



AGENDA
PARKS & RECREATION ADVISORY BOARD
CITY OF PORT ORANGE

Meeting Date: Tuesday, February 16, 2016

Time: 5:00 PM

Type of Meeting: Special

Location: 2nd Floor Conference Room
City Hall, 1000 City Center Circle

A. CALL TO ORDER

1. Roll Call

B. DISCUSSION/ACTION

2. Review chapter 50 of the code of ordinances.

C. ADJOURNMENT

ANY PERSON WHO DECIDES TO APPEAL ANY DECISION MADE BY THE **PARKS & RECREATION ADVISORY BOARD** WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSE HE OR SHE MAY NEED TO ENSURE AT HIS OR HER OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE OF THE PROCEEDINGS UPON WHICH THE APPEAL IS TO BE BASED. NOTE: IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING DATE; IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 1-800-955-8771.



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 02/16/2016

Consent item: No

SUBJECT: Review chapter 50 of the code of ordinances.

DEPARTMENT: Parks & Recreation

GOAL:

OBJECTIVE:

RECOMMENDED MOTION:

SUMMARY: Chapter 50 of the Code of Ordinances relating to Parks and Recreation has not been comprehensively updated since its adoption in 1981. Most changes are simply clean ups in the code and combining sections that were duplicated. These changes are shown by striking out what was eliminated and underlining what was added. Attached for review is the draft Code and a staff report to explain the changes.

Project	Funding Account
No.:	No.:

ATTACHMENTS:

1.	Code of Ordinances	Parks and Rec Code MJ 2.5.16.pdf
2.	Staff Report	Staffreportcodes.pdf

Abbate, Barbara

Created/Initiated - 02/10/2016

ORDINANCE NO. 2016-

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING CHAPTER 50, ARTICLE I, SECTION 50-1 PROVIDING FOR DEFINITIONS; AMENDING SECTION 50-2 RELATING TO USE OF PARK PROPERTY AND EQUIPMENT; AMENDING SECTION 50-5 RELATING TO ANIMAL REGULATIONS AT RECREATIONAL FACILITIES; CREATING A NEW SECTION 50-6 ESTABLISHING PARK HOURS; AND SECTION 50-7 REGULATING CAMPING; AMENDING ARTICLE II, SECTION 50-31 RELATING TO PARKS AND RECREATION FACILITY USE; SECTION 50-32 RELATING TO ATHLETIC FACILITY USE; SECTION 50-33 RELATING TO PARKS AND RECREATION PARTNERS APPLICATIONS AND REVIEW; SECTION 50-38 RELATING TO NON-RESIDENT FEES; REPEALING SECTION 50-34 RELATING TO FACILITY USE CATEGORIES; SECTION 50-35 RELATING TO RENTAL FEES FOR ATHLETIC FACILITIES; SECTION 50-36 COMMUNITY CENTER RULES OF USE; SECTION 50-37 RELATING TO ATHLETIC FACILITY RULES OF USE; SECTION 50-39 RELATING TO KENNETH W. PARKER AMPHITHEATER AND COMMUNITY CENTERS USE POLICIES; AND SECTION 50-40 RELATED TO PROHIBITING TOBACCO USE AT YOUTH ATHLETIC ACTIVITIES; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 50 of the Code of Ordinances relating to Parks and Recreation has not been comprehensively updated since its adoption in 1981; and

WHEREAS, amendments to Chapter 50 of the Code of Ordinances are necessary to maintain consistency with current policies and procedures; and

WHEREAS, the Parks and Recreation Board has reviewed and approved the proposed amendments contained herein; and

WHEREAS, for purposes of this Ordinance text with underlined (underlined) type shall constitute additions to the original text and text with strike-through (~~strike-through~~) type shall constitute deletions to the original text;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

SECTION 1. The City Council of the City of Port Orange, Florida hereby amends Section 50-1 of the Code of Ordinances to read as follows:

Sec. 50-1. - ~~Property and equipment~~—Use of Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Athletic facility means fields, courts or gymnasiums owned and operated by the city, including but not limited to the field/court of play, sidelines and bleachers, where sporting events, practices and games are routinely held.

Parks and recreation partner means a non-profit organization dedicated to extending physical, cultural or social activities to the community while utilizing recreation facilities or athletic facilities in accordance with a written agreement approved by the city manager.

Permit means the approved application returned to the applicant or other instrument prepared by the recreation department indicating the applicant has successfully applied and been granted limited use of an athletic or recreation facility.

Recreation department means the parks and recreation department in and for the City of Port Orange.

Recreation facility means a building, park or amphitheater owned and operated by the city and primarily used for recreational activities, community gatherings and special events.

Service animal means a dog of any breed that is individually trained to do work or perform tasks for people with disabilities.

~~It shall be unlawful for any person to use or occupy buildings, tables, chairs, or other property situated in or on the public parks owned by the city, other than for the purposes for which the property was constructed and placed in, and intended to be used in the parks.~~

SECTION 2. The City Council of the City of Port Orange, Florida hereby amends Section 50-2 of the Code of Ordinances to read as follows:

Sec. 50-2. – ~~Same-Injuring~~ Property and equipment.

(a) ~~It shall be unlawful for any person to use or occupy buildings, tables, chairs, or other property situated in or on any athletic or recreation facility, other than for the purposes for which the property was constructed and placed in, and intended to be used at the facility.~~

(b) It shall be unlawful to injure or destroy any of the buildings, tables, chairs or other property owned by the city and situated in or on any athletic or recreation facility ~~the public parks.~~

SECTION 3. The City Council of the City of Port Orange, Florida hereby amends Section 50-5 of the Code of Ordinances to read as follows:

Sec. 50-5. - Animals prohibited.

