

## EXHIBIT "A"

### ARTICLE 16.04. USE OF CITY PARKS AND PARK FACILITIES

#### Sec. 16.04.001 Definitions

In this article:

Manager means the City Manager or his/her designee.

Commercial purposes means an activity intended to promote or that results in a commercial transaction, other than a solicitation.

Firearms means any pistol, revolver, rifle, shotgun, bb gun, air gun, sling shot, spring gun, or other weapon in which the propelling force is gun powder, a string, or air.

Park means land designated for public recreation and owned or leased by the city.

Park facility means any land, athletic field, pavilions or other facility owned or maintained by the city for park and recreational activities.

Permit any written license issued by or under the authority of the Council, including a special use permit issued under the conditions in section 16.04.007.

Solicitation means to:

1. Request a donation of money or other thing of value from another person by the spoken, written, or printed word, or by other means of communication and includes providing a nominal or token gift in return for the donation; or
2. Sell any item to another person for money or other thing of value if the proceeds from the sale are intended to provide support for non-commercial protected speech.

Special use means any temporary gathering, rally, parade, festival, exhibit, display, entertainment, performance, or presentation held in a park, park building or park facility:

1. In which more than 25 persons are expected to attend or participate; or
2. That requires the placement or erection of one or more stages, booths, kiosks, tents, barricades, or similar temporary structures or facilities to support or serve the special use; or
3. That provides an alcoholic beverage for sale or consumption to the attendees.

A special use does not include persons gathering in a park to participate in or observe an athletic event held at the facility designed for that purpose.

### **Sec. 16.04.002 Manager authority**

(a) The Manager may adopt, revise or rescind rules, regulations, departmental policies and procedures, create or alter recreational programs and take action regarding the day-to-day management and operations of the parks, park buildings, and park facilities that do not conflict with this article, council-adopted policies, or federal or state laws. The Manager may make the following rules or take the following actions relating to the operation of the parks, park buildings, and park facilities:

- (1) The closing of all or part of a park or park facility because of weather or unsafe conditions that could endanger users or result in damage to the park, park building or park facility;
- (2) The reservation, scheduling, and use of parks and park facilities designed for or designated for specific uses;
- (3) Processing applications for special use permits;
- (4) Regulating the use of a park and park facilities for public, private and commercial purposes; and,
- (5) Any other rule or action reasonably necessary to manage and operate parks, park buildings, and park facilities.

(b) The Manager may not adopt any rule or take any action that is intended or has the effect of preventing any person from making use of a park or park facility based on the subject matter of an oral or written message or communication the person conveys or attempts to convey to the public or another person if the message or communication is subject to constitutional protection.

(c) It is an offense for any person to violate any rule adopted by the Manager if the rule or notice thereof is prominently posted at the park, park building, or park facility to which the rule applies.

(d) Citizens may request a change or elimination of a park policy or rule by submitting a request in writing to the Manager. The Manager will review the request and make a recommendation to the City Council, if necessary, for review and implementation.

### **Sec. 16.04.003 Park hours**

All city parks are open to the public each day from sunrise to sunset; however, the main entrance gate to Central Park is open only between 8:00 am to thirty minutes before sunset. The gate may be closed at any time as determined by the City Manager or their designee. Park facilities and park buildings designed for specific purposes, including athletic fields, are open as designated by city policy or rules adopted by the City Council. Notice of the rule or policy will be posted at the applicable location to give notice of the hours the facility is open for public use.

#### **Sec. 16.04.004 Prohibited activities**

It is unlawful for a person to do any of the following in a park:

