletic Complex, 4623 West Willow Lane.
    - v. Julia Davis Park, 700 South Capitol Boulevard.
  - b. Beer/wine is allowed in Julia Davis Park, 700 South Capitol Boulevard, at locations greater than 250' from the Boise River Greenbelt and in conjunction with a reservation or activity and beer and/or wine permit approved and scheduled through the Department.
- B. Safety and Health. No person shall endanger the safety or health of any other person by any conduct or act. Examples include but are not limited to skydiving, hang-gliding, helicopter landing, bungee jumping, operating trains or cart kite flying.
- C. Rules and Regulations. No person shall violate any rules and regulations for the use of a park, or any of its facilities or programs, promulgated by the Commission.

- D. Sound. No person shall operate or aid in the operation of private radios, stereophonic or sound-amplification devices at a greater operating level than sixty-two (62) decibels measured at a distance of twenty feet (20') from such radios or devices except by permit in designated areas.
- E. Park Closure. No person shall enter or remain in the park during hours of closure, except for purposes of transit through the park, or as authorized by permit.
- F. Glass Containers. No person shall use, carry, or be in the possession of any beverage container made of glass.
- G. Unlawful Conduct. No person shall engage in any unlawful conduct or criminal activity or in any way commit a violation or breach of the peace, as defined by Idaho Code and/or Boise City Code.

(6802, Amended, 02/15/2011; 6775, Amended, 06/22/2010; 6722, Amended, 06/23/2009; 6539, Amended, 02/13/2007; 6500, Amended, 08/29/2006; 6286, Amended, 12/09/2003; 6165, Amended, 07/30/2002; 5601, Amended, 01/03/1995; 4924, Added, 05/20/1986)

### **Section 13-03-06 DOGS**

- A. No person owning or having the care, custody, possession, or control of a dog shall permit or allow such dog to enter or remain in any park except:
  - 1. Where such dog is controlled by a leash;
    - a. Leash length shall not exceed eight (8) feet within 250 feet of the greenbelt.
    - b. Retractable leash mechanisms are allowed so long as their use is in compliance with the requirements of this section.
  - 2. Where such dog is confined in a motor vehicle;
  - 3. Where such dog is carried by such person owning or having the care, custody, possession, or control of such dog; or
  - 4. In such areas designated by the Commission or the City Council as training and exercise grounds, subject to the rules and regulations therein and as may be prescribed.
- B. No person owning or having the care, custody, possession, or control of a dog shall:
  - 1. Fail to have in his/her possession the equipment necessary to remove his/her dog's fecal matter when accompanied by said dog in any park; or
  - 2. Fail to remove the fecal matter deposited by his/her dog in any park before the owner leaves the immediate area where the fecal matter was deposited.
- C. No person owning or having the care, custody, possession, or control of a dog shall permit or allow such dog to enter Municipal Park or Platt Gardens at any time.
- D. No person owning or having the care, custody, possession, or control of a dog shall permit or allow such dog to enter Kathryn Albertson Park during the nesting season, from March 1 through June 30.
- E. A violation of this Section shall be an infraction, the penalty for which shall be twenty-five dollars (\$25.00) excluding court costs and fees. An infraction is a civil public offense, not constituting a crime, which is punishable only by a penalty not exceeding one hundred dollars (\$100.00) and for which no period of incarceration may be imposed. There is no right to trial by jury of a citation or complaint for an infraction and such trials shall be held before the court without a jury.

- F. This ordinance shall not apply to:
1. Police officers and their service animals during the official performance of their duties;
  2. Handlers of search and rescue animals during the official performance of their duties; or
  3. Persons with disabilities utilizing assistance animals.

