

ORDINANCE NO. 2018-44

AN ORDINANCE AMENDING THE CODE OF ORDINANCES, CITY OF BOERNE, TEXAS, CHAPTER 16. PARKS AND RECREATION; AND PROVIDING FOR A PENALTY OF NOT MORE THAN \$200 FOR VIOLATION OF ANY PROVISION OF THIS ORDINANCE

WHEREAS, from time to time it becomes necessary to amend ordinances;

NOW, THEREFORE, BE IT ORDAINED, BY THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS:

that Chapter 16. Parks and Recreation, of the Code of Ordinances, City of Boerne, Texas, is hereby amended to read as follows:

Sec. 16-1. - General provisions.

The following provisions apply to all parks, recreational areas, and other public open spaces and facilities within the City of Boerne:

- (a) Hunting, boating, wildlife, vegetation, and domestic animals.
 - (1) No hunting or trapping shall be allowed.
 - (2) No discharge of any firearms shall be allowed.
 - (3) State fishing laws shall apply, except that no trot lines, throw lines, or set lines shall be allowed.
 - (4) Watercraft with combustion-type motors are allowed on City Lake, however combustion-type motors may be operated solely in the pursuit of official business by law enforcement agencies, fire service personnel, maintenance personnel, or other emergency services. Watercraft motors, batteries, and other equipment must be in good repair and securely attached to the watercraft. No skiing of any kind is allowed.
 - (5) Boats shall be operated and equipped in accordance with the State Water Safety Act.
 - (6) It shall be unlawful for any unauthorized person to intentionally or knowingly uproot, dig up, cut, break, injure burn or otherwise destroy any flower, shrub, or tree, or to deface, mark, injure, damage, or destroy any natural or artificial improvement in any public space owned by the city.
 - (7) Animals taken upon land owned by the city shall comply with Chapter 4 ~~Section~~ **Article** III of the City of Boerne Code of Ordinances.
 - (8) It shall be unlawful for any person to frighten, annoy, injure, or kill or attempt to frighten, annoy, injure, or kill any wild or native animal or bird in any public space, with the exception of city staff and or approved representatives of the city who may need to attend to wildlife management issues.
- (b) Proper use of park grounds and roads.

- (1) Community parks **and trails** shall be closed from 12:00 a.m.- 5:00 a.m.
Neighborhood parks shall be closed from 10:00 p.m.- 6:00 a.m. With the exception of Boerne Skate Park which shall be closed from dusk till dawn, and Boerne Lake Park which shall be closed from 10:00 pm – 5:00 am.
 - (2) It shall be unlawful for any person to intentionally or knowingly dump or otherwise dispose of trash, junk, garbage, refuse, unsightly matter, or other solid waste on the grounds.
 - (3) It shall be unlawful to intentionally or knowingly destroy any property owned by the city or located on property owned by the city.
 - (4) No overnight camping shall be allowed except for official programs sanctioned by the City and permitted by the Parks and Recreation Department
 - (5) No ground fires shall be allowed.
 - (6) All motorized vehicles shall be street legal and will be permitted only on developed and designated park roadway systems and parking areas.
 - (7) Speed limit on improved roads within property owned by the city shall be fifteen (15) miles per hour unless otherwise posted.
 - (8) It shall be unlawful for any person to carry in or possess any glass beverage containers.
 - (9) No heavy equipment may be placed on the plaza or parks. No staked tents shall be raised or structures constructed.
 - (10) No admittance will be allowed within the fenced area of the city water wells located in city parks.
 - (11) It shall be unlawful for any person to enter or remain in a park or recreation area which is designated as restricted or closed. Posted signs will designate restricted areas.
 - (12) Athletic fields and park facilities are to be utilized for the purposes for which they were designed and built. A deviation of use must be requested in writing and submitted to the city manager or his/her designated representative.
 - (13) It shall be unlawful for any person to practice golf in any portion of a park or recreation area not designated for that purpose; provided, however that the practice of golf with knit or plastic balls may be permitted in any open area not specifically designed or designated for some other specialized activity.
 - (14) **The use of metal detector devices while allowed in City of Boerne park properties is limited to surface hunting only. No cutting of vegetation or digging of any hole is allowed on any park property. The use of metal detectors shall not interfere with the use of the park by other people.**
- (c) Alcoholic beverages. The consumption or possession of alcoholic beverages within athletic field areas, their perimeter fences, skate parks and pool area shall be prohibited.
- (d) Commercial activities.
- (1) No commercial activities will be permitted on city-owned property except as authorized under the provisions of this chapter.
 - (2) It shall be unlawful for any person to sell or offer for sale any goods, wares, services, or merchandise within any parkways, medians, parks, parking lots, playgrounds, swimming pools, or other recreational areas without permission of the parks and recreation department. Any person wishing to sell food or drink

