

1st Reading:
2nd Reading:

SPONSOR: HUELS

ORDINANCE NO. ____

BILL NO. 22-68

**AN ORDINANCE REPEALING AND ENACTING A NEW
CHAPTER 220 RELATING TO PUBLIC PARKS.**

WHEREAS, Chapter 220 of the Municipal Code creates and provides regulations regarding Public Parks; and

WHEREAS, Staff desires to update Chapter 220 to clarify and amend such regulations and update with current operations and practices, including but not limited to defined terms and required permits; and

WHEREAS, as the City of Parks, the City finds it especially important to have current and enforceable regulations governing its City Parks to ensure there are plenty of opportunities to enjoy the various park facilities and activities while ensuring the health, safety, and general welfare of all who visit the City's Parks; and

WHEREAS, at the August 11, 2022 Board of Aldermen Committee Meeting, the Board of Aldermen reviewed staff's recommendation to amend Chapter 220 and finds it in the best interest of the City and now desires to amend Chapter 220 as recommended.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FENTON, MISSOURI, AS FOLLOWS:

Section 1. Chapter 220, Public Parks, of the Municipal Code is hereby amended by repealing Chapter 220 in its entity and enacting a new Chapter 220 to read as follows:

**Chapter 220
Public Parks**

Section 220.010 Definitions.

As used in this Chapter, the following terms shall have these prescribed meanings:

BOARD

The Board of Aldermen of the City of Fenton.

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CITY

The City of Fenton.

CITY PARK

A park, reservation, playground, or any other area of the City, owned or used by the City, and devoted to active or passive recreation, excluding RiverChase YMCA.

CITY PARK FACILITIES

Facilities and/or amenities located in or on City Parks, including, but not limited to, ball fields, sports courts, rooms, and pavilions or shelters.

DIRECTOR

The Public Works Director or his/her designee.

FIREWORK

A device containing gunpowder and other combustible chemicals that causes an explosion when ignited.

HEATING DEVICE

A camp stove, grill, heater, or other container or device capable of generating or containing an open flame, excluding handheld lighters less than six (6) inches in length.

PERMIT

A document issued by the City authorizing exclusive use of City Parks or City Park Facilities, or portion thereof, as provided for in this Chapter.

PERSON

Includes persons, associations, partnerships, firms, and corporations or any other company or organization of any kind.

SPECIAL EVENT

A non-commercial activity or event in a City Park, which by their attendance (typically more than 75 people) or amenities (pony rides, hot air balloons, or tents or amusement devices that require a permit), require exclusive use of an entire City Park or a large area of a City Park to accommodate the activity or event, or if the activity or event requires the use of City personnel or services that are not provided through the City's normal operations.

RIVERCHASE YMCA

The City's recreation facility, located at 990 Horan Drive, that is contractually operated and managed by the YMCA.

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VEHICLE

Any wheeled conveyance whether motor-powered, animal-drawn, or self-propelled. The term shall include any trailer in tow of any size, kind, or description. Exception is made for baby carriages and vehicles of the City.

Section 220.020 Prohibited Acts.

A. No person in a City Park shall:

1. Willfully mark, deface, disfigure, injure, tamper with, affix other items to, or displace, or remove any buildings, bridges, tables, benches, fireplaces, railings, paving or paving materials, water lines or other public utilities or parts or appurtenances thereof, signs, notices or placards whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or other structures or equipment, City Park Facilities, or other property, structure, or appurtenances whatsoever, either real or personal; except that the use of temporary decorations for an event approved by Permit is permissible.
2. Dig or remove any soil, rocks, stones, trees, shrubs, or plants, down timber or other wood or materials, or make any excavation by tool, equipment, blasting, or other means or agency, except in conjunction with a City-authorized project and in accordance with all applicable rules and regulations.
3. Construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon, or across such lands, unless specifically authorized by the Board.
4. Damage, cut, carve, transplant, or remove any trees or plants or injure the bark or pick flowers or seeds of any tree or plant; or hang any clothing, blankets, decorations, or other materials on any tree or plant; or attach any rope, wire, or other contrivance to any tree or plant; or dig in or otherwise disturb grassy areas, nor in any way injure or impair the natural beauty or usefulness of any area.
5. Hunt, molest, harm, trap, kill, or shoot at any animal, reptile, or bird; or remove the eggs, nest, or young of any bird.
6. Give or offer to give any animal or bird any noxious substance.
7. Use, possess, or bring into any City Park any glass bottle or container.
8. Use a bow and arrow, cross bow, firearm, or similar device, unless specifically authorized by the Board.

