

BEAR MOUNTAIN RECREATION
AND PARK DISTRICT

JANUARY 15, 2009

The board of Directors of the Bear Mountain Recreation and Park District, a Special District, does ordain, regarding Bear Mountain Recreation and Park district Public Places, as follows:

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BEAR MOUNTAIN RECREATION AND PARK DISTRICT PUBLIC PLACES**

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The Board of Directors of the Bear Mountain Recreation and Park District, a special District, does ordain as follows:

1.01 Definitions.

- A. "Alcoholic beverage" shall have the meaning given in Section 23004 of the Business and Professions Code of the State of California.
- B. "Applicant" shall mean any person, group or organization applying for use of a building under these ordinances or on whose behalf an application for such use is made.
- C. "Building" shall mean any of the following buildings and shall include any parking lot, site, sidewalk, or access drive appurtenant to, used or occupied during an event:
1. "Senior centers or buildings": Those buildings constructed or acquired to provide facilities where older residents can pursue meaningful civic, cultural, educational and recreational activities, as well as being a place where supportive services can be efficiently and effectively delivered to older residents.
 2. "Community buildings": Those buildings used for activities which contribute to the physical, mental or moral development of the individual or group participating therein.
 3. "Recreation buildings": Those buildings located in district parks used by the public for recreation purposes.
- D. "Commercial user" shall mean an individual, association or company which does not qualify for nonprofit status under the Internal Revenue Codes or corresponding state codes and whose planned use of a building will involve public relations activities and/or selling or marketing a product or service.
- E. "District Manager" shall include the manager or his/her authorized representative.
- F. "Equipment" shall include any furniture and furnishings, decorations, utensils, electrical or electronic equipment, hardware, tools or cleaning equipment owned or controlled by the district and which is attached to, kept, stored or used in a building.
- G. "Gross receipts" as used in this section, shall mean all revenue received by applicant with respect to the applicant's use of district property.
- H. "Nonprofit user" shall mean any governmental entity, or a club, association, corporation or group, which is exempt from income taxation pursuant to Section 501(a) of the Internal Revenue Code of 1986, as amended or corresponding provisions of the California Revenue and Taxation Code.
1. If the net proceeds and/or benefits from an event will serve solely charitable or community purposes, the sponsoring entity shall be considered a "nonprofit user," irrespective of its status otherwise.
 2. "Community purposes" shall mean any recreational, athletic, or educational activity or other service that benefits the community, which is open to all persons on an equal basis, and no part of the earnings from which inure to the benefit of any private person or for a political purpose which would cause an exempt organization to lose its exemption from taxation under federal or state laws. The determination whether an applicant's proposed activity or service in a building serves "community purposes" shall be made by the district manager.
- I. "Private user" shall mean an individual, association, or company which does not qualify for nonprofit status under the Internal Revenue Codes or corresponding state codes and whose planned use of a building will be a private social event.
- J. "Senior citizens' organization" shall mean an organization of senior adults, whose purpose is to facilitate or provide cultural, educational and recreational activities and supportive services, including a nutrition program, for senior adults.
- K. "User" shall mean any person, group or organization which applies for or on whose behalf an application is made for use of a building, or which uses a building pursuant to completing an application.

1.02 Use Of District-Owned Property-- Permission Required--Fees.

A. There shall be no use of district property for any business purpose or exclusive use without a written lease, license, agreement or permit from the board of directors or its authorized agent. Permission to use district recreation, community and senior citizens' buildings shall be granted only in accordance with rules adopted by the board of directors from time to time. The district manager for the parks and recreation department is the authorized agent for district recreation, community and senior citizens' buildings and facilities.

B. The fee for use of a senior citizens' building, a community building or a recreation building shall be established by un-codified ordinance.

1.03 Use Of Parks And Recreation Areas--Permission Required--Fees.

A. This section shall apply to parks and recreation areas for which a fee is not otherwise specified in this code and to recreation buildings where the use of a building is associated with the use of a park or recreation area.

