

1st Reading: June 27, 2024
2nd Reading: June 27, 2024

SPONSOR: HUELS

ORDINANCE NO. 4456

BILL NO. 24-58

**AN ORDINANCE AMENDING SECTION 220.125
REGULATIONS OF COMMERCIAL ACTIVITIES OF
CHAPTER 220 PUBLIC PARKS.**

WHEREAS, Section 220.125 of Chapter 220, Public Parks, of the Municipal Code provides regulations for Commercial Activities in the City of Fenton parks; and

WHEREAS, Section 220.125, Regulations of Commercial Activities, requires a Commercial Activity License but did not set the Commercial Activity License Fee; and

WHEREAS, during the June 13th Committee Meeting, the Board discussed staff recommendation to amend Section 220.125 to provide for Commercial Activity License Fees and to address other minor clarifications; and

WHEREAS, after discussion and deliberation, the Board of Aldermen finds it in the best interest of the City to amend Section 220.125 of Chapter 220, Public Parks, of the Municipal Code as recommended by Staff.

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 Fenton Municipal Code is hereby amended by deleting Section 220.125 in its entirety, and enacting a new Section 220.125 to read as follows:

Section 220.125 Regulation Of Commercial Activities.

- A. Solicitation Of Any Business Or 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

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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 and naming the City as an additional insured, unless waived by the Board, hold harmless, indemnification, and waiver and release agreement, and license fee.
- D. Commercial Activity License Fees are established by the Board on a case-by-case basis, taking into account the activities' impact on other park activities and uses, the duration of the event, and any Direct Cost. Direct Costs are any costs incurred by the City to provide services and/or amenities for a Commercial Activity above and beyond typical operations, including but not limited to City personnel salaries and overtime. Commercial Activity License Fees that do not require Board approval and are issued by the City Clerk or designee are twenty-five dollars (\$25).
- E. In its review of the license request, the Board or its designated representative(s) should consider:
 - 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 last one (1) hour or more;
 - 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.

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- F. Any license request involving less than twenty-five (25) people, lasting for less than one (1) hour, lasting only one (1) date, 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 such license requests must be submitted at least forty-eight (48) hours before the proposed activities. The City Clerk will submit any application that the City Clerk believes conflicts with any of the above factors to the Board for review. Any license request involving twenty-five (25) or more people, lasting one (1) hour or more, is reoccurring on more than one (1) date, or otherwise conflicts 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. The Board may in its sole discretion deny any license that does not meet the intent and requirements of this Section. The City Clerk or Board may impose conditions on the license to ensure a requested activity is consistent with the intent and requirements of this Section. 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. No license issued under the provisions of this Section shall be assigned or transferred to any other person or business or transferred to another location.
- G. 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 and shall be grounds for denial of subsequent license requests.
- H. The City's issuance of a license hereunder is not intended to, and expressly does not, create a vested property right in any use allowed by the City's grant of a license nor does it create a right or expectation in the applicant to the City's issuance of a subsequent license for the same activity. The City shall have the authority to stop or otherwise halt the activities of any license that is at any time presenting a threat to the health, safety, or welfare of the visitors to the City Park.

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 27th day of June, 2024.



JOE MAURATH, MAYOR

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APPROVED this 27th day of June, 2024.



JOE MAURATH, MAYOR

ATTEST:



Jane Hungler, City Clerk

Motion to approve. Roll Call vote:

Ayes: Bereitschaft, Cruts, Wisbrock, Clauss, Huels, Jokerst

Abstain: 0

Nays: 0

Absent: Harrell, Maserang