

Ordinance No. 6113

**AN ORDINANCE TO AMEND PARK USE REGULATIONS BY AMENDING
CHAPTER 12.24 OF THE RAPID CITY MUNICIPAL CODE**

WHEREAS, the City of Rapid City has adopted regulations for park use in Chapter 12.24 of the Rapid City Municipal Code; and

WHEREAS, the City wishes to clarify provisions concerning park hours and usage; and

WHEREAS, the City wishes to update its ordinances concerning concessions and peddling in park areas to address changes in the sort of itinerate peddlers who are requesting to operate within the parks; and

WHEREAS, the City therefore intends to adopt a permit process to permit food trucks and other vendors to use parks if they obtain a permit from the Parks and Recreation Department and operate according to applicable ordinances; and

WHEREAS, the City wishes to adopt provisions for park property regulating animals, including trapping; requiring trash disposal; prohibiting destruction of park property; prohibiting unsafe fires; prohibiting the use of fireworks; regulating tents and structures; and regulating use of remote control devices; and

WHEREAS, the Common Council believes it to be in the best interests of the health, safety, and general welfare of its citizens to adopt and amend provisions in R.C.M.C. Chapter 12.24 concerning park use.

CHAPTER 12.24: PARK USE REGULATIONS

Section

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NOW THEREFORE, BE IT ORDAINED by the City of Rapid City, that Section 12.24.010 of the Rapid City Municipal Code be and is hereby amended to read in its entirety as follows:

12.24.010 Hours.

All eCity parks shall be closed to the public each day from 10:00 p.m. until ~~daylight~~5 a.m. the following morning, except upon special permission from a eCity official in charge of the area. It shall be a violation of City ordinance to be in a City park while it is closed under this Section, except for activities authorized by the Parks and Recreation Department (“Department”).

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City, that Section 12.24.030 of the Rapid City Municipal Code be and is hereby amended to read in its entirety as follows:

12.24.030 Traffic regulations.

All provisions of this eCode and other ordinances governing travel or traffic upon the streets of the eCity shall be applicable within and upon all eCity parks. No person shall drive or park upon any area in the City parks not designated for parking, unless specifically authorized by the Department.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City, that Section 12.24.040 of the Rapid City Municipal Code be and is hereby amended to read in its entirety as follows:

12.24.040 Disorderly conduct ~~and loafing~~ in parks.

No person shall act in a disorderly, unchaste or lewd manner, or ~~habitually loaf or~~ sleep on the ground or on benches within any eCity park.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City, that Section 12.24.050 of the Rapid City Municipal Code be and is hereby amended to read in its entirety as follows:

12.24.050 Bicycle and pedestrian trail system—Operation of motorized vehicles prohibited—Exceptions.

No person shall operate any automobile, motorcycle, golf cart or other motorized vehicle upon the primary and secondary bicycle and pedestrian trail system; provided, however, that, the ~~street and traffic engineer~~ Department may authorize operation of golf carts on the system in the immediate area(s) of the Meadowbrook Golf Course and Executive Golf Course and may authorize operation by handicapped persons of the vehicles and in a manner as he or she shall determine not inconsistent with the purpose of the trail system. This ~~s~~Section shall not apply to the operation of ~~e~~City maintenance vehicles, nor to motorized law enforcement vehicles or authorized vendors who are otherwise permitted under Section 12.24.080, nor to individuals operating with the permission of the Department.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City, that Section 12.24.070 of the Rapid City Municipal Code be and is hereby amended to read in its entirety as follows:

12.24.070 Peddling.

A. It is unlawful for any peddler or other person excepting a person authorized pursuant to Section B or pursuant to Section 12.24.080, ~~occupying a portion of the park under a valid concession agreement~~ to sell or offer to sell, to any person within any municipal park of the eCity, any goods, wares, merchandise, books, pictures, novelties, souvenirs or trinkets, or any other article of commerce and trade, including goods of his or her own production or manufacture.

B. A person may perform the activities discussed in Section A if the person is authorized to conduct vending operations pursuant to Section 12.24.080, or if the person otherwise seeks and receives permission from the Department. Any such conduct must be limited to the terms of the permission given by the Department, including timeframe, location, permitted activities, etc.