(a) ~~The terms used in this section, other than those defined in section 50-1, shall have the same meaning as set forth in section 10-3 of this Code.~~

(b) ~~No person having charge, care, custody or control of any domestic animal or wildlife shall permit, any such animal to be at large, upon any public property (except in the case of dogs for city established and approved off-leash dog parks). Provided however, no domestic animal or wildlife shall be allowed indoors~~

at any city facility or onto any athletic field, splash pad or playground. This section shall not apply to police K-9 units used for law enforcement, or service animals.

- (c) Any violation of this section shall be addressed in accordance with section 10-17 of this Code, and shall be punishable as provided in section 10-18 of this Code.

~~It shall be unlawful to bring dogs, cats or other pets, or other animals, upon the parks, playgrounds, recreational facilities or other similar city property except for approved permitted animal shows, K-9 dogs used for law enforcement, and Seeing Eye dogs.~~

SECTION 4. The City Council of the City of Port Orange, Florida hereby amends Chapter 50, Article I of the Code of Ordinance to establish a new Section 50-6 to read as follows:

Sec. 50-6. – Park hours.

- (a) Athletic and recreation facilities shall be open to the public as indicated by the established hours posted on buildings or entrance areas.
- (b) Any section or part of any athletic or recreation facility may be declared closed to the public at any time or limited to certain users or times as public interests demand or safety and security indicates. In addition, all or part of an athletic or recreation facility may be closed to the general public during the use of the facility for city sponsored programs or events and the parameters and times of closure is posted at the facility.
- (c) It shall be unlawful to enter any athletic or recreation facility or remain therein:
- (1) Beyond the established facility hours as posted; or
 - (2) During a temporary closure as set forth in subsection (b) above.

SECTION 5. The City Council of the City of Port Orange, Florida hereby amends Chapter 50, Article I of the Code of Ordinance to establish a new Section 50-7 to read as follows:

Sec. 50-7. – Camping; exception.

- (1) For the purpose of this section, the term “camping” means:

- (a) Sleeping or otherwise being in a temporary shelter out-of-doors; or
 - (b) Sleeping out-of-doors; or
 - (c) Cooking over an open flame or fire out-of-doors.
- (2) No person shall engage in camping on public property except as may be specifically authorized by the appropriate governmental authority by ordinance, rule, regulation or permit.
- (3) The act of sleeping while on public property in and of itself shall not provide a basis for a violation of this section. In order to find a violation of this section, an officer shall determine, at a minimum, that:
 - (a) The person is occupying public property, to wit, property either deeded, or dedicated to or leased by a governmental agency or unity, and
 - (b) The violator is inside a tent or sleeping bag, or is covered by materials such as blankets, newspapers, cardboard, or is inside some form of temporary shelter, or
 - (c) The violator has built a campfire, or
 - (d) The violator is asleep and when awakened he/she volunteers that he/she has no home or other permanent shelter.
- (4) Prior to citing an individual for a violation of this section, if such person is homeless he/she shall be given an opportunity to enter a homeless shelter or alternative shelter, if available. If no such shelter is available, no citation shall be issued. If such shelter is available, and the violator refuses to relocate to an available shelter, a citation may be issued for violation of this section.

SECTION 6. The City Council of the City of Port Orange, Florida hereby amends

Section 50-31 of the Code of Ordinances to read as follows:

Sec. 50-31. - ~~Community centers; objects, permits, restrictions.~~ Recreation facilities.

- (a) Recreation facilities shall be used primarily for physical, social and cultural activities for youths and adults directly under the operating responsibility of the recreation department. Recognizing that suitable indoor facilities for meetings and activities are extremely limited in the city, these facilities may be made available when not in conflict with the department's activities to help ensure that

the facilities are fully utilized. The recreation facilities are designed for multi-purpose use and not as a designated permanent site for continuous rentals by any single individual, group or organization. The recreation department encourages facility use according to the following priority:

- (1) Recreation department operations.
- (2) Parks and recreation partners.
- (3) Non-profit organizations (i.e Scouts) open to citywide membership, without regard to religious or other membership requirements, aimed at promoting and facilitating physical, social or cultural activities for the community.
- (4) Private individuals, groups or organizations utilizing the facility for a non-profit-generating recreational or social activity.
- (5) Private individuals, groups or organizations utilizing the facility for a profit-generating activity (i.e. personal trainers or instructors).

~~The object of the facility policies related herein is to define the purpose for which the recreation facilities under the jurisdiction of the recreation department may be used and the organized groups which may use the facilities.~~

(b) Recreation facility use for organized activities and events requires a permit. Application for any recreation facility use permit shall be made with the recreation department.

~~(c)(b)~~ All permits for use of the facilities will shall be restricted to responsible individuals, groups or organizations and recognized organizations under the provisions outlined in this policy section.

~~(d)(c)~~ Applicants for facility use permits shall be must satisfy the issuing office of the recreation department that they will be personally responsible for proper use of the facility or that they represent local organizations that will be responsible for the proper use of the facility, and applicants shall further will guarantee orderly behavior at the facility, and will shall assume strict liability for any damage to city property arising out of their use of the facility.

~~(e)(d)~~ Applicants shall be responsible for any negligent acts arising out of their use of the facility and liability will shall be assumed by the recipient of the permit in regard to any such personal injury or property damage claims.

