

ORDINANCE NO. 4509

AN ORDINANCE REPEALING AND REENACTING ARTICLE I, "IN GENERAL," OF CHAPTER 22, "PARKS AND RECREATION," OF THE REVISED CODE OF THE CITY OF BOULDER, 1965, AS AMENDED; THE REENACTED SECTIONS WHICH IN GENERAL COVER THE FOLLOWING SUBJECTS: PARK RULES AND REGULATIONS, WEAPONS, FIREWORKS, FIRES, DAMAGING PROPERTY, PROTECTION OF WILDLIFE, TRESPASS, REFUSE, DISTURBING THE PEACE, MOTOR VEHICLES, HORSES AND LIVESTOCK, PARK PATROL OFFICERS, THE ISSUANCE OF PERMITS, AND OTHER PROHIBITED CONDUCT; AND SETTING FORTH DETAILS IN RELATION THERETO.

WHEREAS, the present Article I of Chapter 22, "Parks and Recreation," of the Revised Code of the City of Boulder, 1965, as amended, has numerous sections which are outdated, includes other sections which unnecessarily duplicate provisions of the state law, and treats certain subjects which should be approached in a different manner;

WHEREAS, the City Council concludes that Article I of Chapter 22 should be substantially revised and be put in a form as contained in detail in the balance of this ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, THAT:

Section 1. Article I, "In General," of Chapter 22, "Parks and Recreation," of the Revised Code of the City of Boulder, 1965, as amended, is hereby repealed in its entirety and reenacted to read as follows:

ARTICLE I

GENERAL PROVISIONS

Sec. 22-101. Applicability.

The provisions of this chapter, unless otherwise indicated from the context, shall apply to all parks, parkways, recreation areas, and open space belonging to the city or which are in the possession and control of the city whether located within or without the corporate boundary limits of the city.

Sec. 22-102. Rules and Regulations.

(a) The City Manager of the City of Boulder or his duly authorized representative shall have power and authority, and is hereby empowered and authorized to adopt rules and regulations after notice and hearing for the management, operation, and control of city parks, parkways, recreation areas, and open space, and for the use and occupancy, management, control, operation, care, repair, and maintenance of all structures and facilities thereon, and all land on which the same are located and operated. By way of example, but not by way of limitation, such rules and regulations may provide for the following:

(1) Preservation of property, vegetation, wildlife, signs, markers, buildings, or other structures, and any object of scientific or historic value or interest;

(2) Restriction on or limitation of the use of any area as to time and manner of activities, or as to permitted activities;

(3) Prohibition of conduct which may reasonably be expected to substantially interfere with the use and enjoyment of parks, recreation areas, and open space by the general public or which shall be of a general nuisance;

(4) Establishing fees and charges for activities, programs, services and the use of any park, recreation area, open space, or facility thereon.

(5) Necessary and reasonable sanitary, health, and safety measures;

(6) Camping and picnicking, including place, time, and manner where such shall be permitted;

(7) The use of motor vehicles and boats as to place, time, and manner of operation;

(8) Control and limitation of fires and designation of places where fires shall be permitted;

(9) Requirements which are reasonable or necessary for

the preservation and management of parks, recreation areas, and open space.

(b) Procedure for Adoption. Before any proposed rules and regulations become effective, the City Manager shall designate a date, time and place for the purpose of hearing any comments there may be to the proposals. Notice of hearing shall be given by a minimum of one publication of the proposed rules and regulations in full, and the date, time and place of the hearing, in a newspaper of general circulation in the City of Boulder. Rules and regulations adopted after notice and hearing shall be effective upon filing of copies with the City Clerk.

(c) It shall be unlawful for any person to violate any such rule or regulation promulgated by the City Manager pursuant to this section.

(d) All references to the City Manager in this Chapter or Rules and Regulations adopted pursuant to this Chapter shall be construed to refer also to the City Manager's authorized representatives.

