

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: Permitted Events
- 8-3-6: Unauthorized Application of Chemicals
- 8-3-7: Hours of Closure for Public Parks and Park Amenities
- 8-3-8: Use of Park Shelters and Park Amenities

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.

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 ON CITY PROPERTY:**

(A) Whenever the following words or terms are used in this Code, they shall have the meanings ascribed below:

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 alcohol, as defined and regulated by the Idaho State Code.

CROWD MANAGER: A person who has been approved by the Idaho Falls Fire Marshal as a person with training or experience in fire prevention, evacuation methods, and other duties.

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 City owned property, 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.

PROFESSIONAL SECURITY GUARD: A law enforcement officer or a guard employed by recognized private security firm.

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.

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 alcoholic beverage containing not more than sixteen percent (16%) 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, alcoholic beverages may be possessed and consumed in or on any City owned property , or any public parking lot adjacent thereto pursuant to the following:

- (1) within the premises designated for any person holding a retail alcoholic beverage license to sell or dispense alcoholic beverages 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 their agents, employees or suppliers from transporting alcoholic beverages to the premises for sale or disposition, or
- (2) during a Permitted Event authorized by this Chapter.

8-3-5 PERMITTED EVENTS

(A) INTENT: This Permitted Event process is intended to allow the sale and consumption alcoholic beverages, 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 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 Clerk shall review the application and determine whether or not the application is complete. If the Clerk deems that the application is complete, and the applicant has met all conditions of this Section, the 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 Clerk has determined are not complete or which have not been provided pursuant to this Section. An application shall be made to this Clerk in the form and manner prescribed by the Clerk

(C) LOCATION AND DURATION OF PERMITTED EVENTS:

- (1) A Permitted Event, for beer and wine consumption only, shall be allowed exclusively within the following locations and maximum consumption hours, within the designated service times indicated below, within the City:
 - a. The Pier at Snake River Landing – 12:00 p.m. to 2:00 a.m. local time.
 - b. Civitan Plaza – 12:00 p.m. to 10:00 p.m. local time.
 - c. Sportsman’s Park at the shelters and bandshell at Freeman Park, provided that the consumption areas do not extend beyond two hundred feet from the structures – 12:00 p.m. to 10:00 p.m. local time.
 - d. Idaho Falls Park Zoo at Tautphaus Park – 12:00 p.m. to 10:00 p.m. local time.
 - e. Tautphaus Park Multi-Use Shelter, including grassy area to the east of the shelter, which shall not include the fenced baseball fields or Rodgers Street, extending four hundred fifty (450) feet east from the shelter – 12:00 p.m. to 10:00 p.m. local time.
 - f. Funland Amusement Park at Tautphaus Park – 12:00 p.m. to 10:00 p.m. local time.

- g. Skyline Activity Center – 12:00 p.m. to 2:00 a.m. local time.
 - h. The public plaza located at 330 Memorial Drive – 12:00 p.m. to 10:00 p.m. local time.
 - i. Melaleuca Field – 12:00 p.m. to 10:00 p.m. local time.
 - j. Idaho Falls Public Library and adjacent property – 12:00 p.m. to 10:00 p.m.
 - k. A closed public street, provided that the City Police Chief has approved the street closure for an event – 12:00 p.m. to 10:00 p.m. local time.
- (2) A permitted event, for any alcoholic beverage, shall be allowed only in the following locations and for the maximum consumption hours, within the designated service times indicated below, within the City:
- a. Sandy Downs – 12:00 p.m. to 12:00 a.m. local time.
 - b. Noise Park – 12:00 p.m. to 2:00 a.m. local time.
- (3) No Permitted Event shall be allowed:
- a. Where the outdoor alcohol sales and consumption area of the Permitted Event is within three hundred feet (300’) of an outdoor 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, 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 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 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 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 or Event Sponsor that shall sell or dispense 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. When the Event Sponsor has a benevolent, charitable, or public purposes alcohol permit, the Event Sponsor, its employees, volunteers, or agents may directly sell or dispense at a Permitted Event.

c. Every licensed alcohol vendor or Event Sponsor 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. The Event Sponsor shall:

1. For events under 100 persons

Provide at least one (1) persons 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

2. For events over 100 but less than 500 persons

- i. Provide at least two (2) persons 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, and
- ii. provide at least two (2) Professional Security. The Professional Security 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. For events over 500 persons

- i. Provide at least two (2) persons 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, and
- ii. provide at least two (2) Professional Security and an additional Professional Security Guard for every additional 500 persons the event host anticipates. After reviewing the event's security plan, the Park and Rec Director and Police Chief may require additional security if the event poses a reasonable concern for public safety that can be addressed with additional security. In evaluating risk, the Park and Rec Director and Police Chief may consider past event history, similar events, and external factors that may affect the event.

4. For events over 1000 persons,

- i. The event sponsor must meet the same identification checking and security requirements as events over 500 persons, and
- ii. The event sponsor must also comply with the International Fire Code's requirement to provide one (1) Crowd Manager per every 250 persons.

