RULE NO.: O161-14.25

NOTICE OF PROPOSED RULE **POSTING DATE:** August 25, 2014

The Director of the Parks and Recreation Department proposes to adopt the following rule.

Comments on the proposed rule are requested from the public. Comments should be submitted to:

Kimberly McNeeley, Assistant Director
Parks and Recreation Department, 200 S. Lamar Blvd., Austin, TX 78704
(512) 974-6700
Kimberly.McNeeley@austintexas.gov

To be considered, comments must be submitted before Sept. 26, 2014 the 32nd day after the date this notice is posted. A summary of the written comments received will be included in the notice of rule adoption that must be posted for the rule to become effective.

An affordability impact statement regarding the proposed rule has been obtained and is available for inspection or copying at the address noted in the preceding paragraph.

AUSTIN CITY CLERK
RECEIVED
2014 AUG 25 PM 1 58

EFFECTIVE DATE OF PROPOSED RULE

A rule proposed in this notice may not become effective before the effective date established by a separate notice of rule adoption. A notice of rule adoption may not be posted before Sept. 26, 2014 (the 32nd day after the date of this notice) or not after November 23, 2014 (the 90th day after the date of this notice).

If the proposed rule is not adopted on or before Nov. 23, 2014 it is automatically withdrawn and cannot be adopted without first posting a new notice of a proposed rule.

TEXT OF PROPOSED RULE

Text of the proposed rule is available at the Parks and Recreation Department's Web site: http://austintexas.gov/department/parks-and-recreation .

A copy of the complete text of the proposed rule is available for public inspection and copying at the following locations. Copies may be purchased at the following locations at a cost of ten cents per page.

Parks and Recreation Department
200 S. Lamar Blvd.
Austin, TX 78704

Office of the City Clerk,
301 West 2nd Street
Austin, Texas.

BRIEF EXPLANATION OF PROPOSED RULE

The proposed rule O161-14.25 adopts policies relating to the public's use of City of Austin parks, wildlife preserves, and recreational facilities. These rules are intended to secure and preserve the fullest enjoyment of parks, wildlife preserves, and recreational facilities.

AUTHORITY FOR ADOPTION OF PROPOSED RULE

The authority and procedure for adoption of a rule to assist in the implementation, administration, or enforcement of a provision of the City Code is provided in Chapter 1-2 of the City Code. The authority to regulate park use is established in Article V (*Administrative Organization*) of the City Charter and Title 8 (*Parks and Recreation*) of the City Code.

CERTIFICATION BY CITY ATTORNEY

By signing this Notice of Proposed Rule O161-14.25, the City Attorney certifies the City Attorney has reviewed the rule and finds that adoption of the rule is a valid exercise of the Director's administrative authority.

REVIEW AND APPROVED

Sara Hensley, Director
Parks and Recreation Department

Date: August 15th 2014

Karen M. Kennard, City Attorney

Date: August 18, 2014

Last revised 05/2011

City of Austin
Parks and Recreation Department

Park Use Rules

1. Purpose.

These are written rules for the use of City of Austin parks, wildlife preserves, and recreational facilities. These rules are intended to secure and preserve the fullest enjoyment of parks, wildlife preserves, and recreational facilities.

2. Applicability

(A) These rules apply to, and in, all parks, wildlife preserves, recreational facilities, or other areas belonging to the City and managed by, or under the authority of, the City of Austin Parks and Recreation Department.

(B) These rules do not apply to, or in, cemeteries managed by the Parks and Recreation Department.

(C) These rules do not apply to a City, state, or federal agent in the performance of the agent's official duties.

3. Terms; Definitions.

(A) In these rules, unless otherwise provided, words and phrases mean what they mean in the City Code. The rules of construction that apply to the City Code apply to these rules.

(B) In this section:

(1) "Director" means the director of PARD, and includes the director's designee.

(2) "PARD" means the City of Austin Parks and Recreation Department.

