

**CHAPTER 3
PARKS**

SECTION:

- 8-3-1: Operation of Concession
- 8-3-2: Amusements
- 8-3-3: Planting or Removal of Shrubs
- 8-3-4: Alcoholic Beverages in Parks Prohibited
- 8-3-5: Unauthorized Application of Chemicals

8-3-1: **OPERATION OF CONCESSION:** No person shall sell or offer for sale any food, beverage, candy or goods of any kind, within a public park, outdoor recreation area, or any public parking lot adjacent thereto, except

- (1) persons operating under a concession agreement approved by the City; or
- (2) persons affiliated with a Special Event, as defined in this Chapter; or
- (3) as authorized during a Permitted Event pursuant to this Chapter. (Ord. 2187, 10-12-95; Ord. 3044, 10-12-15)

8-3-2: **AMUSEMENTS:** No person shall operate or cause to be operated any amusement ride, device, mechanical or electronic game or machine, carnival, show or exhibit of any kind, for pecuniary gain in any public park, except persons operating under a concession or lease agreement approved by the Council.

8-3-3: **PLANTING OR REMOVAL OF SHRUBS:** No trees, shrubs or vines shall be planted in the parks of the City, nor shall any trees, shrubs or vines be cut down or removed therefrom, without the consent of the Director of Parks and Recreation.

8-3-4: **ALCOHOLIC BEVERAGES IN PARKS:**

(A) The terms defined below shall have the following meanings when used in this section:

ALCOHOLIC BEVERAGE: Beer, wine or liquor.

BEER: Any beverage obtained by the alcoholic fermentation of an infusion or decoction of barley, malt or other ingredients in drinkable water and which contains not more than four percent (4%) alcohol by weight.

EVENT SPONSOR: An individual, partnership, association, corporation, limited liability company, or private organization of any kind who is an applicant for a Permitted Event.

LIQUOR: All kinds of liquor sold by and in a state liquor store of the State of Idaho.

LICENSED VENDOR: A person or business in possession of a current Idaho State, Bonneville County, and City License permitting the person or business to sell, distribute, and serve or supply beer or wine.

PERMITTED EVENT: An occurrence, festival, concert, sporting event, gathering, performance, or the like in or at a public park, outdoor recreation area or facility, or any public parking lot adjacent thereto, where alcoholic and non-alcoholic beverages, food, candy, and other goods are permitted to be served pursuant to this Chapter.

SPECIAL EVENT: An occurrence, festival, concert, sporting event, gathering, performance, or the like in or at a public park, outdoor recreation area or facility, or any public parking lot adjacent thereto, where non-alcoholic beverages, food, candy, or other goods may be served and which is specifically approved of, for a limited duration, by the Director of Parks and Recreation or designee.

STATE LIQUOR STORE: Any liquor store or distributor established under and pursuant to the laws of the State of Idaho for the package sale of liquor at retail.

WINE: Any beverage containing not more than fourteen percent (14%) alcohol by volume obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing sugar whether or not other ingredients are added.

(B) Any person who possesses any alcoholic beverage while in any public park, outdoor recreation area or facility or any public parking lot adjacent thereto, unless otherwise authorized by this Code or the Idaho Code, is guilty of a misdemeanor.

(C) Notwithstanding Section (B) hereof, beer and wine may be possessed and consumed in any public park, outdoor recreation area or facility, or any public parking lot adjacent thereto pursuant to the following:

- (1) within the premises designated for any person holding a retail beer or wine license to sell or dispense beer or wine within such public park, outdoor recreation area or facility, or any other public parking lot adjacent thereto. The boundaries of such premises shall be conspicuously posted by such licensee or by the City upon or near such premises. Nothing in this Section shall prohibit such retail licensee or his agents, employees or suppliers from transporting beer or wine to the premises for sale or disposition, or
- (2) during a Permitted Event authorized by this Chapter.