Sec. 22-103. Weapons.

(a) Firearms. It is a violation of this section for any person, other than a police officer, park patrol officer, or other authorized law enforcement officer, to:

(1) Take or carry, or cause to be taken or carried, into any park, recreation area, or open space, any gun, rifle, pistol, revolver, or any other kind of firearm, which is loaded. For the purposes of this section, a firearm shall be deemed to be loaded if it has a projectile, with charge, in the firing chamber, breech, loading chamber, or magazine; or

(2) Discharge a firearm of any kind at, toward, over, into, or upon any park, recreation area, or open space.

(b) Other Weapons or Devices. It is a violation of this section for any person, other than a police officer, park patrol officer, or other authorized law enforcement agent, to:

(1) Take or carry, or cause to be taken or carried, into any park, recreation area, or open space, any bow, slingshot, pellet gun, BB gun, or any similar mechanical device, designed for the purpose of discharging, shooting, or projecting missiles of any kind.

(2) Discharge a missile from any bow, slingshot, pellet gun, BB gun, or any similar mechanical device.

(c) Nothing in this section shall be interpreted to prevent the use of firearms or other weapons at any shooting range or other area specifically designated by the City Manager for said use, nor shall this section prevent the carrying of any such firearm or weapon, if unloaded, to or from a designated range or area.

(d) The City Manager is authorized to designate and establish areas within any city park or recreation area in proper shooting ranges or hunting areas.

(e) This section shall not be construed to prohibit the possession of a loaded firearm or the discharge thereof for the purpose of defending the defendant's home, person or property, or in the aid of the civil power when thereto legally summoned.

Sec. 22-104. Fireworks.

(a) For the purposes of this section, the term "fireworks" shall mean and include any article, device, or substance prepared for the primary purpose of producing a visual or auditory sensation by combustion, explosion, deflagration, or detonation, including, without limitation, the following articles and devices commonly known and used as fireworks: toy cannons, or toy canes in which explosives are used, blank cartridges, the type of balloon which requires fire underneath to propel the same, firecrackers, torpedoes, skyrockets, rockets, Roman candles, dayglo bombs, serial shells, sparklers, trick matches, toy caps, torches, fountains, or other fireworks of like construction, and any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive substance.

(b) It is a violation of this section for any person to take or carry, or cause to be taken or carried, into any park, recreation area, or open space, any fireworks, including those the possession of which may not be prohibited by state law, such as sparklers. It is a violation of this section for any person to fire or explode any such fireworks in a park, recreation area, or open space.

(c) Permits for the supervised public display of fireworks may be obtained as set forth in the Fire Code of the City of Boulder.

Sec. 22-105. Fires.

(a) It is a violation of this section for any person to start or maintain or cause to be started or maintained, any fire in or on any park, recreation area, or open space, unless confined within a fire pit permanently erected for such purpose by the City of Boulder. It is also unlawful for any person to erect, build, or construct a fire place in any park, recreation area, or open space, unless a permit to do so has first been obtained from the City Manager.

(b) It is a violation of this section for any person to start, maintain, or cause to be started or maintained, any fire in or on any park, recreation area, or open space, between the hours of eleven p.m. and six a.m. without first having obtained a permit therefor from the City Manager.

(c) The City Manager is authorized to post signs within any park, recreation area, or open space, during periods of extreme fire danger directing that no fires shall be built, started, or maintained. It is a violation of this section for any person to build, start or maintain a fire in any park, recreation area, open space, or portion thereof, when signs are posted by the City Manager prohibiting said acts.

(d) It is unlawful for any person to leave a park, recreation area, or open space, without first having completely extinguished any fire started or maintained by such person.

400

Sec. 22-106. Damaging Property.

(a) It is a violation of this section for any person to damage, move, remove, destroy or injure in any manner whatsoever, or to cause to be damaged, moved, removed, destroyed or injured any grass, tree, shrub, plant, flower, railing, bridge, culvert, sign, building or any other property whatsoever belonging to the city, or under the possession and control of the city, in, at, or upon any park, recreation area, or open space.