C. This Section does not apply to farmer's markets authorized by the City.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City, that Section 12.24.080 of the Rapid City Municipal Code be and is hereby amended to read in its entirety as follows:

12.24.080 ~~Concessions~~Vendor Permit.

A. *Private Vendors in Parks.* Authorized ~~concessions~~vendors for the sale or distribution of foods and beverages for immediate consumption shall be permitted by private citizens and entities at those~~the following~~ municipal parks and pools, ~~limited to the specific areas as shown on the park concession vendor map on file in the Rapid City Parks Department and herein incorporated by reference.~~ No vendor within any of the areas listed in the park vendor map shall be authorized without issuance of a vendor permit by the Department under this Section.

- ~~— 1. College Park;~~
- ~~— 2. Horace Mann Park;~~
- ~~— 3. Robbinsdale Park;~~

- 4. Robbinsdale Pool;
- 5. Roosevelt Park;
- 6. Sioux Park (East);
- 7. Sioux Park (swimming pool);
- 8. Wilson Park; and
- 9. Canyon Lake Park (no concessions authorized).;

B. Lessee Concessions. Lessees of athletic fields and park property may also sell and distribute foods and beverages for immediate consumption if authorized within the relevant lease agreement without obtaining a permit under this Section.

BC. Concession proposal/Vendor Permit Application. ~~No concession within any of the areas listed in subsection A. of this section shall be authorized, nor shall any concession agreement be entered into without approval of a written proposal by the Common Council, which~~ Applications for vendor permits shall contain the following information:

1. ~~The specific municipal park(s) or pool proposed to be operated under a concession agreement by the applicant for the proposed vendor operation, not to exceed 2 of the areas designated in subsection A. of this section;~~
2. ~~Types and kinds of foods and beverages to be sold by applicant at a particular area;~~
3. ~~Satisfactory evidence that applicant is or will be in compliance with all applicable state food service licensing requirements at the time of operation of the proposed~~ concession vending;
4. ~~Specification of the type and kind of~~ concession vending structure or vehicle ~~proposed to be placed by applicant at a particular area, including, but not limited to construction materials, mobility or portability of the structure, colors, lighting or other similar devices, all to be consistent with the particular park or pool setting proposed. The use of amplified sound, bells, sirens, whistles or other similar devices in connection with the proposed concession shall be strictly prohibited. Signs may be allowed as regulated by Chapter 15.28 of this code.;~~
5. ~~The season or seasons (not to exceed 3 consecutive seasons) of~~ timeframe, including months and days, of proposed operation. The term SEASONS used herein refers to the period running from the Saturday before the last Monday in May to and including the first Monday of September;
6. ~~The hours of operation of the proposed~~ concession vending operation, ~~not to extend beyond the established hours of operation of a particular park or pool. No concession shall operate 1 hour before, during and 1/2 hour after any official soccer, softball, baseball, horseshoe or midget football league game, unless otherwise requested and agreed to by the governing board of the affected league;~~
7. ~~Proposed monthly license payment for each particular area on a fixed basis, payable in advance on the first day of each month of the season~~ Payment of a fee as set by resolution of the Common Council; and

8. Any other information requested by the Department.

CD. *Vendor Permit Determination.* Any proposal application submitted pursuant to this sSection must be received by the city's Finance Officer on or before January 15 of the year of Department at least 60 days prior to the proposed vending operation, or within 2 weeks of the effective date of this section. All proposals submitted will be referred to the Parks Department Director for review. Within 60 days of the above date, tThe Common CouncilDirector of the Department ("Director") or his/her designee shall have the authority to issue vendor permits. Director may issue the vendor permit after he or she takes into consideration theshall determine the highest, most satisfactory and most advantageous proposal with respect to each park concession area, taking into consideration any recommendation of the Director together with applications submitted therefor, the characteristics of the park, the public's need or desire for the proposed concession vending operation, the background of applicant, the applicant's conduct under any previous vendor permit, aesthetics, public health, design problemsuitability of the proposed vending operation and concession vending structure, and safety standards, and other relevant considerations. All applicants shall be immediately notified of a determination in writing. A vendor permit does not give any permit holder an exclusive right to operate within any park unless the permit explicitly states that it is exclusive.

