03-O-2155

AN ORDINANCE BY COUNCILMEMBERS
ANNE FAUVER & DEBI STARNES AS SUBSTITUTED AND AMENDED BY
COMMUNITY DEVELOPMENT & HUMAN RESOURCES COMMITTEE

AN ORDINANCE TO CLARIFY AND UPDATE THE RULES ESTABLISHED FOR CITY OF ATLANTA PUBLIC PARKS, CODE SECTIONS 110-56 THROUGH 110-85, AND FOR OTHER PURPOSES.

WHEREAS, the Atlanta Code of Ordinances, sections 110-56 through 110-85 establish rules for the use of City of Atlanta ("City") public parks ("Park Rules"); and

WHEREAS, the Park Rules were drafted years ago; and

WHEREAS, some of the Park Rules are no longer applicable and some undesirable activity currently occurring in Parks is not addressed in the Park Rules; and

WHEREAS, some of the Park Rules require clarification, including hours of use of City parks; and

WHEREAS, the Atlanta Police Department has experienced difficulty in enforcing portions of the Park Rules due to the lack of clarity in some of the Park Rules provisions; and

WHEREAS, the city wishes to update and clarify the Park Rules in order to better regulate the activity occurring in City public parks.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS AS FOLLOWS:

SECTION 1. A new subsection 10-55 shall be added under Article III of Chapter 10 that shall read as follows:

"Sec. 110-55. Definitions.

As used in this Article III of Chapter 110, the term "park"or "parks" shall mean any public park or camp, including any facilities, bodies of water, or other amenities thereon, owned or leased by the City of Atlanta, but shall not include those portions of Oakland Cemetery that are privately owned."

SECTION 2. A new subsection 138-210 shall be added under Article VI of Chapter 138 that shall read as follows:

"Sec. 138-210. Park Rules During Outdoor Festivals.

The Atlanta Code of Ordinances, section 110-76, shall set forth the conduct that is prohibited in City parks during Outdoor Festivals."

SECTION 3. Subsection110-56 under Article III of Chapter 110 is hereby deleted in its entirety and replaced with the following:

"Sec. 110-56. Violations.

(a) The violation of any rule and regulation governing the use of any park shall be deemed a violation of this Code of Ordinances and shall be punished as provided in section 1-8 thereof. In addition to the section 1-8 sanctions, in the event that a person's violation of any park rule or regulation results in damage to a park, including but not limited to its infrastructure or plants, the person also shall be responsible for reimbursing the City for the cost of repairing the damage, or replacing the damaged item(s) if the City finds that replacement is necessary."

(b) Where a rule or regulation governing the use of any park permits an activity only if the activity is approved by the Mayor, or the commissioner or her/his designee, it shall be the duty of the recipient to have the written permission in his/her possession at all times that s/he is engaged in the activity to which the written permission pertains. The Procedure to be utilized to obtain written permission shall be set forth in the Park Reservations Policies and Procedures promulgated by the Department of Parks, Recreation and Cultural Affairs, and provided to the public upon request. Any activity that is permitted only upon approval by the Mayor, commissioner or her/his designee, shall be deemed unauthorized and shall be deemed a violation of this Code of Ordinances if the person(s) performing the activity does not have possession of the written permission at the time of performing the activity.

(c) In any court hearing or other proceeding involving a rule or regulation governing the use of any park, where the rule or regulation permits an activity only if the activity is approved by the Mayor, or the commissioner or her/his designee, it shall be the duty, responsibility and burden of the defendant to produce credible evidence of the written permission at the hearing or other proceeding. If the defendant fails to produce credible evidence of the written permission, the court shall find that the permission was not granted."

SECTION 4. Subsection110-59(a) under Article III of Chapter 110 is hereby amended by deleting "or park facility" from the end of the sentence labeled (a), and by adding subsections (9) through (14) after subsection (8) as follows:

"Sec. 110-59. Prohibited conduct.

