

ORDINANCE NO. 20190307-014

AN ORDINANCE AMENDING TITLE 8 (*PARKS AND RECREATION*) OF THE CITY CODE RELATING TO PARK ADMINISTRATION AND USE, OFFENSES AND PENALTIES, ALCOHOL, FOOD AND BEVERAGES, SOUND EQUIPMENT, COMMERCIAL ACTIVITY, SPECIAL EVENTS, SWIMMING POOLS, ANIMALS, AND GLASS CONTAINERS; AND AMENDING CERTAIN CAPTIONS AND REFERENCES TO “TOWN LAKE”.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. City Code Section 8-1-1 (*Definitions*) is amended to add new definitions for “Camping”, “Campsite”, and “Public Use”; to amend the existing definition for “Commercial Activity” to read as follows; and to renumber the remaining definitions accordingly:

(4) CAMPING means occupying a designated camping facility; erecting a tent or arranging bedding, or both for the purpose of, or in such a manner that will permit, remaining overnight; or the use of a trailer, camper, or other vehicle for the purpose of sleeping overnight.

(5) CAMPSITE means a public recreation area designated for camping.

(7 [5]) COMMERCIAL ACTIVITY means to advertise or provide a good, service, class, or instructional activity for compensation. This includes providing a good, service, class, or instructional activity without compensation but as an inducement or advertisement for a class or instructional activity for compensation.

(14) PUBLIC USE means use by the public for an activity or special event that does not include commercial activity.

PART 2. City Code Sections 8-1-2 (*Administration*), 8-1-3 (*Enforcement*), 8-1-11 (*Disruption of Authorized Activity Prohibited*), 8-1-12 (*Approval for Public Recreation Area Use*), 8-1-14 (*Use of Public Recreation Areas during Certain Hours Prohibited*), 8-1-41 (*Use of Sound Equipment*), 8-1-95 (*Penalty*); and 8-2-2 (*Assignment of Swimming Pool for Group Use*) are repealed and replaced to read as follows:

§ 8-1-2 PURPOSE.

This title is adopted to govern the use of public recreation areas; and is intended to secure and preserve the fullest enjoyment of public recreation areas by the public.

§ 8-1-3 AUTHORITY.

- (A) The director administers, implements, and enforces this title. At the director's request, another city department may assist with enforcing this title.
- (B) The director may close or restrict access to a public recreation area.
- (C) The director may adopt rules under Chapter 1-2 (*Adoption of Rules*) to implement, administer, and enforce this title.
- (D) In addition to the rules authorized in Subsection (C), the director may establish written guidelines for any specific public recreation area that addresses the needs, problems, or conditions that are specific to the public recreation area. The guidelines must be posted at the public recreation area and are effective when posted at the public recreation area.
- (E) Consistent with the procedures and requirements set forth in Chapter 9-1 (*Abandoned Property and Vehicles*), the director may impound a structure, personal property, motor vehicle, or watercraft found in violation of this title.

§ 8-1-11 USE OF PUBLIC RECREATION AREAS GENERALLY.

- (A) Except as otherwise provided, a public recreation area is available for public use subject to:
 - (1) a requirement, if any, to obtain an approval;
 - (2) a requirement, if any, to pay an entrance fee, parking fee, or other fee; or
 - (3) a previous reservation.
- (B) A person may not be present at a public recreation area outside of operating hours.
- (C) Except as provided in the department's rules, the operating hours of a public recreation area are 5:00 a.m. to 10:00 p.m.
- (D) It is an affirmative defense to a violation of Subsection (B) if at the time of the alleged violation, the person was present at a public recreation area

because the person was participating in or attending an activity conducted in accordance with an approval.

- (E) A person may not clear, harvest, excavate, gather, or remove wood, plants, or artifacts at a public recreation area without an approval.
- (F) A person may not knowingly disrupt an activity conducted pursuant to an approval in a public recreation area.
- (G) A person may not remain in a public recreation area if the person is advised that the person's behavior is disruptive and the person is instructed to leave the property by supervisor of the department.