(6539, Amended, 02/13/2007; 6286, Amended, 12/09/2003)

### **Section 13-03-07 MERCHANDISING AND SIGN REGULATIONS**

No person in any park shall:

- A. Vending and Peddling. Expose or offer for sale any article or thing, nor shall he station or place any stand, cart or vehicle for the transportation, sale or display of any such article or thing, except when operating as a licensed concessionaire acting by and under the authority and regulation of the Commission.
- B. Signs. Paste, glue, tack or otherwise post any signs, plaques, advertisement or inscription whatever, except plaques, tablets or signs, of a size, design and location approved by the Commission, recognizing or acknowledging donations or contributions to any City park or to public facilities therein.

(6539, Amended, 02/13/2007; 6286, Amended, 12/09/2003; 3243, Added, 10/12/1971)

### **Section 13-03-08 PARKS AND GREENBELT SMOKING PROHIBITION**

- A. Findings and Purpose.

Public health officials have concluded that secondhand tobacco smoke causes disease, including lung cancer and heart disease, in nonsmoking adults, as well as causing serious conditions such as asthma, respiratory infections, middle ear infections, and sudden infant death syndrome in children. The conclusions of public health officials concerning secondhand tobacco smoke are sufficient to warrant measures that prohibit smoking in places and facilities owned, operated, or managed by the City of Boise City's Department of Parks and Recreation in order to protect the public health. Therefore the City of Boise City exercises the authority granted by Idaho Code, §§ 39-5511, 39-5713, 50-302, and 50-304. This Section shall be liberally construed so as to further its purposes of limiting the exposure of the public to tobacco products and smoke in Boise parks and on the Greenbelt.

- B. As used in this Section:

1. "E-cigarette" means any electronic oral device, such as one composed of a heating or ultrasonic element, battery, and/or electronic circuit, which provides a vapor of nicotine or any other substance, and use or inhalation of which simulates smoking. The term shall include any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, or under any other product name or descriptor.
2. "Greenbelt" means the paved or improved pathways and connecting trails and the twenty feet of publicly owned greenspace on either side, including picnic tables, barbeque stands, benches and other improvements and fixtures connecting Boise Parks along the Boise River and maintained by the Department of Parks and Recreation and delineated generally in the publication known as the Map, and/or specifically in the Inventory of Park Properties at the office of the Director. Greenbelt does not include any private property which may lie with twenty feet of the paved or improved pathways and connecting trails.
3. "Public Park" means (1) any and all lands, buildings, reserves, sports complexes, swimming pool grounds, game fields, playgrounds, skate board parks, BMX facilities, zoological and/or botanical gardens, trails and other general or special use outdoor places, including the Boise River Greenbelt, that are owned, operated or maintained by

the Boise City, and are delineated generally in the publication known as the Department of Parks and Recreation Map, and/or specifically in the Inventory of Park Properties at the office of the Director.

4. "Smoking" means inhaling, exhaling, burning, carrying, or possessing any combusting (heated, lit, or smoldering) tobacco or any other substance, whether contained in a cigar, cigarette, or pipe, or any other object, Smoking does not include possession of an unlit or unheated cigar, cigarette, or pipe. Smoking does not include use of an e-cigarette which creates only a vapor without any smoke.
- C. Smoking prohibited. Smoking is prohibited in any public park, as defined in section 13-03-08 B.4 within the City of Boise City, except for the areas specifically declared open to smoking within Ann Morrison Park, Julia Davis Park, and city owned golf courses by the Director.
1. Notice of the smoking prohibition in public parks shall be posted at or near each vehicular entrance or at or near each sidewalk or paved pathway into the park and along the greenbelt at intervals of no less than every two miles.
  2. Notice of any areas approved by the Director for smoking within Ann Morrison Park and Julia Davis Park shall be posted at or near each vehicular entrance or at or near each sidewalk or paved pathway into the park. The absence of such posted notices shall constitute evidence the Director has not approved any smoking areas within Ann Morrison Park, Julia Davis Park, and city owned golf courses and smoking is prohibited throughout the parks.
- D. Where smoking is not regulated. Notwithstanding any other provision of this chapter and section to the contrary, smoking in automobiles, whether in a parking lot or roadway, within a public parks shall be exempt from the provisions of this ordinance. Additionally, bona fide Native American religious practices as set forth in B.C.C. 6-23-09 are exempt from this ordinance.
- E. Violations and penalties. A person who smokes in an area where smoking is prohibited by the provisions of this chapter shall be guilty of an infraction, punishable by a fine not exceeding \$50.00 as prescribed by the Idaho Infraction Rules for smoking in violation of the Idaho Indoor Clean Air Act.
- F. Enforcement. In addition to any law enforcement officer, any citizen who desires to complain about a violation of this Chapter for which the responding law enforcement officer concludes there is probable cause may initiate enforcement by requesting to sign a Uniform Citation as the complaining party and state's witness.
- G. Other applicable laws. This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.
- H. Severability. If any provision, clause, sentence, or paragraph of this chapter or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared to be severable.