(a) No person shall do any of the following in any park:
(1)...

(7) Place or display any sign or advertisement, except that this rule shall not apply to any signs or advertisements regarding any City sponsored or City authorized program, festival, or other event that occurs in the park. Signs or advertisements regarding City sponsored or City authorized programs, festivals or other events may be placed or displayed only with written permission by the commissioner and her/his designee, and only at the locations and during the times authorized in writing by the commissioner and her/his designee.

(8) Play, practice or otherwise participate in any game, sport or other recreational activity that is destructive to the lawn, plants, walls, road, or other infrastructure of a park, except at or upon places designated for that game, sport or recreational activity. By way of example, these activities shall include but not be limited to wearing sneakers with cleats, playing rugby or volleyball, or skateboarding off of park walls.

(9) Knowingly, or through reckless behavior, destroy or damage the lawn, plants, walls, road, or other infrastructure of a park, except by written permission from the commissioner or her/his designee.

(10) Drive stakes, posts, poles or any other device or dig holes for the purpose of securing stakes, posts, poles or any other device for any reason, including to erect a tent, stage or other structure, except by written permission from the commissioner or her/his designee.

(11) Bring in, erect, or permit a minor child in one's custody to bring in and/or erect any inflatable amusements, amusements requiring water, or any amusements requiring an independent power source, except during permitted special events and festivals. This rule shall not apply to City pools and lakes. For purposes of this subsection, inflatable amusements shall not include balls or balloons, and amusements requiring water shall not include water pistols.

(12) Erect a tent or canopy with a finished dimension greater than ten feet by ten feet, or be in possession of an erected tent or canopy with the same dimensions, without receiving the written permission of the commissioner, as well as all other applicable permits required by this Code. This rule shall not apply to Camp Allatoona.

(13) Bring in, carry, possess, or permit a minor child one's custody to bring in, carry or possess, glass containers except for authorized vendors who shall retain and remove from the park all glass containers utilized in their activities. This rule shall not apply to the Chastain Park amphitheater when performances are being given therein.

(14) Bring in and abandon any animal in a park, including but not limited to cats, ducks, raccoons, opossums, and dogs, without the written permission of the commissioner or her/his designee.

(15) Use a playscape or park bench for other than its intended use and/or purpose.

(16) Dispose of charcoals anywhere inside of a park other than in City-provided receptacles that are clearly marked for charcoal disposal."

SECTION 5. Section 110-60 under Article III of Chapter 110 shall be deleted in its entirety and substituted with the following:

"Sec. 110-60. Use of public parks at night.

(a) No person shall be in any park or upon any park lane or park drive between the hours of 11:00 p.m. and 6:00 a.m. daily, except that the hours for use of the Chastain Park amphitheater are extended until 1:00 a.m. on nights when performances are being given in the Chastain Park amphitheater as provided in Sec. 110-59(c), or except if the person has a festival or assembly permit for consecutive days and is performing duties not possible during the normal festival or assembly hours.

(b) This section shall not prevent the use at any time of thoroughfares that are part of the system of streets and highways of the City which traverse any part or portion of any public park.

(c) No person shall park any vehicle on any of the roads, drives, avenues or parking lots in any park between the hours of 11:00 p.m. and 6:00 a.m. daily. The Chief of Staff may provide a parking permit exempting a vehicle from this rule, to any person(s) involved with a legitimately permitted event occurring in any park, where the Chief of Staff finds that said person has a legitimate need to park her/his vehicle in said park between 11:00 p.m. and 6:00 a.m. Nothing in this section shall limit the commissioner's authority to close portions of a park to traffic at other times, as is provided in Code section 110-61."

SECTION 6. Section 110-69 under Article III of Chapter 110 shall be amended by adding a subsection (c) that shall read as follows:

"(c) Any person in violation of subsection (b) above, where said violation occurs on any public park, shall be subject to the provisions of Code section 110-56. Any person in violation of subsection (b) above, where said violation occurs on any other public property, other than a public park, shall be responsible for fully reimbursing the City for the cost of repairing or replacing the damaged plants, and shall be subject to the penalties of City of Atlanta Code of Ordinances section 1-8."