§ 8-1-12 APPROVAL TO USE PUBLIC RECREATION AREA REQUIRED.

- (A) An approval is required for a person to reserve a public recreation area.
- (B) A person may not fish, camp, or use a specific area in a public recreation area between 10:00 p.m. and 5:00 a.m. without an approval.
- (C) A person may not conduct a special event in a public recreation area without an approval.
- (D) The director shall grant an approval described in this section unless:
 - (1) the intended use is commercial activity or is a special event that includes commercial activity; or
 - (2) the intended use would result in:
 - (a) scheduling conflict;
 - (b) traffic congestion;
 - (c) damage to the public recreation area or landscape;
 - (d) a threat to public health, safety or welfare; or
 - (e) a use inconsistent with the purpose of the public recreation area or nature preserve; or
 - (3) the public recreation area is closed to public entry or otherwise restricted.

§ 8-1-14 APPROVAL FOR COMMERCIAL ACTIVITY.

- (A) A person may not conduct a commercial activity or a special event that includes commercial activity in a public recreation area without an approval.
- (B) The director may grant an approval required in Subsection (A) if:
 - (1) the approval will not:
 - (a) create a scheduling conflict;
 - (b) create traffic congestion;
 - (c) cause damage to the public recreation area; or
 - (d) result in a threat to public health, safety, and welfare; and
 - (2) the commercial activity is consistent with the purpose of the public recreation area; and
 - (3) the requested public recreation area is not closed to public entry or otherwise restricted.
- (C) A person may not use a structure or other personal property for a commercial activity unless the structure or personal property is included in the approval.
- (D) A person may not board individuals from a park or dock managed, maintained, or operated by, or on behalf of, the department onto a watercraft used for a commercial activity without an approval.
- (E) A person may not disembark individuals from a watercraft used for a commercial activity onto a park or dock managed, maintained, or operated by, or on behalf of, the department without an approval.

§ 8-1-41 APPLICABILITY.

- (A) Except as provided in Subsection (B), the use of sound equipment in a public recreation area is governed by this article.
- (B) The use of sound equipment is governed by Chapter 4-20 (*Special Events*) if the special event on parkland requires a permit under Section 4-20-20 (*Permit Required; Exceptions*).

§ 8-1-95 PENALTY.

- (A) This article constitutes a fire safety regulation.
- (B) A person who violates this article commits a misdemeanor punishable by a fine not to exceed \$2000.

- (C) Each act or omission which violates this article is a separate offense.
- (D) A culpable mental state is not required, and need not be proved, for fines of \$500 or less.
- (E) This section is cumulative of other laws providing enforcement authority. If the City files a criminal action, it is not precluded from pursuing any other action or remedy.

§ 8-2-2 SWIMMING POOL USE

- (A) A person may not conduct a private swim class at a swimming pool without an approval.
- (B) A caregiver may not conduct a group activity at a swimming pool without an approval.
- (C) The director may assign a specific swimming pool where the group activity or private swim class may occur.
- (D) In making an assignment, the director may consider:
 - (1) the size of a swimming pool;
 - (2) the time of day requested for a group activity;
 - (3) the anticipated number of swimmers at a swimming pool;
 - (4) the number of children under supervision of a caregiver; and
 - (5) the availability of lifeguards.

PART 3. City Code Chapter 8-1 (*Parks Administration*) is amended to add the following new sections: Section 8-1-4 (*Offenses; Penalties*); Section 8-1-16 (*Animal Restrictions*); Section 8-1-17 (*Compliance with Approval Required*), Section 8-1-18 (*Penalty*), and Section 8-1-19 (*Penalty During a Special Event*) to read as follows:

§ 8-1-4 OFFENSES; PENALTIES.