- (f) Permits are not transferable to any other individual, group or organization.
- (g) Rental fees and charges for recreation facilities shall be established by resolution of the city council. All rental rates are subject to state tax. Rental rates may include fees for city staff (including, but not limited to the following personnel: parks and recreation, police, fire, and public works), city services and city contractors. Rental times shall include the time necessary for set-up and clean-up.
- ~~(h)(e)~~ Facilities may be reserved no more than 12 months in advance of the scheduled use and shall require the applicant to place a deposit in an amount established by resolution of city council.
- (i) Any individual, group or organization desiring to use any facility shall not be allowed to rent the facility if, at the time of application, such person or organization is delinquent in payment of any money due to the city.
- ~~(j)(f)~~ Payment of all rental fees and charges for use of facilities, less any deposited amount, shall be made at the issuing office prior to issuance of the permit ~~at the time the permit is issued~~, and shall be at least 14 days ~~48 hours before~~ prior to the scheduled use. ~~Permits not called for at least 48 hours before scheduled use will be void.~~
- ~~(k)(g)~~ Cancellations may be initiated by renter party 30 days ~~48 hours~~ prior to scheduled use with a full refund of the deposit ~~without liability~~. Cancellations made by the renter within 30 days of the scheduled use shall result in forfeiture of the entire deposited amount. The department will issue notices as far in advance as possible, but reserves the right to make later cancellations in the case of extreme necessity or unforeseen circumstances. Notwithstanding the foregoing, the city's liability for cancellation of any facility use shall be limited to the return of deposited funds along with any other applicable rental fees and charges paid by the applicant in anticipation of the use.
- (l) Upon approval of an application for facility use and prior to use of the facility, a facility use agreement shall be signed by the applicant. The facility use agreement shall not be deemed to be a lease. The city does not relinquish the right to control the management of the facility, or to enforce all necessary laws,

rules and regulations. Duly authorized representatives of the city may enter the premises at any time, and all areas shall be under the control of the city. The city retains the right to cause the interruption or termination of any performance or event in the interest of public safety and likewise cause the termination of any performance or event when in the sole judgment of the city any federal, state or local law has been or is likely to be violated, or such termination is otherwise necessary to protect public interest.

(m) The facility use agreement shall require the applicant to:

- (1) Provide a deposit in an amount established by resolution of the city council;
- (2) Provide insurance with the city named as additional insured, with the amount of coverage acceptable to the city, which shall be in a minimum amount of \$1,000,000.00 for bodily injury and \$500,000.00 for property damage; provided, however, that the city's risk manager may require these amounts to be increased for activities involving greater risk;
- (3) Indemnify the city;
- (4) Refrain from making alterations to the electrical, lighting, sound and structural components of the facility without prior written consent of the facility supervisor; and
- (5) Comply with the requirements of this section and the policies and procedures implementing this section promulgated by the city council and recreation department.

(n) No admission charges shall be permissible at any recreation facility except as expressly authorized by the city council.

~~(o)(h)~~ Any activity in which the department's facilities are utilized ~~will~~ shall be conducted according to law and will conform with the lawful standards of the city. ~~No meetings or entertainment will be held for the purpose of advancing any doctrine or theory subversive to the United States or for any immoral or illegal purpose.~~

~~(p)(i)~~ Alcoholic beverages shall not be possessed or consumed in or on any of the municipal facilities operated by the parks and recreation department, unless expressly permitted in accordance with section 6-3 of the Code.

- (j) ~~Application for a permit for use of the various facilities shall be made at the recreation department main office.~~

SECTION 4. The City Council of the City of Port Orange, Florida hereby amends Section 50-32 of the Code of Ordinances to read as follows:

Sec. 50-32. - Athletics/sports.

- (a) As a matter of policy, athletic facilities ~~athletic and sports fields~~ under the operating responsibility of the recreation department are intended primarily for public recreation use in connection with the recreation department's programs. The athletic facilities are not intended to be used as a designated permanent site for continuous rentals by any single individual, group or organization. ~~When these facilities are not in use for these activities, the~~ The recreation department encourages use of the athletic facilities ~~fields~~ according to the following priority:
- (1) Recreation department operations.
 - (2) ~~Co-sponsored programs~~ Parks and recreation partners.
 - (3) Non-profit organizations (i.e. Scouts) open to citywide membership, without regard to religious or other membership requirements, aimed at promoting and facilitating physical, social or cultural activities for the community.
~~Community, semipublic agency programs such as Scouts and other groups open to citywide membership without regard to religious or other membership requirements; civic and other community organizations.~~
 - (4) Private individuals, groups or organizations utilizing the facility for a non-profit-generating recreational, social or cultural activity.
 - (5) Private individuals, groups or organizations utilizing the facility for a profit-generating activity (i.e. personal trainers or instructors).
- (b) Athletic facility use for organized activities and events requires a permit. Application for any athletic facility permit shall be made with the recreation department.

~~All athletic/sport facilities under the jurisdiction of the department will be scheduled on a permit basis by contacting the athletic office.~~

- (c) Athletic facilities shall be used for games, sports and other athletic activities. Those requesting a facility for other uses must obtain written permission from the parks and recreation department.
- (d) Rules and regulations adopted by the recreation department shall be adhered to at all times, and any infraction of these rules or city ordinances may cause cancellation of the event in-progress as well as hinder the ability to obtain permits for future events.
- (e) No admission charges shall be permissible at any recreation facility except as expressly authorized by the city council.
- (f)(e) The following regulations apply to the rental of athletic and sport facilities:

 - (1) Reservation of fields or courts and payment of the applicable fees shall be made in person at the recreation department and must be at least 5 days in advance of and no earlier than six months prior to the scheduled athletic activity athletic office.
 - (2) For regular practice sessions without lights, reservation of fields or courts shall be made on a first-come, first-served basis. Reservations open each Monday for the week.
 - (3) For practice sessions with lights, reservation of fields shall be made as follows:

 - a. No later than noon on the day of the practice session.
 - b. No later than 3:00 p.m. on Friday preceding any weekend practice session.
- (43) In the event of rain during a reserved time, the recreation department athletic office may:

 - a. Issue a new reservation upon presentation of the original permit; or
 - b. Refund the rental fee for the unused field or court.
- (54) For a reservation to be effective, the permit shall be in the possession of an individual or team at the field or court during the time of use.