(b) It shall be a violation of this section for any person to knowingly cause or permit any domesticated animal, owned by them or under their possession and control, including but not limited to cows, goats, horses, pigs, or sheep, to graze, pasture, or run at large, or to be driven or herded, within any park, recreation area, or open space, except pursuant to a prior written agreement with the City of Boulder..

(c) It is a violation of this section for any person to roll, throw, or otherwise move any rocks or boulders in any park, recreation area, or open space.

Sec. 22-107. Wildlife Protection; Research Projects.

(a) It is a violation of this section for any person to hunt, trap, net, impede, harass, molest, chase, kill, or remove any wildlife, or to damage, destroy, or remove any nest, burrow, or animal dwelling from any park, recreation area, or open space, without first having obtained a permit therefor from the City Manager.

(b) It shall be a violation of this section for any person to conduct any project or research project which includes marking, tagging, sampling, trapping, or removing any soil, rock, fossil, tree, shrub, plant, flower, or wildlife, or which includes the construction of a physical grid, in any park, recreation area, or open space, without first having obtained a permit therefor from the City Manager.

Sec. 22-108. Trespass.

(a) It is a violation of this section for any person to climb onto any building or portion thereof not designed for such activity.

(b) It is a violation of this section for any person to enter any park area, recreation area, open space, or portion thereof, which is fenced or otherwise enclosed and is posted with signs, at intervals of not more than four hundred forty yards, which forbid entry.

Sec. 22-109. Unlawful to Place Refuse in Certain Places.

(a) It is a violation of this section for any person to deposit, leave, dump, or cause to be deposited, left, or dumped, any trash, refuse, garbage, or rubble within any park, recreation area, or open space, at any place other than within those containers specifically designated for the deposit of such materials.

(b) If no such containers are provided, or if they are already filled to capacity, then all trash, garbage, refuse, or rubble shall be carried away from the area by the person or persons responsible for its accumulation, to be properly disposed of elsewhere.

(c) It is a violation of this section for any person to dump, leave, deposit, or cause to be deposited, left, or dumped, any garbage, refuse, rubble, or trash in any designated container unless such trash originated from a local park, recreation area, or open space activity such as picnicking.

Sec. 22-110. Disturbing the Peace.

It is a violation of this section for any person to disturb the peace of others using a park, recreation area, or open space, by making, generating, or being responsible for the making of unreasonable noise.

Sec. 22-111. Motor Vehicle Regulation.

It is a violation of this section for any person to:

(a) Willfully fail or refuse to comply with any lawful order or direction of any park patrol officer, who are hereby authorized and instructed to direct traffic whenever and wherever needed in parks, recreation areas, and open space, and on the public roads, boulevards, or parkways therein.

(b) Fail to comply with any traffic sign in a park, recreation area, or open space, relating to the operation of motor vehicles, including but not limited to signs with respect to speed, direction, caution, stopping, etc.

(c) Drive or operate a motor vehicle within any park, recreation area, or open space, in excess of the posted speed limit. If no speed limit is posted, then it is a violation of this section for any person to drive or operate a motor vehicle in a park, recreation area, or open space in excess of twenty (20) miles per hour.

(d) Drive a motor vehicle within or upon any part of a park, recreation area, or open space, except on designated roadways or parking areas as may on occasion be specifically designated as temporary parking areas by the City Manager.

(e) Remove or relocate any barricade, barrier, or other device erected for the purpose of controlling motor vehicle traffic in a park, recreation area, or open space.

(f) Park any vehicle in a manner so as to block or impede travel on or into a designated fire road or other emergency access.

(g) Park a motor vehicle in a manner contrary to posted signs.

(h) Park a motor vehicle in a park, recreation area, or open space between 12:00 midnight and 5:00 a.m.