(3) "Park," or "Park Facility," unless otherwise expressly stated, includes all parks, wildlife preserves, recreational facilities, and other areas belonging to the City and managed by, or under the authority of, PARD except a cemetery.

(4) "Park employee" includes a contractor.

(5) "Permit" means a permit issued under this section or under the authority of PARD.

(6) "Permittee" means a person holding a permit from PARD.

(7) "Slackline" means a span of webbing or a similar material used for slacklining.

(8) "Slacklining" means an activity in which a participant balances on a span of webbing or a similar material that is anchored at two fixed points.

(9) "Weapon" means an instrument designed, adapted, or used to inflict bodily harm, including, but not limited to, a club, explosive weapon, firearm, illegal knife, or knuckles, as each of those terms is defined in Chapter 46 of the Penal Code.

(10) "Zip Line" means a pulley suspended on a cable that is mounted on an incline, and designed to enable a user to travel from the top to the bottom of the inclined cable.

4. Use of Park Facilities Generally.

(A) A park facility is generally available for public use on a first-come, first-served basis, subject to:

(1) a requirement, if any, for a permit;

(2) a requirement, if any, to pay an entrance fee or other fee;

(3) a previous reservation.

(B) A person shall comply with City signs and markers in a park.

(C) Entrance or Use Fees.

(1) A person may not enter or use a park facility for which an entrance or use fee has been established, unless the person has first paid the fee or is otherwise authorized to enter.

(2) A person must display an entrance permit or pass to a gate or entrance attendant on request.

(D) Reservations.

(1) A person may not use or occupy a facility or area for which another person has paid a reservation fee when the person's use conflicts with the use of the facility or area by the person who has made a reservation.

(2) A person must make a reservation in accordance with PARD's reservation policies.

(3) A person must display documentation of a confirmed reservation on request to a City employee charged with the supervision or patrolling of parks.

(E) Permits.

(1) When the City Code or this rule requires a person to obtain a permit or written authorization for a use, or prohibits a use without a permit or written authorization. A person who wishes to apply for a permit or authorization may contact the director's office. PARD shall provide information on its Web page explaining how a person may apply for a permit or authorization.

(F) Restricted Uses.

(1) A person may not use a court or field designed for a specific sport for another sport, unless the alternative use is permitted by the director. For example, a person may not use a tennis court for lacrosse, or a baseball field for soccer.

(2) PARD may restrict public access and use of wildlife preserves.

(G) Occupancy Limit.

(1) PARD may establish and post a maximum occupancy for any park area or facility.

(2) A person may not enter, or remain in, an area or facility for which PARD has established an occupancy limit when the person's entrance will have the effect of exceeding the established occupancy limit. Compliance with this rule does not eliminate any additional requirements that may be imposed by the City Code or City rules regarding an event on City property.

(H) Closed Areas.

(1) The City Manager or the manager's designee may close a park area, wildlife preserve or facility to public entry or otherwise restrict use until the area or facility can be made available for public use.

(2) If practicable, the director shall post notice of a closed area. A person may not enter a closed or restricted area.

(3) A person may not enter an area closed due to flooding, toppled trees, or debris, or which is the subject of a flood ban.

(I) Special Rules for Specific Parks Facilities or Events.

(1) Each park facility may develop special rules and regulations that address problems specific to a facility or an event.

(2) Special rules shall be in writing, approved by the director, and posted at the facility or provided to a person holding or attending an event.

(3) A person shall comply with all special rules and regulations posted at a facility or provided to the person.

5. Trail Use.

(A) A person may not operate or use a motor vehicle or a bicycle on a trail or path that is not designated for the use of the motor vehicle or bicycle.

(B) On a trail, a bicyclist shall yield to a runner, and a runner shall yield to a walker.

(C) People on bicycles may not be more than two abreast if this impedes other traffic on the trail. A person using a trail must leave ample room on the trail for other people to pass safely.