If approved by the Idaho Falls Fire Marshal, a Professional Security Guard may be used to satisfy the International Fire Code's Crowd Manager Requirements.

5. The Professional Security Guards required under this section 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 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 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 six (6) hours during a Permitted Event during the park's service times, as designated by this Chapter.

An Event Sponsor may apply for extended hours to sell and dispense alcoholic beverages for longer than a total of six (6) hours by submitting an extended alcohol service application. The Park and Recreation Director and Police Chief shall review and approve the extended alcohol service application. The application must include

1. a satisfactory and specified plan to mitigate public nuisances, such as noise and traffic, associated with the extended service,
2. provide for additional security in an amount satisfactory to Chief of Police, and
3. an administrative fee in an amount set from time to time by Resolution by the Council.

c. The Event Sponsor shall issue a tamper and fraud-resistant wristband to persons who shall purchase, receive, or consume alcohol during the Permitted Event after

verifying that person's proper identification. The City Park and Recreation Director shall issue guidelines and approve an Event Sponsor's wristbands as tamper and fraud-resistant.

d. 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.

e. The designated alcohol sale, dispensing, and consumption area(s) shall be designated physically from the rest of the Permitted Event location by signage which shall visually indicate the sale, dispensing, and consumption area. Individual signs shall visually warn that alcohol must be consumed within the consumption area and must be approved by the Special Event Coordinator. Signs must be placed within fifty (50) feet of each other where there is no physical barricade separating consumption area from the rest of the Permitted Event, in order to create a visual boundary.

f. Food and non-alcoholic sales and service may be located inside and/or outside of the approved barricade within the Permitted Event location.

g. 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.

h. The City Police Chief, City Fire Marshall, and City Park and Recreation Director 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, or City Park and Recreation Director's decision to terminate all or part of the activities associated with a Permitted Event.

(F) 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.

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.

8-3-7: HOURS OF CLOSURE FOR PUBLIC PARKS AND PARK AMENITIES.

(A) DEFINITIONS: Whenever the following words or terms are used in this Section, they shall have the meanings ascribed below:

CEMETARY: Rose Hill Cemetery and Fielding Memorial Cemetery.

CITY CAMPSITE: A public park, park amenity, or other public property specifically intended by the City to allow camping with or without fee.

PARK AMENITY: Any building, structure, shelter, facility, athletic area, or other improvement that is located within a public park.

PUBLIC PARK: Land owned or managed by the City, whether located inside or outside the City limits, that is planned, developed, or used for active or passive recreational use by the public. "Public park" includes an interior park roadway, other than a dedicated street, bicycle pathway, or pedestrian pathway, and excludes any sidewalk contiguous with the outside perimeter of a public park

(B) HOURS OF OPERATION AND OF PARK CLOSURE. Public parks, park amenities, and cemeteries shall be open to the public every day of the year from 5:00 a.m., local time to 11:00 p.m., local time, except as otherwise permitted or provided in this Code. At all other times, all public parks, park amenities, and cemeteries are closed to the public.

(C) VIOLATION. It shall be unlawful for any person to be present in a public park, park amenity, or cemetery during the hours that such park, park amenity, or cemetery is closed to the public.

(D) It shall be a defense to prosecution under this Section that the person cited for violation was:

- (1) driving a vehicle on an interior public park roadway that provides direct access to the person's residence; or
- (2) actively traveling on a designated bicycle and pedestrian pathway; or
- (3) attending an authorized Permitted Event, Special Event, activity, or program that was being conducted in a public park or park amenity during hours of closure; or
- (4) allowed to be present due to a protected U.S. or Idaho Constitutional right or pursuant to a controlling court decision applicable to the City; or
- (5) lawfully present in a City Campsite; or

(6) present due to a lawful order of a peace officer; or

(7) a City employee or City agent performing activities within their scope of employment.

(E) PENALTY. It shall be a misdemeanor for any person to violate this Section.

8-3-8: USE OF PARK SHELTERS AND PARK AMENITIES.

(A) DEFINITIONS: Whenever the following words or terms are used in this Section, they shall have the meanings ascribed below:

PARK AMENITY: Any building, structure, shelter, facility, athletic area, or other improvement that is located within a public park.

PUBLIC PARK: Land owned or managed by the City, whether located inside or outside the City limits, that is planned, developed, or used for active or passive recreational use by the public. “Public park” includes an interior park roadway, other than a dedicated street or bicycle or pedestrian pathway and excludes any sidewalk contiguous with the outside perimeter of a public park.

(B) VIOLATION.

(1) Reserved Spaces. No person shall occupy a reserved park shelter or other park amenity for more than their City approved reservation period.

(2) Unreserved Spaces. A park shelter or other park amenity that is available for reservation and is not reserved may be used during unreserved time on a first come, first served basis, provided that no person shall occupy any reserved park shelter or park amenity during the hours that such is reserved and no person or member of a group shall occupy any unreserved park shelter or park amenity for more than a total of two (2) consecutive hours.

(C) PENALTY. It shall be a misdemeanor for any person to violate this Section.