- (1) Interfere with city scheduled park activities;
- (2) Interfere with an activity operating under a special use permit;
- (3) Enter an area posted as "Closed to Public";
- (4) Camp or stay in a public park or recreational area overnight, except for non-profit organizations which have requested and received an approved special use permit in advance of the overnight stay;
- (5) Loitering or otherwise occupying the park when it is closed
- (6) Bring glass container into any public park or public recreation area;
- (7) Fail to cooperate in maintaining restrooms in a neat and sanitary condition;
- (8) Abandon any animal;
- (9) Enter the park with any animal that is not a domesticated, household type pet, i.e. dog or cat;
- (10) Walk a dog or any other domesticated household pet without a leash anytime while in a public park except that dogs may be off leash within the designated dog park area;
- (11) Bathe in, swim in or pollute the water of any pond, or stream;
- (12) Operate or park any motorized vehicle, to include a motorized bike or scooter, in an area not specifically designated or intended to be used for the parking or movement of motorized vehicles. It is a defense to prosecution under this paragraph that the motor vehicle was a city vehicle, was operated by a person performing an activity sponsored or approved by the city; or that the motor vehicle was an emergency vehicle;
- (13) Leave a vehicle standing or parked in established parking areas during hours when the park is closed, vehicles left after hours may be towed at the property owner's expense in accordance with any applicable provisions in this Code;
- (14) Soliciting or the operation of any private business of any type unless approved by the City Council;
- (15) To place or maintain a display.
- (16) Construct or erect any building or structure of whatever kind, whether permanent or temporary, or run or string any public service utility into, upon, or across such lands, except on special written permit issued hereunder;
- (17) Cause, create, or contribute to any noise which emits sounds beyond the person's immediate individual picnic or use site, whether by shouting or singing, by using a radio, phonograph, television or musical instrument or by operating mechanical or electrical equipment unless an approved park event;
- (18) Have in his or her possession or discharge any fireworks within any public park or public recreation area, unless a permit authorizing such possession or discharge has been issued by the City Council;
- (19) Light, build, or maintain a campfire or ground fire in any public park or public recreation area except as authorized by an appropriate permit. A permit is not required for the use of portable camp stoves or grills. Notwithstanding the foregoing, the City Manager may declare an area in a public park as "extreme fire hazard" and all fires will be prohibited without

exception until such designation is removed. No portable camp stoves or grills may be used under the pavilions or in restrooms;

(20) Dig or remove any soil, rock, sand, stones, trees, shrubs, or plants or other wood or materials, or make any excavation;

(21) Damage, cut, carve, mark, transplant, or remove any plant, or injure the bark, or flowers or seed of any tree or plant, dig in or otherwise disturb grass areas, or in any way injure the natural beauty or usefulness of the area;

(22) Hunt or molest, harm, frighten, kill, trap, pursue, tease, shoot, or throw missiles at any animal, wildlife, reptile, or bird; it shall be unlawful for any person to remove or have possession of the young of any wild animal, or the nests or eggs thereof, or young of any reptile or bird;

(23) Consume or possess an alcoholic beverage in an open container, unless allowed under a special use permit;

(24) Fail to produce or exhibit any permit a person claims to have, upon request of any authorized person who shall desire to inspect the same for the purposes of enforcing compliance with any ordinance or rule;

(25) No person shall deposit or leave in or on any park property any glass, bottles, broken glass, paper, boxes, cans, dirt, rubbish, waste, garbage, refuse or other trash. No such refuse or trash shall be placed or left anywhere on the grounds thereof, but shall be placed in the proper receptacles, where provided. Where receptacles are not so provided, all such rubbish or waste shall be carried away from the park property by the person responsible for its presence, and properly disposed of elsewhere;

(26) Mark, deface, disfigure, injure, tamper with or displace or remove any buildings, bridges, tables, benches, fireplaces, railings, paving or paving materials, landscaping including trees, waterlines or other public utilities or parts or appurtenances thereof, signs, notices or placards, temporary or permanent, monuments, stakes, posts, or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal;

(27) Fail to properly dispose of their dog's feces in an appropriate waste disposal container;

(28) While using the Dog Park:

(a) Fail to maintain visual supervision over a dog;

(b) Leave a dog unattended;

(c) Fail to properly dispose of their dog's feces in an appropriate waste disposal container;

(d) Bring more than two dogs into the dog park at any one time;

(e) Eat in the dog park;

(f) Bring a female dog that is in season in the dog park;

(g) Fail to leash their dog(s) in designated areas;

(h) Keep unruly or rough playing dog in the dog park;

(i) Fail to maintain supervision over their children; and

(j) Fail to ask permission before petting a dog belonging to another person; and,

(29) Operate or use a skateboard.