(D) A bicyclist must use a bicycle that is in good condition and equipped with properly functioning brakes, and operate the bicycle in a safe manner at a prudent speed.

(E) Unless otherwise posted, all portions of the hike and bike trails are designated as bicycle speed zones and shall be identified by signage. A bicyclist may not travel faster than 10 miles per hour in an area designated as a bicycle speed zone.

6. Assembly.

A person organizing an event in a park that the person reasonably should know will be attended by more than 60 people must provide notice, at least 24 hours before the event begins, to PARD by calling the director's office. Subject to compliance with all other applicable rules and ordinances, the event is to be allowed unless the director finds that the event will disrupt or interfere with a

scheduled event, or prevent or be inconsistent with the intended use of a park facility at the proposed site of assembly.

7. Disruptive Behavior; Ejection from Facilities.

(A) If a person's conduct violates these rules, or is unlawful, disruptive, destructive, or hazardous, the person may be warned and asked to stop the conduct immediately by any park employee. If a person persists in the conduct after a warning, a park employee may eject the person from the park.

(B) If a person's conduct is criminal, poses an imminent threat of injury or property damage, or prevents the public enjoyment of the premises, a park employee may eject the person from the park.

8. Peace and Quiet.

(A) A person shall preserve the peace and quiet enjoyment of a park by observing the law governing noise and amplified sound.

(B) A person may not use offensive language, make unreasonable noise, discharge weapons or fireworks, or engage in gestures or conduct in a park that would be offensive to a person of ordinary sensibility.

(C) A person may not operate a noise-making device in a park in violation of applicable law.

(D) A person shall observe and comply with noise restrictions posted in a park.

9. Weapons and Firearms.

(A) A person may not carry or possess a weapon or firearm while in a park, except:

(1) where the use is expressly allowed;

(2) as allowed by state and federal law; or

(3) when otherwise authorized in writing by the director.

(B) The use of a firearm, air gun, paintball gun, pellet or B.B. gun, bow and arrow, or projectile device capable of inflicting personal injury is prohibited unless conducted under permit or in a park facility where the director has authorized the use.

(C) A person may not display a firearm or other weapon in a park in a manner that the person should reasonably know will alarm or threaten another person.

10. Abandoned or Unattended Property.

(A) A person may not abandon a vehicle or other personal property in a park. PARD may remove, impound, and dispose of abandoned property under applicable law.

(B) A person may not leave a vehicle, boat, or other property unattended at any park in such a manner as to create a hazardous or unsafe condition. PARD may impound the unattended property or move the unattended property to a safe place.

11. Parking.

(A) Unless parking is otherwise prohibited, a person may park a motor vehicle in a park only in a designated area, or within twelve feet of a public park road.

(B) A person may not park, store, or leave a vehicle or trailer in an area posted "restricted" or with "no parking" signs.

(C) PARD may impound a parked vehicle or trailer that creates a hazardous or unsafe condition.

12. Commercial Activity.

(A) Generally.

(1) Unless a person is specifically authorized to do so by a permit or contract, or is acting in conjunction with a specifically permitted use of a reserved park facility; a person may not:

(a) sell or rent a good or service in a park;

(b) place a stand, cart, or vehicle in a park for a commercial purpose;

(c) affix an advertisement to park property.

(B) Providing Commercial Classes and Instruction.

(1) A person may not conduct classes or instructional activities for compensation in a park unless the person obtains a contract from PARD.

(2) A person may not provide a free class or instruction as an inducement or advertisement for a paid class or instruction, unless the person has a contract from PARD to conduct classes for compensation.

(C) Performing Artists.

(1) A person may perform as an artist or entertainer in a park, but the person:

(a) may not block a sidewalk or trail, or impede pedestrian or vehicular traffic;

(b) may not block or impede access to a park concession;

(c) may not perform at a restricted-access event without the written permission of the event organizer;

(d) may not juggle potentially hazardous materials or items such as knives or fire; and

(e) must comply with all otherwise applicable ordinances and rules.

