

ORDINANCE NO. 2013-12

BY THE COUNCIL:

AN ORDINANCE OF THE CITY OF KUNA, IDAHO AMENDING TITLE 7 CHAPTER 3, OF THE MUNICIPAL CODE OF THE CITY OF KUNA, COUNTY OF ADA, STATE OF IDAHO AMENDING THE CHAPTER TITLE; RE-NUMBERING THE SECTIONS TO ACCOUNT FOR THE ADDITION OF NEW SECTIONS; ADDING A NEW SECTION THAT PROVIDES FOR A DEFINITION OF CITY PARKS AND CITY PUBLIC PROPERTY; ADDING A NEW SECTION THAT PROHIBITS SMOKING WITHIN FIFTY (50) FEET OF PLAYGROUND OR OUTDOOR ATHLETIC FACILITIES AND PROVIDES FOR A VIOLATION TO BE AN INFRACTION WITH A FIFTY DOLLAR (\$50.00) FINE; AND PROVIDING THAT THIS ORDINANCE SHALL BE EFFECTIVE UPON PASSAGE AND PUBLICATION.

WHEREAS, Article XII, Section 2 of the Idaho Constitution and Idaho Code Section 50-302 allow municipal corporations to adopt regulations which are not contrary to the general laws; and

WHEREAS, Idaho Code Section 50-302 grants to cities the power to make ordinances to promote the general welfare and provides for enforcement of such ordinances by criminal penalty; and

WHEREAS, public health officials, based upon reliable studies, have concluded that second hand tobacco smoke is a significant health hazard, and it causes disease, including lung cancer and heart disease, and can exacerbate asthma and allergies and cause eye, throat and nasal irritation; and

WHEREAS, the conclusions of public health officials concerning secondhand tobacco smoke are sufficient to warrant measures that regulate smoking in public places in order to protect the public health; and

WHEREAS, the Mayor and City Council, pursuant to Idaho Code Sections 39-5511, 39-5713, 50-302, and 50-304, are empowered to impose reasonable limitations and regulations upon smoking to reduce the harmful effects thereof; and

WHEREAS, the intent of the amendments to Section 10, is to protect the health of children and adults at City of Kuna parks and properties by limiting the public's exposure to second hand smoke and limiting youths' exposure to smoking behavior at those locations where youths congregate and are likely to look to smoking adults as role models.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KUNA, ADA COUNTY, IDAHO, as follows:

Section 1. That certain Sections of Chapter 3, Title 7, Kuna City Code, as designated by underlining the new enacted words be, and the same are hereby amended to read as follows:

CHAPTER 3 – CITY PARKS AND CITY PUBLIC PROPERTY

7-3-1: DEFINITIONS

7-3-2: EXCLUSIVE RESERVATIONS:

7-3-3: - APPLICATION FOR RESERVATION:

7-3-4: - FEES:

7-3-5: - WATER AND UTILITY LINES:

7-3-6: - VACATION OF PARKS:

7-3-7: - HOURS:

7-3-8: - AFTER HOURS PERMIT:

7-3-9: - SPEED LIMITS:

7-3-10: - HANDICAPPED PARKING:

7-3-11: -SMOKING PROHIBITED

7-3-12: - POSSESSION OR CONSUMPTION OF ALCOHOLIC BEVERAGES:

7-3-13: - DOGS:

7-3-14: - GLASS CONTAINERS:

7-3-15: - FISHING PROHIBITED:

7-3-16: - VIOLATION, PENALTY:

7-3-1: -DEFINITIONS:

A. As used in this Chapter:

1. City parks and/or City public property mean (1) any and all lands, buildings, reserves, sports complexes, playgrounds, skate board parks, BMX facilities, gardens, trails and other general or special use outdoor places, including the City of Kuna greenbelt that are owned, operated or maintained by the City of Kuna.

7-3-2: - EXCLUSIVE RESERVATIONS:

Kuna city parks and greenbelt are public use areas; any exclusive reservation will be only for the park band shell and/or gazebo and their immediate area and that other citizenry have right to the access and use of other park/greenbelt areas.

7-3-3: - APPLICATION FOR RESERVATION:

Persons, associations, corporations, and other entities desiring to use the Kuna city park and/or park band shell or gazebo shall apply at city hall and reserve a time for such use, if their requested use time is available. Reservation of the entire park may be made for public events.

7-3-4: - FEES:

The fees for the rental of a city park or other public property or the after hours permit shall be in accordance with the fee schedule as adopted by resolution of the city council.

7-3-5: - WATER AND UTILITY LINES:

Because of the unmarked underground water and utility lines in city parks, any sponsor or individual user of Kuna city parks must contact the city public works director to coordinate the driving of any stake(s).

7-3-6: - VACATION OF PARKS:

If persons, associations, corporations, and other entities using the park band shell or gazebo have not reserved the time, have not paid the appropriate fee, and/or are using the park band shell or gazebo at a time that has been reserved for another person, association, corporation, or other entity, they shall be requested to vacate by an appropriate representative of the city.

7-3-7: - HOURS:

- A. No person shall use, enter upon, or occupy the premises of any Kuna city park between dusk and dawn of any day without securing an after hour permit as provided herein. Dusk shall be defined as thirty (30) minutes after sunset, and dawn shall be defined as thirty (30) minutes before sunrise. Law enforcement officers, other safety personnel, city officials or city employees, when acting in their official capacities, are exempt from this regulation.
- B. A violation of this section shall be punishable by infraction and subject to a fine of fifty dollars (\$50.00) for the first offense and one hundred dollars (\$100.00) for each additional offense.

7-3-8: - AFTER HOURS PERMIT:

A permit shall be required for the use and occupancy of any Kuna city park between the hours of dusk and dawn of said day(s) and shall be obtained from the city clerk during normal business hours and shall be so issued upon a daily basis and in accordance with the fee schedule as established by the City of Kuna. The clerk may

issue the permit after the applicant submits an application, on the form provided by the city and pays the appropriate fees. The application shall include a safety plan approved by the Kuna Police Department. Unless specifically allowed by the permit, overnight camping or parking shall be prohibited.

7-3-9: - SPEED LIMITS:

No motor vehicle shall be operated within the confines of Kuna city parks at a speed in excess of ten (10) miles per hour.

7-3-10: - HANDICAPPED PARKING:

Accessible parking spaces have been identified for physically challenged park patrons; other park users are to honor those spaces so as to allow handicapped individuals easier access to public city park facilities.

7-3-11: - SMOKING PROHIBITED IN CERTAIN AREAS:

A. Definitions:

As used in this Section:

“Smoking” means inhaling, exhaling, burning, carrying, or possessing any combusting (heated, lit, or smoldering) tobacco or any other substance, whether possession of an unlit or unheated cigar, cigarette, or pipe.

B. Smoking Prohibited: Smoking is prohibited either at, or within, fifty (50) feet of the following outdoor areas within any City of Kuna park or city owned property: playground or outdoor athletic facility where members of the general public of any age assemble to engage in physical exercise, participate in athletic competition, play or recreational activity, or to witness sports, or other outdoor recreational events.

D. Signage: The City of Kuna may post no smoking signs at the locations where smoking is prohibited by this Ordinance.

C. Violations and penalties: A person who smokes in an area where smoking is prohibited by the provisions of this Section shall be punishable by a fine not exceeding fifty dollars (\$50.00), as prescribed by the Idaho Infraction Rules.

7-3-12: - POSSESSION OR CONSUMPTION OF ALCOHOLIC BEVERAGES:

It shall be unlawful for any person, association, corporation or other entity to sell, distribute, possess or consume any type of alcoholic beverage without first obtaining any necessary permit(s) or license(s) from the state, county and/or city, including a liquor license and a valid catering permit issued by the city.

7-3-13: - DOGS:

- A. Except as provided herein, in all Kuna city parks, all dogs shall be on a leash not greater than eight (8) feet in length.
- B. Dogs shall be prohibited within twenty-five (25) feet of any type playground equipment, which shall be considered a "Dog Free" area, as provided in KCC 10-3-6.
- C. In the following areas, dogs shall be permitted to be off-leash as long as the dog(s) are under control of their owner as defined in KCC 10-3-2:
 1. Sego Prairie Park.
 2. The south side of the Green Belt walking path to the high water mark of Indian Creek in the Greenbelt Park.
 3. Sadie Creek Park.
- D. The dog owner shall immediately clean up their dog's waste and properly dispose of it, as provided for in KCC 10-3-18.

7-3-14: - GLASS CONTAINERS:

Glass containers shall be prohibited in any Kuna city park.

7-3-15: - FISHING PROHIBITED:

Fishing shall be prohibited in any area posted as a "No Fishing Zone" as adopted by city resolution.

7-3-16: - VIOLATION, PENALTY:

Except as otherwise provided by this chapter any person violating any of the provisions of this chapter shall be guilty of a misdemeanor.

Section 2: This ordinance shall become effective after its adoption and publication as required by law.

PASSED by the Council of the City of Kuna, Idaho this 2nd day of July, 2013.

APPROVED by the Mayor of the City of Kuna, Idaho this 2nd day of July 2013.

CITY OF KUNA

Ada County, Idaho

W. Greg Nelson, Mayor

ATTEST:

Brenda S. Bingham, City Clerk