(i) The City Manager is hereby empowered to post "tow-away" no-parking zones within any park, recreation area, or open space, for the purpose of clearing off-street parking areas after designated hours of operation and for the purpose of clearing designated fire roads and other emergency access routes. Vehicles parked in violation of a "tow-away" sign posted in compliance with this section may be removed, stored, and impounded pursuant to the procedures of Section 20-204 of the Revised Code of the City of Boulder, 1965, as amended. Sec. 22-112. Horses and Livestock.

It shall be a violation of this section for any person who is the owner, agent, employee, operator, or concessionaire of any commercial

450

horse stable, riding school, or livery, to use any park, recreation area, or open space, for grazing or pasture of his livestock, or to use any park, recreation area, or open space, for training, riding, or trail riding activities of his customers, without first having obtained a special use permit specifying the amount of use, times and dates of use, trails or areas to be used, and other details of the use. The permit shall be in the form of a revocable license or lease for which a fee is paid.

Sec. 22-113. Other Prohibited Conduct.

It is a violation of this section for any person to do any of the acts hereinafter specified within any park, recreation area, or open space:

(a) To enter or remain therein between the hours of 12:00 midnight and 5:00 a.m., without first having obtained a permit therefor from the City Manager.

(b) To carry or possess any glass bottle or other container made of glass.

(c) To drive or hit golf balls, except at such place as may be set apart for that purpose by the posting of signs by the City Manager.

(d) To wash dishes, empty waste liquids, or in any other manner pollute the water, of any fountain, pond, lake, stream, or ditch.

(e) To sell or offer for sale any merchandise, article, or thing, without the express permission of the City Council.

(f) To sled, toboggan, tube, or slide, except on roadways, designated trails, or other areas designated and posted for such use by the City Manager.

(g) To ride or lead horses on any landscaped park, or recreation area, unless upon a public equestrian way designated by the City Manager.

(h) To operate any public address system or other amplified sound system, under circumstances which can reasonably be expected to draw

an audience of fifty or more people, without first having obtained a permit from the City Manager according to the provisions of Section 22-115.

Sec. 22-114. Park Patrol Officer: Interference with Park Patrol Officer or City Employees.

(c) The City Manager shall appoint at least four (4) full-time park patrol officers, and in addition, he may appoint as many part-time or temporary park patrol officers as may in his judgment be appropriate from time to time. The park patrol officers shall enforce city ordinances and regulations intended for the protection of city parks, recreation area, and open space, and shall perform such other duties as may be assigned by the City Manager. All park patrol officer appointees shall receive appropriate training through the police department. Upon satisfactory completion of such training, the officers shall be commissioned as park patrol officers and have conferred upon them police powers sufficient to enforce such ordinance and regulations, and to protect park patrons and property, including the power to carry firearms and to effect arrests.

Sec. 22-115. Permit Required for Concerts.

(a) A permit must be obtained under the provisions of this section for a "concert" in a city park, or recreation area. A "concert" is a live or recorded musical performance by an individual, band, or orchestra intended for, or which can reasonably be expected to draw, an audience of fifty or more people. No permit issued under the provisions of this section will expire subsequent to 11:00 p.m.

(b) An application for a permit will be filed at least two days prior to the requested date of a concert with the City Manager. A security deposit of twenty dollars, which amount may be waived, or may be increased as hereinafter set forth, will accompany the application. The application must be signed by at least one adult City of Boulder resident, and if the permit requested is for a live concert, the individual performer, band leader, or orchestra leader

must sign the application. The application will be furnished by the Director of Parks and Recreation, and shall include the following:

- (1) The name and address of the individual, group, or organization sponsoring the concert;
- (2) The name, address and telephone number of the individual or individuals in charge;
- (3) The park or recreation area, or portion thereof for which such permit is desired; however, no permit shall be issued to allow a concert on open space property.
- (4) The nature of the source of the music;
- (5) The day and hours for which the permit is sought;
- (6) An estimate of the anticipated attendance.