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9. Use, ignite, explode, fire, or otherwise discharge any Fireworks, unless specifically authorized by the Board.
10. Possess drugs of any kind or description, except for prescription drugs easily identified as such, in any City Park at any time. Such prescription drugs shall not be left unattended.
11. Obstruct, hinder, or block unreasonably the use of any walkway, sidewalk, or City Park area. No extension cords or similar cords or hoses shall be permitted except when expressly approved by Permit and taped down or placed in a manner not to cause a tripping hazard.

Section 220.030 Fishing Permit Required/Limits And Size Applied.

- A. Unless otherwise posted, no person shall fish in any City Park lake without having first obtained a fishing permit from the State of Missouri Conservation Department, if they have reached the age of sixteen (16) or have not reached the age of sixty-five (65). The permit must be in his or her possession while fishing. No person shall keep in his or her possession or about his or her person more than six (6) fish total of any variety per day, with the following size and limit restrictions:
 1. One (1) bass per day (eighteen-inch minimum length),
 2. Three (3) catfish per day.
- B. No person shall violate any size requirement, rule, or restriction as listed by the Missouri State Conservation Department.

Section 220.040 Traffic.

No person in a City Park shall ride or drive a Vehicle at a rate of speed exceeding fifteen (15) miles per hour, nor shall they at any time drive any Vehicle on any area except the paved park roads, parking areas, or other such areas as may on occasion be designated as temporary parking areas by the Board; or park a Vehicle in other than established or designated parking areas.

Section 220.050 Parking In Designated Areas Only.

No person in any City Park may park or cause to be parked any Vehicle on grassy areas except as specifically permitted by the Board. No person shall park a Vehicle other than in areas designated for such.

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Section 220.060 Trucks And Buses.

No person shall enter any City Park by truck or bus exceeding an unloaded weight of eight thousand (8,000) pounds unless specific permission in writing is obtained from the Board. This does not include Vehicles delivering to or coming from City Parks for City-approved projects or events.

Section 220.070 Swimming Prohibited.

No person shall swim, dive, or wade in any lake, pond, or stream within any City Park; except places that are provided therefor.

Section 220.080 Fires And Heating Devices.

- A. All fires or use of any Heating Device in any City Park are prohibited, except for the following:
 - 1. Fires may be built only in receptacles and City Park Facilities provided by the City and intended therefor; and
 - 2. Patrons may use their own portable Heating Devices when approved by the Director and in conjunction with an approved Permit.
- B. No person who has built any fire shall leave the area where the fire was built without first extinguishing the fire.
- C. No person shall drop, throw, or scatter lighted matches, burning cigarettes or cigars, tobacco, papers, or other flammable material within any City Park area.
- D. Notwithstanding any other provision herein, fires and use of any Heating Device may be prohibited entirely in any City Park or in any designated area therein by the posting of notices prohibiting the same.

Section 220.090 Camping Prohibited.

Camping is prohibited in any City Park, except as specifically permitted in writing by the Board.

Section 220.100 Domestic Animals.

- A. Domestic animals are allowed in City Parks subject to the following:

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1. No person shall permit a domestic animal to run loose in a City Park.
2. No leash on which a dog or cat is tethered may be longer than six (6) feet in length and must be held by a competent person.
3. No vicious animal of any kind shall be brought into a City Park at any time even though restrained as described above.
4. No animal shall be tethered to any bush, tree, or shrub or to any City Park structure.
5. No person shall run any animal behind or beside any Vehicle or bicycle, whether on a leash or not.