- (65) Reserved field rentals do not include field preparation bases, lines or maintenance. Field preparation services may be requested upon payment of the corresponding fee established by resolution of the city council.
- (76) No refund or credit shall be allowed for field preparation once the labor has been completed.
- (7) No signs shall be erected without written permission from the recreation department.
- (8) Individuals, groups or organizations holding permits shall assume full responsibility for any damage to properties of the city and for the negligent conduct of those in the group or organization using the athletic facility.
- (9) Rental fees, charges and deposits for athletic facilities shall be established by resolution of the city council, and shall be paid at least 5 days prior to the rental date.
- (10) A facility use agreement shall be required for any athletic facility rental that is open to the public. The facility use agreement shall require the applicant to:
 - a. Provide insurance with the city named as additional insured, with the amount of coverage acceptable to the city, which shall be in a minimum amount of \$1,000,000.00 for bodily injury and \$500,000.00 for property damage; provided, however, that the city's risk manager may require these amounts to be increased for activities involving greater risk;
 - b. Indemnify the city;
 - c. Refrain from making alterations to the electrical, lighting, sound and structural components of the facility center without prior written consent of the facility supervisor; and
 - d. Comply with the requirements of this section and the policies and procedures implementing this section promulgated by the city council and recreation department.

~~(g)(d)~~ The following additional regulations apply to the rental of athletic facilities for tournaments and all-day use:

- ~~(1) Facilities may not be used for private tournaments organized for private financial gain.~~
- ~~(2) Facilities may be used for tournaments planned for the financial benefit of nonprofit charitable organizations.~~
- ~~(13)~~ A request for each tournament shall be submitted in writing to the recreation department director prior to the reservation of any dates.
- ~~(24)~~ The request shall include the following information:
 - a. Purpose of the tournament.
 - b. Names and telephone numbers of the organizers.
 - c. Prospective dates of the tournament.
 - d. Name and address of the ~~benefitting~~ sponsoring organization.
- ~~(35)~~ If the organizers are not employees of the ~~benefitting~~ sponsoring organization, the request shall include a letter of acknowledgment and approval from the organization.
- ~~(46)~~ A facility use agreement shall be executed and submitted to the recreation department athletic office at least 30 days ~~two weeks~~ prior to the anticipated dates.
- ~~(5)~~ The facility use agreement shall require the following from the applicant:
 - a. Provide a deposit in an amount established by resolution of the city council;
 - b. Provide insurance with the city named as additional insured, with the amount of coverage acceptable to the city, which shall be in a minimum amount of \$1,000,000.00 for bodily injury and \$500,000.00 for property damage; provided, however, that the city's risk manager may require these amounts to be increased for activities involving greater risk;
 - c. Indemnify the city;
 - d. Refrain from making alterations to the electrical, lighting, sound and structural components of the facility center without prior written consent of the facility supervisor; and

e. Comply with the requirements of this section and the policies and procedures implementing this section promulgated by the city council and recreation department.

- (6) Cancellations may be initiated by renter party 14 days prior to scheduled use with a full refund of the deposit. Cancellations made by the renter within 14 days of the scheduled use shall result in forfeiture of the entire deposited amount. The recreation department will issue notices as far in advance as possible, but reserves the right to make later cancellations in the case of extreme necessity or unforeseen circumstances. Notwithstanding the foregoing, the city's liability for cancellation of any athletic facility use shall be limited to the return of deposited funds along with any other applicable rental fees and charges paid by the applicant in anticipation of the use.

~~A nonrefundable deposit equal to one-half of the total fees due shall be paid at the time the facility use agreement is submitted. The balance of all fees due shall be paid prior to the issuance a reservation contract.~~

- (78) No dates shall be reserved prior to the execution of the facility use agreement.
- (89) Field rentals for tournaments do not include bases, lines field preparation or maintenance. Field preparation services may be requested upon payment of the corresponding fee established by resolution of the city council.

~~(e) The following regulations apply to the rental of athletic and sport equipment:~~

- ~~(1) Rental of equipment shall be approved in conjunction with rental of a field where appropriate.~~
- ~~(2) No rental of equipment shall exceed two days use.~~
- ~~(3) All equipment shall be rented from and returned to the athletic office weekdays during normal business hours.~~
- ~~(4) Any equipment rented shall require a security deposit and rental fee for each item.~~

- ~~(5) Failure to return equipment within the time specified shall result in forfeiture of the security deposit as follows:
 - ~~a. Ten dollars of the deposit on the first day late.~~
 - ~~b. The balance of the deposit on the second day late.~~~~
- ~~(6) The cost of repair or replacement of equipment that is returned broken shall be deducted from the security deposit.~~
- ~~(7) At the time the equipment is rented, the person renting the equipment shall:
 - ~~a. Present a valid Florida driver's license; and~~
 - ~~b. Pay all applicable deposits and rental fees.~~~~
- ~~(8) No refund shall be allowed for loss of use of equipment due to unfavorable weather conditions. The athletic office may issue a credit for future use of the equipment.~~

SECTION 5. The City Council of the City of Port Orange, Florida hereby amends Section 50-33 of the Code of Ordinances to read as follows:

Sec. 50-33. - ~~Special interest club co-sponsorship groups~~ Parks and recreation partners policies.

- (a) Any organization seeking to become a parks and recreation partner shall apply to the recreation department and shall meet the following minimum eligibility requirements:
 - (1) Must be a non-profit organization registered with the Florida Department of State, Division of Corporations.
 - (2) Must undergo background screening for all adults who will be working with children in the organization in accordance with Sections 934.0438, 435.03, and 435.04, Florida Statutes, as may be amended from time to time.
 - (3) Must offer physical, social or cultural activities for the community.
 - (4) Must have city residents for at least 50 percent of its participants.