SECTION 7. Section 110-70 under Article III of Chapter 110 shall be amended by deleting subsections (d) and (e) in their entirety and replacing them with the following:

"(d) Pets are prohibited in parks during permitted Class A, Class B, and Class C Outdoor Festivals, as defined in section 138-187 and 138-205. Pets are permitted in parks during Class D and Class E Outdoor Festivals, as defined in section 138-187 and 138-205. Any prohibition on pets during any Outdoor Festival or special event, regardless of whether the Outdoor festival is Class A, B, C, D, or E, shall not apply to those animals that are part of a performance, exhibit, or other activity conducted as part of the special event or festival, or when those animals are confined to a specific area of the park designated for that purpose.

(e) Subsections (c) and (d) of this section shall not apply to any guide dog especially trained for the purpose of accompanying a totally or partially blind person or a deaf person, or a service dog especially trained for the purpose of accompanying a physically disabled person, or a dog trained and licensed by and in the possession of the Atlanta Police Department or any other law enforcement agency, or a horse utilized by the City's mounted police patrol."

SECTION 8. Section 110-75 shall be deleted in its entirety and replaced with the following:

"Sec. 110-75. Large Gatherings.

Any person planning a "Large Gathering" in a park, where the gathering is reasonably expected to have more than seventy-five (75) people but not more than two hundred fifty (250) people, and is reasonably expected to last for one hour or longer, shall make a park reservation through the commissioner or her/his designee. The specific procedures for making a reservation shall be set forth in the Park Reservations Policies and Procedures, which shall be promulgated by the Department of Parks, Recreation and Cultural Affairs, and provided to the public upon request.

(a) Reservations that do not require the use of a park facility or amenity shall be at no cost.

(b) The cost of making a reservation for a park facility or amenity, including but not limited to the cost of the sanitation deposit and key deposit, shall be set forth in this chapter 110 of the Atlanta Code of Ordinances, section 110-3.

(c) Reservations must be made at least fourteen (14) days prior to the gathering so that the City can provide adequate sanitation and security services. An exception to this fourteen (14) day requirement shall arise when a gathering occurs within forty-eight (48) hours of an identifiable event or decision, the date of which could not have been predicted with certainty, including but not limited to an announcement regarding a military action, an announcement of a court decision,

or a death, in which event the reservation shall be made as early as possible so that the City can provide adequate services."

(d) Reservations shall be granted based upon availability and on a first come first served basis. Where there are competing applications which are substantially for the same time and place, the earlier or earliest application to be received in a substantially completed form accompanied by the requisite fee and deposits, if any, shall be given priority as to the time and place requested, except that applications from City residents, or on behalf of groups whose primary location is inside the City of Atlanta, shall be given priority over applications from non-City residents or on behalf of groups whose primary location is outside of the City of Atlanta.

(e) In the event that a person or group has a Large Gathering and fails to leave the park in the state in which it was prior to the Large Gathering, and the City spends more than one hour performing clean-up or restorative action necessary to return the area of the park utilized by the Large Gathering to its status prior to the Large Gathering, the person or group shall be responsible for reimbursing the City for the cost of such clean-up and restoration activities within thirty days of receiving a bill from the City. The City shall deny a future reservation to any person or group, or person representing a group that has not paid its bill in full. Any person or group, or person representing a group that failed to pay the bill within thirty days of receipt will be required to provide a sanitation bond in the amount of said bill as a condition of making any future park reservation.

(f) In the event that the lawn, plants, walls, road, or other infrastructure of a park is damaged during and as a result of a Large Gathering, the person or group making the reservation for the Large Gathering shall be responsible for reimbursing the City for the cost of repairing the damage, or replacing the damaged item(s) if the City finds that replacement is necessary.

