

**CITY OF ATLANTIC BEACH
CITY COMMISSION
STAFF REPORT**

AGENDA ITEM: Ordinance No. 95-25-125 amending Chapter 5 (Beaches and Parks), Article III (Public Parks), to add a new section 5-34 establishing rules and regulations for conducting business activities in Public Parks and City facilities.

SUBMITTED BY: Kevin Hogencamp, Deputy City Manager *KH*

TODAY'S DATE: January 29, 2025

MEETING DATES: February 10, 2025, and February 24, 2025

SUMMARY: Prudently regulating business activity within city parks and facilities enables local government to ensure that these valuable public resources are used thoughtfully, effectively and equitably for the benefit of the entire community, and that liability is mitigated. At the encouragement of City Commission members, City staff prepared a draft ordinance that was presented for review at the City Commission's Jan. 27 meeting and will be presented to the Arts, Recreation and Culture Committee at its Feb. 11 meeting.

Cities regulate business and often prohibit business activity in parks and facilities for many reasons. Among them:

- **Mitigating Liability:** Prohibiting business activities in parks can mitigate liability for the park's governing body in several ways:
 - **Reduced Risk of Injury:** Some businesses involve activities that increase the risk of injury to park visitors.
 - **Increased Foot Traffic:** Businesses can significantly increase foot traffic in a park, potentially leading to overcrowding, congestion, and a higher likelihood of accidents.
 - **Safety Standards:** Businesses operating within a park may not adhere to the same safety standards as the park itself. This can create inconsistencies in safety measures and increase the risk of accidents.
 - **Liability for Business Activities:** If a visitor is injured due to the negligence of a business operating within the park, the park's governing body could be held partially liable, even if it did not directly cause the injury.
- **Preserving Public Space/Maintaining the Public Purpose:** City parks and facilities are intended for the enjoyment and recreation of all citizens. Unrestricted business activity can create:
 - **Distraction and Noise:** Commercial activities can generate noise, traffic, and other disturbances that disrupt the peaceful and recreational nature of the park.

- Visual Impact: Businesses may introduce visual clutter and detract from the natural beauty of the park environment.
- Barriers to access: Commercial activities can make city parks and facilities feel exclusive or unwelcoming to certain groups and take up space needed for passive recreation like walking, picnicking, or simply enjoying nature.
- Protecting the Environment: Parks often contain sensitive ecosystems. Business activities can:
 - Damage natural resources by harming trees, plants, and wildlife habitats.
 - Increase Pollution: Businesses may generate waste, noise, and light pollution that negatively impact the park's ecological integrity.
- Easier to Maintain and Supervise:
 - Reduced Complexity: Prohibiting business activity simplifies park management by reducing the number of entities and activities that need to be monitored and regulated.
 - Improved Enforcement: Clear prohibitions on business activity make it easier to enforce park regulations, mitigate risks, and ensure that the city only approves activities that align with the city's objectives.
 - Lead to conflicts: Competition between businesses and the potential for overcrowding can lead to conflicts within city parks and facilities.

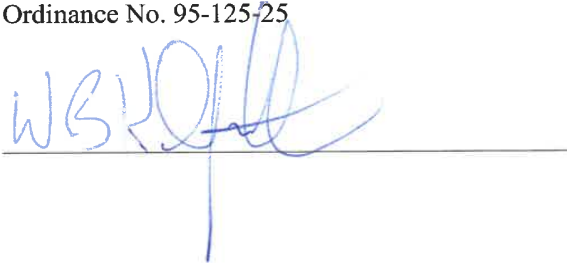
(* Information sources include: National Recreation and Parks Association: "Parks and Recreation is Essential"; Trout Brook Arborists: "Understanding the Impact of Urban Development on Trees"; Santa Clara University Markkula Center for Applied Ethics: "Public Officials as Fiduciaries"; Health Facility Management magazine: "Regulatory Guidance for Facilities Managers".)

RECOMMENDATION: Commission consider adopting Ordinance No. 95-125-25.

BUDGET: N.A.