Section 220.105 Equestrian Usage In City Parks.

It shall be unlawful for any person, while in or about any City Park, to ride a horse or pony or allow to run at large a horse, pony, or other similar animal with the exception of pony rides for City-sponsored events or other Special Events.

Section 220.107 Hot Air Balloon Usage In City Parks.

It shall be unlawful for any person, while in or about any City Park, to erect, fly, ride in, or operate a hot air balloon, or other similar device, with the exception of City-sponsored events or other Special Events.

Section 220.110 Sanitation — Prohibited Acts.

- A. No person in a City Park shall:
1. Throw, discharge, or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream, storm sewer, or drain flowing into such waters, any substance, matter or thing, or liquid or solid, which will or may result in pollution of such waters.
 2. Litter, or cause to be littered on any of the grounds, driveways, buildings, or other structures by scattering, dumping, or leaving, paper, garbage, cans, broken glass, bottles, ashes, rubbish, waste, or other trash. All such rubbish or waste shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere.
 3. Leave blankets, bags, or needles unattended.

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4. Use trash receptacles for deposit of garbage or other rubbish brought from outside a City Park.

Section 220.120 Solicitations Prohibited.

No person shall solicit alms or contributions for any purpose whatsoever, whether public or private, within any City Park, except when in conjunction with a use approved by Permit or other area dedicated to speech as identified by the City.

Section 220.125 Regulation Of Commercial Activities.

- A. Solicitation of any business of service is prohibited. No person is permitted to offer or advertise merchandise or other goods for sale or hire. Excepting City-sponsored events and activities, maintaining of a concession or the use of any City Park Facility, including any trail, road, bench, open area, table, or other City Park property for commercial purposes such as offering an exercise class, clinic, dog training, or similar commercial classes, clinics, or activities is prohibited unless a license is issued by the Board or its designated representative(s). Such license shall be clearly displayed by the person(s) seeking to conduct commercial activities within the City Park. The licensing process will help to ensure that the City is aware of the activity taking place within the City Park, that the proposed date/time/location does not conflict with scheduled activities/events/operations, that overcrowding does not occur to interfere with the guests and patrons of the City Park, that the business or service uses do not overlap to create a hazard (such as a dog training class occurring at the same time and same location as a yoga class), to ensure the person engaging in commercial activity in the City Park has insurance and other protections in place to insulate the City from liability from the same, and that no harm is done to the landscape of the City Park.
- B. Nothing within this Section shall apply to a City-sponsored event, usage of an athletic field covered by a Permit, or any event that is required to obtain a Special Event Permit.
- C. Applications for a license for activity provided in this Section shall be submitted to the City Clerk on forms provided by the City. The City Clerk shall be authorized to create an application form in accordance with the requirements of this Section. The application at minimum shall request the date, time, and location of the desired activity, contact information for the applicant, proof of insurance at the current sovereign immunity rates unless waived by the Board, hold harmless and waiver and release agreement, and license fee. Specific license fees shall as set forth in the City of Fenton – Park Shelter and Events Usage and Fees Policy on file with the Director.
- D. In its review of the license request, the Board or its designated representative(s) should consider:

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1. The risk of damage to City Park Facilities;
 2. The disruption of or conflict with the public's use and enjoyment of the City Park;
 3. Whether the issuance of such license may result in crowded or congested conditions due to the anticipated number of attendees for a planned event;
 4. The nature of the requested activity, including whether such activity involves:
 - a. The sale of products or items, which is prohibited unless it is a First-Amendment-protected activity;
 - b. The use of furniture, tents, or large "prop" amenities, which is prohibited; or
 - c. The use of models or equipment.
 5. The time and duration requested for such commercial purposes, including:
 - a. Whether the activity will exceed one (1) hour;
 - b. Whether the number of people involved is twenty-five (25) or more; or
 - c. Whether the time requested conflicts with a period of peak visitation to the City Park or other scheduled events, activities, or operations.
- E. Any license request involving less than twenty-five (25) people, lasting for less than one (1) hour, and complying with the above, will be granted by the City Clerk or a designee, provided the City Clerk may approve a location other than as requested to ensure no interference with other activities of the City Park. All license requests must be submitted at least forty-eight (48) hours before the proposed activities. Any license request involving twenty-five (25) or more people, lasting more than one (1) hour, or otherwise conflicting with any of the above factors must be submitted at least thirty (30) days in advance of the proposed activities so that the Board may review the request, and the license authority may be limited to certain designated areas. Each license issued by the City shall only be effective on the date and time specified on the license and for the location so specified and shall incorporate all rules and regulations set forth in this Chapter.
- F. The City Clerk or Director shall have the authority to revoke a license issued pursuant to this Section upon a finding of violation of any rule or any provision of this Code or other City ordinance, rule, or policy applicable to use of such licensed area, or upon good cause shown. If a license is revoked, a refund will not be provided.

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Section 220.130 Model Airplanes And Toys.

No person shall operate any motor-driven model airplane, car, or toy in a City Park area not designated for such use.

Section 220.140 Golf.

No person shall play or practice golf in any area of a City Park not designated for such use.

Section 220.150 Bicycles And Skateboards.

A. No person in a City Park shall:

1. Operate a skateboard or ride a bicycle on other than a paved road or path designated for that purpose, except a bicyclist may wheel or push a bicycle by hand over any grassy area or wooded trail or on any paved area reserved for pedestrian use.
2. Leave a bicycle in a place other than a bicycle rack..
3. Fail to comply with all local and State regulations regarding bicycle safety.
4. Operate a skateboard or bicycle in any City Park after dark or before 6:00 A.M. the following day.

Section 220.160 Alcoholic Beverages.

A. No person in a City Park shall:

1. Possess, bring, or consume any intoxicating beverages of any kind or description, including beer otherwise known as three and two-tenths percent (3.2%), unless of legal age.
2. Possess alcoholic beverages during league or tournament play within five hundred (500) feet of Diamonds 1, 2, or 3 in Fenton City Park or any ball field located at Fenton Sports Complex, unless beverages have been purchased at a City concession stand.
3. Possess alcoholic beverages at RiverChase YMCA, unless beverages are in conjunction with a RiverChase YMCA or City-sponsored event or an approved Permit.

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4. Leave alcohol unattended or fail to properly dispose of alcoholic beverages.

Section 220.170 Permits For Use Of Specific Areas — How Obtained.

- A. **When Required.** A Permit approved by the Director or Board shall be obtained from the City before any exclusive use of any City Park or Park Facility or portion thereof will be permitted.
- B. **Permit Effect.** No person not invited by a permittee shall loiter or remain in or on any City Park Facility reserved by an issued Permit.
- C. **Permit Application.** Applications shall be submitted in writing in advance of the proposed use. The Director shall be authorized to develop and update application forms to accomplish the purposes of this Chapter. At minimum, the application shall contain:
 1. The name and address of the applicant.
 2. The name and address of the person sponsoring the activity, if any.
 3. The day and hours for which the Permit is desired.
 4. The City Park and/or City Park Facility or portion thereof for which the Permit is desired.
 5. An estimate of the anticipated attendance.
 6. Any other information which the Director finds reasonably necessary to a fair determination as to whether a Permit should issue hereunder.
- D. **Permit Requirements.**
 1. **Code Compliance.** Any permittee shall, as a condition of issuance of a Permit, be bound by all City Park rules, regulations, and policies and all applicable provisions of this Code as though fully inserted into the issued Permit.
 2. **Waiver.** Any permittee shall, as a condition of issuance of a Permit, agree to a waiver and release of liability provision. The permittee shall also, as a condition of any Permit issued, be responsible for the cost of any damage to City Park Facilities or other property occurring during such permitted event and, depending on the type of Permit, may be required to submit a deposit to cover any such damage prior to issuance of any Permit.