13. Animals.

(A) A person bringing a pet or other animal into a park shall keep the animal under confinement or direct control. Leads or leashes used to control animals may not be more than six feet long. A person who brings a dog into a park may allow the dog to be without a leash in a designated off-leash area; provided that the dog must at all times remain under the person's immediate personal supervision and command.

(B) A person shall remove waste left by an animal under the person's care and control and shall dispose of the waste only in an appropriate waste receptacle.

(C) A person who brings an animal into a park may not permit the animal to remain unattended or create a disturbance or a hazard.

(D) A person may not permit an animal under the person's control to be in the water of a swimming pool or designated swim area, and may not permit an animal, except for a service animal for the disabled, within the land area or beach area adjacent to the water of a swimming pool or designated swim area.

(E) A person may not bring livestock into a park, or permit livestock to range at a park, except with the written approval of the director.

(F) A person may not ride, drive, lead, or keep a horse at a park or wildlife preserve, except on a horseback riding trail designated and posted by PARD, and except as authorized under a contract, approved reservation, or permit.

(G) A person may not ride a horse in a park in a dangerous manner.

(H) A person may not hitch a horse to a tree, shrub, or structure in a manner that causes damage, or that the person should reasonably know will cause damage.

(I) Except for a service animal for the disabled, an animal shall not be brought into a designated wildlife preserve. This does not apply to a trained animal used by an employee or agent of the City of Austin in reasonable discharge of the employee's or agent's duties.

14. Cremation Remains.

(A) A person may not disperse or dispose of cremation remains in a park without the written authorization of the director.

15. Slacklining.

(A) A person may not set up a slackline in a park without a permit. As a condition of the permit the permittee must agree to a full release from liability and indemnification of the City acceptable to the City Attorney. A permittee may not set up a slackline in a special event zone without the written authorization of the director.

(B) A permittee may affix a slackline on a temporary basis while the slackline is in use, and must remove the slackline when the slackline is not in use. The permittee is responsible for setting up and taking down the equipment by 10 p.m. each day and may not leave the equipment unattended at any time. A park employee may remove and store unattended slacklining equipment without notice to the permittee.

(C) A person may not use slacklining equipment in a park unless that equipment is maintained in an operable and safe condition. This is the sole responsibility of a person using the equipment. A park employee may direct that equipment that appears to be unsafe or improperly set up be removed.

(D) A permittee may not affix a slackline to an object or fixture other than a tree, including but not limited to a building, bike rack, handrail, art object, fence or light pole.

(E) A permittee may not use a tree as an anchor post for a slackline if:

(1) the tree is less than 1 foot in diameter;

(2) the tree is a heritage tree; or

(3) the tree is posted as not for use for slacklining.

(F) A person may not alter a tree for use as an anchor post for a slackline; this includes but is not limited to, trimming limbs, installing bolts, or removing bark.

(G) To protect the bark on a tree, a permittee must place some type of fabric (burlap, carpet squares, or similar material) between the tree and the slackline tied to the tree.

(H) A permittee may not set up a slackline unless a clear and flat landing surface is present under the full length of the slackline.

(I) If the Manager of Grounds, Facilities Management, or the manager's designee determines that a tree or an area shows damage from slacklining activities, the manager or the manager's designee may restrict the tree or area future use from slacklining, and post the tree or area as not for slacklining. A person may not engage in slacklining in an area posted as not for slacklining.

(J) A permittee may not set up a slackline:

(1) that is higher than six feet above natural grade at the center of the span;

(2) that exceeds a length of 100 feet; or

(3) that is within 50 feet of a sidewalk, building, road, street, bikeway, water feature, sport court, bike rack, handrail, art object, fence or light pole measure from the center of the span.