~~Misunderstandings and conflicts often develop in the sponsorship relationship between recreation departments and special interest clubs when there is only an~~

~~oral discussion between the staff member and the club president or representative. To offset this possibility, it behooves the department to develop a written policy of understanding, with a copy to be inserted in the minutes of the club meeting.~~

- (b) The following factors shall be considered in determining whether to approve or deny a parks and recreation partner request:

~~The city may sponsor certain recreation organizations on the following considerations:~~

- (1) ~~There is an existing~~ The existing need for the services offered by the applicant organization and its services.
- (2) The services offered by the applicant do not result in the unnecessary duplication of services already being offered by the recreation department or others. Duplication of services may be acceptable depending on supply and demand for a particular service.

~~Consideration will be given as to possible duplication of the organization's services with other services offered by other local organizations, and with similar activities conducted by the department.~~

- (3) The quality of services offered ~~organization membership must be open to residents of the city.~~

- (c) Applications for parks and recreation partners shall be processed as follows:

- (1) Applicant for parks and recreation partner shall submit an application, in writing, to the recreation department.
- (2) The parks and recreation director, or his or her designee, shall review the application for completeness and minimum eligibility requirements, and may reject any applications which are incomplete or do not meet the minimum eligibility requirements.
- (3) The parks and recreation director shall forward those completed applications which meet the minimum eligibility requirements to the Parks and Recreation Advisory Board with a recommendation of approval or denial.

- (4) The Parks and Recreation Advisory Board shall review the application and the recommendation from the recreation director, and hear the presentation of the applicant at a regularly scheduled meeting.
- (5) The Parks and Recreation Advisory Board shall make a recommendation to the city manager of approval or denial based on the criteria set forth in subsection (b).
- (6) Prior to review by the city manager, the applicant shall execute the parks and recreation partner agreement which shall become effective upon approval by the city manager.
- (7) The city manager shall either approve or deny the application, in writing, upon consideration of the recommendations of the recreation director and Parks and Recreation Advisory Board, and based on review of the criterion set forth in subsection (b).
- (8) The applicant may appeal a denial by the city manager to the city council by filing written notice of appeal with the city clerk within 10 days of the city manager's written denial. Such notice shall detail the grounds for appeal. Upon receiving a notice of appeal, the city clerk shall schedule the item for city council review on the next regularly scheduled meeting of city council. The decision of city council shall be final.
- ~~(c)(d)~~ For clarification Upon approval of a parks and recreation partner and in accordance with the parks and recreation partner agreement, the department shall provide the following assistance services without charge to parks and recreation partners sponsored groups:

 - (1) Provide facilities for activity on a first-priority use basis, other than when the facility is used by the department for its programs.
 - ~~(2) Provide leadership assistance and clerical service in photocopying announcements and material.~~
 - (2)(3) Assist in promoting and publicizing the organization's club's program; this includes listing the activities in brochures, announcements, releases to the press, etc.

- ~~(3)(4)~~ Provide leadership assistance, consultation and other aid as needed, ~~insofar as possible.~~
- (d) ~~It is expected that the sponsored organization will~~ Parks and recreation partners shall adhere to the department's policies and procedures, as follows:
- (1) Provide open membership to the public and give this membership priority to city residents.
 - (2) Promote the parks and recreation partner and its services to the best interest of the partner, the city, the department and the public.
 - (3) Follow the rules and regulations outlined in the parks and recreation partner agreement with the recreation department. ~~Seek advice and consultation of the department relative to preparation of the organization's constitution and bylaws, which must be given final approval by the department.~~

SECTION 6. The City Council of the City of Port Orange, Florida hereby repeals Section 50-34 of the Code of Ordinances in its entirety.

~~Sec. 50-34. Facility use categories—Recreation facilities.~~

- ~~(a) Community centers will be used primarily for physical, social and cultural activities for youth and adults directly under the operating responsibility of the recreation department. Recognizing that suitable indoor facilities for meetings and activities for established recreation groups are extremely limited in the city, these centers may be made available to recognized self-governed recreation groups and community service organizations when not in conflict with the department's activities to help ensure that the facilities are fully utilized.~~
- ~~(b) Rental fees and charges for recreation facilities and equipment shall be established by resolution of the city council based on the following categories:~~
- ~~(1) Category I.~~
 - ~~a. Recognized youth sports organizations cosponsored by the recreation department using the facilities for business meetings,~~

~~registration and other activities directly related to their primary purpose.~~

~~b. Volusia County school board programs and activities outlined in the joint use agreement.~~

~~c. Homeowners organizations within the city using the facilities for meetings and activities directly related to their primary purpose.~~

~~d. Crime watch organizations within the city using the facilities for meetings and activities directly related to their primary purpose.~~

~~(2) Category II. Any individual residing in the city or nonprofit charitable or civic organization located in the city using the facilities to conduct a public community service activity for which no admission is charged or donation accepted.~~

~~(3) Category III. Any individual residing in the city or nonprofit charitable, civic or fraternal organization, including churches, located in the city using the facilities to conduct a private function or an activity to gain monetary benefits for charity or to maintain a nonprofit organization.~~

~~(4) Category IV. Any individual residing in the city or commercial or business organization located in the city using the facilities to conduct an activity to gain monetary benefits for noncharitable purposes or to obtain publicity or advertising.~~

~~(5) Category V. Any individual not residing in the city or organization not located in the city.~~

~~(c) Category I shall be exempt from rental fees and charges for facilities and equipment. Category I shall be charged cleaning deposits and staff time if the facility is used weekdays during normal business hours.~~

~~(d) Category IV may be charged 15 percent of the gross monetary benefits, if such amount exceeds the rental fee for the facility.~~

~~(e) Category V shall be charged the rental fee for the facility applicable to category II, III or IV plus an additional 30 percent.~~

SECTION 7. The City Council of the City of Port Orange, Florida hereby repeals Section 50-35 of the Code of Ordinances in its entirety:

~~Sec. 50-35. — Same — Athletics/sports.~~

- ~~(a) — Rental fees and charges and security deposits for athletic and sport facilities and equipment shall be established by resolution of the city council.~~
- ~~(b) — Any individual not residing in the city or organization not located in the city shall be charged the rental fee for the facility or equipment plus an additional 30 percent.~~