(c) Upon receipt of the application, the City Manager shall:

- (1) Check to verify the accuracy of the information furnished;
- (2) Review the schedule of park or recreation area use to ensure that there is no conflict with prior applications or scheduled activities of the Parks and Recreation Department, which activities will take precedence. In the event of a conflict, the applicant will be notified so that the application may be amended by the applicant to avoid the conflict;

(3) Review the requested site to determine whether or not the carrying capacity of the site is adequate for the proposed use. "Carrying capacity" of a site shall be determined through an assessment of available seating, parking, and sanitation facilities. No permit shall be granted for a site if the proposed use may result in irreparable damage to flora and fauna.

(4) Review the proposed time of the concert, the estimated attendance, and consider other relevant circumstances to ensure that the security deposit is adequate for the protection against possible damage to city property and to defray costs of restoration

of the premises to a neat and orderly condition. The City Manager will have the authority to require up to an additional deposit if he determines the twenty dollars is insufficient. The applicant will deposit the additional amount upon request. The City Manager may also return the security deposit of twenty dollars forthwith if he determines it is not necessary under the circumstances to protect the interests of the city.

(d) If the applicant fulfills the requirements hereinabove set forth, the City Manager shall issue a permit unless the proposed concert would result in exceeding the carrying capacity of the requested site. The following conditions shall be attached to the permit:

- (1) That the applicant will take all reasonable steps to protect city facilities and property against damage;
- (2) That the applicant will clean up and restore the premises used to a neat and orderly condition.
- (3) That no admission will be charged for the performance unless it is a City Parks and Recreation Department sponsored event;
- (4) That the applicant will be responsible to see that the noise emanating from the music source complies at all times with standards set forth in Section 21-14 of the Revised Code of the City of Boulder, 1965, as amended, anything to the contrary which may be contained in Section 21-14(f) notwithstanding;
- (5) That the applicant will be responsible to see that all members of the band or orchestra comply with all applicable state and city laws;
- (6) That the applicant will at all times insist that the members of the audience comply with all applicable state and city laws.

Any breach of any condition of the permit during the course of the concert will revoke the permit. The concert will immediately cease. Any attempt to continue the concert after the revocation will be deemed a violation of this section.

(e) The applicant will, after the concert and during working hours, contact the City Manager to inspect the area used. If no damage has been done and the area has been properly cleaned, the security deposit will be returned. In the event the applicant has failed to discharge his obligations, the City Manager will retain a sum sufficient to cover the damage and/or restore the premises to a neat condition. In the event the security deposit does not completely indemnify the city for the damage or cleaning costs necessary to restore the area, the applicant shall be responsible to the city for the shortage.

Sec. 22-116. Dogs Running at Large.

(a) Except as may be provided for in subsection (b) of this section, in all parks, recreation areas, and open space located outside the corporate limits of the city, it is a violation of this section for the owner or keeper of any dog to allow the dog to run at large unless such dog is accompanied by a person and is within view and voice control of such person.

(b) In any park within the city limits, and in any other park, recreation area, open space, or part thereof designated and posted as requiring a leash on a dog, it shall be unlawful for any owner or keeper of any dog to allow such dog to be in such area unless it is on a hand-held leash.

(c) Any dog found running at large in any park, recreation area, or open space located outside the city's corporate boundaries, and not accompanied by a person, may be impounded by the City Manager pursuant to the provisions of Chapter IV of the Revised Code of the City of Boulder, 1965, as amended.

(d) Any dog observed by a police officer of the city, park patrol officer, or other duly authorized agent of the City Manager, running at large in violation of this section, and running, worrying, menacing, threatening, or endangering persons, domestic

livestock, or any species of wildlife, and under such circumstances as to create a threat to the safety of such person, domestic livestock, or species of wildlife, may be destroyed, if deemed necessary by the observing officer.