(g) The commissioner or the chief of staff shall have the authority to revoke a Large Gathering Reservation in the event that the reservation applicant provides false information to the City, or in the event that the City determines that the person or group holding the Large Gathering has an outstanding debt with the City, or when, by reason of disaster, public calamity, riot or other emergency, the commissioner or the Chief of Staff, in consultation with the Police Chief, determines that the safety of the public or property requires revocation, provided that neither the commissioner nor the Chief of Staff shall revoke such park reservation based on the race, color, creed, religion, gender, domestic relationship status, parental status, familial status, sexual orientation, national origin, political affiliation or gender identity of the participants of the Large Gathering nor on any message that may be associated with the Large Gathering.

(h) In the event that a person or group holds a Large Gathering without obtaining a reservation, the person or group shall be responsible for paying all costs that

would have been owed had a reservation been obtained, including but not limited to the costs set forth in subsections 110-75 (e) and (f) above. The commissioner, or his/her designee, shall issue a bill for the total amount owed, and the bill shall be paid in full within thirty days of receipt of the bill. In addition, any person who holds a Large Gathering without a reservation, as provided in this Article, shall be guilty of a misdemeanor. Upon conviction such person shall be required to work on the public streets or on public works of the City for not more than six months, and shall be subject to the other penalties set forth in section 1-8 of the Atlanta Code of Ordinances.

SECTION 9. Section 110-76 shall be deleted in its entirety and replaced with the following:

"Sec. 110-76. Prohibited conduct in parks during Outdoor Festivals, Assemblies, and special events.

(a) It shall be unlawful for any person using a park during a permitted Outdoor Festival, as defined in section 138-187 of this Code of Ordinances, a permitted Assembly, as defined in section 138-232,or a special event, to do, or permit a minor child in his/her custody to do, any of the following acts:

(1) Ride, drive or operate bicycles, motorcycles, mopeds or any other motor vehicles, or ride skateboards or skates onto prohibited areas in the park. The prohibited areas shall include the children's area, vending locations, craft demonstration area, performing arts venues, health and fitness expos, hot air balloon staging areas, roads, walks, courts, pools, and athletic fields. These items may be carried into or through prohibited areas if they are not ridden. This provision shall not apply to emergency medical personnel, nor to officials or employees of the City of Atlanta, acting in their official capacity, nor to vendors who are restocking their merchandise. In addition, this provision shall not apply to Outdoor Festival or special event workers during set up, take down, and restocking of an Outdoor Festival or special event. Lastly, this provision shall not apply to Outdoor Festival or special event organizers whose names are listed on the Outdoor Festival or special event Permit. No greater that twelve Outdoor Festival or other event organizers shall be listed on any Outdoor Festival or special event Permit.

(2) Bring in, carry, or in any way possess, play or operate any radio, musical instrument or similar device which is producing or reproducing sound in the park in such a manner as to be plainly audible to other persons in the park, other than the operator of the device. This subsection shall not apply to persons performing in the Outdoor Festival, Assembly, or special event. All radios and musical devices with earphones are permitted.

(3) Bring, carry or in any way possess charcoal-fired portable grills. This provision shall not prohibit the use of charcoal in City grills placed in the Park for public use.

(4) Engage in outdoor cooking in any area except where a City grill has been provided for public use. This provision shall not prohibit the use of gas grills placed within five feet of a City grill. This provision shall not apply to authorized Outdoor Festival or special event vendors.

(b) City rules regarding whether pets shall be allowed in a park during a permitted Outdoor Festival, as defined in section 138-187, or a special event, are set forth in Code section 110-70 (d) and (e).

SECTION 10. Section 110-88 under Article III of Chapter 110, shall be deleted in its entirety. Section 110-89 under Article III of Chapter 110 shall be amended by changing the section number to 110-88.

SECTION 11. All ordinances and parts of ordinances in conflict herewith are hereby repealed.