B. Permission to conduct any business, to provide any services, to exclusively use, or to sell, rent, demonstrate, test or observe the performance of merchandise, goods or services in a district park or recreation area or portion thereof, may be granted by the district manager of the district parks and recreation district in the form of a written license, lease, concession agreement or permit. A fully completed application on a form approved and provided by the district manager along with application fee shall be submitted to the district manager. Application fees are established by uncodified ordinance.

C. The applicant shall provide for itself and each subuser, along with other information, the following:

1. Full name;
2. Description of entity, i.e., sole proprietor, corporation, partnership, association or governmental agency;
3. Status of each entity; profit-making or non-profit;
4. Type of event and description of each subuser's operation;
5. The fee to be charged each subuser and the manner in which such fee is calculated; and
6. Anticipated number of participants and spectators, if applicable, or total attendance.

D. In addition to the application fee, applicants shall be charged additional fees that are established by uncodified ordinance.

E. All applicants shall post a refundable security deposit unless waived or reduced by the district manager for sound reasons. Security deposit amounts are established by uncodified ordinance.

F. Each applicant shall comply with the following liability provisions:

1. Applicants shall hold harmless, indemnify and defend (upon request) the district, its agents, officers and employees, from and against any and all claims, losses, demands, damages, cost and expense of whatsoever kind and character (including, but not limited to, attorney's fees and expenses) arising out of the exclusive use by applicant or others he may invite or otherwise allow to share in his exclusive use, including, but not limited to, the applicant's activities or anyone acting on applicant's behalf (including, but not limited to, vendors and subvendors, users and subusers and the employees and agents of any of the foregoing), in connection with or incident to the applicant's activities hereunder, except when caused by the exclusive negligence of the district, its agents, officers or employees;
2. Applicant shall obtain and keep in force during the period the applicant uses district property, commercial general liability insurance with limits of liability as set by the district manager and naming the district, its agents, officers and employees as additional insured's, covering all of applicant's activities hereunder, including, but not limited to, the

activities of vendors and subvendors, users and subusers and the agents of any of the forgoing, the operations of vehicles or equipment, products liability and liability assumed under the "indemnity" provisions hereof. The obligation to carry insurance as herein provided can be satisfied by applicant's insurance and/or by vendors and subvendor's, users and subuser's insurance. Applicant is responsible for submission of all insurance certificates to the district manager.

G. No later than the tenth working day following the event, a report shall be filed with the director by profit-making applicants and nonprofit applicants who engage profit-making subusers setting forth all gross receipts received by source and pay any additional fee required.

Such statement shall be executed by the applicant or its duly authorized officer or representative in the manner prescribed by Section 2015.5 of the Code of Civil Procedure of the State of California.

H. No subsequent permit shall be issued to any applicant who has failed or refused to comply with the reporting requirements of this section with reference to any previous permit issued to the applicant under the provisions of this section.

I. In the event that a nonprofit entity uses a park or recreation area for the purpose of fundraising, such entity must also obtain a charity solicitation permit.

J. If a person prepays for use of a facility, then does not use that facility, and requests a refund before the scheduled use within the refund time limit the district manager has set by rule; they will be entitled to a refund for all or any unused portion, less an administrative fee for processing the refund. The requirements for requesting the refund and the administrative fee are established by uncodified ordinance.

1.04 Parks Open Hours

The District's public parks shall open at six (6:00) a.m. and close at ten (10:00) p.m. It shall be unlawful for any person to be present on District Parks during the times of closure.

1.05 Parks--Emergencies Or Special Uses.

When it is determined by the district manager of the recreation and park district that an emergency exist or that other special circumstances justify use of parks premises beyond the designated closing hour, the district manager may authorize the temporary use of the parks referred to in between the hours of ten (10:00) p.m. and six (6:00) a.m. during the continuance of any such emergency or special circumstances.

