

**CITY OF KENNESAW
GEORGIA**

ORDINANCE NO. 2011-09, 2011

AN ORDINANCE

**AMENDING CHAPTER 1 “GENERAL PROVISIONS”; CHAPTER 6
“ALCOHOLIC BEVERAGES”, ARTICLE I “IN GENERAL”, ARTICLE II
“LICENSES”, and ARTICLE III “PROHIBITIONS AND RESTRICTIONS”;
AND, CHAPTER 66 “PARKS AND RECREATION”, ARTICLE I “IN
GENERAL” OF THE CODE OF ORDINANCES, KENNESAW, GEORGIA**

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF KENNESAW, COBB COUNTY, GEORGIA, AS FOLLOWS:

WHEREAS, the Mayor and City Council of the City of Kennesaw (“Mayor and City Council”) are charged with the protection of the public health, safety, and welfare of the citizens of the City of Kennesaw; and,

WHEREAS, the State of Georgia authorizes the City of Kennesaw to exercise its power as the Mayor and City Council see fit to protect and maintain the safety and welfare of the citizens; and,

WHEREAS, the Mayor and City Council find it necessary to amend or modify certain City Ordinances to facilitate or authorize the service of certain alcoholic beverages at events that are approved, organized, or sponsored by the City of Kennesaw;

WHEREAS, the Mayor and City Council find it necessary to amend or modify certain City Ordinances concerning the use of the public parks and/or public property of the City of Kennesaw;

WHEREAS, the Mayor and City Council have decided to:

- Amend Chapter 1 “General Provisions”, Section 1-2 “Definitions and Rules of Construction” of the Code of Ordinances, Kennesaw, Georgia;
- Amend Chapter 6 “Alcoholic Beverages”, Article I “In General”, Section 6-1 “Definitions” of the Code of Ordinances, Kennesaw, Georgia;
- Amend Chapter 6 “Alcoholic Beverages”, Article I “In General”, Section 6-5 “Sale, possession, or consumption” of the Code of Ordinances, Kennesaw, Georgia;
- Amend Chapter 6 “Alcoholic Beverages”, Article II “Licenses”, Section 6-56 “Event Permits” of the Code of Ordinances, Kennesaw, Georgia;
- Add Section 6-72 “Approved Events” to Chapter 6 “Alcoholic Beverages”, Article II “Licenses” of the Code of Ordinances, Kennesaw, Georgia;
- Amend Chapter 6 “Alcoholic Beverages”, Article II “Prohibitions and Restrictions”, Section 6-106 “Possession or Consumption on Public Property” of the Code of Ordinances, Kennesaw, Georgia;

- Amend Chapter 66 “Parks and Recreation”, Article I “In General”, Section 66-2 “Parks—Regulations Governing Conduct” of the Code of Ordinances, Kennesaw, Georgia;
- Amend Chapter 66 “Parks and Recreation”, Article I “In General”, Section 66-14 “Merchandising; Advertising and Signs” of the Code of Ordinances, Kennesaw, Georgia;
- Amend Chapter 66 “Parks and Recreation”, Article I “In General”, Section 66-16 “Parks and Recreation Facilities, Regulations Governing Use” of the Code of Ordinances, Kennesaw, Georgia.

NOW THEREFORE, to accomplish the foregoing, the Mayor and the City Council of the City of Kennesaw while in regular session on August 15, at 6:30 P.M. pursuant to their authority, do hereby:

- Amend Chapter 1 “General Provisions”, Section 1-2 “Definitions and Rules of Construction” of the Code of Ordinances, Kennesaw, Georgia;
- Amend Chapter 6 “Alcoholic Beverages”, Article I “In General”, Section 6-1 “Definitions” of the Code of Ordinances, Kennesaw, Georgia;
- Amend Chapter 6 “Alcoholic Beverages”, Article I “In General”, Section 6-5 “Sale, possession, or consumption” of the Code of Ordinances, Kennesaw, Georgia;
- Amend Chapter 6 “Alcoholic Beverages”, Article II “Licenses”, Section 6-56 “Event Permits” of the Code of Ordinances, Kennesaw, Georgia;
- Add Section 6-72 “Approved Events” to Chapter 6 “Alcoholic Beverages”, Article II “Licenses” of the Code of Ordinances, Kennesaw, Georgia;
- Amend Chapter 6 “Alcoholic Beverages”, Article II “Prohibitions and Restrictions”, Section 6-106 “Possession or Consumption on Public Property” of the Code of Ordinances, Kennesaw, Georgia;
- Amend Chapter 66 “Parks and Recreation”, Article I “In General”, Section 66-2 “Parks—Regulations Governing Conduct” of the Code of Ordinances, Kennesaw, Georgia;
- Amend Chapter 66 “Parks and Recreation”, Article I “In General”, Section 66-14 “Merchandising; Advertising and Signs” of the Code of Ordinances, Kennesaw, Georgia;
- Amend Chapter 66 “Parks and Recreation”, Article I “In General”, Section 66-16 “Parks and Recreation Facilities, Regulations Governing Use” of the Code of Ordinances, Kennesaw, Georgia.

Chapter 1 “General Provisions”, Section 1-2 “Definitions and Rules of Construction” of the Code of Ordinances, Kennesaw, Georgia, shall be amended as follows:

The definition of “Public park” shall be added to Chapter 1 “General Provisions”, Section 1-2 “Definitions and Rules” of the Code of Ordinances, Kennesaw, Georgia:

Public park means any public property that contains a grassy area or wooded area and upon which any recreational facilities and equipment are located.