(K) A person engaging in slacklining may not be under the influence of drugs or alcoholic beverages.

16. Hammocks.

(A) A person may affix a hammock on a temporary basis while the hammock is in use and must remove the hammock when the hammock is not in use. The owner of the hammock is responsible for setting up and taking down the hammock by 10 p.m. each day and may not leave the hammock unattended. A park employee may remove and store an unattended hammock without notice to the owner.

(B) A person using a hammock must maintain the hammock in an operable and safe condition. This is the sole responsibility of the person using the hammock. A park employee may direct that a hammock that appears to be unsafe or improperly set up be removed.

(C) A person may not affix a hammock to an object or fixture other than a tree, including but not limited to a building, bike rack, handrail, art object, fence or light pole.

(D) A person may not use a tree as an anchor post for a hammock if:

(1) the tree is less than 1 foot in diameter;

(2) the tree is a heritage tree; or

(3) the tree is posted as not for use for a hammock.

(E) A person may not alter a tree for use as an anchor post for a hammock; this includes but is not limited to, trimming limbs, installing bolts, or removing bark.

(F) To protect the bark on a tree, a person must place some type of fabric (burlap, carpet squares, or similar material) between the tree and the hammock tied to the tree.

(G) A person may not set up a hammock unless a clear and flat landing surface is present under the full length of the hammock. A person may not set up a hammock that is higher than six feet above natural grade at the center of the span.

(H) If the Manager of Grounds, Facilities Management, or the manager's designee determines that a tree or an area shows damage from hammocks, the manager or the manager's designee may restrict the tree or area future use from hammocks, and post the tree or area as not for hammocks. A person may not engage in slacklining in an area posted as not for hammocks.

17. Zip Lines.

(A) A person may not set up a zip line in a park without a permit. As a condition of the permit the permittee must agree to a full release from liability and indemnification of the City acceptable to the City Attorney. A permittee may not set up a zip line in a special event zone without the written authorization of the director.

(B) Due to the high impact of a zip line on integrity and preservation of park property, and the hazards associated with the use of a zip line by participants, the conditions of a permit must be negotiated on a case-by-case basis.

18. Installation of a Water Ski Course on a City Lake.

(A) A person may not install a water ski course, water ski jump, or similar course or device, on or in the waters of Lake Austin, Lady Bird Lake, or Lake Walter E. Long (Decker) Lake, or the tributaries thereof, except with a permit.

19. Remote Control Models.

(A) A person may operate a remote control model car, truck, boat, or the like in an open area of a park provided the person does not disrupt the enjoyment of the park by other park patrons.

(B) A person may not operate a remote control model on or in an established trail, sports field or court, playground, splash pad, fenced swimming pool area, picnic pavilions, or other area with a specific designated use without the written authorization of the director.

(C) A person may not operate a model aircraft in a park except in a specifically designated area.

20. Protected Resources.

(A) Wildlife.

(1) All wildlife in a park is protected. A person may not harm, harass, hunt, trap, or remove an animal, including a mammal, fish, insect, bird, reptile, or other living creature from a park except with the written approval of the director.

(2) This does not apply to fishing by a person in an area where fishing is allowed, if the person in in compliance with state law requiring a fishing license.

(B) Plant and Fungal Life.

(1) Plant and fungal life in a park is protected. A person may not intentionally injure, thrash, or remove any live plant or fungus, or a portion of a plant or fungus, except with the approval of the director.

(2) A person may not collect or harvest dead wood or plants, or portions thereof, including mowing, clearing for wildfire mitigation, and invasive plant removal, except with the written approval of the director.

(3) A person may collect fruits and nuts on the ground. Except in an area designated by PARD for the purpose, and clearly posted, a person may not pick fruits or nuts.

(4) A person may not release or plant a plant or a fungal prologue, including a seed, cutting, or spore in a park except with the written approval of the director.

(C) Artifacts and Geological Resources.