items in a park must apply for a park vendor permit at the parks and recreation office and a health permit from the health department (Kendall County).

(e) Requirements for scheduled group events.

- (1) Any group or organization desiring to hold a scheduled group event on city-owned property shall complete all the necessary application forms and other documents as directed by the parks and recreation department or other city office. All groups wishing to rent/use city facilities must be in good standing with the city at the time of application. Good standing status means that the group or organization is current on all amounts owed to the city.
- (2) All events that are sanctioned by the city and held on city property must provide proof of liability insurance with a "hold harmless" clause naming the city as an additional insured. Determination of the need for proof of insurance will be made by the city manager or his/her designee.
- (3) Events that require city staff services other than those normally provided by the city staff shall be responsible for compensating the city for those services.
- (4) Reserving parties and user groups with current contracts with the City of Boerne have priority use. Reservations are made through the City of Boerne Park and Recreation Department.
- (5) User groups that desire to operate ongoing league activities on city-owned athletic fields or complexes must contract with the city for such use. User groups will be required to have a current facility use agreement on file with the City of Boerne and meet all requirements therein.
- (6) The city manager is hereby authorized to close city streets for scheduled group events if such action is deemed to be in the best interest of the public.
- (7) The city reserves the right to close and/or cancel any scheduled event/rental due to inclement weather and/or in the case of poor facility conditions. If such closure occurs, the city will return on all monies paid by the group or organization for such event/rental.

Sec. 16-2. - Boerne City Lake.

- (a) No swimming or boat launching within one thousand (1,000) feet of the water treatment plant intake is permitted.
- (b) No vehicles shall be allowed on the dam structure at Boerne City Lake except city emergency or maintenance vehicles.
- (c) No person shall locate, build or construct any dock, boat house or other structure that projects out from the shore of Boerne City Lake into the body of the lake.
- (d) No admittance will be allowed within the fenced area of the water treatment plant without proper-authorization from a duly authorized official of the city.
- (e) No person, except duly authorized personnel, shall enter onto the primary spillway structure at the Boerne City Lake.
- (f) No swimming or wading allowed within fifty (50) feet of the boat ramp.

- (g) Fires are only allowed for the purposes of cooking/grilling food and such fires must be located within the permanent grilling units provided by the city. Use of personal grills for the purposes of cooking/grilling food will be allowed as long as they are self-contained above ground pits. Ashes must be extinguished. Ashes shall not be discarded in trash receptacles, on park grounds or in the lake.

Sec. 16-3.- Main Plaza, Veterans Plaza, River Road Park, and Northrup Park, City Park, Amphitheater at the Library.

