

A REGULATION OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Amendment of Title 11

**NONCOMMERCIAL SPECIAL USE OF PARKS AND RECREATION FACILITIES
AND TRAILS**

PURSUANT TO AUTHORITY GRANTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, THE PARKS AND RECREATION DEPARTMENT OF THE CITY AND BOROUGH OF JUNEAU ADOPTS THE FOLLOWING REGULATIONS:

Section 1. Authority. These regulations are adopted pursuant to City and Borough of Juneau Code of Ordinances 01.60, 03.10.040, 67.01.045, and 67.01.090(n).

Section 2. Amendment of Title. 11 CBJAC is amended to create a new chapter to read:

**11 CBJAC 04 Noncommercial Special Use of Parks and Recreation
Facilities and Trails**

11 CBJAC 04.005 Intent.

The intent of this chapter is to regulate the special uses not regulated by other chapters.

11 CBJAC 04.010 Policy.

The policy of the City and Borough of Juneau concerning the use of city land regulated by the parks and recreation department for events and other special uses is to:

- (a) Maintain and improve parks, recreation areas and trails for their primary use by the public, to include visitors and residents alike, and to 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 noncommercial special uses of parks, open spaces, and trails.
- (d) Manage noncommercial gatherings of 100 or more people as special uses in parks, trails, open spaces, and other outdoor recreational facilities to protect public use of these facilities and preserve them from undue impacts.

Legal Reference—Resolution 1755(am), 1995; Resolution 2280, 2004; CBJC 49.05.200(b)(1) (Development Guideline, 9.1-DG1).

11 CBJAC 04.020 Lands regulated.

These regulations apply to all City and Borough land designated as open space and park system and to all areas owned by the City and Borough dedicated to park or recreation purposes.

Legal Reference—CBJC 67.01.030.

11 CBJAC 04.030 Noncommercial special use permit required.

No person may cause more than 100 people to gather on City and Borough of Juneau lands subject to these regulations except as authorized by a permit issued by the director.

Legal Reference—CBJC 67.01.090(i) & (n); CBJC 49.05.200(b)(1) (Standard Operating Procedure, 9.1-SOP8)

11 CBJAC 04.040 Application standards and process.

(a) General requirements.

- (1) Applications for Special Use 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 organizer(s) to be subject to the permit.
- (2) All applications for permits must be on a form or submitted via an electronic process provided by the department. Applications will not be considered unless they are complete, accompanied by any applicable fees and deposits, and submitted together with any required attachments or exhibits to the Parks and Recreation Department.
- (4) Applications for Special Use permits for gatherings of 100 to 500 attendees must be submitted at least 10 calendar days before the event. Applications for Special Use permits for gatherings over 500 attendees must be submitted at least 30 calendar days before the event.
- (5) Applications for activities protected by the First Amendment of the Constitution of the United States should be submitted at least five (5) business days before the event.

(b) Application information.

- (1) Applicant information.
 - (A) The application must 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 must be sufficient to notify all, and each person listed is considered jointly and individually responsible for compliance with permit conditions.

- (B) Contact information must be provided for each individual or business entity responsible for the proposed use, including phone, email, and mailing address. A phone number must be provided to contact the responsible party during the proposed use.

(2) Proposed use.

- (A) A description of the proposed activity sufficient for the department to make a determination whether to approve or deny the application; and
- (B) A good faith estimate of the number of attendees; and
- (C) A description and a map of the location of the proposed use; and
- (D) A description of any proposed measures to control traffic, manage parking, or otherwise facilitate transportation related to the activity; and
- (E) A description of any proposed security plans; and
- (F) A description of any equipment, structures, or other improvements required to support the proposed use; and
- (G) A plan for waste disposal, including solid waste, recycling, toilets, cleaning, and litter.

(c) Approval criteria. The director may issue a permit for noncommercial special uses and subject to such conditions as the director may impose and only upon a determination that the following are satisfied:

- (1) The proposed use is otherwise lawful under municipal, state, and federal law; and
- (2) The proposed use is compatible with the use for which the facility or area is designed and managed; and
- (3) The proposed use does not unreasonably conflict with other activities to be conducted at the same location or nearby at the same time as the proposed use; and
- (4) The proposed use will not pollute or degrade the environment, resources, facilities, or atmosphere of the park; and
- (5) The proposed use will not endanger the public health, safety, and welfare; and
- (6) The information contained in the permit application is correct and complete in all material details; and

- (7) The applicant has paid any required fees; and
- (8) The applicant has not violated a term or condition of a previously issued commercial use or special use permit within the last 12 months.