Sec. 22-117. General Penalty Authorization.

Upon conviction for a violation of any section or subsection of a section, of this Chapter, unless otherwise provided to the contrary in this Chapter, a person shall be subject to a fine not to exceed three hundred dollars (\$300) or imprisonment for a period of not to exceed ninety (90) days, or by both such fine and imprisonment.

Section 2. The title of Chapter XXII of the Revised Code of the City of Boulder, 1965, as amended is hereby repealed and reenacted to read as follows:

PARKS, RECREATION AREAS, AND OPEN SPACE

Section 3. Section 21-10(b)(4) of the Revised Code of the City of Boulder, 1965, as amended is hereby repealed.

Section 4. Nothing in this ordinance shall be deemed to transfer City open space to the jurisdiction of the Parks and Recreation Department or any other City program. Nothing in this ordinance shall be deemed to subject City open space to the requirements of Sections 154 through 169 of the Charter of the City of Boulder.

Section 5. The repeal of certain sections of the Revised Code of the City of Boulder, 1965, as amended, as above shall not constitute a bar to the prosecution and punishment of an act or acts already committed in violation of the section so repealed. All sections repealed by this ordinance shall remain in full force and effect for the purpose of sustaining any and all actions, suits, proceedings, prosecutions instituted, and the penalties imposed therefor which arose prior to the effective date of the within ordinance.

Section 6. All sections or parts of sections of the Revised Code of the City of Boulder, 1965, as amended, or ordinances or parts of ordinances in conflict or inconsistent herewith, are hereby repealed, provided, however, that the repeal of any section or parts of sections of the Revised Code of the City of Boulder, 1965, as amended, or any ordinance or part thereof, shall not revive any other section of said code, ordinance or ordinances, heretofore repealed or superseded.

Section 7. If any part or parts hereof are for any reason held to be invalid, such shall not affect the remaining portions of this ordinance.

Section 8. The City Council finds that this ordinance is necessary to protect the public health, safety and welfare.

Section 9. The City Council deems it appropriate that this ordinance be published by title only and directs the City Clerk to make available in his office copies of the text of the within provisions for public inspection and acquisition.

INTRODUCED, READ, AND ORDERED PUBLISHED BY TITLE ONLY this _____ day of _____, A.D. _____.

Mayor

Attest:

Director of Finance & Record
Ex-officio City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this _____ day of _____, A.D., _____.

Mayor

Attest:

Director of Finance & Record
Ex-officio City Clerk

READ ON SECOND READING, PASSED, ADOPTED AND ORDERED PUBLISHED

BY TITLE ONLY this 1st day of July, A.D., 1980.

Ruth A. Carroll
Mayor

Attest:

Cappie I Fine
Director of Finance & Record
Ex-officio City Clerk

STATE OF COLORADO, }
COUNTY OF BOULDER, } ss.
CITY OF BOULDER, }

I, Cappie I. Fine, Director of Finance and Record and Ex Officio City Clerk of said City in the County and State aforesaid, do hereby certify that the foregoing ordinance was introduced and read on first reading at a regular meeting of the City Council of said City, held on the 17th day of June A.D. 19 80, and that afterwards, to-wit: on the 19th day of June A.D. 19 80, I caused the same to be published (by title only, ~~XXXXXX~~ in the official paper of said City (the same being a paper of general circulation published in said City), and that said publication was made ten days before the passage of said ordinance.

I hereby certify that the foregoing ordinance was afterwards duly and regularly passed by the City Council of said City on second reading at a regular meeting thereof held on the 1st day of July A.D. 19 80, and that thereafter, to-wit: on the 3rd day of July A.D. 19 80, I caused the same to be published (by title only, in full) in the official paper.

WITNESS my hand and the seal of said City of Boulder hereto affixed, this 29th day of July A.D. 19 80.



Cappie I Fine
Director of Finance and Record
Ex Officio City Clerk