SECTION 8. The City Council of the City of Port Orange, Florida hereby repeals Section 50-36 of the Code of Ordinances in its entirety:

~~Sec. 50-36. — General rules and regulations — Community centers. Modified~~

- ~~(a) — Permits for groups composed of minors will be issued only to adults who accept responsibility for supervising them throughout the period covered by the permit.~~
- ~~(b) — No tickets are to be sold at the door or no admission charges, donations or other money-raising methods shall be made except as expressly authorized by the director of recreation and the city manager or so noted on the permit.~~
- ~~(c) — Use of the kitchen and/or serving of food for the function shall be authorized and approved on the permit.~~
- ~~(d) — No group shall conduct any activity causing undue extra work for the custodian unless previous agreement has been made for work reimbursement.~~
- ~~(e) — Decorations shall not be installed in any manner or form without the approval of the center director.~~
- ~~(f) — Alcoholic beverages shall not be possessed or consumed in or on any of the municipal facilities operated by the parks and recreation department, unless expressly permitted in accordance with section 6-3 of the Code.~~
- ~~(g) — Control of the lights, thermostats, equipment and the locking or unlocking of doors of the centers are the responsibilities of the staff member assigned to the facility at the time of the function.~~

- ~~(h) — Chairs, tables and other furnishings or building equipment may not be removed from the building except with approval of the staff member.~~
- ~~(i) — Permits are not transferable to another party, individual or group.~~

SECTION 9. The City Council of the City of Port Orange, Florida hereby repeals Section 50-36 of the Code of Ordinances in its entirety:

~~Sec. 50-37. — Same — Athletics/sports.~~

- ~~(a) — Persons or groups holding permits shall assume full responsibility for any breakage or damage to properties of the city and for the negligent conduct of those in the group using the facility.~~
- ~~(b) — Rules and regulations adopted by the recreation department shall be adhered to, and any infraction of these rules or city ordinances will cause cancellation of the event in progress as well as permits for future events.~~
- ~~(c) — Public facilities administered by the department may not be used for private instruction or financial gain.~~
- ~~(d) — Distribution of pamphlets, sales education articles, promotional campaign material or commercial demonstrations for monetary gain in any way shall not be permitted.~~
- ~~(e) — Lights are not to be turned on until needed and are to be turned off ten minutes after the last game of the evening is over.~~
- ~~(f) — No signs are to be erected without departmental permission.~~
- ~~(g) — The city manager or his designee will consider requests for animal shows and similar activities and shall issue a permit to conduct such activity. Fees for the use of the recreation facility for approved animal shows and similar activities shall be as set forth in the appropriate user fee resolution.~~
- ~~(h) — Athletic/sports facilities shall be used for games, sports and other recreational activities. Those requesting a facility for other uses must obtain written permission from the city's recreation director and the city manager.~~

SECTION 10. The City Council of the City of Port Orange, Florida hereby amends Section 50-38 of the Code of Ordinances to read as follows:

Sec. 50-38. Sec. 50-34. - Nonresident fees; waiver of fees.

- (a) Due to rising maintenance costs, it has become necessary to charge fees to those people using facilities and athletic fields and who do not reside, own property, or operate a business within the corporate limits of the city.
- (b) Non-residency fees shall be charged as outlined in the fee resolution established by council for youth sport activities, gym access and summer camp. ~~for each specific activity for only the duration of the class/activity with no use privileges of other facilities.~~
- (c) The city manager is hereby authorized to waive non-resident fees for city employees and their families.
- (d) All fees provided for or required under this article shall be in amounts as established by resolution of the city council.

SECTION 11. The City Council of the City of Port Orange, Florida hereby repeals Section 50-39 of the Code of Ordinances in its entirety:

Sec. 50-39. - Kenneth W. Parker Performing Arts Center use policies and procedures.

- ~~(a) The object of this section is to establish policies and procedures for use of the Kenneth W. Parker Performing Arts Center by private persons or groups of persons.~~
- ~~(b) Restrictions on center use shall be as follows:
 - ~~(1) Programs must be open to the public with no admission charge.~~
 - ~~(2) The center is designed for multi-purpose use and not as a designated permanent site for continuous or frequent rentals, i.e., more than once a month.~~
 - ~~(3) Rental rates shall be established by resolution of the city council. All rental rates are subject to state sales tax. Rental rates do not include fees for city staff (including, but not limited to, police, fire and public works), city~~~~

~~services and city contractors. Rental times shall include set up and clean up time.~~

- ~~(4) A person or an organization desiring to use the center shall not be allowed to rent the center if, at the time of application, such person or organization is delinquent in payment of any money due to the city.~~
- ~~(5) Cancellation of the event by the person or organization responsible for the event (event producer) for reasons other than inclement weather shall require no less than seven days notice prior to the event. Upon cancellation of the event based on such notice, or if the city manager or his designee agrees that inclement weather prevents safe use of the center, the event producer shall be entitled to a return of all monies paid less the nonrefundable deposit, if the event cannot be rescheduled to the mutual satisfaction of the event producer and the city.~~
- ~~(6) The event producer shall obtain all necessary licenses and permits and shall comply with all applicable city ordinances, including Chapter 42 of this Code relating to noise.~~
- ~~(7) Performance hours shall be between 7 a.m. and 10 p.m., unless specifically waived by the city council. The event producer shall ensure that the noise level from the event does not exceed 65 decibels as measured at Clyde Morris Boulevard, at the north entrance of the parking lot of the church adjacent to the center.~~
- ~~(8) No items may be sold without the prior approval of the city manager or his designee. Promotional distribution of free merchandise in sample amounts may be permitted; however, items will not be approved for sale or distribution unless they are related to the event on stage, all concession and vending permits are obtained and fees are paid as required, and the event producer has provided an open application period for local vendors as specified in subsection (c) of this section.~~
- ~~(9) No cooking/warming of food is allowed within the confines of the center's seating/stage area under any circumstances. The city manager or his~~