DE. *Renewal.* The privilege to operate a concessionA vendor permit granted pursuant to this sSection shall be limited to the next concession seasonterms and conditions of the permit as issued by the Director, including limitations as to time, place and operation. The vendor permit shall not exceed one year, but may be renewed upon resubmittal of a vendor permit application under Section C and approval of the Directorfor 1 season at a time for a total of 3 consecutive seasons, subject to approval by the Common Council of previous operations and renegotiations of the monthly license payment.

EF. *Suspension or RevocationTermination.* A concession vendor permit granted hereunder may be terminatedsuspended or revoked by the cityDirector for violation in the event a monthly license payment is in arrears and remains unpaid for a period of 15 days after the same is due, or in the event of any of the other provisions, terms or conditions of this sSection, any state law or City ordinance, or any concession vendor permit agreement hereunder have been violated. If Director intends to suspend or revoke any vendor permit, he or she shall give upon giving 10 calendar days' written notice to the concessionaire vendor of the city's intention to so terminatevoke or suspend the vendor permit, and, If the violation has not been cured at the end of the 10 days, if the violation has not been cured, then Director may elect to suspend or revoke the vendor permit all rights of the concessionaire hereunder shall terminate. The Director may immediately suspend or revoke any vendor permit without notice under this Section if he or she has reason to believe that unlawful activity is occurring or if immediate action is necessary to ensure the public's health, safety, and welfare.

G. *Amendment of Vendor Permit.* The vendor may request an amendment to a vendor permit by submitting a request for amendment with any changes to the operational plan to the Department. The Director may approve or deny the request for amendment of the vendor permit.

The Director has discretion to determine whether the scope of an amendment request requires a new vendor permit application.

H. Appeal to Parks and Recreation Advisory Board. Actions of the Director under this Section as to issuance, denial, renewal, suspension, or revocation of a vendor permit may be appealed to the Parks and Recreation Advisory Committee by any person aggrieved by the Director's action. Any such appeal shall be made by timely filing a written notice of action taken and the reasons for the appeal with the Department. If the appeal is made by the applicant for the vendor license, it shall be taken within 15 days after notice of the Director's action is sent by mail to the address provided on the applicant, or in the case of a permit holder, the most recent address on file with the Department.

~~FI. Utilities—Trash. Concessionaire Vendor shall pay the cost of all utility service incident to the operation of the concession vending operation at a metered, or flat rate where applicable. If the vendor permit explicitly allows, vendor may, and shall permanently install, at its own expense, in accordance with all eCity and sState requirements, any necessary utilities at the proposed concession vending area. The Director shall approve of the placement of any installed utilities and the utilities shall remain affixed to the concession vending area upon termination of the concession vending operation. The concession vendor shall collect and dispose of trash and garbage at least once every 24 hours, or more often as directed by the Director of the Parks Department, within the entire area of the concession vending operation as designated by the park concession vendor map on file in the Rapid City Parks Department. The concessionaire shall provide adequate garbage receptacles to store trash and garbage for pickup by city garbage trucks.~~

~~GJ. Fees. Prior to issuance of any vendor permit, the Director may require payment of a nonrefundable fee for City garbage pickup or any other pertinent fees as set by resolution of the Common Council. Upon a determination made by the Common Council pursuant to subsection C. of this section, and upon payment of a nonrefundable fee in the amount of \$100 for city garbage pickup for the season, the applicant shall be granted an exclusive, nontransferable concession for a particular park area.~~

~~HK. Insurance—indemnity. Before exercising any privilege beginning vending operations, the concessionaire vendor shall obtain and maintain at all times liability insurance in the minimum amount of \$300,000 and at least \$2,000,000 aggregate and \$1,000,000 per occurrence for the injury to or death or disability of any number of persons per occurrence and \$100,000 or for property damage per occurrence. The policy shall provide for 30 days' notice of cancellation or material change to the eCity. The City of Rapid City shall be named as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the vending operation. In the event that the insurance is cancelled, the permit holder has 24 hours to reinstate the insurance or the permit shall be revoked. The concessionaire vendor shall indemnify and save harmless the eCity, its officers, employees and agents against any and all claims arising from the concession vending operation.~~

L. City Vending. Nothing in this Section shall limit the ability of the City to conduct vending operations at any parks or pools, as authorized by the Director.