(Ord. 2148, 8-4-94; Ord. 2650, 06-08-06; Ord. 3044, 10-12-15)

8-3-5 PERMITTED EVENTS

(A) **INTENT:** This Permitted Event process is intended to allow the sale and consumption of beer and wine only (and not liquor), in certain designated locations within the city, pursuant to these Permitted Event regulations and is not intended to amend or expand this Code or any other applicable law or regulation beyond the scope of the particulars of this Section or beyond the hours of the Permitted Event. Sanitary, health, litter, police, fire, alcohol vending, and other laws and regulations shall be unaffected by this Section. This Section shall not act as a waiver of any State, County, or local requirement of a permit or licensure related to sales and/or distribution of

alcohol, including a requirement for a catering permit; a beer and wine permit for benevolent, charitable and public purpose events; or a winery sponsored event permit.

(B) APPLICATION FOR PERMIT: The applicant shall obtain an application for a permit from the City Clerk. Once an application for a permit has been submitted and the fee has been paid in an amount set from time to time by Resolution of the Council, the City Clerk shall review the application and determine whether or not the application is complete. If the City Clerk deems that the application is complete, and the applicant has met all conditions of this Section, the City Clerk shall issue a permit for the Event. If the application, in any respect, is incomplete, the City Clerk shall promptly notify the applicant and shall specify the items which the City Clerk has determined are not complete or which have not been provided pursuant to this Section. An application shall be made to this City Clerk in the form and manner prescribed by the City Clerk.

(C) LOCATION AND DURATION OF PERMITTED EVENTS:

1. A permitted event shall be allowed only in the following locations within the City:

- a. Noise Park
- b. The Pier at Snake River Landing
- c. Sandy Downs
- d. Civitan Plaza
- e. Sportsman's Park

2. No Permitted Event shall be allowed:

- a. Where the alcohol sales and consumption area of the Permitted Event is within three hundred feet (300') of a location reserved with the Parks and Recreation Department prior to an application for a Permitted Event where children are likely to be present, unless the alcohol sales and consumption area of the Permitted Event is either entirely screened from view or the person reserving the relevant location has no objection to the location of the alcohol sales and consumption area.
- b. Within two (2) hours of the termination of another Permitted Event held at the same location.
- c. Where, in the reasonable judgment of the Chief of Police or the City Fire Marshall or their respective designees, a Permitted Event is likely to become a public nuisance.

(D) TERM OF EVENT PERMIT: A permit is valid only for the time period approved and shall expire immediately upon the completion of the Permitted Event. A permit, if issued, shall be for one (1) Permitted Event only. Appeal, denial, or revocation of a permit shall be made to the Council.

(E) EVENT PERMIT REQUIREMENTS: Each of the following shall be required for every Permitted Event:

1. LIABILITY AND INSURANCE:

a. Not less than ten (10) days prior to the Permitted Event at which a licensed vendor will sell or dispense alcohol the following shall be done:

1. The Event Sponsor(s) shall deliver to the City Clerk one (1) copy of written proof that the licensed vendor has current, paid up, off-premise liquor liability insurance in an amount not less than One Million Dollars (\$1,000,000) combined single limits. Every off-premises liquor liability insurance policy provided shall include assault and battery coverage and defense costs coverage. The City shall be named as an additional insured on the insurance policy of every licensed vendor.

2. The Event Sponsor(s) shall deliver to the City Clerk one (1) copy of written proof that the Event Sponsor(s) has obtained current, paid up, general liability insurance or special event insurance in an amount not less than One Million Dollars (\$1,000,000) combined single limits. Such general liability insurance or special event insurance policy shall be primary to any other insurance related to the Permitted Event and to that of any potential party subject to a claim related to the Permitted Event.

3. The Event Sponsor(s) shall deliver to the City Clerk the signed original of an agreement, with City to defend, hold harmless and indemnify the City, its agents, servants, employees, officers, and contractors from any and all claims, causes of action, or damages which may arise from the Permitted Event.