1.06 Damage To District Parks.

It is unlawful for any person at any time to willfully and intentionally do any of the following acts within or upon any public park or recreational area owned, maintained or operated by the district:

A. Cut, sever, remove, burn or otherwise destroy, deface or damage any grass or flora or any part thereof living or dead;

B. Cut, break, burn or otherwise destroy, deface, graffiti or damage any equipment or building or other structure or other property, real or personal, owned, maintained or operated by the district;

C. Alter the grade or surface level of the ground by any cut, excavation or fill;

D. Construct any permanent or temporary building or structure of any kind.

E. Dispose of any garbage, refuse, rubbish, waste or litter except in receptacles provided therefore by the district;

F. Erect or post any billboard, sign, placard or any advertisement of any kind except as follows:

1. Where erected or posted at locations and in form approved by the district manager relating to park premises operated under a license or concession granted by the Bear

Mountain Recreation and Park District,

2. Where prior authorization is obtained from the board of directors for specific signs and locations;

G. Remove any equipment from the area upon which the same has been placed by the Bear Mountain Recreation and Park District;

H. Any act of vandalism not hereinabove specified.

1.07 Restrictions On Use Of Park Property.

A. No person shall ride a horse or other animal, or operate a motor vehicle within any public park area or recreation area owned, maintained or operated by the Bear Mountain Recreation and Park District.

B. As used in subsection (A), the term "motor vehicle" shall mean any vehicle which is self-propelled; provided, however, that "motor vehicle" shall not include a self-propelled wheelchair, invalid tricycle, or motorized quadricycle when operated by a person who, by reason of physical disability, is otherwise unable to move about as a pedestrian.

C. This section shall not apply to Bear Mountain Recreation and Park District employees or peace officers using animals or motor vehicles in the course of their employment.

1.08 Alcoholic Beverages In The Bear Mountain Recreation And Park District.

The sale by a nonlicensee or consumption of alcoholic beverages or possession of any can, bottle or other receptacle containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed is prohibited in the District's Park; provided, however, that sales, consumption of such beverages or possession of open containers may be permitted by group participants in special events or by individuals pursuant to alcoholic beverage permits issued by the district manager of Bear Mountain Recreation and Park District, to persons of legal drinking age. Violation of this section is an infraction and punishable by a fine not exceeding fifty dollars (\$50.00) for a first violation; a fine not exceeding one hundred dollars (\$100.00) for a second violation of the same ordinance within one year; a fine not exceeding two hundred fifty dollars (\$250.00) for each additional violation of the same ordinance within one (1) year.

1.09 Individual Alcoholic Beverage Consumption Permit

The consumption or possession of open containers holding alcoholic beverages may be permitted in the District's Parks pursuant to an individual alcoholic beverage consumption permit. As a condition of the issuance of a permit, each permittee shall keep and hold harmless the district from any and all claims, demands or causes of action, which may be asserted, maintained or established against the district and/or any of its officers, agents or employees, for death, personal injury or property damage suffered or claimed to have been suffered by any person arising out of the use of the District's Parks.

1.10 Violation--Penalty.

A. Any person who, while using a public park, recreation area or public building owned and/or operated by the district, and who, after due warning, willfully and intentionally violates any rule or regulation which has been duly and regularly adopted by the board of directors of the district for the safety and welfare of the members of the general public using such park, recreation area or public building, is guilty of an infraction and upon conviction thereof is punishable by a fine of not less than one hundred dollars (\$100.00) nor more than two hundred dollars (\$200.00).

1.11 Reservation Fees.

A fee for making a reservation to use a recreational facility owned by the district shall be established by uncodified ordinance. Fees to change the date for use of a reserved facility and to process a refund for all or any unused portion of a reservation shall also be established by uncodified ordinance. As used in this section, "recreational facility" shall include group picnic areas, swimming pools or other designated swimming areas, public buildings administered by the parks and recreation department, and park sports facilities.

