

## **Part 1**

### **PARKS AND RECREATION FACILITIES AND TRAILS**

#### **Chapter 1**

##### **COMMERCIAL USE OF PARKS AND RECREATION FACILITIES AND TRAILS**

- 11 CBJAC 01.010 Policy.**
- 11 CBJAC 01.020 Lands regulated.**
- 11 CBJAC 01.030 Permit required.**
- 11 CBJAC 01.040 Application process.**
- 11 CBJAC 01.050 Permit fees.**
- 11 CBJAC 01.060 Insurance and indemnification.**
- 11 CBJAC 01.070 Permit duration.**
- 11 CBJAC 01.080 General operating requirements.**
- 11 CBJAC 01.090 Enforcement and penalties.**
- 11 CBJAC 01.100 Definitions.**

#### **11 CBJAC 01.010 Policy.**

As established in Resolution 1755am, the policy of the City and Borough of Juneau concerning the commercial use of city land regulated by the parks and recreation department is to:

- (a) Maintain and improve parks, recreation areas and trails for their primary use by the public, to include visitors and residents alike, for parks, recreation areas and trails and preserve them from activities inconsistent with that primary use.
- (b) Preserve and maintain these public assets for all users, preserve the recreational experience unique to each area, consider impacts upon other users and neighboring property, and ensure public safety on city lands.
- (c) Establish rules to minimize environmental damage and mitigate impacts from the commercial use of parks and open spaces, and trails.
- (d) Charge for commercial use of parks, trails, open spaces and recreational facilities at a fair rate which reflects the cost of providing any improvements, maintenance, services, and administration necessary for the use.
- (e) Establish and enforce uniform rules for commercial use of City and Borough park and open spaces, trails and recreational facilities.

(Eff. 05/07/95)

#### **11 CBJAC 01.020 Lands regulated.**

These regulations apply to all City and Borough land designated by the manager pursuant to Ordinance 85-76am as open space and park system and to all areas owned by the City and Borough dedicated to park or recreation purposes.

(Eff. 05/07/95)

## **11 CBJAC 01.030 Permit required.**

(a) No person may conduct commercial activities on City and Borough of Juneau lands subject to these regulations except as authorized by a permit issued by the director. A permit under this chapter is not required for activities conducted under a permit issued pursuant to other chapters in this title.

(b) The director may issue a permit for commercial activities within a parks and recreation area as subject to such conditions as the director may impose and only upon a determination that the use as proposed:

- (1) Will not pollute or degrade the environment, resources, facilities, or atmosphere of the park;
- (2) Will not endanger the public health, safety, and welfare; and
- (3) Is consistent with the comprehensive plan.
- (4) Is consistent within the existing commercial use of trail criteria.

(c) A permit may contain conditions reasonably required for the protection and use of the park area for which the permit is granted, including limitations as to time, area, equipment, user loading, traffic, parking, discharges, noise, and other factors.

(d) The director may deny a proposed use upon a written determination that the use, alone or in combination with other uses, would exceed the carrying capacity of the area. The director shall determine the carrying capacity of an area taking into account the nature and extent of the use, the number of users, and the impacts likely to result from the use, including, traffic, noise, public access, loading, the availability of parking and other factors. The director shall find that the carrying capacity of an area would be exceeded if it is more likely than not that the proposed use would unreasonably degrade the environment, resources, facilities, or atmosphere of the park. If the cumulative impact of proposed uses would exceed the carrying capacity of the area, the director shall not award any permits for that area until the following procedure is followed:

- (1) The director shall notify all members of any group of applicants whose applications, taken together, propose uses in excess of the carrying capacity of an area. The notice shall identify the nature and extent of the impacts exceeding the carrying capacity, and shall invite the applicants to confer among themselves for the purpose of negotiating a resolution to the excess impacts issues.
- (2) The applicants may re-submit their applications which shall be granted if the director finds that the excess impact issues have been resolved and the applications otherwise meet the requirements of this section. If excess use issues remain unresolved, the director shall grant permits by lottery to the extent that such uses do not exceed the carrying capacity of the area.

(e) A permit is transferable only with the permittee's entire business interest in activities conducted under the permit and only to a person who has successfully completed the permit application process. No credit will be given for any permit payments made by the previous holder of the permit.