- (A) Except as otherwise provided in this title, a person who violates this title commits a misdemeanor punishable as provided by Section 1-1-99 (*Offenses; General Penalty*).
- (B) A culpable mental state is not required and need not be proved for an offense punishable under this section.
- (C) A structure or other personal property used in violation of Section 8-1-14(C) is subject to impoundment consistent with the procedures in Chapter 9-1 (*Abandoned Property and Vehicles*).

- (D) A motor vehicle or watercraft found in violation of Subsection (C) or (D) of Section 8-1-11 (*Use of Public Recreation Areas Generally*) is subject to impoundment consistent with the procedures in Chapter 9-1 (*Abandoned Property and Vehicles*).

§ 8-1-16 ANIMAL RESTRICTIONS.

- (A) This section applies to a nature preserve, swimming pool, an indoor recreational facility, building, and any other recreation facility the director designates by rule.
- (B) In this section, animal includes, but is not limited to, fowl, livestock, miniature livestock, and small animals.
- (C) An owner or handler may not allow an animal to be present in a public recreation area described in Subsection (A) except:
- (1) as required under the Americans With Disabilities Act (ADA); or
 - (2) when an approval authorizes an animal to be present in a public recreation area.
- (D) It is an affirmative defense to a violation of this section, if at the time of the alleged violation, the animal was present pursuant to an approval.

§ 8-1-17 COMPLIANCE WITH APPROVAL REQUIRED.

- (A) An approval issued under this title is not a waiver, exception, or defense to a violation of a rule, guideline, or City Code requirement.
- (B) A person must comply with an approval, including any conditions, department guidelines, rules, and City Code requirements.
- (C) A person shall display an approval to a peace officer or City employee when requested.

§ 8-1-18 PENALTY.

- (A) Except as provided in Section 8-1-19 (*Penalty During a Special Event*), a person commits a misdemeanor offense punishable by a fine not to exceed \$500 and not less than \$100 if the person fails to comply with:
- (1) Section 8-1-12 (*Approval to Use Public Recreation Area Required*);
or
 - (2) Section 8-1-14 (*Approval for Commercial Activity*).
- (B) A culpable mental state is not required and need not be proved for an offense punishable under this section.

§ 8-1-19 PENALTY DURING A SPECIAL EVENT.

- (A) A person commits a misdemeanor offense punishable by a fine not to exceed \$500 and not less than \$200 if, during a special event, the person fails to comply with:
- (1) Section 8-1-12 (*Approval to Use Public Recreation Area Required*);
or
 - (2) Section 8-1-14 (*Approval for Commercial Activity*).
- (B) A culpable mental state is not required and need not be proved for an offense punishable under this section.

PART 4. City Code Section 8-1-15 (*Limits on Special Events*) is amended to amend Subsection (D) to read as follows:

§ 8-1-15 LIMITS ON SPECIAL EVENTS.

- (D) Council authorizes the continued use of the public recreation areas for the number of special event days described in Subsection (C). If a reoccurring special event described in Subsection (C) does not occur in substantially the same form after the effective date of this section, the City Manager may not allow the special event days to be used by a different special event until the number of days used per calendar year is less than maximum established in Subsection (B).

PART 5. City Code Section 8-5-1 (*Definitions*) is amended to amend the definition of "Designated Official" to read as follows:

- (1) DESIGNATED OFFICIAL means a peace officer employed by the city, [~~park police officer, city police officer, officer or~~] employee of the Watershed Protection [~~and Development Review~~] Department, or the health authority.

PART 6. The caption of City Code Chapter 8-1, Article 4 (*Restrictions on Amplified Sound*) is amended to read as follows:

ARTICLE 4. SOUND EQUIPMENT [~~RESTRICTIONS ON AMPLIFIED SOUND~~]

Division 1. Use of Sound Equipment [~~Permit Procedure~~]

PART 7. The caption of Section 8-1-31 (*Use of Motor Vehicles in Parks*) is amended to read as follows:

§ 8-1-31 USE OF MOTOR VEHICLES IN PUBLIC RECREATION AREAS [PARKS]

PART 8. City Code Chapter 8-3 (*Restrictions on Food, Beverage, and Containers*) is repealed and replaced as follows:

CHAPTER 8-3. RESTRICTIONS ON FOOD, BEVERAGE, AND CONTAINERS.

