

ORDINANCE NO. 2019-37

AN ORDINANCE AMENDING CHAPTER 5 REVISING DEFINITIONS AND REGULATIONS RELATING TO CITY PARKS.

The City Council of the City of Bloomington hereby ordains:

Section 1. The City of Bloomington is entrusted by the public with the responsibility of managing public lands, parks, infrastructure, and property located in the city for the use and enjoyment of all persons. The city parks, green spaces, beaches, waters, trails, parking lots, and other public facilities offer opportunities for a broad range of public uses. In order to further the safety, health, enjoyment and welfare of all persons in the use of these public resources, the city adopts the following amendments to Chapter 5 of the City Code as it relates to parks and playgrounds.

Section 2. That Article III of Chapter 5 of the City Code is hereby amended by deleting those words that are in strikethrough font contained in brackets [] and adding those words that are underlined, to read as follows:

CHAPTER 5: PUBLIC FACILITIES AND PROPERTY

ARTICLE III: PARKS AND PLAYGROUNDS

§ 5.20 DEFINITIONS. The following word or term when used in this Article III, shall have the following meanings. [~~unless the context clearly indicates otherwise.~~]

AUTHORIZED BEACHES. Designated areas with posted signs where swimming is allowed.

DIRECTOR. Parks and recreation department director or designee to whom specific duties have been assigned by the city manager.

CHILD. An individual under the age of 18.

ELECTRONIC DELIVERY DEVICE. Any product containing or delivering nicotine, lobelia or any other substance intended for human consumption through the inhalation of aerosol or vapor from the product. **ELECTRONIC DELIVERY DEVICE** includes, but is not limited to, devices manufactured, marketed, or sold as e-cigarettes, e-cigars, e-pipes, vape pens, mods, tank systems, or under any other product name or descriptor. **ELECTRONIC DELIVERY DEVICE(S)** also includes any component part of a product whether or not sold separately. **ELECTRONIC DELIVERY DEVICE** does not include any product that has been approved or certified by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is marketed and sold for such an approved purpose.

NICOTINE DELIVERY PRODUCT. Any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco or an electronic delivery device as defined by this section. **NICOTINE DELIVERY PRODUCT** excludes any product that has been approved by the United

States Food and Drug Administration for sale as a tobacco use cessation product or for medical purposes, and is being marketed and sold solely for such an approved purpose.

MOTOR VEHICLE. Any self-propelled vehicle or vehicle propelled or drawn by a self-propelled vehicle which is operated on a highway, on the ground, or in the air.

PARKS. A park, conservation area, playground, beach, recreation center or other area in the city owned, leased or used, wholly or in part, by the city for such purposes or which is designated by the City Council as a park.

TOBACCO. Any product containing, made or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed or ingested by any other means, or any component, part or accessory of a tobacco product, including, but not limited to cigarettes, cigars, cheroots, stogies, perique, granulated, plug cut, crimp cut, ready, rubbed and other smoking tobacco; snuff, snuff flower, cavendish, plug and twist tobacco; fine cut and other chewing tobaccos; shorts, refuse scripts, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco.

TOBACCO-RELATED DEVICE. Cigarette papers or pipes for smoking, or any other device intentionally designed or intended to be used with tobacco. **TOBACCO-RELATED DEVICE** includes components of tobacco-related devices which may be marketed or sold separately.

TOBACCO-RELATED PRODUCT. Any tobacco, tobacco-related device, electronic delivery device, or nicotine delivery product, as those terms are defined in this section.

TOBACCO USE. Smoking, chewing, snuffing or otherwise inhaling or ingesting tobacco.

§ 5.21 REGULATIONS.

The rules and permits in this section are required to ensure the safety and general welfare of the public and the quiet and orderly use and enjoyment of the city's parks. The City Council may adopt fees and policies pursuant to this section in furtherance of these objectives. The following regulations shall apply to all city parks.

(1) No person shall drive or operate a motor vehicle in any park except on roads or designated parking areas or such other areas as the [Manager] Director of Parks and Recreation shall designate, and no person shall operate a motor vehicle within a park at a speed in excess of 15 mph.