(Eff. 05/07/95; Amended 3-22-2004, effective 4-1-2004)

## **11 CBJAC 01.040 Application process.**

- (a) *General requirements.*
  - (1) Applications for permits will be accepted only from persons who have, or upon issuance of the permit, will have the legal authority to take action in accordance with the permit. All applications must be signed by the owners of the business to be subject to the permit. The director may require an applicant to submit evidence of authority to apply hereunder.
  - (2) All applications for permits must be on forms provided by the department. Applications will not be considered unless they are complete, signed, accompanied by the applicable fee, and filed together with any required attachments or exhibits at the offices of the parks and recreation department.
  - (3) Applications for commercial use permits will be available at the parks and recreation office no less than 30 days before the close of the application period. Applications received after 4:30 p.m. on the day that the application period ends will not be considered for a permit.
- (b) *Application information.*
  - (1) *Applicant information.*
    - (A) The application shall identify each individual or business entity responsible for the use intended; all officers, partners, or joint venturers of such entities; and all persons with any ownership interest in such entities. Notice to any of the persons listed shall be sufficient to notify all, and each person listed shall be jointly and individually responsible for compliance with permit conditions;
    - (B) The permanent, temporary, local, and foreign residence and mailing addresses of each person, owner, and company responsible for the use, service or activity intended;
    - (C) Current phone numbers of each company and individual providing services in the area applied for;
    - (D) A copy of a current driver's license or other government identification card which includes a photograph, date of birth and a written physical description of each driver;
    - (E) Physical descriptions and license numbers of each vehicle to be used in the activity for which the permit is sought.
  - (2) *Proposed use.*
    - (A) A description and a map of the location of each proposed use;

- (B) A description of transportation to the site and proposed parking plans for vehicles, and a statement of any additional accommodations or improvements needed for the proposed use;
- (C) A description of the use, the mode of transport at the site, and the services being provided at the site;
- (D) A description of the number, scheduling, and size of participant groups at the site, with a calendar indicating which days and times the use is proposed.

(3) *Fees to be charged by permit holder.*

- (A) A schedule of fees and charges to customers and a description of any collection, disbursement, royalty, commission or similar arrangements with others including tour brokers, agents, or cruise ship companies.

(Eff. 05/07/95; Amended 3-22-2004, effective 4-1-2004)

**11 CBJAC 01.050 Permit fees.**

The applicant shall pay a fee, established by the manager, which fee will give the city a fair and reasonable return in light of the cost of administering the activity permitted under the permit, the impact of the proposed activity on the area, the cost of any improvements required, and the value of the benefit conferred upon the user. The fee shall be paid to the department by the 15th day of each month for fees owed in previous calendar month, provided that, ten-day operational temporary permit holders shall remit quarterly.

(Eff. 05/07/95; Amended 3-22-2004, effective 4-1-2004)

**11 CBJAC 01.060 Insurance and indemnification.**

Prior to issuance of a permit, the permittee must provide the department with a broker's certificate of insurance showing that the permittee has obtained public liability insurance in the amount and for the risks determined by the risk manager of the City and Borough of Juneau for the proposed use. The certificate must establish that the City and Borough is named as an additional insured on the policy, and that the insurer shall notify the City and Borough if the policy is modified, canceled, or terminated. Permittees, upon acceptance of a permit, shall execute an instrument under the terms of which the permittee shall agree to indemnify, defend, and hold harmless the City and Borough of Juneau from any and all claims for injury or damage to persons or property suffered in connection with the permittee's activities unless such injury or damage is caused by the gross negligence of the City and Borough of Juneau.

(Eff. 05/07/95)

**11 CBJAC 01.070 Permit duration.**

(a) Permits shall expire on December 31 of each odd-numbered year, except as provided in subsection (d), (e), and (f) for temporary permits and special use permits.

(b) Permits are valid only for the dates, times, activities and areas specified.

(c) Permits are not renewable. Issuance of a permit shall not entitle the permit holder to any priority or preferential consideration for subsequent, new, or additional permits for the same or related uses or areas. A new application must be submitted each permit period for each permit.

(d) The director may issue a ten-day operational temporary permit with no more than 30 people each day. The permit can be applied for at any time but is not renewable within a year. The application process for a ten-day permit shall be the same as for other permits.

(e) The director may issue a 30 day operational temporary permit. This permit can be applied for at any time but is not renewable within a year. The application process for a temporary 30 day permit shall be the same as for other permits.