The following definition of “Public property” shall be added to Chapter 1 “General Provisions”, Section 1-2 “Definitions and Rules”, of the Code of Ordinances, Kennesaw, Georgia:

Public property means any land or lands controlled by, operated by, or owned by the city, any county of this state, any municipality of this state, the state, the United States of America, or any subdivision of any of them.

The following definition of “Recreational facilities and equipment” shall be added to Chapter 1 “General Provisions”, Section 1-2 “Definitions and Rules”, of the Code of Ordinances, Kennesaw, Georgia:

Recreational facilities and equipment means one or more of the following: baseball diamond, basketball court, bicycling trail or road, dog park, a dock or pier, football field, golf cart trails or roads, golf course, jogging trail or road, lacrosse field, permanent grill to be used by the public, picnic shelter, picnic table, playground equipment of any type, skate board park, skating rink of any type, skeet or trap range, soccer field, tetherball equipment, swimming pool, tennis court, or walking trail.

The definition of “Sponsor” and “Sponsored” shall be added to Chapter 1 “General Provisions”, Section 1-2 “Definitions and Rules” of the Code of Ordinances, Kennesaw, Georgia:

In referring to the city, sponsor or sponsored means the city is providing access to public property for the event or activity or paying for some or all of the services provided at the event or activity, and the city produces advertising or marketing materials indicating in tangible form that the city is a sponsor of the event or activity. In referring to entities or persons other than the city, an entity or person is a sponsor of an event or activity within the city if the entity or person provided goods, services, or labor at no cost to city, the event or the activity.

Chapter 6 “Alcoholic Beverages”, Article I “In General”, Section 6-1 “Definitions” of the Code of Ordinances, Kennesaw, Georgia, shall be amended as follows:

The definition of “Public park” contained in Chapter 6 “Alcoholic Beverages”, Article I “In General”, Section 6-1 “Definitions” of the Code of Ordinances, Kennesaw, Georgia, shall be deleted in its entirety.

Chapter 6 “Alcoholic Beverages”, Article I “In General”, Section 6-5 “Sale, possession, or consumption” shall be amended as follows:

No alcoholic beverages shall be sold, possessed or consumed by any person on or in any public park or public property except as otherwise approved pursuant to section 6-71 or section 6-72 of the Code of Ordinances, Kennesaw, Georgia set forth herein.

After the amendment, Chapter 6 “Alcoholic Beverages”, Article I “In General”, Section 6-5 “Sale, possession, or consumption” shall read as follows:

No alcoholic beverages shall be sold, possessed or consumed by any person on or in any public park or public property except as otherwise approved pursuant to section 6-71 or section 6-72 of the Code of Ordinances, Kennesaw, Georgia.

Chapter 6 “Alcoholic Beverages”, Article II “Licenses”, Section 6-56 “Event Permits” of the Code of Ordinances, Kennesaw, Georgia, shall be amended as follows:

- (a) In order to distribute or sell ~~alcoholic distilled spirits, malt beverages, or wine~~ at an event authorized pursuant to section 6-71 of the Code of Ordinances, Kennesaw, Georgia, catered function, the applicant, who is a licensed alcoholic beverage caterer, intending to sell such alcoholic beverages must a food caterer shall be required to:
- (1) Provide the city with a copy of Show proof that the applicant has a valid license from a county or municipality within the state which authorizes the applicant licensee to sell alcoholic malt beverages, ~~wine or distilled spirits~~ for consumption on the premises or by the package for consumption off the premises.
 - (2) Provide the city with a copy of Show proof that the applicant has a valid annual off-premise license from the city which authorizes the applicant licensed alcoholic beverage caterer to sell alcoholic malt beverages, ~~wine by the drink and/or distill spirits~~ in connections with an authorized catered function.
 - (3) Apply to the city for an event permit, providing the name of the applicant caterer, the date, the applicant’s caterer’s address, the date or dates of the event, the time of the event, and the applicant’s licensed alcoholic beverage caterer’s license number.
 - (4) Pay an event permit fee as set forth in the fee schedule as approved by the mayor and city council of \$50.00.
 - (5) ~~and p~~Pay local excise taxes on the total quantity of alcoholic beverages brought into the city. This subsection only applies to those licensed alcoholic beverage caterers who are domiciled in a local political subdivision other than the city.
 - (6) Maintain the original event permit in the vehicle while transporting the alcoholic beverages to the event and post it in a conspicuous location at the event for the duration of the event catered function at all times.

- (b) In order to distribute or sell alcoholic beverages at an event authorized pursuant to section 6-72 of the Code of Ordinances, Kennesaw, Georgia, the applicant intending to sell such alcoholic beverages must:
- (1) Provide the city with a copy of a valid liquor license from a county or municipality within the state which authorizes the applicant to sell alcoholic beverages for consumption on the premises or by the package for consumption off the premises.
 - (2) Provide the city with a copy of a valid annual off-premise alcohol license from the city of Kennesaw; or, if the applicant does not have an off-premise alcohol license from the city of Kennesaw, obtain one to submit with the application for an event permit.
 - (3) Apply to the city for an event permit, providing the name of the applicant, the date, the applicant's address, the date or dates of the event, the time of the event, the applicant's liquor license number.
 - (4) Pay an event permit fee as set forth in the fee schedule as approved by the mayor and city council.
 - (5) Pay local excise taxes on the total quantity of alcoholic beverages brought into the city. This subsection only applies to those applicants caterers who are domiciled in a local political subdivision other than the city.
 - (6) Maintain the original event permit in the vehicle while transporting the alcoholic beverages to the event and post it in a conspicuous location at the event for the duration of the event.
- (c) The event permit is valid for ~~the length and~~ duration of the authorized event and shall expire at the end of the event. The event permit is also only valid for the sale of the same type of alcoholic beverages that the applicant is allowed to sell under his or her liquor license or off-premise license.
- (d) It shall be unlawful for any such applicant licensed alcoholic beverage caterer to employ any person who is less than 21 years of age who, in the course of such employment, would dispense, serve, sell, or handle alcoholic beverages. Any and all persons, regardless of the person's title or position, employed by the applicant who dispense, serve, sell, or handle alcoholic beverages at the event must have a valid server license issued by a governmental entity within the state. That server license must be carried by the licensee and available for review on request whenever the licensee is working at the event.
- (e) It is unlawful for any person or entity food caterer to distribute or sell any alcoholic beverages in connection with an event approved under section 6-71 of the Code of Ordinances,

Kennesaw, Georgia, catered event or function without first having obtained an event permit as herein provided in subsection (a) of this section 6-56.