2. LICENSED ALCOHOL VENDORS:

a. Unless otherwise specifically authorized in writing by the City Parks and Recreation Director at least ten (10) days prior to a Permitted Event, there shall be only one (1) licensed vendor of alcohol at a Permitted Event. The City shall play no role in determining which vendor(s) shall be selected to sell or dispense alcoholic beverages during the Permitted Event.

b. All alcoholic beverages sold or dispensed at a Permitted Event shall only be sold or dispensed by a licensed alcohol vendor.

c. Every licensed alcohol vendor at a Permitted Event shall obtain and comply with all alcohol-related laws and regulations, including, but not limited to, the City requirement of a City catering permit; a State beer and wine permit for benevolent, charitable, or public purpose events; or a winery sponsored event permit.

d. At least two (2) persons shall be provided at the Permitted Event to check proper identification for those who shall purchase, receive, or consume alcohol during the

Permitted Event. These persons shall be clearly identified and shall be stationed not less than ten feet (10') from the vendor's sales or dispensing location;

- e. The Event Sponsor shall provide at least two (2) law enforcement officers or two (2) guards from a recognized private security firm to provide security for the Permitted Event. Such officers or guards shall be clearly identified as such and shall be on duty at all times alcohol is being sold, served, or consumed during a Permitted Event. The Event Sponsor(s) shall have sole discretion on who will provide security at the Permitted Event and shall be responsible for all payment and costs associated with such security services.

3. SALES AND CONSUMPTION OF ALCOHOL:

- a. Not less than ten (10) days prior to the Permitted Event at which the licensed vendor will sell or dispense alcohol, the Event Sponsor(s) shall deliver to the City Clerk three (3) copies of a site map which shall be drawn to show the locations of:
 - 1. the licensed vendor within the Permitted Event;
 - 2. the Permitted Event boundary barricade, sales and alcohol dispensing area, entry and exit points;
 - 3. identification checking station; and
 - 4. food and products sales and service areas.

Said site design and any subsequent alterations shall be approved in writing by the City Parks and Recreation Director, or his/her designee, and by the Chief of Police prior to the Permitted Event.

- b. All alcohol sales, dispensing, and consumption shall only take place inside the approved alcohol sales, dispensing, and consumption area(s) designated by the Event Sponsor(s) and as shown on the approved site map required. Alcohol shall only be sold or dispensed for not more than a total of five (5) hours during a Permitted Event.
- c. No person shall carry or consume an alcoholic beverage within the location of the Permitted Event which is not purchased or dispensed from a licensed vendor at the Permitted Event. Consumption of alcohol outside of the approved sales and consumption area(s) shall be considered a violation of the City's open container ordinance.
- d. The designated alcohol sale, dispensing, and consumption area(s) shall be physically separated from the rest of the Permitted Event location by a barricade which is no less than four feet (4') tall and which is constructed so that no person can pass under, over, or through it except at established entry and exit points located, as shown, on the site map, unless otherwise specifically authorized in

writing by the City Parks and Recreation Director at least ten (10) days prior to a Permitted Event.

- e. Food and non-alcoholic sales and service may be located inside and/or outside of the approved barricade within the Permitted Event location.
- f. All alcohol shall be dispensed in and consumed from its original container. Such container shall be a readily identifiable container not more than sixteen ounces (16 oz.) in size and shall not bear a logo for a non-alcoholic beverage.
- g. The City Police Chief, City Fire Marshall, City Park and Recreation Director, or their respective designees are hereby empowered to order the immediate cessation of all or part of the activities associated with a Permitted Event at any time it is determined that there is a violation of this Code or the Idaho Code. There shall be no appeal from a determination by the Police Chief, City Fire Marshall, City Park and Recreation Director, or designee(s) decision to terminate all or part of the activities associated with a Permitted Event.

(E) FAILURE TO COMPLY

Any person, firm, or corporation, whether as principal, agent, or employee or otherwise that shall fail to comply with this Section shall be guilty of a misdemeanor and upon conviction thereof shall be punished as set forth in the Idaho Falls City Code. Failure to comply with this Section may also result in denial of subsequent Permitted Events for a period of not less than five (5) years. (Ord. 3044, 10-12-15)

8-3-6: UNAUTHORIZED APPLICATION OF CHEMICALS: No person shall, without proper authority, apply any chemical to any lawn, shrub, tree or ornamental plant located within any public park, including, without limitation, the unauthorized application of a chemical for the purpose of collecting worms. (Ord. 2187, 10-12-95; Ord. 3044, 10-12-15)