1.12 Amplified Audio Devices:

It shall be unlawful to operate or maintain in operation any amplifying, radio, siren, recording, audio or other noise producing or amplifying device within any District Park or Recreation Area without a permit issued by the District Manager.

1.13 Domestic Animals, Birds And Fowl:

(a) It shall be unlawful for any person to bring or permit any domestic animal, bird or fowl, including but not limited to livestock, poultry and pets, except dogs while on a leash under the supervision of a person which is an adult, within a district park or recreation area.

(b) The adult supervising a leashed dog within the district park or recreation area shall remove and dispose of any dog waste deposited by their dog.

(c) Violation of this section is an infraction and punishable by a fine not exceeding one hundred dollars (\$100.00) for a first violation; a fine not exceeding two hundred dollars (\$200) for subsequent violations of this section within a twelve (12) month period.

1.14 Fires:

(a) It shall be unlawful for any person to build, light, start, ignite, kindle or maintain a fire in a District Park or Recreation Area except in fireplaces, fire pits or stoves established and maintained by the district for such purpose.

(b) It shall be unlawful for any person to throw away any lighted match, cigarettes, cigar, pipe ash or other ignited material in a District Park or Recreation Area, except in receptacles or places especially designated and provided for such purpose.

(c) It shall be unlawful for any reason to engage in the smoking of tobacco products, such as cigarettes, cigars and pipes within fifty (50) feet of any building, swimming pool or daycare playground owned by the district.

1.15 Dumping Garbage:

(a) It shall be unlawful for any person to bring any garbage, refuse, trash or rubbish into a District Park or Recreation Area and deposit it in the receptacles within the District Park or Recreation Area.

(b) It shall be unlawful for any person to bring any garbage or refuse, trash, rubbish, material or liquid substance into any District Park or Recreation Area for the purpose of disposal.

1.16 Entertainment:

It shall be unlawful for any person to hold, set up, conduct or maintain any show, exhibition, performance, concert, play or dance in a District Park or Recreation Area without the permission of the Board of Directors.

1.17 Establishment Of Designated Areas:

The Board of Directors, by resolution, may designate and cause to be appropriately marked vehicular roads, trails or footpaths, parking areas, areas for various kinds of recreation, areas for engaging in certain specified activities and areas where engaging in certain specified activities shall be prohibited, and may change the same from time to time as the public safety and welfare may require, and when so marked it shall be unlawful for any person to fail to comply with such designations.

1.18 Littering Parks:

(a) It shall be unlawful for any person to place, dump, or deposit in any District Park or Recreation Area any waste, sewage, garbage, trash, gasoline, oil, sawdust, debris or other foreign matter.

(b) It shall be unlawful to abandon personal property of any kind or to leave personal property unattended for more than twenty-four (24) hours within any District Park or Recreation Area.

1.19 Land, Vegetation And Structures:

It shall be unlawful for any person to remove, injure, destroy, pick, dig, break, uproot, dislodge or carry away any plant, tree, flower, shrub, bush, or any branch, limb, bud, shoot or leaf thereof, or any wood, earth, leaf mold, rock or stone, or any building, bench, fence, wall, railing, seat, sign, marker or other structure or to destroy, injure or deface any natural formation, historical feature or archeological feature in a District Park or Recreation Area except with the permission of the District Manager provided, however, that the provisions of this section shall not be applicable to conduct which is made a misdemeanor under section 602 of the Penal Code of the State of California.

Executed this 15th day of January, 2009 by the following vote of the district board of directors.

	AYE	NAY	ABSENT
BOARD MEMBER HORTON	_____	_____	_____
BOARD MEMBER STONER	_____	_____	_____
BOARD MEMBER ARMSTRONG	_____	_____	_____
BOARD MEMBER FLORES	_____	_____	_____
BOARD MEMBER VACANT	_____	_____	_____

APPROVED: _____
CHAIRMAN

ATTEST: _____
SECRETARY/CLERK