- (f) It is unlawful for any person or entity to distribute or sell any alcoholic beverages in connection with an event approved under section 6-72 of the Code of Ordinance, Kennesaw, Georgia, without having obtained an event permit as provided in subsection (b) of this section 6-56.
- (g) The event permit as contemplated by this section 6-56 herein shall be granted or denied at the sole discretion of the mayor and city council, or the city manager of the city or his or her designee.

After the amendment, Chapter 6 “Alcoholic Beverages”, Article II “Licenses”, Section 6-56 “Event Permits” of the Code of Ordinances, Kennesaw, Georgia, shall read as follows:

- (a) In order to distribute or sell alcoholic beverages at an event authorized pursuant to section 6-71 of the Code of Ordinances, Kennesaw, Georgia, the applicant, who is a licensed alcoholic caterer, intending to sell such alcoholic beverages must:
- (1) Provide the city with a copy of a valid license from a county or municipality within the state which authorizes the applicant to sell alcoholic beverages for consumption on the premises or by the package for consumption off the premises.
 - (2) Provide the city with a copy of valid annual off-premise license from the city which authorizes the applicant to sell alcoholic beverages in connections with an authorized catered function.
 - (3) Apply to the city for an event permit, providing the name of the applicant, the date, the applicant’s address, the date or dates of the event, the time of the event, the applicant’s alcoholic beverage caterer’s license number.
 - (4) Pay an event permit fee as set forth in the fee schedule as approved by the mayor and city council.
 - (5) Pay local excise taxes on the total quantity of alcoholic beverages brought into the city. This subsection only applies to those licensed alcoholic beverage caterers who are domiciled in a local political subdivision other than the city.
 - (6) Maintain the original event permit in the vehicle while transporting the alcoholic beverages to the event and post it in a conspicuous location at the event for the duration of the event.
- (b) In order to distribute or sell alcoholic beverages at an event authorized pursuant to section 6-72 of the Code of Ordinances, Kennesaw, Georgia, the applicant intending to sell such alcoholic beverages must:

- (1) Provide the city with a copy of a valid liquor license from a county or municipality within the state which authorizes the applicant to sell alcoholic beverages for consumption on the premises or by the package for consumption off the premises.
 - (2) Provide the city with a copy of a valid annual off-premise alcohol license from the city of Kennesaw; or, if the applicant does not have an off-premise alcohol license from the city of Kennesaw, obtain one to submit with the application for an event permit.
 - (3) Apply to the city for an event permit, providing the name of the applicant, the date, the applicant's address, the date or dates of the event, the time of the event, the applicant's liquor license number.
 - (4) Pay an event permit fee as set forth in the fee schedule as approved by the mayor and city council.
 - (5) Pay local excise taxes on the total quantity of alcoholic beverages brought into the city. This subsection only applies to those applicants who are domiciled in a local political subdivision other than the city.
 - (6) Maintain the original event permit in the vehicle while transporting the alcoholic beverages to the event and post it in a conspicuous location at the event for the duration of the event.
- (c) The event permit is valid for the duration of the authorized event and shall expire at the end of the event. The event permit is also only valid for the sale of the same type of alcoholic beverages that the applicant is allowed to sell under his or her liquor license or off-premise license.
- (d) It shall be unlawful for any such applicant to employ any person who is less than 21 years of age who, in the course of such employment, would dispense, serve, sell, or handle alcoholic beverages. Any and all persons, regardless of the person's title or position, employed by the applicant who dispense, serve, sell, or handle alcoholic beverages at the event must have a valid server license issued by a governmental entity within the state. That server license must be carried by the licensee and available for review on request whenever the licensee is working at the event.
- (e) It is unlawful for any person or entity to distribute or sell any alcoholic beverages in connection with an event approved under section 6-71 of the Code of Ordinances, Kennesaw, Georgia, without first having obtained an event permit as provided in subsection (a) of this section 6-56.
- (f) It is unlawful for any person or entity to distribute or sell any alcoholic beverages in connection with an event approved under section 6-72 of the Code of Ordinance, Kennesaw, Georgia, without having obtained an event permit as provided in subsection (b) of this section 6-56.

- (g) The event permit as contemplated by this section 6-56 shall be granted or denied at the sole discretion of the mayor and city council, or the city manager of the city or his or her designee.

The following section shall be added as Section 6-72 “Approved Events” to Chapter 6 “Alcoholic Beverages”, Article II “Licenses” of the Code of Ordinances, Kennesaw, Georgia:

The possession, transportation, consumption, and sale of alcoholic beverages on any public property are permitted at:

- (1) At an event at which the possession, transportation, consumption, and sale of alcoholic beverages on, in, or over public property is approved by the mayor and city council; or,
- (2) At an event at which the possession, transportation, consumption, and sale of alcoholic beverages on, in, or over public property is approved by the city manager of the city or his or her designee.