- (a) Uses are primarily intended for nonprofit, nonsectarian organizations for a maximum of twenty-four (24) hours. Uses longer than twenty-four (24) hours must have prior approval by the city manager or his/her designee and shall not be permitted more than 5 days in total length. Group events and activities shall not detract from the quality of life for residents surrounding the parks due to increased traffic, trash or noise.
- (b) Reservations will be made on a first-come, first-served basis.
- (c) Reservations must be made in the parks and recreation department during regular business hours. A reservation form must be completed and signed by a representative of the organization making the request.
- (d) The group using the city property is responsible for its cleanup within twenty-four (24) hours following the event.
- (e) Any event that would require any extraordinary measures (i.e., closure of a state- controlled highway, crowd control, helicopter landings, etc.) must be pre-approved by city council.
- (f) Permanent signs shall not be placed on Main Plaza at any time. A maximum of two (2) "permitted" temporary signs may be placed on other city property for a period of up to two (2) weeks.
- (g) It shall be unlawful for an unauthorized individual to walk or run across the top of the dam or to open the flood gate at River Road Park. It shall also be unlawful for an individual to jump, dive, sit, or stand on the prohibited section of the dam at River Road Park. This prohibition does not apply to duly authorized personnel. A violation of this section shall be punishable by a fine not to exceed two hundred dollars (\$200.00) and shall be considered trespassing as defined by state law.
- (h) No amplified sound will be permitted at Veterans Plaza or in neighborhood parks except for official ceremonies sanctioned by the City and permitted by the Parks and Recreation Department.
- (i) Group events and activities in Veterans Plaza shall be held only during the daylight hours from dawn to dusk and must be approved and permitted by the Parks and Recreation Department.
- (j) Event coordinators or their designee must be present during the entire duration of public events.
- (k) Skate boarding and biking shall be prohibited at Main Plaza and Veteran's Plaza; this shall also pertain to the use of roller skates, in-line skates, scooters, Segway's, electric scooters, and electric bikes and other similar modes of transportation.

- (l) Parking spaces located at the Cibolo Nature Center are restricted to park use only.

Sec. 16-4. - Roeder Park and Kinderpark.

Roeder Park and Kinderpark shall not be used for group activities or events, other than approved children's events, that would cause increased vehicular traffic in the neighborhood.

Sec. 16-5. - Old Number Nine Trail, Curry Creek Trail, and Cibolo Creek Trail.

No unauthorized motorized vehicles shall be allowed at any time on any portion of the trail. This includes but is not limited to cars, trucks, motor cycles, golf carts, ATV's, electric scooters and electric bikes.

Sec. 16-6. - Boerne Skate Park.

Hours of operation shall be from dawn to dusk and the skate park shall be considered closed in the event of inclement weather. Only skateboards and in-line skates are permitted. Existing ramps or other park features shall not be modified. The addition of obstacles or other materials is prohibited.

- a. The following are not permitted on the skating surface: Pets; and bicycles, motorized vehicles or other wheeled devices.
- b. The following are not permitted at the skate park: Glass containers; and profanity, fighting and/or other disorderly behavior.

Editor's note—

Ord. No. 2010-12, adopted May 25, 2010, renumbered the former §§ 16-7—16-10 as 16-8—16-11 and enacted a new § 16-7 as set out herein. The historical notation has been retained with the amended provisions for reference purposes.

Sec. 16.7. - Fees.

The fees for the various uses of city parks, recreational areas, and other public open spaces and facilities are found in the city's fee ordinance, which is on file in the office of the Parks and Recreation Department.

Sec. 16-8. - Exceptions.

- (a) In the best interest of the public, the city manager may allow for special uses of city parks, recreation areas, and other open spaces and facilities for specified periods of time and may waive or amend the rules and regulations contained herein for the duration of such special use.
- (b) The city manager may require the execution of a standard short-term license agreement in connection with the granting of such special use in order to further

the health, welfare, or safety of the public.

- (c) In the event that a special use is denied, for any reason other than the property being previously reserved, the applicant may appeal the denial to the city council at its next regularly scheduled meeting.

~~Sec. 16-9. – Severability clause.~~

~~If any part of these regulations should be found invalid or unconstitutional, the validity of the remainder hereof shall not be impaired.~~

~~Sec. 16-10.~~ **Sec. 16-9.** – Special Events.

A. Purpose and Policy

Special events are of infrequent occurrence and temporary nature and may be associated with promotions, holidays, festivals, etc. Special events may be allowed by a special events permit granted by the City Manager or his designated representative.