(1) Every site, object, building, artifact, implement, and location of historical, archaeological, geologic, scientific, or educational interest of every character located in, on, or under the surface of a park is protected.

(2) A person may not remove, excavate, take, dig into, harm, or destroy any site, object, building, artifact, implement, or location of archaeological, geological, scientific or historical interest without having a permit required by the Texas Natural Resources Code, and without having the written permission of the director.

(3) A person may not use a metal detector in a park without a permit.

21. Fires, Firewood and Fireworks.

(A) A person may not light, build, or maintain a fire in a park, except in a device provided, maintained, and designated for that purpose, or as authorized by PARD.

(B) A portable camp stove or portable barbecue grill of metal construction may be used in a designated campsite or picnic area.

(C) A campfire is allowed only in an approved location and under conditions prescribed by the director or park supervisor. A campfire must be attended at all times by an adult until fully extinguished.

(D) During a period of extreme fire hazard, the director may prohibit or restrict fires in designated areas.

(E) A person may not cut, gather, or collect wood or other combustible material at a park, for use as firewood or fuel, except for material designated for this purpose by PARD.

(F) A person may not possess or use of any kind of firework in a park, except by permit.

22. Camping and Overnight Use.

(A) A person may not camp at a park except as authorized by permit and only in an area designated or marked for that purpose. "Camping" means occupying a designated camping facility; erecting a tent or arranging bedding, or both, for

the purpose of, or in such a manner as will permit, remaining overnight; or the use of a trailer, camper, or other vehicle for the purpose of sleeping overnight.

(B) To afford all the public a wider use of camping facilities, the continuous occupancy of a camping facility by the same person or group in a park is limited to 14 consecutive calendar days.

(1) The director may establish an alternate time limit for continuous occupancy of a facility when the director finds it necessary to achieve maximum use of the park by the public.

(2) When a person has used a camping facility in a park for more than seven consecutive days and vacates the facility for any reason, the person may not again use the overnight camping facilities in the same park for 48 hours, unless the camp staff determines that adequate camping spaces are available to serve the public.

(C) A person under 18 years of age in a park between the hours of 10 p.m. and 5 a.m. must be accompanied or supervised by an adult. The ratio of adults to minors shall not be less than one adult for every eight minors.

23. Special Reservations for Professional and Semi-professional Sports Teams.

(A) PARD's mission is to provide, protect, and preserve a park and facilities system that promotes recreational, cultural, and outdoor experiences for the Austin community. PARD recognizes that sports programs contribute to the overall health, recreation, and physical activities of Austin's residents.

(B) PARD may allow a professional or semi-professional sports team that is based in Austin and uses the word "Austin" in the team's name to reserve a facility for practice. A professional or semi-professional sports team is a team that regularly plays teams from other cities on a set schedule in games for which admission is charged to spectators; pays or reimburses some or all of its players and staff; and has a team name and logo protected under intellectual property law.

(C) PARD may require a team to conduct free clinics for City residents as a condition of a permit.

(D) Except as expressly provided in this provision (*Special Reservations for Professional and Semi-professional Sports Teams*), a permit issued under this provision is subject to all of the conditions, procedures, and limitations prescribed by the provision entitled *Park Use for Temporary Amenities*, including, without limitation, the requirements as to application, indemnity, compliance with laws, limits on use, and revocation.

(E) A permit is merely permission to engage in an activity on parkland. It is entirely permissive. A permit does not create a contract or a property right. A permit does not create any enforceable expectation. A permit does not create a forum for commercial speech. Except as expressly provided in a permit, the permittee has no expectation of special access or protection. PARD staff will offer security to the permittee only in terms of that which is necessary to secure the park and in the event of an emergency.