The following Sections of Chapter 6 “Alcoholic Beverages”, Article III “Prohibitions and Restrictions”, Chapter 6 “Alcoholic Beverages” of the Code of Ordinances, Kennesaw, Georgia, shall be amended:

Chapter 6 “Alcoholic Beverages”, Article III “Prohibitions and Restrictions”, Section 6-106 “Possession or consumption on public property” of the Code of Ordinances, Kennesaw, Georgia, shall be amended as follows:

It shall be unlawful for any person to: possess or transport alcoholic beverages for the purpose of consumption on public property; ~~or to consume alcoholic beverages on public property;~~ or, sell alcoholic beverages on any public property, with the following exceptions: of that at a closed function permitted pursuant to in section 6-71 or herein or by approval by at an event approved pursuant to section 6-72 of the Code of Ordinances, Kennesaw, Georgia by the mayor and city council on an event basis.

After the amendment, Chapter 6 “Alcoholic Beverages”, Article III “Prohibitions and Restrictions”, Section 6-106 of the Code of Ordinances, Kennesaw, Georgia, shall read as follows:

It shall be unlawful for any person to: possess or transport alcoholic beverages for the purpose of consumption on public property; consume alcoholic beverages on public property; or, sell alcoholic beverages on any public property, with the following exceptions: at a closed function permitted pursuant to section 6-71 or at an event approved pursuant to section 6-72 of the Code of Ordinances, Kennesaw, Georgia.

The following Sections of Chapter 66 “Parks and Recreation”, Article I “In General” of the Code of Ordinances, Kennesaw, Georgia, shall be amended as follows:

Chapter 66 “Parks and Recreation”, Article I “In General”, Section 66-2 “Parks-regulation governing conduct” shall be amended as follows:

- (a) These rules and regulations are developed to set standards of conduct in the **public** parks ~~owned and operated by the city~~. These rules are designed to ensure the safety and enjoyment of park participants.
- (b) *Enforcement.* Any person engaging in any activity which shall unreasonably interfere with the use and enjoyment of a **public** park by citizens or who shall violate any ordinance of the city, park rules or regulations, or law of the state, shall leave the **public** park upon notification by any authorized park employee or any law enforcement officer of the city, county, or state. The city may suspend the offender’s privileges of remaining in the public park and of utilizing recreational facilities and equipment in any and all public parks either for a specified period of time or may banish the offender permanently from all public parks. and shall not return to such park for a period of 24 hours. The offender may appeal to the director of the parks and recreation department the suspension of his or her privileges to use the public park or recreational facilities and equipment or banishment. If the offender is dissatisfied with the decision of the director of the parks and recreation department, he or she may appeal the decision to the mayor and city council. Refusal to leave such park when ordered or return to the park **within** the specified ~~24-hour~~ period during which park privileges have been suspended shall be unlawful and punishable as a misdemeanor. In addition to any punishment assessed under this section, the offender may be charged with violation of any applicable state, federal, or local law, statute, or ordinance.
- (c) It shall be unlawful for any person to do any of the following in a public park or on public property:
- (1) Create or maintain a nuisance as defined by state law or by the Kennesaw Code of Ordinances, Kennesaw, Georgia, or pose a danger or threat to the **public health**.
 - (2) Willfully mark, deface, disfigure, injure, tamper with, displace or remove, any building, bridge, table, bench, fireplace, railing, paving, paving material, water line or other public utility or parts or appurtenance thereof, sign, notice or placard whether temporary or permanent, monument, stake,

post, or other boundary marker, or other structure or equipment, facility or park property or appurtenance whatsoever, either real or personal.

- (3) Sell, **transport**, possess or consume, ~~by any person,~~ alcoholic beverages ~~in any city park~~, except at **an event approved pursuant to section 6-71 or section 6-72 of the Code of Ordinances, Kennesaw, Georgia. a closed function approved by the mayor and city council.**
 - (4) Have in **his or her** ~~their~~ possession **any item considered to be a weapon under state law that could be used as a weapon, or any type of weapon,** excluding firearms; **however, no person shall discharge any firearm on or over any public property or public park, unless: in self-defense; or, under a license or permit issued by a governmental entity; or, as part of a reenactment or recreation of an historical event if such reenactment or recreation has been approved, authorized, or sponsored by the city, the state, or the United States of America or a political subdivision of any of them.**
 - (5) Sell, smoke, or consume, ~~by any person,~~ tobacco products in any **public city** park **or on any public property** except in designated smoking areas.
- (d) **This section 66-2 shall not preclude the possession and use of a musket, bayonet, or any other item otherwise considered a weapon if such item is used at or in conjunction with:**
- (1) **An historical display approved, authorized, or sponsored by the city, the state, the United States of America, or any political subdivision of any of them; or,**
 - (2) **A reenactment or recreation of an historical event if such reenactment or recreation has been approved, authorized, or sponsored by the city, the state, the United States of America or any political subdivision of any of them; or,**
 - (3) **A parade approved, authorized, or sponsored by the city, the state, the United States of America, or any political subdivision of any of them.**

- (e) This section 66-2 shall also not preclude the discharge of a cannon or a firearm of any type that is owned by the city, the state, the United States of America, or any political subdivision of any of them, or that is owned by a current member of a branch of the United States military or the national guard, or that is owned by an historical group and shall not preclude the discharge of any firearm (regardless of the ownership) by any current member of any branch of the United States military or national guard, but only if such cannon or firearm is discharged:
- (1) As part of an historical display approved, authorized, or sponsored by the city, the state, the United States of America, or a political subdivision of any of them; or,
 - (2) As part of a reenactment or recreation of an historical event and such reenactment or recreation is approved, authorized, or sponsored by, a parade sponsored by the city, state, the United States of America or any political subdivision of any of them,
 - (3) As part of a formal military service approved, authorized, or sponsored by any branch of the military of the United States of America or by the national guard; or,
 - (4) At an event approved, authorized, or sponsored by the city, the state, the United States of America or any political subdivision of any of them and the discharge was previously sanctioned by the governmental entity that approved, authorized or sponsored the event.