B. Definitions

The following terms, when used in this chapter, shall have the following meanings:

1. **“Applicant”**, Applicant shall include the person, or other entity applying for the special event permit. Applicant shall include, but not be limited to, the event's sponsor, organizer, or promoter.

2. **“Special Event”**, means any meeting activity, gathering, or group of persons, animals or vehicles, or any combination thereof, having a common purpose, design or goal, upon a public facility, street, sidewalk, park, waterway, or other place open to the public, where the special event substantially inhibits the usual flow of pedestrian or vehicular traffic or which occupies any public area and preempts use by the general public. A special event shall include, but shall not be limited to a festival, celebration, concert, parade, block party, athletic event and other similar gathering which 1) is reasonably expected to cause or result in more than two hundred people gathering in a park or other public place; 2) is reasonably expected to have a substantial impact on such park or other public place; and 3) is reasonably expected to require the provision of substantial public services.

3. **“Park”**, means all parks and bodies of water contained therein, squares, drives, parkways, boulevards, trails, golf courses, museums, aquaria, zoos, beaches, playgrounds, playfields, botanical gardens, greenbelts, parking lots, community centers and other park, recreation and open space areas and buildings and facilities comprising the parks and recreation system of the City under the management and control of the Director of Parks and Recreation.

4. **“Public Place”**, means and includes streets, avenues, ways, boulevards, drives, places, alleys, sidewalks, and planting (parking) strips, squares, triangles and rights-of-way for public use and the space above or beneath its surface, whether or not opened or improved.

5. **“Substantial impact on a park or other public place”**, means an event which would preclude in whole or in significant part the public’s normal and customary use of such park or public place.

6. **“Substantial public services”**, means a material increase in the amount, scope, or level of necessary fire, police, traffic control, crowd control, or other public services above those that would normally be required without the event. With respect to police resources, "substantial public services" means resources for crowd management or traffic control required for the event over and above the normal deployment of police in that geographic area of the city at the time of day during which the event will occur.

7. **“Athletic Event”**, shall mean an occasion in which a group of persons collect to engage in or watch a sport or form of exercise on private or public property not designed for such activity and/or on a city street, sidewalk, alley, or other street right-of-way, which obstructs, delays or interferes with the normal flow of pedestrian or vehicular traffic, or does not comply with traffic laws or controls. Athletic events include, but are not limited to, bicycle and foot races.

8. **“Block Party”**, shall mean a festive gathering on private property or a street which may or may not require the closure of a street, or a portion thereof, to vehicular traffic, and/or use of the street for the festivity including barbecues, picnics, music or games.

9. **“Parade”**, shall mean a march or procession consisting of any number of persons, animals, or vehicles, or a combination thereof, on any city street, sidewalk, alley, or other right-of-way, which obstructs delays or interferes with the normal flow of pedestrian or vehicular traffic, or does not comply with traffic laws and controls.

10. **“Permit Application Fee”**, shall mean the fee to be paid by the special event permit applicant at the time the application is filed with the City. Such fee shall be set by the City Council.

11. **“Refundable Deposit”**, shall mean the amount of money required of a permittee by the City in order to assure adequate cleanup of the special event site. The deposit shall be returned to the permittee upon the completion of the event and approval of the Parks and Recreation Department.

12. **“Special events permit”**, shall mean the permit issued by the City Manager or his designated representative after the applicant has met all applicable reviews and requirements set forth in this chapter.

13. **“Entertainment Areas”**, shall be the area(s) designated by the City Manager or his designated representative as an area within specific boundaries in which a permitted special event may take place. Special event vendors will be allowed within the boundaries of the entertainment areas with proper permitting and approval of the City Manager or his designated representative.

14. **“Special Event Vendor”**, shall be a permitted vendor allowed to operate within entertainment areas during permitted special events.

C. Exceptions

The provisions of this chapter shall not apply to:

- (a) Funeral processions;
- (b) Groups required by law to be so assembled;
- (c) Pedestrian processions along a route that is restricted to sidewalks and crossing streets only at pedestrian crosswalks in accordance with traffic regulations and controls; and
- (d) Activities and events deemed by the City Manager or his designated representative to not require a special events permit.