§ 8-3-1 ALCOHOLIC BEVERAGES.

Except as otherwise provided in this chapter, a person may not knowingly sell, possess, or consume an alcoholic beverage in a public recreation area.

§ 8-3-2 ALCOHOLIC BEVERAGES. ALLOWED.

Alcoholic beverages are permitted:

- (1) in the spectating area of Krieg and Havins Softball Complexes;
- (2) at a golf course;
- (3) in a campsite, which is reserved for a specific person or event; or
- (4) when an approval authorizes the possession, sale, or consumption by a person or for an event at a public recreation area.

§ 8-3-3 SALES OF FOOD AND BEVERAGES.

- (A) A person may not sell food and beverages, including alcohol, in a public recreation area without an approval.
- (B) The director may authorize the temporary sale of food and beverages, including alcohol, in a public recreation area.
- (C) In making a decision, the director may consider:
 - (1) the impact on the surrounding neighborhood;
 - (2) problems related to the sale, possession, consumption of food or alcohol in the area;
 - (3) a clean-up agreement made by the person who requests an approval; and
 - (4) citizen input the director determines is relevant.
- (D) In this section, the temporary sale of food and beverages includes a mobile food vendor who sells, offers for sale, or displays a food or beverage item.

§ 8-3-4 GLASS CONTAINERS PROHIBITED.

- (A) Except as provided in Subsection (C), a person may not knowingly or intentionally possess a glass container in a public recreation area.

- (B) For purposes of this section, a glass container does not include:
- (1) a glass-lined vacuum bottle or glass-lined picnic beverage cooler;
 - (2) a baby bottle or baby food jar containing a product for consumption by a baby; or
 - (3) a drug container holding an over-the-counter or prescription drug.
- (C) By department rule, the director may designate all or part of a park, recreational facility, or nature preserve as an area where glass containers are allowed.
- (D) In adopting a rule that allows glass containers, the director may consider:
- (1) the nature and use of the area;
 - (2) the use of surrounding land;
 - (3) the relationship between the area and the surrounding community;
 - (4) a problem caused by the use of a glass container in the area; and
 - (5) other factors the director determines are relevant.

§ 8-3-5 REVIEW OF PROHIBITIONS BY BOARD.

The board may annually review the director's determinations and adopted rules and make a recommendation to the director regarding the director's designation of public recreation areas in which a person:

- (1) may possess, sell, or consume alcohol;
- (2) may possess a glass container; or
- (3) may temporarily sell food or beverages.

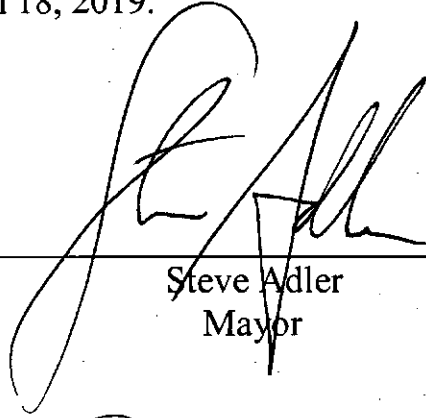
PART 9. City Code Title 8 (*Parks and Recreation*) is amended to replace all references of "Town Lake" with "Lady Bird Lake".

PART 10. This ordinance takes effect on March 18, 2019.

PASSED AND APPROVED


March 7, 2019

§
§
§



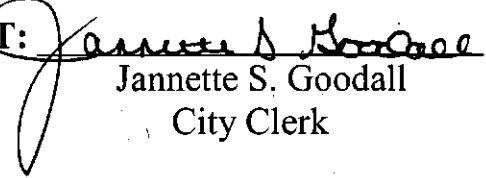
Steve Adler
Mayor

APPROVED:



Anne L. Morgan
City Attorney

ATTEST:



Jannette S. Goodall
City Clerk