(F) A permittee must submit to PARD a copy of the permittee's insurance policy, in a form acceptable to City Risk Management, naming the city of Austin as an additionally insured. While a permit is in effect, the permittee must carry liability and property damage insurance ($25,000 property damage; $1,000,000 public liability coverage) insuring the City of Austin against any claim whatsoever resulting from permittee's use of a reserved City facility or other use of City land. Insurance policy information must be updated with the City of Austin at least 30 days before the policy's expiration.

(G) A permittee may not advertise, except that team members may wear team uniforms, and the team name and logo may be used on signs indicating that a facility is reserved under the permit or directing a park patron to a free clinic. A team may not sell merchandise, operate a concession, or permit merchandise to be sold or a concession to be operated.

(H) A permitted use may not infringe on the availability of a facility for public use outside scheduled hours stated in the permit.

(I) A permit may not allow any changes or improvements to be made by a permittee to a City facility.

(J) A permittee must obtain PARD Public Information Office approval before scheduling media events involving PARD staff or facilities.

(K) Except as expressly provided in a permit, a permittee may not create materials using any City intellectual property, including the City or PARD seal, without first obtaining written permission from the PARD Public Information Office. A permit may provide permission for the use of City intellectual property under conditions designated by the director.

(L) Subject to the following limitations, the City may provide, and a permittee may use, facility lighting, water and wastewater.

(1) The City is responsible for lighting maintenance. All requests for maintenance must be submitted to PARD in writing on a form designated by PARD. PARD is not responsible for providing

maintenance on a particular schedule. Maintenance and scheduling is at the sole discretion of PARD.

(2) A permittee is responsible for controlling light use. The City will charge a permittee $25 per hour up to $250 per incident if lights are left on overnight.

(3) Abuse of utilities will result in permit revocation.

24. Park Use for Temporary Amenities.

(A) This provision applies to a person, other than the City, who provides a temporary amenity to the general public on park property.

(B) The director finds that:

(1) PARD has been approached by persons wishing to provide amenities to the public on parkland for an extended time;

(2) §8-1-12 of the City Code authorizes the director to permit the temporary use of a recreation area, but does not directly anticipate this use; and

(3) accordingly there is a need for a process to permit this kind of use.

(C) This provision defines conditions for the use of the park system by a person other than the City to provide temporary amenities for use by the general public. The provision is intended to:

(1) carry out the intent of §8-1-12 of the City Code;

(2) inform prospective users of the City's expectations with respect to park use and activities;

(3) protect the public health and safety;

(4) discourage unnecessary and inappropriate use of the park system;

(5) prevent damage to the park system and its facilities, and

(6) allow for the fair and uniform administration of park use.

(D) Words and phrases.

(1) "Amenity" means a service located on parkland to be provided without charge to the general public and intended for use by all park users, including without limitation, a watering station. The service intended to

be provided for an extended time, and is not connected to a specific event or recreational use by the person providing the service.

(2) "Use area" means the location at which a permittee may provide an amenity under a permit, and the immediately adjacent area.

(3) "Watering station" means a place where drinking water is provided to the public for consumption by humans.

(E) Permit Required.

(1) A person wishing to provide a temporary amenity to the public must obtain a permit.

(2) A person who wishes to obtain a permit must apply to the director. The director may prescribe one or more forms for this purpose. On review of an application, the director may, at the director's discretion, require additional information from an applicant. The application must conspicuously state the indemnity agreement in favor of the City required by this provision and must be signed by a person authorized to bind the applicant to the indemnity agreement.

(3) In deciding whether a permit should be granted, the director may consider the following factors:

(a) whether the applicant has submitted an accurate and complete permit application;

(b) whether the applicant has demonstrated that the requested use compliments park amenities, serves a park purpose, and provides a benefit to the general public;

(c) whether the applicant has demonstrated feasible means and methods for accomplishing the requested use;

(d) whether the requested use will duplicate existing services offered in surrounding areas of the park system;

(e) whether the requested location is within an area subject to PARD maintenance and operation and is suitable for the requested use;

(f) whether the applicant has a history of non-compliance with park rules or permit terms and conditions.