After the amendment Chapter 66 “Parks and Recreation”, Article I “In General”, Section 66-2 “Parks-regulation governing conduct” of the Code of Ordinances, Kennesaw, Georgia, shall read as follows:

- (a) These rules and regulations are developed to set standards of conduct in the public parks. These rules are designed to ensure the safety and enjoyment of park participants.
- (b) *Enforcement.* Any person engaging in any activity which shall unreasonably interfere with the use and enjoyment of a public park by citizens or who shall violate any ordinance of the city, park rules or regulations, or law of the state, shall leave the public park upon notification by any authorized park employee or any law enforcement officer of the city, county, or state. The city may suspend the offender’s privileges of remaining in the public park and of utilizing recreational facilities and equipment in any and all

public parks either for a specified period of time or may banish the offender permanently from all public parks. The offender may appeal to the director of the parks and recreation the suspension of his or her privileges to use the public park or recreational facilities and equipment or banishment. If the offender is dissatisfied with the decision of the director of the parks and recreation department, he or she may appeal the decision to the mayor and city council. Refusal to leave such park when ordered or return to the park within the specified period during which park privileges have been suspended shall be unlawful and punishable as a misdemeanor. In addition to any punishment assessed under this section, the offender may be charged with violation of any applicable state, federal, or local law, statute, or ordinance.

- (c) It shall be unlawful for any person to do any of the following in a public park or on public property:
- (1) Create or maintain a nuisance as defined by state law or by the Code of Ordinances, Kennesaw, Georgia, or pose a danger or threat to the public.
 - (2) Willfully mark, deface, disfigure, injure, tamper with, displace or remove, any building, bridge, table, bench, fireplace, railing, paving, paving material, water line or other public utility or parts or appurtenance thereof, sign, notice or placard whether temporary or permanent, monument, stake, post, or other boundary marker, or other structure or equipment, facility or park property or appurtenance whatsoever, either real or personal.
 - (3) Sell, transport, possess or consume alcoholic beverages, except at an event approved pursuant to section 6-71 or section 6-72 of the Code of Ordinances, Kennesaw, Georgia.
 - (4) Have in his or her possession any item considered to be a weapon under state law, excluding firearms; however, no person shall discharge any firearm on or over any public property or public park, unless: in self-defense; or, under a license or permit issued by a governmental entity; or, as part of a reenactment or recreation of an historical event if such reenactment or recreation has been approved, authorized, or sponsored by the city, the state, or the United States of America or a political subdivision of any of them.
 - (5) Sell, smoke, or consume tobacco products in any public park or on any public property except in designated smoking areas.

- (d) This section 66-2 shall not preclude the possession and use of a musket, bayonet, or any other item otherwise considered a weapon if such item is used at or in conjunction with:
- (1) An historical display approved, authorized, or sponsored by the city, the state, the United States of America, or any political subdivision of any of them; or,
 - (2) A reenactment or recreation of an historical event if such reenactment or recreation has been approved, authorized, or sponsored by the city, the state, the United States of America or any political subdivision of any of them; or,
 - (3) A parade approved, authorized, or sponsored by the city, the state, the United States of America, or any political subdivision of any of them.
- (e) This section 66-2 shall also not preclude the discharge of a cannon or a firearm of any type that is owned by the city, the state, the United States of America, or any political subdivision of any of them, or that is owned by a current member of a branch of the United States military or the national guard, or that is owned by an historical group and shall not preclude the discharge of any firearm (regardless of the ownership) by any current member of any branch of the United States military or national guard, but only if such cannon or firearm is discharged:
- (1) As part of an historical display approved, authorized, or sponsored by the city, the state, the United States of America, or a political subdivision of any of them; or,
 - (2) As part of a reenactment or recreation of an historical event and such reenactment or recreation is approved, authorized, or sponsored by, a parade sponsored by the city, state, the United States of America or any political subdivision of any of them,
 - (3) As part of a formal military service approved, authorized, or sponsored by any branch of the military of the United States of America or by the national guard; or,
 - (4) At an event approved, authorized, or sponsored by the city, the state, the United States of America or any political subdivision of any of them and the discharge was previously sanctioned by the governmental entity that approved, authorized or sponsored the event.

Chapter 66, “Parks and Recreation”, Article I “In General”, Section 66-14 “Merchandising; advertising and signs” of the Code of Ordinances, Kennesaw, Georgia, shall be amended as follows:

No person in a **public** park shall:

- (1) Offer for sale any article or thing, nor station or place any stand, cart or vehicle for the transportation, sale or display of any such article or thing.
- (2) Paste, glue, tack or otherwise post any sign, placard, advertisement or inscription whatever, nor erect or cause to be erected any sign whatever on any public lands or highways or roads adjacent to a **public park or public property.**
- ~~(3)~~ **Notwithstanding anything contained in this section 66-14 or section 66-16 of the Code of Ordinances, Kennesaw, Georgia, any person acting under written authority of the mayor and city council or under written authority of the parks and recreation director of the city or his or her designee may take any action which is otherwise prohibited by this section 66-14 or by section 66-16(c)(2) of the Code of Ordinances, Kennesaw, Georgia. Exception to this subsection is hereby made as to any licensed concessionaire acting by and under the authority and regulation of the parks and recreation department.**
- ~~(3)~~**(4)** Exceptions to **subsections (1) and (2) of this above** section are included in **subsection (3) of this section** and in section 66-16 **of the Code of Ordinances, Kennesaw, Georgia.**