D. Administration

The City Manager or his designated representative shall, after consultation with appropriate departments and agencies, have discretionary authority regarding special event permits. The City Manager or his designated representative may approve, modify, or condition an application for a special event permit.

E. Special Event Permit Required

A special event permit from the City Manager or his designated representative is required for any special event, as defined in this chapter, except that no special event permit shall be required if the event sponsor, organizer, or other party and the City have entered into a written agreement covering the same matters as would otherwise be included in a special event permit for such an event. Such special event permit shall be in addition to any street or park use permits, or other regular permits as may be required by ordinance.

When a special event permit is required, the City Manager or his designated representative shall, after reviewing the application and if necessary meeting with the organizer, advise the organizer of all other permits that appear to be required for the event based on information contained in the application; and assist the organizer in contacting other departments to apply for all other permits in a timely manner.

F. Permit Fee

The fee for issuance of a special events permit is found in the City's Fee Ordinance which is on file in the office of the Parks and Recreation Department.

G. Exemptions

- (a) No fee shall be imposed when prohibited by the First and Fourteenth amendments to the United States Constitution.
- (b) No fee shall apply to a block party if it occurs on private property, and fees may be waived for special events sponsored by nonprofit agencies and which further the goals and objectives of the City.

H. Special Event Permit Application

(a) Any person wishing to sponsor a special event shall apply for a special event permit by filing an application with the City Parks & Recreation Department thirty days prior to the date on which the event is to occur **and approval must be granted prior to any advertising of the event can occur.**

(b) The City Manager or his designated representative shall issue the special event permit once the application has been approved after review of appropriate agencies to include police, fire, public works, building and planning, parks and recreation, and others as determined by the City Manager or his designated representative, and the applicant has agreed in writing to comply with the terms and conditions of the permit.

(c) The City Manager or his designated representative shall approve, conditionally approve, or deny an application based on the recommendations of city departments involved in the review process.

I. Conditions Authorized

The City Manager or his designated representative may include in a special event permit, among other provisions, reasonable terms or conditions as to the time, place and manner of the event; the implementation of a plan presented by the applicant and approved by the City for crowd control, traffic control, and security; compliance with health and sanitary regulations as explicated by the Health Department for the event; coordination with the Fire Department or medical personnel for emergency treatment and evacuation of people who may need immediate care, cardio-pulmonary resuscitation, or ambulance service; emergency communication; fire suppression equipment within structures; maintenance of unobstructed emergency passageways; and, where traffic congestion may be anticipated, encouraging the use of public transit and carpooling. In determining conditions, the City Manager or his designated representative shall consider anticipated impacts of the event based on an assessment of the event, including size, scope, complexity, and history as well as the event's or event organizer's successful implementation of conditions included in previous permits. Conditions shall be based upon projected impacts on public safety, public places and public services, but shall not be based upon the programming content of the event or message that the proposed event may convey.

In order to accommodate other concurrent events, the rights of abutting owners, and the needs of the public to use streets or parks, the conditions may include, but are not limited to, reasonable adjustments in the date, time, route or location of the proposed event; accommodations of pedestrian or vehicular traffic using the street; and limitations on the duration of the event.

J. Denial, Revocation or Suspension of Permit

1. **Denial:** A special event permit may be denied based upon a determination that:

(a) The proposed event would unreasonably disrupt the orderly or safe circulation of traffic or as would present an unreasonable risk of injury or damage to the public; or

(b) The event would seriously inconvenience the general public; or

(c) The event would unreasonably infringe upon the rights of abutting properties; or

(d) The proposed event is proximate to another previously permitted or previously scheduled event, so that the combined impacts and required public services exceed what the City, after reasonable efforts have been made to accommodate both events, can reasonably provide; or the proposed event would interfere with construction or maintenance work in the immediate vicinity, or unreasonably infringe upon the rights of abutting properties; or