ATTACHMENT: Ordinance No. 95-125-25

CITY MANAGER:



ORDINANCE NO. 95-25-125

AN ORDINANCE TO AMEND CHAPTER 5 (BEACHES AND PARKS), ARTICLE III (PUBLIC PARKS), TO ADD A NEW SECTION 5-34 ESTABLISHING RULES AND REGULATIONS FOR CONDUCTING BUSINESS ACTIVITIES IN CITY-OWNED PARKS AND FACILITIES; PROVIDING DEFINITIONS; PROVIDING FOR RULES AND REGULATIONS; PROVIDING FOR PROHIBITIONS; PROVIDING FOR PENALTIES AND ENFORCEMENT; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR INCORPORATION IN THE CODE OF ORDINANCES; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Atlantic Beach owns and administers parks and other recreational facilities; and

WHEREAS, the City of Atlantic Beach desires to maintain the integrity and intended use of its parks and its recreation facilities for the enjoyment and benefit of all residents and visitors; and

WHEREAS, the conduct of commercial activities within these public spaces may have an adverse impact on the recreational use, environmental quality, and overall character of such areas; and

WHEREAS, it is necessary to establish clear and consistent guidelines for the approval of business activities within public parks and City facilities and it has been determined that the adoption of this Ordinance is in the best interest of the City and its residents.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION ON BEHALF OF THE PEOPLE OF THE CITY OF ATLANTIC BEACH that:

SECTION 1. Code of Ordinances Amended to add a New Section. New Section 5-34 – Business Activities in Public Parks is hereby added to the Code of Ordinances to the City of Atlantic Beach, Florida as follows:

Sec. 5-34 – Business Activities in Public Parks and City Facilities

(a) **Definitions** For the purposes of this Ordinance, the following definitions shall apply:

- **"Business Activity"** shall mean any activity conducted for profit, including but not limited to: * Sales of goods or services * Solicitation of donations or contributions * Advertising or promotional activities * Use of park or facility for commercial filming or photography * Conducting classes or workshops for profit.
- **"City Manager"** shall mean the City Manager of the City of Atlantic Beach or his/her designee.

- **"Public Park"** shall mean any park, playground, green space, or other public area owned or maintained by the City of Atlantic Beach.
- **"City Facility"** shall mean any building, structure, or other facility owned or maintained by the City of Atlantic Beach including but not limited to community centers, libraries, and recreational centers.

(b) **Prohibition of Business Activities.** Business Activities are prohibited in all Public Parks and City Facilities, unless as otherwise expressly provided in this Chapter. No person or entity shall conduct any Business Activity in any Public Park or City Facility without first obtaining written approval from the City Manager.

(c) **Limited Approval for Non-Profit Entities and City Partnerships.** The City Manager shall only approve Business Activities in Public Parks or City Facilities conducted by a non-profit entity and/or conducted by permit and/or in partnership with the City.

(d) **City Manager's Authority** The City Manager shall have the administrative authority to do any of the following:

- Approve or deny any request or application for the conduct of a Business Activity
- Impose conditions or restrictions on approved activities
- Revoke approval for any Business Activity that violates this Ordinance or any other applicable laws or regulations

(e) **Enforcement** Any person or entity that violates this Ordinance shall be subject to a civil penalty of not more than \$500 for each violation.

SECTION 2. Incorporation, Conflict and Severability.

(a) It is the intention of the City Commission and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Atlantic Beach, Florida, and that the sections of this ordinance may be renumbered or relettered and that the word "ordinance" may be changed to "section," "article," or other appropriate word.

(b) All Ordinances, Resolutions, Code of Ordinances or parts of thereof in conflict herewith are hereby repealed to the extent of such conflict.

(c) If any word, phrase, clause, subsection, or section of this Ordinance is for any reason held unconstitutional or invalid by a court of competent jurisdiction, the invalidity thereof shall not affect the validity of any remaining portions of the Ordinance.

PASSED by the City Commission on first reading on the 10th day of February 2025.

PASSED AND ADOPTED by the City Commission on second and final reading on the 24th day of February 2025.

ATTEST:

Donna L. Bartle
City Clerk

Curtis Ford
Mayor

Approved as to form and correctness:

Jason Gabriel
City Attorney