After the amendment Chapter 66, “Parks and Recreation”, Article I “In General”, Section 66-14 “Merchandising; advertising and signs” of the Code of Ordinances, Kennesaw, Georgia, shall read as follows:

No person in a public park shall:

- (1) Offer for sale any article or thing, nor station or place any stand, cart or vehicle for the transportation, sale or display of any such article or thing.
- (2) Paste, glue, tack or otherwise post any sign, placard, advertisement or inscription whatever, nor erect or cause to be erected any sign whatever on any public lands or highways or roads adjacent to a public park or public property.
- (3) Notwithstanding anything contained in this section 66-14 or section 66-16 of the Code of Ordinances, Kennesaw, Georgia, any person acting under written authority of the mayor and city council or under written authority of the parks and recreation director of the city or his or her designee may take any action which is otherwise prohibited by this section 66-14 or by section 66-16(c)(2) of the Code of Ordinances, Kennesaw, Georgia.
- (4) Exceptions to subsections (1) and (2) of this section are included in subsection (3) of this section and in section 66-16 of the Code of Ordinances, Kennesaw, Georgia.

Chapter 66 “Parks and Recreation”, Article I “In General”, Section 66-16 “Parks and recreation facilities; regulations governing use” shall be amended as follows:

~~Listed below is the order of priority and category in which recreational facilities will be scheduled on an ongoing basis:~~

- (a1) Group categories. Listed below is the order of priority and category of groups that will be allowed to schedule the use of city recreational facilities or public property on an ongoing basis:
- (1)a. Any city organized or sponsored event and/or recreational activity;
 - (2)b. Any ~~Other~~ organizations that the city has an agreements with for use of facilities or public property;
 - (3)e. Any organization when it is attempting to organize or has organized a political forum;
 - (4)e. Civic groups: Civic groups are defined as non-profit organizations/clubs that hold tax-exempt status from the Internal Revenue Service such as 501(c)(3) and which serve the citizens of Kennesaw.

~~There shall be no charge for use of facilities for non-profit entities, including, but not limited to: Garden Club, Kennesaw Business Association, homeowners associations, Optimist Club, American Legion, historical society, scouting groups, fine arts society, women's club and Kennesaw Jaycees.~~

- (5)d. Other groups not included in categories (1), (2), or (3) of subsection (a) (1) of this section, ~~(2) or (3).~~

~~Category (2) and (3) groups shall use facilities free of charge for meetings except when facilities are used for dinners, special events and/or fundraising whereby civic groups shall pay a usage fee as set forth in the schedule of fees and charges. All other groups not included in group categories (1), (2), or (3) above shall pay usage fee as set forth in the schedule of fees and charges for use of facilities.~~

- (b2) Groups which fall within the categories covered by subsections (a)(1), (a)(3), (a)(4), (a)(5) of this section may use facilities upon the payment of fee set forth on the fee schedule approved by the mayor and city council. Groups falling within subsection (a)(2) of this section shall pay a usage fee as set in the agreement each such group has with the city.
- (c2) The scheduling of public parks and recreational facilities will be at the sole discretion of the director of the parks and recreation department or his or her designee subject to the

requirements of subsection (a) of this section and that no group, organization, or person shall be denied scheduling of a recreational facility or public park based on the content of what will be discussed at the meeting or the stated positions of the group, organization, or entity director. However, no organization, entity, or person shall be allowed to schedule a recreational facility or public property if the use violates any valid law, statute, ordinance, rule, or regulation of the city, the state, the United States of America, or any political subdivision of any of them; or, the use is a commercial purpose and fails to comply with the other requirements of the Code of Ordinances, Kennesaw, Georgia. Listed below are the general rules and policies applicable to usage of **public** parks and recreational facilities **and equipment**. Failure to abide by these rules listed could result in future usage of facilities being suspended.

- (1)a.** Scheduling of facilities will be coordinated and approved by the parks and recreation department.
- (2)b.** Except as provided in section 66-14(3) of the Code of Ordinances, Kennesaw, Georgia, facilities cannot be used for commercial purposes; however, this shall neither preclude any business entity or person from providing funds as a sponsor of a city-sponsored event and receiving advertising space in conjunction with the payment of the sponsorship fee nor preclude the use of the facilities or public property for a city-sponsored event which is approved by the mayor and city council or by the events committee of the city at which vendors are engaging in commercial activities or what would otherwise be considered to be commercial purposes.
- (3)e.** Facilities used for fundraising purposes must be approved by the director of the parks and recreation department or his or her designee.
- (4)d.** Full payment and deposit is due at the time the reservations are made. If facilities are not used during the reserved time for any reason and no prior cancellation was given, no refunds will be made, except as provided on the fee schedule approved by the mayor and city council in paragraph herein for reimbursement of a cleaning/security deposit.
- (5)e.** A member of the organization must sign any and all documentation required by the director of the parks and recreation department of the city to use or rent a recreational facility or public property including, but not limited to, an affidavit of responsibility and complete fill-out a facility reservation form provided by the parks and recreation department.