(e) There are not sufficient safety personnel or other necessary city staff to accommodate the event; or

(f) The applicant failed to complete the application form after being notified of the additional information or documents required; or

(g) The applicant supplies false or misleading information; the applicant fails to complete the application or to supply other required information or documents; or the applicant declares or shows an unwillingness or inability to comply with reasonable terms or conditions contained in the proposed permit; or

(h) The applicant cannot meet, or is unwilling to meet, all of the requirements of this chapter or any special conditions imposed by any of the reviewing agencies; or

(i) Other issues in the public interest were identified by the City Manager or his designated representative; or

(j) Failure to prepay expenses.

2. **Revocation:** The City Manager or his designated representative may cancel or revoke a permit already issued upon written notice to the applicant stating the grounds for revocation if:

(a) The applicant, in the information supplied, has made misstatement of a material fact; the applicant has failed to fulfill a term or condition of the permit in a timely manner; or the check submitted by an applicant in payment of the fee for a permit has been dishonored; or

(b) The applicant requests the cancellation of the permit or cancels the event; or

(c) An emergency or supervening occurrence requires the cancellation or termination of the event in order to protect the public health or safety. The City shall refund the permit fee in the event of a revocation caused by an emergency or supervening occurrence; the City shall refund the balance of the fee less its costs incurred if the cancellation occurs at the request of an applicant who is in compliance with this chapter.

K. Indemnification

Prior to the issuance of the special event permit, the applicant must agree to reimburse the City for any costs incurred by the City in repairing damage to City property occurring in connection with the permitted event.

Permittee agrees to defend, indemnify and save harmless the City, its appointed and elected officers and employees from and against all loss or expense, including but not limited to judgments, settlements, attorney's fees and costs by reason of any and all claims and demands upon the City, its elected officials or employees for damages because of personal or bodily injury, including death at any time therefrom, sustained by any person or persons and on account of damage to property or loss therefrom, arising out of any activity under or in connection with the special event, except only such injury as shall have been occasioned by the sole negligence of the City, its appointed or elected officers or employees.

The City Manager or his designated representative has the authority to require a refundable deposit as suggested by the Parks and Recreation Department for reimbursement of the costs for cleanup services.

L. Insurance Required

As required by the City Manager or his designated representative, the permittee shall provide the City with proof of commercial general liability insurance generally in the amount of one million dollars combined single limits per occurrence, and an endorsement naming the City of Boerne as an additional insured must be provided.

Certificates of Insurance shall be submitted to the City for approval no less than fifteen working days prior to the event. Acceptability of insurance is subject to approval by the City's legal counsel.

M. Entertainment Areas & Special Event Vendors

(a) The City Manager or his designated representative shall have the right to designate the entertainment areas for permitted special events. Entertainment areas may include, but not be limited to, streets that have been approved for closure and public areas.

(b) Special event vendors within entertainment areas:

- 1) will be allowed within the designated entertainment area with an approved permit issued by the City Parks & Recreation Department;
- 2) all special event vendors located in entertainment areas must apply for a special event vendor permit and be approved by the City Manager or his designated representative.
- 3) the fee for issuance of a special events vendor permit shall be set by ordinance of the City Council.
- 4) the City Manager or his designated representative reserves the right to determine location of special event vendors within entertainment areas.

Sec. 16-44-10. Severability Clause

If any part of these regulations should be found invalid or unconstitutional, the validity

of the remainder hereof shall not be impaired.

Sec. 16-42 **11**. - Penalty clause.

Any person violating any provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed two hundred dollars (\$200.00), for each day any violation of this chapter shall continue to occur. Every such additional day shall be considered a separate offense and punishment shall be assessed accordingly.

PASSED and APPROVED on first reading this the ____ day of December, 2018.

PASSED, APPROVED, and ADOPTED on this the ____ day of January, 2019.

APPROVED:

Mayor

ATTEST:

City Secretary

APPROVED AS TO
FORM:

City Attorney