(6829, Enacted, 11/29/2011)

### **Section 13-03-09 PARK OPERATING POLICY**

- A. Hours of operation. Parks shall be open to the public every day of the year from sunrise to sunset. Visitors and vehicles shall be excluded during the hours of closure except when authorized by permit, where hours are otherwise posted, or for transit through a park. The Mayor

shall have the authority to change the hours of any park by proclamation and the publication of that proclamation in the official newspaper of Boise City.

- B. Closed Areas. Any section or part of any park may be declared closed to the public by the Director at any time and for any interval of time, either temporarily or at regularly and stated intervals (daily or otherwise) and either entirely or merely to certain uses, as the Director shall find reasonably necessary.
- C. Effect of a Permit. Permittees shall be bound by all park rules and regulations and all applicable ordinances as fully as though the same were explicitly stated in said permit. The person or persons to whom a permit is issued shall be liable for any loss, damage or injuries sustained by any person or property by reason of the negligence of the person or persons to whom such permit shall have been issued. The Director, or a duly authorized representative, shall have the authority to revoke a permit upon a finding of violation of any rule or ordinance, or upon good cause.  
(6829, Amended, 11/29/2011; 6539, Amended, 02/13/2007; 6286, Amended, 12/09/2003; 4924, Added, 05/20/1986)

### **Section 13-03-10 ENFORCEMENT**

- A. Officials. Except where otherwise provided herein, Police officers shall enforce the provisions of this Chapter. Animal Control Officers duly employed or appointed by Boise City's Animal Control Contractor also shall be allowed to enforce the provisions of Section 13-03-06 involving dogs in city parks.
- B. Ejectment. A police officer, the Director or a duly authorized representative, shall have the authority to eject from the park any person acting in violation of this Ordinance. Any person ejected from the park shall leave promptly and peaceably and shall not return to the park for any reason on the same calendar day of his ejectment.
- C. Removal of Vehicles. Any vehicle parked in violation of this Chapter is subject to removal.  
(6829, Amended, 11/29/2011; 6539, Amended, 02/13/2007; 6356, Amended, 11/16/2004; 6286, Amended, 12/09/2003; 5321, Amended, 06/11/1991; 4609, Amended, 06/22/1981; 4243, Added, 06/05/1978)

### **Section 13-03-11 PENALTIES**

A person, as defined in Idaho State Code Title 49-117, violating any of the provisions of this Chapter for which a fixed penalty has not be designated shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding one thousand dollars (\$1000.00) or be imprisoned for a period not exceeding six (6) months, or be both so fined and imprisoned. Nothing in this Chapter shall be construed as to limit City employees or other authorized persons from performing their official or City authorized duties.  
(6829, Amended, 11/29/2011; 6703, Amended, 2/17/2009; 6539, Amended, 02/13/2007; 6286, Amended, 12/09/2003; 6165, Amended, 07/30/2002; 5321, Amended, 02/11/1991; 5123, Amended, 10/04/1988; 3993, Added, 05/02/1977)