- (6)~~f~~. No alcoholic beverages shall be allowed **unless approved pursuant to under any circumstances unless granted a permit by mayor and council as outlined under** section 6-71 **or section 6-72 of the Code of Ordinances, Kennesaw, Georgia.**
- (7)~~g~~. Animals are not permitted in facilities, **with the exception of dog parks,** without **prior** approval of the **director of the parks and** recreation department; **however, seeing eye, hearing, service, or guide dogs shall be permitted without such prior approval.**
- (8)~~h~~. Areas shall be left clean. If it becomes necessary for city employees to do an extensive amount of cleaning, there will be a corresponding deduction as determined by the **director of the** parks and recreation department **or his or her designee** ~~director~~ in the cleaning and security deposit.
- (9)~~i~~. The user must report any damages to the police or parks employee on duty at once. All groups will be held liable for any damages to any city facilities or equipment used by members of their organization. Facility damages could lead to losing privileges to use **such** facilities.
- (10)~~j~~. ~~All s~~Scheduled **use of facilities meeting times** are subject to change. Prior notice will be given by the **director of the** parks and recreation department **or his or her designee** if at all possible.
- (11)~~k~~. The city is not responsible for **the loss of or damage to** any valuables **or property used at or** left on the premises **of any facility or public park which was used by any person or organization.**
- (12)~~l~~. Smoking is prohibited inside recreation facilities.
- (13)~~m~~. No decorations shall be displayed, installed or permitted which may damage or deface the building. Existing decorations may not be removed. The user of the facility is responsible for removing all of ~~their~~ **his or her** own decorations and trash at the end of the reservation.
- (14)~~n~~. No facilities can be reserved more than one year in advance. No facility can be reserved again by the same category **(a)(4)** group until the previous reservation day has passed.
- (15)~~o~~. When facilities are not in use for scheduled activities ~~and are available to the public for rent,~~ then use of **those** facilities is available on a first come first served basis. **The fees for such use are set forth in the fee schedule approved by the mayor and city council.**
- (16)~~p~~. Facility users will be required to have not less than one **(1)** adult chaperon for each ten **(10)** minors present during use of facilities.
- (17)~~q~~. No facility ~~may will~~ be used past 10:00 p.m. without **prior written** permission from the **director of the** parks and recreation department **or his or her designee.**

(18) There will be a cancellation fee of as set forth on the fee schedule approved by the mayor and city council. \$25.00 if facility rented and reserved is not cancelled at least 15 days prior to the event.

- (d3) The mayor and city council may by resolution establish rental fees for the use of any public property and shall provide by appropriate regulations for the use of any public property facility. Pursuant to any such resolution, the director of the parks and recreation department or his or her designee shall publish, annually, a list of the recreational facilities and equipment or public property that may be used and the price of using each such recreational facility and equipment or piece of public property. Violation of any regulation established by the mayor and city council and posted on the property or acknowledged by the user shall be deemed a violation of the is Ceode of Ordinances, Kennesaw, Georgia, and shall subject the offender to the penalty provided in section 1-11 of the Code of Ordinances, Kennesaw, Georgia.**
- (e4) There is hereby created a cleaning/security deposit for rental of all city facilities. The cleaning/security deposit shall be set forth in the schedule of fees and charges per facility. It is refundable if and only when the facility is left in a clean state, and in the condition in which it was found (chairs put away, etc.). The decision of whether the deposit shall be refunded is solely up to the director of the parks and recreation department or his or her designee and will not be refunded until the rented facility has been inspected by the director of the parks and recreation department or his or her designee city.**
- (f) Notwithstanding anything contained in the Code of Ordinances, Kennesaw, Georgia, neither the Smith-Gilbert Gardens nor The Southern Museum of Civil War & Locomotive History shall be considered a recreational facility as that term is used in this section.**

After the amendment, Chapter 66 “Parks and Recreation”, Article I “In General”, Section 66-16 “Parks and recreation facilities; regulations governing use” of the Code of Ordinances, Kennesaw, Georgia, shall read as follows:

- (a) Group categories. Listed below is the order of priority and category of groups that will be allowed to schedule the use of city recreational facilities or public property on an ongoing basis:**
- (1). Any city organized or sponsored event and/or recreational activity;**
 - (2). Any organization that the city has an agreement with for use of facilities or public property;**
 - (3). Any organization when it is attempting to organize or has organized a political forum;**

- (4). Civic groups: Civic groups are defined as non-profit organizations/clubs that hold tax-exempt status from the Internal Revenue Service such as 501(c)(3) and which serve the citizens of Kennesaw.
 - (5). Other groups not included in categories (1), (2), or (3) of subsection (a) of this section.
- (b) Groups which fall within the categories covered by subsections (a)(1), (a)(3), (a)(4), (a)(5) of this section may use facilities upon the payment of fee set forth on the fee schedule approved by the mayor and city council. Groups falling within subsection (a)(2) of this section shall pay a usage fee as set in the agreement each such group has with the city.
- (c) The scheduling of public parks and recreational facilities will be at the discretion of the director of the parks and recreation department or his or her designee subject to the requirements of subsection (a) of this section and that no group, organization, or person shall be denied scheduling of a recreational facility or public park based on the content of what will be discussed at the meeting or the stated positions of the group, organization, or entity. However, no organization, entity, or person shall be allowed to schedule a recreational facility or public property if the use violates any valid law, statute, ordinance, rule, or regulation of the city, the state, the United States of America, or any political subdivision of any of them; or, the use is a commercial purpose and fails to comply with the other requirements of the Code of Ordinances, Kennesaw, Georgia. Listed below are the general rules and policies applicable to usage of public parks and recreational facilities and equipment. Failure to abide by these rules listed could result in future usage of facilities being suspended.
- (1). Scheduling of facilities will be coordinated and approved by the parks and recreation department.
 - (2). Except as provided in section 66-14(3) of the Code of Ordinances, Kennesaw, Georgia, facilities cannot be used for commercial purposes; however, this shall neither preclude any business entity or person from providing funds as a sponsor of a city-sponsored event and receiving advertising space in conjunction with the payment of the sponsorship fee nor preclude the use of the facilities or public property for a city-sponsored event which is approved by the mayor and city council or by the events committee of the city at which vendors are engaging in commercial activities or what would otherwise be considered to be commercial purposes.
 - (3). Facilities used for fundraising purposes must be approved by the director of the parks and recreation department or his or her designee.
 - (4). Full payment and deposit is due at the time the reservations are made. If facilities are not used during the reserved time for any reason and no prior cancellation was given, no

refunds will be made, except as provided on the fee schedule approved by the mayor and city council.