(30) Moonwalks/bounce houses

(31) Firearms or paint ball guns

- (32) Entertainment trailers/facilities that take up more than one parking space
- (33) Placement of structures or obstacles intended for use with laser or paintball games
- (34) Use of the Large Pavilion by groups of more than 50 persons
- (35) Use of the Small Pavilion by groups of more than 25 persons
- (36) Petting Zoo
- (37) Silly String

#### **Sec. 16.04.005 Reservation Policy for Pavilions**

- (a) All areas of the park governed by this policy are open to the public. It is the intention of this policy that both pavilions are available for drop-in use when not reserved or otherwise occupied. However, the number of persons that are authorized to utilize the large pavilion for an activity or event shall not exceed 50 persons. The number of persons authorized to utilize the small pavilion for an activity or event shall not exceed 25 persons.
- (b) The City Manager, or designee, will schedule all reservations for both pavilions.
- (c) No reservations will be made during times that would conflict with events sponsored or approved by the city.
- (d) Reservations are limited to 2-4 hours.
- (e) The city manager, or designee, shall designate a person or person(s) to inspect all premises after usage. Any damages to the park property will result in loss of future use and/or citation.
- (f) All residents who reserve a pavilion may apply for the use of said pavilion between 8:00 a.m. and 5:00 p.m., Monday through Friday at City Hall or online. The applicant may not make any charges, nor solicit for money of any kind or character from any person for the use of the pavilion.
- (g) Non-residents will not be allowed to make reservations. Proof of residency must be provided when making a reservation.
- (h) Depending on the type of activity and use proposed, the city manager may require the applicant to provide liability insurance naming the city as an additional insured. Coverage amounts must meet those specified by the city manager.
- (i) A request for a reservation must be made at City Hall or online. Reservations will be accepted from adults only (18 years or older). Reservations may be made no earlier than 30 days in advance.
- (j) A permit shall be issued by the city stating the time, date, fee and any other pertinent information as required.

- (k) Only one pavilion may be reserved at a time.

**Sec. 16.04.006 City exclusive control of park facilities**

The city may allow various groups to make use of park facilities for organized athletic events, including the city's scheduling or reservation of the facilities for those groups based on rules and regulations adopted and administered by the city. The city's authorization to an organization to use a park facility for a particular purpose at a specific time does not grant the organization any right to regulate or control the use of that facility. It is unlawful for any person, organization, or group, other than the city, to:

- (1) Charge any other person a fee for the use of a park facility unless:
  - (A) The activity or event is scheduled through the city; and
  - (B) The fee is authorized by the city.
- (2) Take any direct action to physically prevent or prohibit any other person from using a park facility.

**Sec. 16.04.007 Special uses**

(a) Permit required. It is unlawful for any person to sponsor, hold, or conduct a special use in a park without first receiving a permit from the city.

(b) Application process for special use permit. A person seeking a permit for a special use in a city park or park facility must file a proposal with the city. A complete application must be filed not less than 45 days before the proposed date of the special use. The proposal must be signed by the person or persons responsible for the special use and must include the following information:

- (1) A description of the use and the number and type of activities planned;
- (2) The date and time of the special use;
- (3) The number and types of vendors that will be present;
- (4) The number of people expected to attend the special use;
- (5) The arrangements that will be made for traffic control, security, additional restroom facilities, medical care and other services or facilities to support the special use;

(6) Whether there will be a charge for the special use and the basis upon which persons may or may not be admitted to the event if other than a charge;

(7) A description of any structures that will be used or erected to support the event;

(8) The circumstances under which any alcoholic beverages will be served or possessed;

(9) Any other information the city determines is necessary to evaluate the proposal and determine whether it meets the requirements of this article.

(c) Fees and deposits. Depending on the special use, the city may require additional fees, deposits, and bonds to pay for or ensure the payment of costs incurred by the city relating to the use of a park facility for a special use, including costs incurred for trash cleanup and removal, providing security, protection or medical care, for the administration of this article and for any other necessary or related services that arise directly from the use of the park facility.