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3. Insurance Required — When. All groups, associations, or assemblies comprised of more than seventy-five (75) persons or uses that include outside amenities, such as amusement devices or rides or the erection of tents, must obtain a certification of liability insurance naming the "City of Fenton" as an additional insured in an amount no less than the individual and combined sovereign immunity limits established by Section 537.610, RSMo., for political subdivisions. Nothing in this requirement or the insurance shall be deemed a waiver of the City's sovereign immunity. Upon request, the Board may waive or modify these insurance requirements upon good cause shown.
- E. Permit Fees. A schedule of fees shall be kept on file with the Public Works Department and City Clerk.
- F. Permit Standards. The Director shall issue a Permit when he/she finds that:
 1. The proposed activity or use will not unreasonably interfere with or detract from the general public enjoyment of the City Park;
 2. The proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety, and recreation;
 3. The proposed activity or use is not reasonably anticipated to incite violence, crime, or disorderly conduct;
 4. The proposed activity will not entail unusual, extraordinary, or burdensome expense or police operation by the City; and
 5. The City Park Facilities desired have not been reserved for other use at the day and hour requested in the application.
- G. Board Approval Required When. Special Events must be approved by the Board before the Director shall issue a Permit.
- H. Revocation. The Director shall have the authority to revoke a Permit issued pursuant to this Section upon a finding of violation of any rule or any provision of this Code or other City ordinance, rule, or policy applicable to use of such permitted area, or upon good cause shown. If a Permit is revoked, a refund will not be provided.
- I. Cancellation. The Director shall have the authority to cancel a Permit issued pursuant to this Section due to inclement weather conditions or upon other good cause shown. Refunds shall be dictated by City policy.

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- J. Supervision. The Director shall generally oversee the Permits issued hereunder and shall, with the approval of the Board, supervise the recreational use of City Parks and City Park Facilities to carry out the City's recreational program.

Section 220.180 Hours Of Operation For City Parks, Not Including RiverChase YMCA.

- A. Fenton City Park will be open from 6:00 A.M. to dusk daily, or until 11:00 P.M. as approved by a Permit issued by the Director.
- B. Fenton Sports Complex will be open from 6:00 A.M. to dusk daily, or until 11:00 P.M. as approved by a Permit issued by the Director. Ballfields within Fenton Sports Complex are only open for operation under a Permit issued by the Director.
- C. The Olde Towne Pavilion will be open from 8:00 A.M. to dusk daily, or until 11:00 P.M. as approved by a Permit issued by the Director.
- D. All other City Parks will be open from dawn to dusk daily.
- E. No person shall enter any City Park or remain therein after such Park is closed, except by permission from the Director in association with an approved Permit.

Section 220.190 Field Usage.

The Director has the right to refuse field usage at any time to any person without a Permit, based on field conditions, reservations under a Permit approved for exclusive use by other persons, or weekly scheduled field work. Field usage at Fenton Sports Complex shall only be under a valid Permit.

Section 220.200 Provisions Not Applicable To Employees.

The provisions of this Chapter shall not be applicable to City employees while engaged in their official duties, nor shall the provisions of this Chapter apply to Board members or City Officials while attending to City business.

Section 220.210 Appeal.

Any person aggrieved by any final decision of the Director or any denial of a permit or license request or revocation of the same shall have the right to appeal said decision in accordance with Chapter 160. To the extent provided by law, such appeal shall be required for the person to exhaust all administrative remedies and have a final decision of the City.

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Section 2. The portions of this ordinance shall be severable. If any clause, word, paragraph, section, or other part or portion of this ordinance is held to be invalid, illegal, or unconstitutional for any reason, the Board of Aldermen hereby declares it would nevertheless have enacted the remaining portions thereof and such remaining portions shall remain in full force and effect.

Section 3. This ordinance shall be in full force and effect after the date of its passage and approval.

PASSED this 25th day of August, 2022.

JOE MAURATH, MAYOR

APPROVED this 25th day of August, 2022.

JOE MAURATH, MAYOR

ATTEST:

Jane Hungler, City Clerk

Motion to approve. Roll Call vote:

Ayes:

Nays:

Absent:

ORD. NO. ____