

CHAPTER 55-08
PARKS AND RECREATION DEPARTMENT

55-08-01. North Dakota parks and recreation department.

Repealed by S.L. 1991, ch. 640, § 41.

55-08-01.1. State parks and recreation policy.

The parks and recreation department shall plan and coordinate government programs encouraging the full development and preservation of existing and future parks, outdoor recreation areas, and nature preserves.

55-08-01.2. Parks and recreation department - Director.

There is created a parks and recreation department to serve as the focal point in the state for activities related to parks. The department shall plan and coordinate programs for all governmental levels to fulfill the state parks policy. The governor shall appoint a director of the parks and recreation department who shall serve at the will of the governor.

55-08-01.3. Director of parks and recreation department - Powers - Penalty.

The director of the parks and recreation department shall:

1. Manage all state parks, state campgrounds, state recreational areas, or reserves, and any other property under the control of the parks and recreation department, including site selection and planning, establishment of fees and charges, establishment of hours and seasons of operation, and regulation of the conduct of guests and visitors.
2. Appoint personnel necessary to carry out the duties and functions of the department and fix their compensation within the limits of legislative appropriations.
3. Accept on behalf of the state, gifts or grants of property for the department.
4. Acquire by purchase, gift, or condemnation any real property or interest in real property in this state or an adjoining state if necessary for park purposes. However, condemnation proceedings may be instituted only upon approval by the emergency commission.
5. Lease, sell, or exchange real property under the department's control if necessary for the improved management of state parks, state campgrounds, and state recreational areas or reserves.
6. Administer all real property and interests in real property and personal property held for recreational purposes as an agent for any state or federal agency or a political subdivision of the state.
7. Adopt rules relating to the protection, care, and use of state parks, state campgrounds, state recreational areas, or reserves, and any other real or personal property administered by the director.
8. Sell, mortgage, transfer, or dispose of property under the control of the department as authorized by law.
9. Seek the advice of the director of the state historical society on matters relating to history, prehistory, and paleontology of the state parks.
10. Advise in advance and consult with the director of the state historical society before undertaking any earthmoving operations or major constructions so that the director may be advised whether the earthmoving operations or constructions might endanger historical or archaeological artifacts or the paleontological value of the area. The director of the state historical society and the director shall jointly agree on the disposition of historical artifacts and archaeological material at state parks.
11. In the director's discretion, designate any state park or state campground or an area within any state park or state campground as an area within which the use of alcoholic beverages is prohibited. Any person violating that designation is guilty of an infraction.
12. Establish noncriminal penalties for violation of rules adopted by the director. The maximum noncriminal penalty is a fine of two hundred fifty dollars. Department personnel designated by the director shall have the power to enforce noncriminal

violations of these rules. Fines collected for violation of these rules must be deposited in the general fund.

55-08-01.4. Tourism division.

Repealed by S.L. 1993, ch. 80, § 39.

55-08-01.5. Duties of director.

Repealed by S.L. 1993, ch. 80, § 39.

55-08-01.6. State tourism policy.

Repealed by S.L. 1993, ch. 80, § 39.

55-08-01.7. North Dakota motion picture development office - Advisory board.

Repealed by S.L. 1995, ch. 54, § 44.

55-08-02. State park advisory council.

Repealed by S.L. 1971, ch. 527, § 1.

55-08-02.1. Outdoor recreation interagency council - Composition - Functions.

Repealed by S.L. 1997, ch. 471, § 2.

55-08-03. Duties - Powers - Limitations - Penalty.

Repealed by S.L. 1991, ch. 640, § 41.

55-08-03.1. Recreation grants programs - Function.

The director may:

1. Apply for and receive federal grants-in-aid for recreation purposes. The director of the parks and recreation department may approve their allocation to political subdivisions of the state only after the director has determined that sufficient funds, including those funds necessary for adequate maintenance, are and will be available from the political subdivisions for meeting the state's share of project costs. If for any reason it is necessary for any department or agency of the state to expend state funds in order to fulfill any obligation of a political subdivision which it has agreed to perform in the construction or maintenance of such projects, the state has a claim against the subdivision for the money expended. All funds allocated to the state for recreation purposes must be distributed to the departments, agencies, or political subdivisions entitled to the funds.
2. Keep financial and other records relating to the programs and furnish to appropriate officials and agencies of the United States and the state such reports and information as may be reasonably necessary to enable those officials and agencies to perform their duties under the programs.
3. Undertake the development of broad recreation policies for the state as a whole and a long-range plan for their implementation.
4. Initiate a continuing appraisal of the total state recreation resources, potentials, and needs and the adequacy of current efforts to meet the demands.
5. Provide for the coordination and appraisal of related programs administered by all levels of government and by private enterprise.

55-08-03.2. Expenditures through existing departments or agencies.

All state funds, grants-in-aid from federal allocations, and other moneys or funds contributed or matched, for developing or providing public outdoor recreation facilities and opportunities made available to existing departments or agencies, must be expended through such departments or agencies using their established procedures. Direct or force construction activities must be undertaken and conducted only by those departments or agencies having basic authorization for such work.

55-08-04. Employees as peace officers.

The director has the power to appoint department personnel to peace officer status while they are in the employment of the department; provided, however, that the police powers are limited only to the lands or waters administered by the department.

55-08-04.1. Writs served and executed by department peace officers - Others to aid department peace officers - When.

The director and all other department peace officers may serve and execute, in the same manner as any sheriff, all warrants and legal process issued by the court in enforcing this chapter. The officers of the department may call to their aid any sheriff, deputy sheriff, police officer, or other person to enforce this chapter. All peace officers or other persons, when called upon, shall enforce and aid in enforcing this chapter.

55-08-05. Charges for services.

The director may provide special services within state parks, state campgrounds, state recreation areas, and reserves; provide special technical assistance services; and make rules for the use of those services. The director shall establish and cause to be collected charges, fees, and rentals for the use of all special services, and shall revise the same, when necessary, in the manner that the revenue derived will be sufficient to pay the cost of providing each service and to pay the principal of and interest on all bonds issued for projects furnishing the facilities for the services, and to maintain a reserve for the security of the bonds. The director may waive the collection of charges, fees, and rentals for the use of special services by health care-related charitable organizations conducting group camp activities without charge to participants. However, the director shall waive the collection of charges, fees, and rentals for the use of all special services by any care-related charitable organization sponsoring or conducting summer group camp activities without charge for fourteen days for children from age eight through age fourteen who have diabetes. Nothing in this section requires the director to provide camp services if the camp facilities are otherwise closed due to adverse administrative or fiscal impacts upon the department. Specifically, the director may:

1. Provide special parking space for automobiles or other motor-driven vehicles in any state park or state recreation area.
2. Provide special parking spurs and campgrounds for automobiles and sites for tent camping and special auto trailer coach parking spaces for the use of the individual charged for the space according to the daily rate which must be determined and fixed by the director consistent with the type of facility provided for the accommodation of visitors in any particular park and with similar facilities offered for tourist camping in the area.
3. Charge a fee for entrance to any pageant grounds created in any state park, state recreation area, or reserve for the purpose of having historical or other pageants conducted by the agent of any authorized agency.
4. Provide water, sewer, and electric service to trailer or tent campsites and buildings and structures included in projects authorized by the legislative assembly.
5. Provide facilities for the sale to the public of food, nonintoxicating beverages, except beer and wine sales as provided in subsections 6 and 7, and other merchandise and personal services of a suitable nature, and make buildings, structures, and other recreational facilities available for use and occupancy by the public, or contract for the lease of the buildings, structures, and facilities to a concessionaire to be operated on the terms and compensation basis as the director determines to be in the best interest of the state. The duration of a concession agreement may not exceed twenty years. A bond must be required of each concessionaire in the amount the director determines, conditioned upon the faithful performance of all duties under the lease and proper accounting for all funds.
6. Allow the sale of beer and wine by concessionaires on property leased to the department by the United States department of the army, corps of engineers, if the concessionaire also obtains the appropriate local and state licenses required by section 5-02-01.

7. Allow the sale of on-sale beer and wine by operating, liquor-licensed concessionaires for fourteen events per year on property under the management of the director which borders the Missouri River and which is within fifteen miles [24.14 kilometers] of a city with a population in excess of twenty thousand, if the concessionaire also obtains the appropriate local and state licenses required by section 5-02-01.
8. Charge and collect motor vehicle permit fees in the amounts prescribed by the legislative assembly, which fees are and must be imposed for the sole purposes of paying capital costs of projects required to provide the special services herein described and referred to, and of meeting the principal and interest and reserve requirements of bonds issued to finance such projects.
9. Charge a fee for providing special technical assistance to groups requesting information from the natural heritage inventory database.

55-08-06. Permits for motor vehicles.

Unless authorized by the director, a motor vehicle may not enter or be permitted to enter any state park, state recreational area, or reserve unless the operator of the motor vehicle displays upon request a permit issued as provided in this chapter. Permits must be of a size, form, and character as the director prescribes, and the director shall procure permits for each calendar year which by appropriate language must grant permission to use any state park, state recreational area, or reserve. Permits for each calendar year must be provided and placed on sale on or before November first next preceding and used on or at any time after that date until May first of the year following the calendar year for which issued. Permits in each category must be numbered consecutively for each year of issue. Except for senior citizen discounts, a fee of twenty-five dollars must be charged for each permit issued, except that permits of appropriate special design may be sold individually at a maximum of five dollars per permit covering the use of state parks, state recreational areas, or reserves under such conditions as the director may prescribe for a designated period of not more than three days. The director may authorize a discount on the sale of annual permits to any resident of North Dakota who is sixty-five years of age or older and who applies for a discount. The fees collected must be deposited in the state park operating fund in the state treasury, unless authorized by the director as follows:

1. The director may allow other agencies or organizations that have leased state parks, state recreational areas, reserves, or facilities to retain entrance and special permit fees collected by the lessee.
2. The director may exempt all or any part of any state park, state recreational area, or reserve from the requirement of the motor vehicle permit and fee, for any activity or period, when in the director's judgment it is desirable to do so; provided, however, that no further exceptions may be made after state park revenue bonds are issued and while the bonds are outstanding.

55-08-06.1. Exceptions to motor vehicle permits and fees authorized.

Repealed by S.L. 1991, ch. 644, § 3.

55-08-06.2. North Dakota senior citizens passport.

Repealed by S.L. 1999, ch. 485, § 2.

55-08-07. State park fund - Appropriation.

All revenues collected as permit fees, admissions, use charges, rentals, compensation for concession agreements, or otherwise, with the exception of revenue from bequests, trusts, or gifts, and with the exceptions noted in subsections 1 and 2 of section 55-08-06, must be placed in the state park fund, together with all proceeds of bonds issued pursuant to section 55-08-08. This fund must be maintained by the state treasurer as a special trust fund and is irrevocably appropriated and must be used and disbursed solely for the following purposes:

1. To pay the current cost of furnishing each special service provided in accordance with this chapter. For this purpose the charges, fees, and rentals for each service must be credited to a special operating account, from which must be paid only the current,

reasonable, and necessary cost of operating that service, determined in accordance with accepted accounting practice, including the purchase price of merchandise and utilities sold and the compensation of employees necessarily attributable to the furnishing of that service. The director may incur no operating cost for any building, structure, or facility leased, and the leases must provide for the payment of the costs by the lessee and for the payment of a net rental in addition to the costs. No lease rentals and no motor vehicle permit fees may be credited to operating accounts.

2. To provide for the payment and security of the principal and interest when due on any state park revenue bonds issued under section 55-08-08. For this purpose the treasurer shall credit to a special service account within the state park fund, as received, all bond proceeds, all motor vehicle permit fees and all rental payments by lessees, and all net income remaining in the operating account for each special service at the end of each month, in excess of the costs of operation thereof which are then payable or are to become due and payable within one month, and shall transfer from this fund and account to the revenue bond fund described in section 55-08-09, whenever necessary, so much of the revenues then on hand as may be required to produce a balance in the revenue bond fund equal to the interest due and to become due within eighteen months plus the principal due and to become due within twenty-four months thereafter on all outstanding series of the bonds.
3. To finance the acquisition, construction, reconstruction, improvement, betterment, or extension of the department's properties, for projects within state parks, state campgrounds, state recreation areas, and reserves including the acquisition of land and water, the erection of buildings and structures, and the improvement of properties held in trust for or leased by the state, as authorized by the legislative assembly. For this purpose the director shall authorize the disbursement of bond proceeds and revenues received in the fund. However, a disbursement may not be made in excess of the amounts of revenue bonds issued and other funds granted or appropriated and received for this purpose, and no disbursements may be made at any time when the balance in the revenue bond fund is less than specified in subsection 2.
4. For any other purpose for which funds have been appropriated by the legislative assembly to the parks and recreation department. A disbursement may not be made at any time when the balance in the revenue bond fund is less than specified in subsection 2.

55-08-07.1. State parks and recreation concession revolving fund.

The director shall maintain a state parks and recreation concession revolving fund to be used for the following:

1. Procurement and maintenance of an inventory of food, nonintoxicating beverages, and other merchandise and supplies of a suitable nature for the operation of concession stands, including payment of costs and travel expenses necessarily incurred to obtain or sell such items.
2. Repair, replacement, construction, and maintenance of concession buildings, facilities, and properties contained therein.

The sum of fifty thousand dollars is hereby established in the state parks and recreation concession revolving fund for the purpose provided in this section as a limit on the fund balance after accrued liabilities on June thirtieth of each year. Any surplus in this fund in excess of fifty thousand dollars on June thirtieth of each year must be transferred to the state park operating fund.

55-08-07.2. State parks gift fund - Fund use.

There is established in the state treasury a special fund designated as the state parks gift fund. All donations to the parks and recreation department in the form of gifts, trusts, and bequests of money that would cause the department to exceed its appropriated spending authority and any interest accruing thereon, must be placed in the state parks gift fund and is hereby appropriated to the department. The fund may be used and disbursed by the parks and

recreation department, with the approval of the state emergency commission, in accordance with the terms of the donation as determined by the director.

55-08-08. State park revenue bonds.

For the purpose of paying all or part of the cost of acquisition, construction, reconstruction, improvement, betterment, or extension of properties for state parks, state campgrounds, state recreation areas, and reserves, as described in subsection 2 of section 55-08-07, which may be authorized by the legislative assembly, the money may be borrowed on the credit of the revenues to be received in the state park fund. The borrowing must be authorized by a board consisting of the governor, the state treasurer, and the director of the parks and recreation department, by resolution or resolutions duly adopted by the vote of a majority of all members of the board. In anticipation of the collections of the revenues, negotiable bonds may be issued in an amount as, in the opinion of the board, may be necessary for that purpose, within the limits of the authority granted by the legislative assembly in each instance, and the board may provide for the payment of the bonds and the rights of the holders of the bonds as provided in this chapter. The bonds may be issued in one or more series, may bear such date or dates, may mature at such time or times not exceeding forty years from their date, may be in such denomination or denominations, may be in such form, either coupon or fully registered or registered as to ownership or principal, may carry such registration and conversion privileges, may be executed in such manner, may be payable in such medium of payment at such place or places, may be subject to such terms of redemption with or without premium, and may bear such rate or rates of interest, as may be provided by resolution or resolutions to be adopted by the board, subject to this section. The bonds may be sold in such manner and at such price or prices, not less than ninety-eight percent of par plus accrued interest to date of delivery, as may be considered by the board to be advisable. The bonds must have all of the qualities and incidents of negotiable paper, and the bonds and the income from the bonds are exempt from any taxes, except inheritance, estate, and transfer taxes. The board may in its discretion authorize one series of bonds hereunder for more than one project, at more than one state park, state campground, state recreation area, or reserve. It may also issue series of bonds hereunder for the refunding of outstanding bonds issued hereunder when such action is desirable in its judgment and is consistent with the terms of the resolution or resolutions authorizing the outstanding bonds.

55-08-09. Revenue bond fund.

After the issuance of any bonds under section 55-08-08, the state treasurer shall transfer revenues at the times and in the amounts directed in section 55-08-07 to a special trust fund to be known as the state park revenue bond fund, which must be maintained in the state treasury until all bonds issued under section 55-08-08 and all interest on the bonds is fully paid and discharged. This fund must be disbursed by the state treasurer solely for the purpose of paying principal and interest when due on the bonds, and the treasurer shall also maintain in the fund, by the transfer of revenues from the state park fund whenever necessary and available, a reserve at all times equal to the total amount of principal and interest to become due on all the bonds within the then next period of twelve months. As principal and interest become due from time to time, the director of the office of management and budget, not less than fifteen days before the payment dates, shall issue warrants upon the state treasurer against the revenue bond fund for the amount of the payment coming due, and the state treasurer shall make payments from the fund of the amounts due.

55-08-10. Covenants of board.

The board shall pledge irrevocably the revenues appropriated by section 55-08-07 to the state park fund for the payment of principal and interest due on all bonds issued pursuant to section 55-08-08 and for the accumulation and maintenance of the reserve in the state park revenue bond fund as provided in section 55-08-09. To secure the prompt payment of the principal and interest and the proper application of the revenues pledged thereto, the board may by appropriate provisions in the resolution or resolutions authorizing the bonds covenant as to

the use and disposition of the proceeds of the sale of the bonds; the rights, liabilities, powers, and duties arising from the breach of any covenant or agreement into which it may enter in authorizing and issuing the bonds; the issuance of any other obligation payable from the revenues; and any other matters other than and in addition to those expressly mentioned in this section, as to which covenants may be considered necessary or advisable to effect the purposes of this chapter. All such agreements and covenants entered into by the board are enforceable by appropriate action or suit at law or in equity, which may be brought by any holder or holders of bonds issued hereunder.

55-08-11. Limitation on use of bond proceeds.

No buildings or additions may be erected, and no bonds may be issued or the proceeds used for the payment of the cost of any projects under section 55-08-08, except for specified projects designated and authorized by legislative act, or the board if permitted by the legislative assembly. No such project may be erected at a cost exceeding the amount fixed by the legislative assembly or by the board if provided by the legislative assembly as the maximum to be expended for the project. The proceeds of all bonds credited to the state park fund must be used solely for the purpose or purposes for which the bonds are authorized. The board may make and execute all instruments which may be deemed necessary or advisable to provide for the completion of any project or for the sale of the bonds or for interim financing deemed necessary or advisable pending the sale of the bonds and pledging the proceeds of the bonds. The director of the office of management and budget shall issue warrants upon the state treasury against the fund for such amounts as is due upon audited itemized estimates and claims that bear the approval of the officials designated by the board for that purpose. The state park fund and revenue bond fund may be deposited by the state treasurer with the Bank of North Dakota or in a bank that is a duly designated depository for state funds, or may be invested under direction of the board in securities that are direct obligations of the United States of America, except to the extent that the investment is prohibited or restricted by any covenant made with or for the benefit of bondholders.

55-08-12. Contracts with federal agencies.

The director of the parks and recreation department may enter into any agreements or contracts with the United States of America or any agency or instrumentality thereof when the director considers such action advisable or necessary in order to obtain a grant of funds or other aid to be used in connection with the proceeds of the bonds in paying the cost of a project.

55-08-13. Construction of chapter - Statement to be included in bonds.

This chapter does not authorize or permit any state board or agency or any state officer to create any indebtedness of the state or to incur any obligation of any kind or nature except an obligation payable solely from the special trust funds created under this chapter and the revenues appropriated to the funds. The state or any funds or moneys of the state other than the special trust funds may not be deemed obligated for the payment of bonds issued under section 55-08-08. All such bonds must include or must have endorsed on the bonds a statement that the bonds do not constitute an indebtedness of the state and are payable solely from the revenues appropriated to the state park fund and revenue bond fund.

55-08-14. Projects and revenue bonds authorized - Appropriation.

Repealed by S.L. 2003, ch. 42, § 9.

55-08-14.1. Leadership and facilities grants.

The parks and recreation department shall administer the funds made available to provide for recreational leadership grants and facilities grants in the following manner:

1. Up to twenty-five percent of all moneys made available to the department for the grants may be used for a leadership grant program with priority given to communities with a population of thirteen thousand or less. Within the availability of legislative appropriations, moneys must be provided to grant recipients over a three-year period

on a seventy-five percent matching basis for the first year of a grant, fifty percent matching basis for the second year of a grant, and twenty-five percent matching basis for the third year of the grant, after which the program must be fully funded locally.

2. No less than seventy percent of all moneys made available to the department for the grants must be used for a facilities grant program. This program must provide funds, on a fifty percent matching basis, for political subdivisions to improve, renovate, or construct any type of facility primarily used for park and recreation purposes.
3. Up to five percent of all moneys made available to the department biennially for the recreational and facilities grants program may be used by the department for administration of leadership and facilities grants and to ensure completion of the projects funded.

55-08-15. Attorney general, state's attorneys, sheriffs, and peace officers to enforce chapter.

The attorney general and all state's attorneys, sheriffs, and other peace officers shall enforce this chapter.

55-08-16. Uniform complaint and summons - Promise to appear - Penalty.

There is hereby established a uniform complaint and summons which may be used in cases involving violations of this chapter. Whenever the complaint and summons established by this section is used, the provisions of the North Dakota Rules of Criminal Procedure relating to arrests without warrants do not apply, and the magistrates or state's attorneys are not required to make another complaint of the offense charged in the uniform complaint and summons. The uniform complaint and summons must be of a form prescribed by the director and approved by the attorney general. The time of court appearance to be specified in the summons must be at least five days after the issuance of such summons unless the defendant demands an earlier hearing. Upon receipt from the defendant of written promise to appear at the time and place specified in the summons, the defendant must be released from custody. After signing a promise to appear, the defendant must be given a copy of the uniform complaint and summons. Any person refusing to give such written promise to appear may be arrested if proper cause exists, or proceeded against by complaint and warrant of arrest issued as provided in the North Dakota Rules of Criminal Procedure. Defendant's failure to appear at the time and place designated after signing a promise to appear is a class B misdemeanor. The uniform summons and complaint may not be used if the officer, acting within the officer's discretion, has reason to believe the defendant will not be subject to arrest upon a warrant issued by a magistrate. The halting officer shall immediately take any person not released upon the person's promise to appear before the nearest or most accessible magistrate.

55-08-17. General penalty.

Any person violating a provision of this chapter for which a penalty is not specifically provided is guilty of a noncriminal violation.

55-08-18. Violations noncriminal - Procedures.

Any person who has been cited for a violation of this title or related rules may appear before a court of competent jurisdiction and pay the statutory fee at or prior to the time scheduled for a hearing or, if bond has been posted, may forfeit the bond by not appearing at the scheduled time. A person appearing at the time scheduled in the citation may make a statement in explanation of that person's action and the judge may at that time waive, reduce, or suspend the statutory fee or bond, or both. If the person cited follows the foregoing procedures, that person has admitted the violation and has waived the right to a hearing on the issue of commission of the violation. The bond required to secure appearance before the judge must be identical to the administrative fee established by section 55-08-19. Within ten days after forfeiture of bond or payment of the statutory fee, the judge shall certify to the director admission of the violation.

55-08-19. Amount of statutory fees.

The fees required for a noncriminal disposition pursuant to section 55-08-18 are as follows:

1. For a class 1 noncriminal offense, a fee of one hundred dollars.
2. For a class 2 noncriminal offense, a fee of fifty dollars.
3. For a class 3 noncriminal offense, a fee of twenty-five dollars.
4. For violation of a rule approved by the director, the amount set in the rule, up to a maximum of two hundred fifty dollars.
5. The director shall have the discretion to classify violations of parks and recreation department rules.