(F) No right; no waiver; no assignment.

(1) A permit is merely permission to engage in an activity on parkland. It is entirely permissive. A permit does not create a contract or a property right. A permit does not create any enforceable expectation. A permit does not create a forum for commercial speech. Except as expressly provided in a permit, the permittee has no expectation of special access or protection. PARD staff will offer security to the permittee only in terms of that which is necessary to secure the park and in the event of an emergency.

(2) A permit is not a waiver, exception, or defense to a violation of any applicable law or of a rule or guideline established by PARD or the director.

(3) A permit may not be assigned to a person or entity other than the permittee.

(G) No advertising.

A permittee may not advertise, market, or engage in any solicitation activities on parkland. A permittee may identify the permittee's property in an inconspicuous manner.

(H) Limits on use.

(1) In a permit:

(a) the director may prescribe terms and conditions on the temporary use of parkland in addition to those prescribed in this provision; and

(b) the director shall prescribe the days and hours of a permitted use, which must be subject to change at the discretion of the director.

(2) At a minimum a permittee must:

(a) indemnify the City, and its officers, employees and elected officials, from any and all liability, loss or damages the City may suffer as a result of claims, demands, suits, causes of action, costs, or judgments including attorney or other professional fees against it arising out of the permittee's actions under a permit;

(b) temporarily relocate, or suspend, the permittee's activities on written notification by PARD, if the director finds that the

relocation or suspension is in the interest of the park system or is necessary for another activity or use;

(c) comply with all applicable laws and park rules, including, without limitation, this provision and all federal, state, and local health, safety, and environmental laws, during the period of use;

(d) not create any actionable nuisance;

(e) take all reasonable precautions to eliminate any nuisances or hazards relating to the permittee's activities on or about the use area;

(f) properly maintain the use area, cause no damage to the use area, and return the use area to its original condition;

(g) regularly monitor litter and ensure all trash is contained in trash receptacles on a daily basis;

(h) provide PARD with an emergency response contact person available 24 hours, seven days a week to respond to emergencies;

(i) inform PARD of any injuries or serious problems related to the permittee's activities as soon as possible, and in no event later than 24 hours after the occurrence;

(j) notify the director when the permittee ceases the permitted use.

(I) Watering Stations and Amenities Providing Food and Beverages.

(1) This sub-part applies to a person who provides an amenity subject to Austin City Code Chapter 10-3 (*Food and Food Handlers*) and Texas Food Establishment Rules (25 TAC Chapter 229) on park property.

(2) A permittee may not provide an amenity subject to this provision without all applicable permits, licenses, and insurance.

(3) The number of water dispensers at each permitted location shall be determined by the director on the director's approval of a permit application.

(4) The permittee may not provide to the public any Styrofoam containers, containers of a similar nature, or non-recyclable containers.

(5) This sub-part is cumulative of the rest of this provision (*Park Use for Temporary Amenities*).

(J) Permit Revocation.

(1) PARD may revoke a permit if a permittee fails to properly fulfill the permittee's obligations under a permit.

(2) If the director determines that a violation creates a threat to public health and safety, the permittee must cease the permittee's activities immediately on receiving written or oral notice from PARD, and may not resume activities until the director finds that the threat to public health and safety no longer exists, and provides written permission to the permittee to resume activities.

(3) Except as otherwise provided, before revoking a permit, PARD shall notify the permittee in writing of the permit violation. The permittee shall have 10 calendar days from date of the notice to cure the violation. The director may, in writing, for cause, and in the director's sole discretion, grant an extension of the cure period.

(4) If the permittee has not cured a violation as specified in the written notice within the time provided, the permit is revoked without the need for further notice, and the permittee must cease the permitted activities.

(5) A permittee whose permit has been revoked may apply for new permit. However, an applicant's previous non-compliance with a permit may be considered by the director in reviewing an application.