~~designee shall have final approval as to the location of any cooking/warming of food.~~

~~(10) The event producer shall not have paid radio or television broadcasting facilities, films, recordings or video tapes made of the event or any performance during the event located on the center premises without prior written permission by the city manager or his designee.~~

~~(11) The event producer's conduct is specifically governed by the provisions of F.S. § 847.013, relating to the exposure of minors to harmful motion pictures, exhibitions, shows, presentations or representations.~~

~~(12) The event producer shall be required to execute and comply with the terms and conditions of the center use agreement, as further described in subsection (d) of this section.~~

~~(13) The city council may waive one or more of the requirements listed above if the city council cosponsors the event as further described in subsection (h) of this section.~~

~~(c) All event producers having vending as part of the event shall be required to provide an open application period to allow merchants licensed within the city an equal opportunity to apply to the event producer to supply vending services for the event. This shall be implemented by posting a notice in the parks and recreation department administration office and the city clerk's office no later than 90 days before the event.~~

~~(d) The event producer shall be required to provide a signed copy of the center use agreement available at the parks and recreation department administration office and the city clerk's office and, unless waived by the city due to city cosponsorship, a rent deposit of 20 percent of the minimum rent required in order to reserve a firm date for the center. The rent deposit shall not be refundable. The city shall not accept a signed center use agreement form or rent deposit for use of the center from any event producer who is prohibited from using the center for the reasons described above, or whenever the center is already reserved for use on that date/time. The center use agreement form, in addition to requiring payment of rent, shall require the event producer to:~~

- ~~(1) Provide a damage deposit in an amount established by resolution of the city council;~~
- ~~(2) Provide insurance with the city named as co-insured, with the amount of coverage acceptable to the city, which shall be in a minimum amount of \$500,000.00 for bodily injury and \$100,000.00 for property damage; provided, however, that the city's risk manager may require these amounts to be increased for activities involving greater risk;~~
- ~~(3) Indemnify the city;~~
- ~~(4) Refrain from making alterations to the electrical, lighting, sound and structural components of the center without prior written consent of the facility supervisor; and~~
- ~~(5) Comply with the requirements of this section and the policies and procedures implementing this section promulgated by the city manager or his designee.~~

~~The event producer shall provide the balance of the rent, the insurance required, and the damage deposit as specified in the center use agreement no later than seven days before the event.~~

- ~~(e) The center use agreement shall not be deemed to be a lease. The city does not relinquish the right to control the management of the center, or to enforce all necessary laws, rules and regulations. Duly authorized representatives of the city may enter the premises at any time, and all areas shall be under the control of the city. The city retains the right to cause the interruption or termination of any performance in the interest of public safety and likewise cause the termination of any performance when in the sole judgment of the city such act is necessary to protect public interest.~~
- ~~(f) The city may cancel a center use agreement if use of the center shall in any way conflict with federal, state or local laws; if the event shall operate to discredit the city; or if the event producer is in default of the center use agreement. An event producer shall be in default of the center use agreement if the event producer:~~
 - ~~(1) Supplies false or misleading information;~~

- ~~(2) — Fails to complete the application or to supply other required information or documents by the time required;~~
- ~~(3) — Demonstrates inability to comply with terms or conditions contained in the center use agreement;~~
- ~~(4) — Dissolves or ceases doing business as a going concern or becomes insolvent or bankrupt;~~
- ~~(5) — Fails to pay any amounts due to the city for the event or for a previous event;~~
- ~~(6) — Breaches any provision of the center use agreement; or~~
- ~~(7) — Violates any applicable laws or ordinances, including this section, or the policies and procedures implementing this section, during use of the center.~~
- ~~(g) — No revisions or adjustments to the center use agreement or related items may be made without prior written notification to and written approval from the city manager or his designee with written notice to the city council. The event producer may file a written request to appeal any ruling canceling the center use agreement or finding the event producer in default by submitting such request in writing to the city manager within three working days of such ruling. The city manager shall schedule the appeal for review by the city council at the next appropriate city council meeting after receipt of the request. The city council may reverse, modify or sustain the ruling. The decision of the city council shall be deemed to be final administrative action. However, in any event, such decision shall be at the sole discretion of the city. In such cases, the event producer's only legal remedy shall be for a refund of the rental fees.~~
- ~~(h) — City cosponsored center events are community based and not for profit events held at the center which are free to the public, appeal to the broadest segment of the community, and which, at the time that cosponsorship is applied for, have involved significant use of city personnel or resources. Examples include center events held in conjunction with Port Orange Family Days, Fourth of July, and holiday craft shows.~~

- ~~(1) — Application for cosponsorship must be made to the city manager in writing at least 90 days before the event date. The application letter shall set forth justification for cosponsorship based on the criteria set forth above, and shall detail the requirements imposed by this section for which waivers are sought. The city manager shall review the application and schedule it, along with his recommendations, for city council review at the next appropriate city council meeting.~~
- ~~(2) — The city council shall have discretion whether to cosponsor a center event. If the city council cosponsors a center event, the city council may waive one or more of the requirements set forth in this section.~~
- ~~(3) — Cosponsorship shall allow the city to actively participate in the decision-making on all phases of the cosponsored center event. Any use of official city identification on advertising, marketing or public relations materials for a cosponsored event must be approved by the city prior to distribution. The city seal shall not be used on such publications. The event producer shall be required to submit copies of all such materials and all media clippings to the city manager or his designee no later than 30 days after the event date.~~

SECTION 12. The City Council of the City of Port Orange, Florida hereby repeals Section 50-40 of the Code of Ordinances in its entirety:

Sec. 50-40. — Prohibiting smoking tobacco at publicly owned parks and youth athletic activities.