M. Additional Regulations. The use of amplified sound, bells, sirens, whistles or other similar devices in connection with the vending operation is strictly prohibited. Signs may be allowed as regulated by Chapter 17.50.080 and 17.50.100 of this eCode. Additional ordinances may apply depending upon the type of structure, location, operation, or other conditions of the proposed vending operation.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City, that Section 12.24.090 of the Rapid City Municipal Code be and is hereby amended to read in its entirety as follows:

12.24.090 ~~Canyon Lake~~—Operation of motorboats.

No person shall operate any motorboat upon the waters of ~~Canyon Lake~~ within any park, except with written authorization of the eCity. The authorization shall ~~shall~~ may be made by the Common Council for such purposes and special events, and subject to such limits and conditions, as the Council deems to be in keeping with the nature and purposes of the lake. For the purposes of this sSection, motorboats shall include any boat powered by gasoline, diesel or electric motor; provided, nothing herein shall prohibit the use of electric trolling motors, not large enough to move the craft faster than 7 m.p.h. This section shall not apply to remote control model boats.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City, that Section 12.24.100 of the Rapid City Municipal Code be and is hereby amended to read in its entirety as follows:

12.24.100 ~~Dinosaur Park~~—Vandalizing art work prohibited.

No person shall injure, deface, climb upon, color, paint, mark the surface of, nor throw any substance upon, any of the works of art, monuments or prehistoric animal figures in ~~Dinosaur~~ any City pPark.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City, that Section 12.24.110 of the Rapid City Municipal Code be and is hereby added to read in its entirety as follows:

12.24.110 Animals.

A. Dogs. No person shall permit any dog owned by him/her or under his/her control or custody to enter any park, or portion of a park, with signs posted bearing the words “No Dogs Allowed” or other words to the same effect. In park areas where no such signs are posted, dogs shall at all times be kept under reasonable control by means of a leash, except as provided in Section B.

B. Off-Leash Areas. In parks designated as off-leash areas, dogs need not be on a leash but must be under the verbal control of owner. Parks with designated off-leash areas include Braeburn Park, Vicki Powers Memorial Park (posted area only), Knollwood Drainage Area,

Memorial Park East (between East Blvd. and Fifth Street), Robbinsdale Park (posted area only), and other areas designated by the Director.

C. *Other Animals.* No person shall permit any other animal, wild or domestic, that is owned by him/her or under his/her control or custody to enter any park, except when special permission is granted by the Director.

D. *Fishing or Trapping.* No person shall possess any device with the intent to use the device to capture any wild or domestic creature in any park with the exception of those devices which are necessarily used for fishing in the streams and lakes within the park. However, trapping that is necessary to protect public property may be permitted only under the direction and authority of the Department, so long as the trapping is in compliance with state regulations.

E. *Animal Protection.* No person shall harm any bird nest within the limits of any park or public property, nor aim or discharge any airgun, slingshot, or other weapon, or throw any stones or other projectiles at, nor injure or attempt to injure any bird, wild creature, or other animal within any park or public property, except as authorized by the Director. This Section does not prohibit fishing when done in compliance with state law.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City, that Section 12.24.120 of the Rapid City Municipal Code be and is hereby added to read in its entirety as follows:

12.24.120 Protection of Park Property.

No person shall willfully mark, deface, disfigure, tamper with, displace, or remove any buildings, tables, benches, signs, grills, trees, shrubs, flowers, artifacts, rocks, petrified wood, or any other historic, natural, or geological resources, or any other public park property or appurtenances whatsoever, either real or personal. No person shall enter upon the grass or turf of any park where any prohibitory sign is posted.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City, that Section 12.24.130 of the Rapid City Municipal Code be and is hereby added to read in its entirety as follows:

12.24.130 Refuse and Trash Disposal.

No person shall dump, deposit or leave any bottles, broken glass, ashes, boxes, cans, rubbish, waste, garbage or other trash of any nature in a public park, except in proper receptacles designated for that purpose. Where proper receptacles are not provided, all such rubbish or waste shall be carried out of the park for disposal by the person responsible for its presence. No person shall deposit, place or leave any rubbish or waste in any waste receptacle in the park which has not been generated within the park.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City, that Section 12.24.140 of the Rapid City Municipal Code be and is hereby added to read in its entirety as follows:

12.24.140 Fires.

No person shall kindle or build a fire in any public park or playground except in receptacles provided for such use, or in private receptacles or grills, provided that the allowable receptacles or grills are placed in areas designated for that purpose by the Director of the Parks and Recreation Department. Every person who starts or uses a fire shall completely extinguish the fire before leaving the park.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City, that Section 12.24.150 of the Rapid City Municipal Code be and is hereby added to read in its entirety as follows:

12.24.150 Fireworks.

No person shall bring into any public park, or have in his/her possession in a public park, or set off in a public park any firecrackers, rockets, or other fireworks or explosives, other than those expressly permitted in Section 8.24.020 or unless authorized by the Fire Chief and Common Council. No person shall discharge any firecracker, torpedo, rocket, or other firework or explosive, in a manner that causes them to land in any park area. This Section shall not prohibit model rockets that are not designed to explode. Black powder and composite engine powered rockets smaller than engine class E are acceptable if used in accordance with the National Association of Rocketry Safety Code. Any model rocket use must not interfere with the enjoyment of the park by other patrons.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City, that Section 12.24.160 of the Rapid City Municipal Code be and is hereby added to read in its entirety as follows:

12.24.160 Special Events.

No person shall hold a parade or special event in any park or greenway tract without first obtaining a Special Event Permit pursuant to Chapter 12.20.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City, that Section 12.24.170 of the Rapid City Municipal Code be and is hereby added to read in its entirety as follows:

12.24.170 Tents and Structures.

No temporary or permanent structure, booth, tent, or inflatable structure shall be erected in any park for any purpose without permission of the Director. Tents located in parks must comply with R.C.M.C. Title 15, Buildings and Construction, and Title 17, Zoning.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City, that Section 12.24.180 of the Rapid City Municipal Code be and is hereby added to read in its entirety as follows:

12.24.180 Remote control vehicles.

A. Planes. Remote control planes are prohibited unless they meet the Park Flyer Class, weigh two pounds or less, and are incapable of reaching speeds greater than 50 m.p.h. Remote control planes used in a park must be electric or rubber power or of any similar quiet means of propulsion. Models shall be remotely controlled or flown with a control line, shall remain within the pilot's line of sight at all times, and shall always be flown safely by the operator. Model airplanes must operate a minimum safe distance of at least 50 feet from any spectators other than the pilot.

B. Drones. Remote control drones shall abide by all State and Federal regulations and shall operate at a minimum safe distance of at least 50 feet from any people other than the pilot.

C. Boats. Remote control boats may operate on any of the lakes located within City parks. Internal combustion engine powered boats are allowed on Memorial Pond only. Remote control boats may not reach speeds in excess of 50 m.p.h. Model boating may not interfere with the enjoyment of the parks by other patrons and may not interfere with organized events within the park. Use of remote control boats to harass wildlife or park patrons is prohibited.

D. Cars. Remote control cars that are not powered by an internal combustion engine are permitted in a park so long as they are operated at speeds under 25 m.p.h. Use of remote control cars may not interfere with the enjoyment of the parks by other patrons and may not interfere with organized events within the park. Operators of remote control cars shall ensure that the cars do not damage the park grounds or facilities. Use of remote control cars to harass wildlife, animals, or park patrons is prohibited.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City, that Section 12.24.190 of the Rapid City Municipal Code be and is hereby added to read in its entirety as follows:

12.24.190 Authority of Director to Prohibit Conduct.

The Director may prohibit conduct in those areas of the parks when and where the Board deems conduct dangerous or unduly interfering with another's use of the parks.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City, that Section 12.24.200 of the Rapid City Municipal Code be and is hereby added to read in its entirety as follows:

12.24.200 Penalty.

Any person violating any provision in this Chapter shall be subject to the general penalty provision in Section 1.12.010.

CITY OF RAPID CITY

Mayor

ATTEST

Finance Officer

(seal)

First Reading:
Second Reading:
Published:
Effective: