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**IDAPA 26
TITLE 01
CHAPTER 21**

**26.01.21 - RULES GOVERNING LEASING PRACTICES AND PROCEDURES FOR
RECREATIONAL RESIDENCES WITHIN HEYBURN STATE PARK**

000. LEGAL AUTHORITY.

These rules are promulgated by the Idaho Park and Recreation Board pursuant to Idaho Code, Section 67-4223 and are intended to further define and make specific Idaho Code, Section 67-4223 as it pertains to the administration of recreational residence site leases within Heyburn State Park. (7-1-99)

001. TITLE AND SCOPE.

01. Title. The title of this chapter shall be cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26.01.21, "Rules Governing Leasing Practices and Procedures for Recreational Residences Within Heyburn State Park." (7-1-99)

02. Scope. This chapter establishes rules to effectuate the purposes of and aid in the administration of recreational residence site leases within Heyburn State Park. (7-1-99)

002. WRITTEN INTERPRETATIONS.

The Department has written interpretations of these rules, in the form of explanatory comments accompanying the notice of proposed rulemaking that originally proposed the rules, or documentation of compliance with IDAPA 26.01.01, "Rules of Administrative Procedure of the Idaho Park and Recreation Board," Section 150. These documents are available for public inspection and copying in the central office of the Department. (7-1-99)

003. APPEALS.

Any person who may be adversely affected by a final decision, ruling, or direction of the director, may appeal the decision, ruling, or direction as outlined under IDAPA 26.01.01, "Rules of Administrative Procedure of the Idaho Park and Recreation Board," Section 50. (7-1-99)

004. -- 005. (RESERVED).

006. CITATION.

The official citation of this chapter is IDAPA 26.01.21.000 et.seq. For example, the citation for this section is IDAPA 26.01.21.006. (7-1-99)

007. -- 009. (RESERVED).

010. DEFINITIONS.

As used in this chapter: (7-1-99)

01. Board. The Idaho Park and Recreation Board, a bipartisan, six (6) member board, appointed by the Governor. (7-1-99)

02. Department. The Idaho Department of Parks and Recreation. (7-1-99)

03. Director. The director and chief administrator of the Department, or the designee of the director. (7-1-99)

04. Lease. The contract defining the rights and duties of the parties regarding a recreational residence site within Heyburn State Park. (7-1-99)

05. Lease Payment. The annual fee paid by a Lessee to the Lessor. (7-1-99)

06. Lessee. A person who holds a valid lease for a recreational residence site within Heyburn State Park. (7-1-99)

07. Lessor. The Board or it's authorized representative. (7-1-99)

08. Recreational Residence Site. A particularly described parcel of real property, located within Heyburn State Park and owned by the Department, which has been made available to private individuals through a lease for the purpose of constructing and maintaining a recreational residence. (7-1-99)

011. -- 029. (RESERVED).

030. FORM AND CONTENT OF LEASES.

01. Form. All leases shall be in a standardized form which has been approved by the Board. (7-1-99)

02. Contents. Leases should address, at a minimum, the following subject matter: (7-1-99)

a. Lease Rates; (7-1-99)

b. Term; (7-1-99)

c. Renewal; (7-1-99)

d. Use; (7-1-99)

e. Occupancy; (7-1-99)

f. Subleasing; (7-1-99)

g. Assignment; (7-1-99)

h. Landscaping; (7-1-99)

i. Water; (7-1-99)

j. Maintenance of premises; (7-1-99)

k. Sewage; (7-1-99)

l. Garbage; (7-1-99)

m. Burning; (7-1-99)

n. Construction and improvements; (7-1-99)

o. Inspection; (7-1-99)

p. Ingress and egress; (7-1-99)

q. Treatment of improvements upon termination by lessor; (7-1-99)

r. Treatment of improvements upon termination by lessee; (7-1-99)

s. Treatment of non-approved improvements upon termination; (7-1-99)

t. Determination of Fair Market Value; (7-1-99)

u. Waiver; (7-1-99)

- v. Indemnification; (7-1-99)
- w. Breach; (7-1-99)
- x. Reinstatement of canceled lease; (7-1-99)
- y. Binding on Heirs; (7-1-99)
- z. Miscellaneous fees and charges; (7-1-99)
- aa. Motorized vehicles; (7-1-99)
- bb. Tort claims act; (7-1-99)
- cc. Parties; (7-1-99)
- dd. Property description; and (7-1-99)
- ee. Appraisal Appeals Process. (7-1-99)
- 03. Consistent with General Development Plan.** Lease terms shall be consistent with the general development plan for Heyburn State Park. (7-1-99)
- 04. Execution.** No lease shall be valid until it has been signed by both the Lessee and the Director. The Lessee shall sign the lease first, the Director shall sign last. (7-1-99)
- 05. Recording.** All leases shall be recorded in Benewah County. (7-1-99)
- 031. -- 049. (RESERVED).**
- 050. LEASE TERM.**
Leases shall be issued for a term not to exceed ten (10) years commencing upon January 1 of the year the lease is entered into and ending upon December 31 of the final year of the term. (7-1-99)
- 051. -- 069. (RESERVED).**
- 070. RENEWAL.**
No lease may include any right of renewal, whether expressed or implied. (7-1-99)
- 071. -- 089. (RESERVED).**
- 090. LEASE RATES.**
 - 01. Base Rates.** Base lease rates shall be set so as to provide the Department a reasonable return based upon the fair market value of the lease site. (7-1-99)
 - 02. Lease Rate Adjustments.** The lease shall provide for annual adjustments. (7-1-99)
- 091. -- 109. (RESERVED).**
- 110. OCCUPANCY.**
 - 01. Recreational Occupancy.** With the exception of those leases which have been grandfathered for full-time occupancy, the leased premises shall be used solely for recreational residential purposes. Use may be intermittent or seasonal but in no event shall the residence be occupied in excess of six (6) months in any twelve (12) consecutive months or more than one hundred eighty five (185) days in any three hundred sixty five (365) day cycle. (7-1-99)

02. Full-Time Occupancy. Leases which have been grandfathered for full-time occupancy shall revert to recreational residential purposes when they are transferred, whether by gift, sale, or devise. (7-1-99)

111. -- 129. (RESERVED).

130. USE.

01. Commercial Use Prohibited. Leased premises may not be used for commercial purposes. This includes, but is not limited to, short- or long-term rental for profit, and the conduct of any enterprise of a commercial nature. (7-1-99)

02. Public Use. Heyburn State Park is a public facility that is managed for the use and benefit of the public. Recreational residence leases shall reserve to the Department and its agents the right of ingress and egress across lease premises. Recreational residence leases shall preserve the right of the general public to cross the leased premises for any lawful purpose. (7-1-99)

131. -- 169. (RESERVED).

170. TORT CLAIMS.

These rules provide general guidance concerning the contract terms to be included in recreational residence leases at Heyburn State Park. Nothing in these rules shall be deemed or construed in any way to conflict with the provisions of the Idaho Tort Claims Act, Chapter 9, Title 6, Idaho Code. (7-1-99)

171. -- 999. (RESERVED).

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