- ~~(a) — *Definitions.* For purposes of this section the terms listed shall have the following meaning:~~

~~*Youth athletic activity* shall mean any event, game or other activity with participants who are less than 17 years of age, and shall include 15 minutes before and after the activity.~~

~~*Public property* shall mean all land, bleachers, seating, all recreational facilities and structures, parking lot, and playing area owned by the city or the Volusia County School District.~~

~~(b) — It shall be unlawful for any person to possess any ignited tobacco product or to consume by smoking any tobacco product on any portion of the public property in the city described as follows:~~

~~(1) — Kenneth W. Parker Amphitheater — City Center Circle.~~

~~(2) — Spruce Creek Road Park, including All Children's park, pavilion and picnic facilities.~~

~~(3) — Airport Road Park.~~

~~(4) — City of Port Orange Skate Board Park.~~

~~(5) — Port Orange Gymnasium, and all property and parking facilities within 300 feet.~~

~~(6) — Volusia County School District Schools and Recreational Facilities.~~

~~(c) — It shall be unlawful for any person at a youth athletic activity to possess any ignited tobacco product or to consume by smoking any tobacco product on any portion of the public property where the youth athletic activities occur in the city described as follows:~~

~~(1) — City Center Sports Complex.~~

~~(2) — Southwinds Soccer Complex.~~

~~(3) — Willow Run Park Facilities.~~

~~(4) — Spruce Creek Road Park, including Fields and Courts.~~

~~(5) — White Place Fields and Facilities.~~

~~(6) — Allen Green Civic Center Fields and Spectator Facilities.~~

~~(d) — The director of the parks and recreation department for the city shall display one or more signs prohibiting smoking at the parks and youth athletic fields as specified in this section.~~

SECTION 13. The provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Port Orange and the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION 14. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION 15. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

SECTION 16. This ordinance shall become effective immediately upon final passage by the City Council.

MAYOR ALLEN GREEN

ATTEST:

Robin L. Fenwick, City Clerk

Passed on first reading on the day of _____, 2015

Passed and adopted on second and final reading on the day of _____, 2015

Reviewed and Approved: _____
Assistant City Attorney



Staff Report

Request: Update Chapter 50 of the Code of Ordinances relating to Parks & Recreation

Applicant: City of Port Orange Parks & Recreation

Staff Recommendation: Discussion

Staff Contact: Susan L. Lovallo, Parks & Recreation Director

City Council Date: February 16, 2016

Introduction: Chapter 50 of the Code of Ordinances relating to Parks and Recreation has not been comprehensively updated since its adoption in 1981. Most changes are simply clean ups in the code and combining sections that were duplicated. These changes are shown by striking out what was eliminated and underlining what was added. The changes reflect one of three categories; **Administrative changes (A)** that will clean up the code to meet the current practices and delete any duplication, **Enforcement (E)** that will strengthen our code to make infractions more enforceable and **Regulatory (R)** aligns our code with State and County regulations.

Discussion:
Section:

- (A) 50-1 Definitions this section is new and was added to provide definitions of terms used throughout the code.
- (E) 50-2 Property and Equipment This was added to ensure enforcement
- (A) 50-5 Animals Prohibited Code clean up- current code states pets are not allowed in any parks. Current practice; we allow pets in all parks on leash. Only prohibition is splash pads, playgrounds and athletic facilities.
- (E) 50-6 Park hours This was added to ensure enforcement.
- (E) 50-7 Camping This section was added to ensure enforcement.
- (A) 50-31 Recreation Facilities

- a. Change community center to Recreation facility and moved from section 50-34 to combine community centers and Recreation facilities. Created use priorities to mimic 50-32.
- b. Requires a permit for reservation
 - c-g. Clean up and section transfer.
 - h. Extended reservation time.
 - i-j. Code clean up
 - k-l. Code clean and section transfer.
- (A) 50-32 Athletics/sports
 - a. 1-5 code clean up. Developed priorities for use.
 - b. Requires a permit for reservation.
 - c. Added to require users to abide by department policies.
 - d. 1-7 clean up to meet current practices.
 - e-g. Added to meet current practices.
 - h. 1-9 code clean up to meet current practices.
 - Old e. eliminated. We do not rent sports equipment to public.
- (A) 50-33 Parks and Recreation partners Changed Co- sponsor group to Park and Recreation Partner to include not just sport groups and be more uniformed throughout department; Code clean up.
- (A) 50-34 Facility use deleted from this section and pertinent items combined with section 50-31
 - a. deleted from this section and pertinent items combined with section 50-31
 - b. 1-5 eliminated does not meet current fee structures.
 - c-e eliminated.
- (A) 50-35 Athletic/ Sports deleted was duplicated with section 50-32
- (A) 50-36 General rules and regulations- Community Centers pertinent sections combined with 50-31
- (A) 50-37 Athletic /sports deleted was duplicated with section 50-32
- (R) 50-38 **Re numbered 50-34 Nonresident fees; waiver of fees.**

The city has traditionally charged these fees for programs and rentals to people who reside outside the city limits. It has been brought to staffs attention recently that part of the agreement to accept Volusia ECHO dollars for renovating and building new facilities we are prohibited from charging these fees. Staff needs council's direction on how to proceed with updating this section. **Option one:** strike through this entire section and delete the fee. **Option two:** update this section to reflect that we will only charge the differential fee to people who reside outside of Volusia County. **Option Three:** Keep section as is and charge the fee for programs and facilities that have not received Volusia ECHO dollars for renovations or construction. **Staff recommends either option one or two due to management of the code.**
- (A) 50-39 Kenneth W. Parker Amphitheater policies deleted this section and pertinent items combined with section 50-31

(R) 50-40 Prohibiting smoking tobacco at parks and youth activities

The regulation of smoking tobacco is preempted by the state. This section
Has been deleted.

Recommendation: Discussion item