(f) The director may issue a special use permit, which will not be renewable. This permit can be applied for at anytime. The application process for a special use permit shall be the same as for other permits. (Eff. 05/07/95; Amended 10/23/99; Amended 3-22-2004, effective 4-1-2004)

## **11 CBJAC 01.080 General operating requirements.**

(a) Permittees shall have a copy of the permit immediately available for inspection at all times while engaged in activities pursuant to the permit. A copy of the permit shall be prominently displayed on any vehicles used in the recreation area.

(b) Permit holders shall be responsible to the city for their actions and those of their agents, employees or customers while engaged in permit activities. The following operating requirements apply to activities conducted under the permit unless otherwise specified in a permit.

- (1) No one may obstruct traffic, litter, use glass containers, nor disturb, damage, deface or remove natural objects including trees, plants, moss, rock, gravel, or minerals, nor disturb or remove cultural, archaeological, or historical material.
- (2) Activities conducted under the permit shall be confined to the improved trail surfaces except as required for safety reasons.
- (3) No alterations or improvements to the permitted area are allowed, nor may anything be posted or signs of any kind be displayed in the area.
- (4) No one may camp, light fires, fish, hunt or harass wildlife.
- (5) The permit holder shall promptly notify the director of any accident, injury or claim relating to the permitted activity.
- (6) The permit holder shall promptly notify the director of any repair or maintenance needed to the improvements located in the permitted area, or any natural condition which constitutes a hazard. The permit holder shall not make any repair or alteration to the area unless required by an emergency, and shall promptly report such repair or alteration to the director.

- (7) Permit holders shall comply with all state, federal, and local laws applicable to their activities.
  - (8) Permit holders shall police the area used and shall properly dispose of all litter found thereon.
  - (9) The permit holder shall reimburse the City and Borough of Juneau for any damage to municipal property caused by the permittee while engaged in permit activities, including the cost of litter abatement.
  - (10) No pets shall accompany any person engaged in permit activities unless the pet is restrained on a leash and all fecal material is promptly removed and properly disposed of.
  - (11) No equipment or supplies may be stored at any City and Borough facility or permit area unless approval of the director is secured in advance.
  - (12) All vehicles under the ownership or control of the permittee shall be lawfully operated or legally parked while the permit holder is engaged in permit activities. The permittee shall be responsible for following all parking restrictions and requirements imposed by permit conditions.
  - (13) Operations under the permit shall be limited to the number, scheduling, and size of participant groups stated in the application submitted pursuant to 11 CBJAC 01.070.040(b)(2)(D).
- (Eff. 05/07/95; Amended 10/23/99)

#### **11 CBJAC 01.090 Enforcement and penalties.**

(a) A permit may be suspended by the director without advance notice for a period not to exceed ten days if any activities conducted under the permit present an immediate danger to the public health, welfare, or safety.

(b) A permit may be suspended or revoked by the director upon written findings that the permittee has violated these regulations. The permittee shall be provided at least ten days notice and an opportunity to be heard at an informal hearing on the suspension or revocation. The director's decision may be appealed to the city manager by filing a notice of appeal setting forth the reasons the decision is appealed with the office of the city manager within ten days of the director's decision.

(Eff. 05/07/95)

#### **11 CBJAC 01.100 Definitions.**

As used in this chapter:

"Commercial use" [and] "commercial purpose" mean the sale, delivery, or solicitation to provide, goods or services in exchange for valuable consideration. The term includes a service offered in conjunction with another sale of goods or services whether or not it is incidental to, advertised with, or specifically offered in the other sale. All guide, outfitter, and transportation services are commercial activities if any payment or valuable consideration through barter, trade, cash or other commercial means is required, expected or received beyond the normal and customary equally shared cost of food and fuel for any portion of activities conducted within the parks and recreation area.

"Department" means the City and Borough of Juneau Parks and Recreation Department.

"Director" means the supervisor of the City and Borough of Juneau Parks and Recreation Department or such person as may be designated by the manager to administer these regulations.

"Parks and recreation lands" and "parks and recreation areas" mean all land owned by the city and designated by these regulations as subject to parks and recreation regulation.

"Permittee" or "permit holder" mean the business entity or its authorized representative conducting commercial activities in a recreation area according to a permit issued under these regulations.

"Person" means a natural person, firm, partnership, corporation, association, or other entity organized for a common purpose.

"Vehicle" means a device in, upon or by which a person or property may be transported or drawn including devices moved by human, animal, mechanical or other power source.  
(Eff. 05/07/95)