(d) First Amendment activities. For activities protected under the First Amendment of the Constitution of the United States, the director:

- (1) Must waive any application fee(s); and
- (2) Must waive any indemnification agreement; and
- (3) Expedite review of the application and either approve or deny the permit in a reasonable time, which is defined as within three (3) business days; and
- (4) May require reasonable conditions limited to the time, place, and manner of the activity only as necessary for the protection and use of the area for which the permit is granted.

(e) Appeal. The applicant or any aggrieved party may appeal a permit decision to the director through an informal hearing procedure. Unless the permit is for an ongoing activity, the appeal must be filed prior to the proposed activity. The director's final decision may be appealed to the city manager by filing a notice of appeal setting forth the reasons the decision is being appealed to the office of the city manager within 10 days of the director's decision.

11 CBJAC 04.050 Permit fees.

(a) Application fee. An application fee must be paid to the City and Borough with the application for the permit:

<u># of Anticipated Attendees</u>	<u>Fee</u>
<u>100-249</u>	<u>\$100</u>
<u>250-499</u>	<u>\$250</u>
<u>500+</u>	<u>\$50 per 100 anticipated attendees</u>

11 CBJAC 04.060 Insurance and indemnification.

- (a) Insurance. Upon a determination by the Risk Management Officer of the City and Borough that insurance is required, the permittee must provide proof of insurance sufficient for the proposed use. The permittee may obtain event insurance through the City and Borough or 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 Management Officer 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 must notify the City and Borough if the policy is modified, canceled, or terminated.
- (b) Indemnification. Permittees, upon acceptance of a permit, must execute an instrument in which the permittee agrees 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 recklessness of the City and Borough of Juneau.

11 CBJAC 04.070 Permit duration.

- (a) Permits are valid only for the dates, times, activities, and areas specified.
- (b) Permits are not renewable. Issuance of a permit does 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 for each permit.

11 CBJAC 04.080 General operating requirements.

- (a) Permittees must have a copy of the permit immediately available for inspection at all times while engaged in activities pursuant to the permit.
- (b) Permittees agree to be responsible to the City and Borough for their actions and those of their agents, employees, and attendees while engaged in permitted 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) No one may camp, light fires, fish, hunt or harass wildlife.
 - (3) The permit holder must promptly notify the director of any accident, injury or claim relating to the permitted activity.
 - (4) Permit holders must comply with all state, federal, and local laws applicable to their activities.
 - (5) Permit holders must properly dispose of all waste generated by their activities.
 - (6) The permit holder must reimburse the City and Borough of Juneau for any damage to municipal property caused by the permitted activities, including the cost of litter abatement.
 - (7) 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.

11 CBJAC 04.090 Enforcement and penalties.

(a) A permit may be suspended by the director without advance notice 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 or any terms of the permit. The permittee must 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.

11 CBJAC 04.100 Definitions.

As used in this chapter:

"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 city manager to administer these regulations.

"Organizer" means the person or business entity organizing a gathering of more than 100 attendees within the limits of any park or recreation area.

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

"Permittee" or "permit holder" mean the person or business entity conducting 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.

"Special Use" means any event or gathering of more than 100 persons within the limits of a municipal park or recreation area that is not commercial in nature.

"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.

Section 3. Notice of Proposed Adoption of a Regulation. The notice requirements of CBJ 01.60.200 were followed by the agency. The notice period began on _____, which is not less than 21 days before the date of adoption of these regulations as set forth below.

Adoption by Agency

After considering all relevant matter presented to it, the agency hereby amends these regulations as set forth above. The agency will next seek Assembly review and approval.

Date: _____
George Schaaf, Director
Parks and Recreation Department

Legal Review

These regulations have been reviewed and approved in accordance with the following standards set forth in CBJ 01.60.250:

- (1) Consistency with federal and state law and with the charter, code, and other municipal regulations;
- (2) The existence of code authority and the correctness of the required citation of code authority; and
- (3) Its clarity, simplicity of expression, and absence of possibility of misapplication.

Date: _____
Sherri Layne
Assistant Municipal Attorney

Assembly Review

These regulations were presented to the Assembly at its meeting of _____. They were adopted by the Assembly.

Date: _____
Elizabeth J. McEwen, Municipal Clerk

Filing with Clerk

I certify, as the clerk of the City and Borough of Juneau, that the following statements are true:

(1) These regulations were accepted for filing by the office of the clerk at ___:___ a.m./p.m. on the ____ day of _____, _____.

(2) After signing I will immediately deliver or cause to be delivered copies of this regulation to the attorney and the director of libraries.

(3) A permanent file of the signed originals of these regulations will be maintained in this office for public inspection.

(4) Effective date: _____.

Date: _____

Elizabeth J. McEwen, Municipal Clerk