(2) Parking.

(A) No person shall park any motor vehicle in any place in public parks between the hours of 10:00 p.m. and one hour before sunrise without a permit approved by the Director. During the hours when parking is permitted, said vehicles must be parked only in designated parking areas. Any unoccupied vehicle found in violation of park regulations may be removed and impounded by any police officer or duly authorized person in accordance with Chapter 8, Article III, Division B, of this code.

(B) No person shall park within the designated portions of the Hyland-Bush-Anderson Lakes Regional Park System without displaying a valid seasonal or daily parking permit issued by the city. [~~or Three Rivers Park District.~~]

(3) No fires shall be lighted or made in any park except in places provided for such purposes, and except for fires lighted by city employees engaged in [~~cleaning~~] clearing the area.

(4) No person shall discharge any fireworks or firearms in any park without the ~~written permission of a permit from the~~ [~~Manager~~] Director of Parks and Recreation and [~~without a permit~~] in the case of fireworks, from the Fire Marshal and, in the case of firearms, from the Chief of Police.

(5) No person shall scatter about or litter the grounds with any form of waste material. No person shall carry upon park property any glass bottles or glass containers.

(6) No person shall commit any nuisance or any offense against decency or public morals in a public park.

(7) Beaches and public waters.

(A) No person shall throw refuse of any kind in any lake, pond or watercourse.

(B) The [~~Manager~~] Director of Parks and Recreation shall designate authorized beaches. [~~AUTHORIZED BEACHES are those designated areas which shall be posted by appropriate signs and markers.~~] Swimming is allowed only at [~~designated~~] authorized beaches.

(C) No person shall frequent any park waters or beach for the purpose of swimming or congregating with others or to swim or congregate thereat between the hours of 10:00 p.m. and 6:00 a.m. of the following day unless with the written permission of the [~~Manager~~] Director of Parks and Recreation.

(D) No person or persons shall have air mattresses, inner tubes or other inflated articles or flotation equipment on any park property unless such flotation devices shall have a Minnesota state watercraft license.

(E) No person shall use a tobacco-related product at any of the city's designated beach areas, or other designated pool and play areas at city-owned swimming pools and aquatic facilities. These areas shall be posted by appropriate signs and markers as [~~directed~~] designated by the [~~Manager~~] Director of Parks and Recreation.

(8) No person shall paste or affix or inscribe any handbill or poster on any structure or property in any of such parks or any place or square or highway surrounding the same.

(9) No person shall possess, display, consume or use intoxicating liquors in any park. No person shall possess, display, consume or use 3.2% malt liquors in any park except that 3.2% malt liquor may be consumed in designated picnic areas or when a valid, special event license has been issued under § 13.02.01(c) of this code.

(10) No person shall disturb or interfere with any birds or animals kept or found in any park.

~~[(11) No person shall sell any article whatever in any park unless he or she shall have a permit, lease or concession granted by the city.]~~

(11) Commercial use and photography.

No person shall:

(A) Solicit, sell, or otherwise peddle any goods, wares, merchandise, services, liquids, or edibles in a park, except by permit approved by the city.

(B) Operate a still, motion picture, video, or other camera for commercial purposes in a park without a permit approved by the city.

~~[(12) No person shall play any game of baseball or football or other game in any park except in areas provided therefor.]~~

~~[(13)]~~ (12) Dogs are allowed in city parks and on other city-owned property while restrained by a leash as described in § 14.87 of this code, except that dogs may be allowed unleashed within the boundaries of city parks or other city-owned property designated and posted by the ~~[Manager]~~ Director of Parks and Recreation as an off-leash site.

~~[(14)]~~ (13) All parks shall close at 10:00 p.m., and no person shall remain in any park after that time, unless written permission shall have been given by the ~~[Manager]~~ Director of Parks and Recreation for parties to remain longer therein.

~~[(15)]~~ (14) No person shall write upon or mark or deface in any manner or use in any improper way any property or thing pertaining to or in said parks.