(d) Permit decision. The city will make a decision on the permit proposal as promptly as possible after the applicant has provided all the information required in the proposal. The city will not grant a permit if the city finds one or more of the following exist:

(1) The proposal submitted is insufficient or incomplete, provides false information, does not comply with this article or a regulation approved hereunder, or was not submitted with any required documents, fees or deposits;

(2) The time or location for the proposed special use conflicts with the time or place of either a city sponsored event or a special use for which a permit has been issued or a proposal was already pending;

(3) The applicant has failed to arrange or provide for adequate parking, trash cleanup, security, or other arrangements to ensure that the special use will be safe, secure environment for the participants thereof;

(4) The special use does not comply with this article, state or federal laws or regulations, or a reasonable condition imposed by the city manager for issuance of a permit;

(5) The applicant has held a prior special use for which the applicant failed to comply with a requirement of this article, failed to pay any required fees, charges, or deposits, failed to comply with all of the conditions of the permit, failed to pay or remedy damage incurred to public property, created a dangerous condition or

situation, failed to comply with reasonable requests of the city manager, or otherwise violated the purpose or intent of this article;

(6) The special event is being held primarily for commercial purposes;

(7) The proposed use would present an unreasonable danger to the health or safety of the applicant, special use attendees, or other users of the park, park building, or park facility.

(e) Conditions. The city manager may impose reasonable conditions on a special use permit issued to ensure compliance with city rules, regulations, and this article. The permit issued will contain in writing all the conditions and requirements that apply to the special use.

(f) Variance. If the applicant requests a variance from the regulations herein, the city manager may forward the proposal to the city council. The city council may grant a variance with respect to any regulation contained in this article. Council may recommend approval of the proposal as submitted, approve the proposal subject to such modifications or conditions as it deems necessary to accomplish the purpose of this article, or it may deny the proposal at its sole discretion.

(g) Denial of permits. If the city manager refuses to issue a permit as authorized by this article, the city manager will give written notice of the denial to the applicant.

(h) Permit revocation. The city manager may revoke a permit for a special use after it is issued because of the failure to comply with any condition or requirement of the permit or this article. The city manager will give written notice of the revocation of the permit at the address of the applicant as listed on the proposal.

(i) Appeals from denial or revocation. An applicant may appeal a permit denial, revocation, or imposition of conditions by following the uniform procedures of this code applicable to the denial, revocation or imposition of conditions of city permits to the city council.

#### **Sec. 16.04.008 Persons excluded from parks**

(a) The Chief of Police or designee may exclude any person from the use of a park or parks if the person:

- (1) Engages in conduct that is determines poses a continuing threat to the safety of park users;
- (2) Intentionally damages park property;
- (3) Continually violates park rules or regulations.

(b) The Chief of Police or designee will provide to a person excluded from a park a written notice of the exclusion. If the exclusion applies to a minor the notice will also be provided to a parent or guardian of the minor. The notice will include:

- (1) The facts upon which it was determined that the person should be excluded;
- (2) The park or parks to which the exclusion applies;
- (3) The period of time the exclusion applies;
- (4) The penalty that may be imposed if the person violates the exclusion.

(c) A person may appeal their exclusion from a park to the Manager by sending written notice to the Manager within ten days of the notice. This notice must include an explanation as to why the person believes that the exclusion should be rescinded. The Manager will render a written decision within ten business days from the date the appeal is received.

#### **Sec. 16.04.009 Nonliability of City**

The city shall in no event be liable to any person due to the loss of or damage to any property or to any person due to personal injuries or loss of life that may occur at a City park or park facility. Any person entering in or upon a City park or park facility shall do so at their sole risk and shall not be privileged to enter or remain in or upon the park or facility save and except under the terms and provisions of this section and such other applicable sections of this Code, ordinances, resolutions and regulations that have been or may hereafter be adopted by the city.

#### **Sec. 16.04.010 Obedience to police, signs.**

No person shall fail or refuse to obey any lawful instruction or warning issued by the chief of police or any city police officer, nor shall any person fail or refuse to obey any instruction or warning displayed upon any sign erected by the city.

#### **Art. 16.04.011 Penalty**

Any person violating a provision of this article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined and subject the violator to the penalty provisions of Section 1.01.009 (General Penalty for Violations of Code; Continuing Violations).