~~[(16)]~~ (15) All persons shall obey all reasonable orders or directions of the ~~[Manager]~~ Director of Parks and Recreation or ~~[the Manager of Parks and Recreation's]~~ designee.

~~[(17)]~~ (16) No person shall break, cut, mutilate, injure, remove or carry away any tree, plant, flower, shrub, rock, soil, sand, fence, bench or any other property in any park.

~~[(18)]~~ (17) No person shall ride a horse or other animal in any park except on designated trails or paths or allow any animal to go unattended or without physical restraint. This provision shall not apply to the use or riding of horses for law-enforcement purposes.

~~[(19)]~~ (18) No person shall use scuba or other diving equipment in any park without a permit from the city. ~~[Manager of Parks and Recreation.]~~

~~[(20)]~~ (19) Park and recreation programs.

(A) No person involved in any event of the Park and Recreation Department ~~[Division]~~, including, but not limited to, sponsors of teams thereof, shall commit an unfair discriminatory practice or deny another person access to, admission to, or utilization of, or benefit from any such event because of race, color, creed, religion or national origin.

(B) Exception: the provisions of subsection (20)(A) above shall not apply to a religious organization with respect to qualifications based on religion, when religion shall be a bona fide qualification for membership.

~~[(21)]~~ (20) No person shall use a tobacco-related product on city-owned athletic play fields, including their spectator areas, while the fields are being used for organized youth athletic events or organized adult recreational events. These areas shall be posted by ~~[appropriate]~~ signs and markers as directed by the ~~[Manager]~~ Director of Parks and Recreation.

~~[(22)]~~ (21) No person shall use a tobacco-related product on city-owned property during city sponsored cultural programs. ~~[such as Arts in the Park, Summer Fete and River Rendezvous.]~~ The ~~[Manager]~~ Director of Parks and Recreation may permit the use of tobacco-related products for special events such as historical programs and theatrical productions if such use is an integral part of the event. These areas shall be posted by ~~[appropriate]~~ signs and markers as directed by the ~~[Manager]~~ Director of Parks and Recreation.

~~[(23)]~~ (22) City-owned parks, open spaces and recreation areas.

(A) No person shall use a tobacco-related product on city-owned golf courses and on the exterior premises of the Bloomington Ice Garden. These areas shall be posted by ~~[appropriate]~~ signs and markers as directed by the ~~[Manager]~~ Director of Parks and Recreation.

(B) No person shall use a tobacco-related product on city-owned parks, conservation areas and open spaces, including trails used for walking and biking or on property for which the city retains a perpetual easement for public use as a park. These areas shall be posted by ~~[appropriate]~~ signs and markers as directed by the ~~[Manager]~~ Director of Parks and Recreation.

(C) No person shall use a tobacco-related product at city-owned picnic shelters during private rentals of these facilities. These areas shall be posted by ~~appropriate~~ signs and markers as directed by the ~~[Manager]~~ Director of Parks and Recreation.

(D) This section does not apply to the use of a tobacco-related product in a motor vehicle parked on the premises of a city-owned park, conservation area, open space and recreational facility.

(23) No person shall use sound amplifying equipment without obtaining a permit from the city.

(24) No person shall intentionally take a photograph or otherwise record a child without the consent of the child's parent or guardian.

(25) No person shall use an aircraft of any kind, whether motorized or non-motorized without first obtaining a permit from the city.

(26) Rental permits are required for the exclusive use of all or portions of specific areas, building, and other facilities for conducting special events.

§ 5.22 PENALTY.

Any person violating § 5.21(9) or [~~(14)~~] (13) shall be guilty of a misdemeanor, all other violations of this Article III shall be punishable as a petty misdemeanor.

§ 5.22.01 SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this Article III is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion of the Article III. The City Council hereby declares that it would have adopted this Article III and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

Passed and adopted this 28th day of October, 2019.

/s/ Gene Winstead
Mayor

ATTEST:

APPROVED:

/s/ Denise M. Christenson
Secretary to the Council

/s/ Melissa J. Manderschied
City Attorney