- (5). A member of the organization must sign any and all documentation required by the director of the parks and recreation department of the city to use or rent a recreational facility or public property including, but not limited to, an affidavit of responsibility and complete a facility reservation form provided by the parks and recreation department.
- (6). No alcoholic beverages shall be allowed unless approved pursuant to section 6-71 or section 6-72 of the Code of Ordinances, Kennesaw, Georgia.
- (7). Animals are not permitted in facilities, with the exception of dog parks, without prior approval of the director of the parks and recreation department; however, seeing eye, hearing, service, or guide dogs shall be permitted without such prior approval.
- (8). Areas shall be left clean. If it becomes necessary for city employees to do an extensive amount of cleaning, there will be a corresponding deduction as determined by the director of the parks and recreation department or his or her designee in the cleaning and security deposit.
- (9). The user must report any damages to the police or parks employee on duty at once. All groups will be held liable for any damages to any city facilities or equipment used by members of their organization. Facility damages could lead to losing privileges to use such facilities.
- (10). Scheduled use of facilities are subject to change. Prior notice will be given by the director of the parks and recreation department or his or her designee if at all possible.
- (11). The city is not responsible for the loss of or damage to any valuables or property used at or left on the premises of any facility or public park which was used by any person or organization.
- (12). Smoking is prohibited inside recreation facilities.
- (13). No decorations shall be displayed, installed or permitted which may damage or deface the building. Existing decorations may not be removed. The user of the facility is responsible for removing all of his or her own decorations and trash at the end of the reservation.
- (14). No facilities can be reserved more than one year in advance. No facility can be reserved again by the same category (a)(4) group until the previous reservation day has passed.
- (15). When facilities are not in use for scheduled activities, then use of those facilities is available on a first come first served basis. The fees for such use are set forth in the fee schedule approved by the mayor and city council.
- (16). Facility users will be required to have not less than one (1) adult chaperon for each ten (10) minors present during use of facilities.

- (17). No facility may be used past 10:00 p.m. without prior written permission from the director of the parks and recreation department or his or her designee.
- (18). There will be a cancellation fee as set forth on the fee schedule approved by the mayor and city council.
- (d) The mayor and city council may by resolution establish fees for the use of any public property and shall provide by appropriate regulations for the use of any public property. Pursuant to any such resolution, the director of the parks and recreation department or his or her designee shall publish, annually, a list of the recreational facilities and equipment or public property that may be used and the price of using each such recreational facility and equipment or piece of public property. Violation of any regulation established by the mayor and city council and posted on the property or acknowledged by the user shall be deemed a violation of the Code of Ordinances, Kennesaw, Georgia, and shall subject the offender to the penalty provided in section 1-11 of the Code of Ordinances, Kennesaw, Georgia.
- (e) There is hereby created a cleaning/security deposit for rental of all city facilities. The cleaning/security deposit shall be set forth in the schedule of fees and charges per facility. It is refundable if and only when the facility is left in a clean state, and in the condition in which it was found (chairs put away, etc.). The decision of whether the deposit shall be refunded is solely up to the director of the parks and recreation department or his or her designee and will not be refunded until the rented facility has been inspected by the director of the parks and recreation department or his or her designee.
- (f) Notwithstanding anything contained in the Code of Ordinances, Kennesaw, Georgia, neither the Smith-Gilbert Gardens nor The Southern Museum of Civil War & Locomotive History shall be considered a recreational facility as that term is used in this section.

BE IT FURTHER ORDAINED that this Ordinance shall become effective from and after its adoption and execution by the Mayor, pursuant to Section 2.11 of the City Charter of the City of Kennesaw.

NOW, THEREFORE, BE IT RESOLVED the Kennesaw City Council approves:

- Amending Chapter 1 “General Provisions”, Section 1-2 “Definitions and Rules of Construction” of the Code of Ordinances, Kennesaw, Georgia;
- Amending Chapter 6 “Alcoholic Beverages”, Article I “In General”, Section 6-1 “Definitions” of the Code of Ordinances, Kennesaw, Georgia;
- Amending Chapter 6 “Alcoholic Beverages”, Article I “In General”, Section 6-5 “Sale, possession, or consumption” of the Code of Ordinances, Kennesaw, Georgia;
- Amending Chapter 6 “Alcoholic Beverages”, Article II “Licenses”, Section 6-56 “Event Permits” of the Code of Ordinances, Kennesaw, Georgia;

- Adding Section 6-72 “Approved Events” to Chapter 6 “Alcoholic Beverages”, Article II “Licenses” of the Code of Ordinances, Kennesaw, Georgia;
- Amending Chapter 6 “Alcoholic Beverages”, Article II “Prohibitions and Restrictions”, Section 6-106 “Possession or Consumption on Public Property” of the Code of Ordinances, Kennesaw, Georgia;
- Amending Chapter 66 “Parks and Recreation”, Article I “In General”, Section 66-2 “Parks—Regulations Governing Conduct” of the Code of Ordinances, Kennesaw, Georgia;
- Amending Chapter 66 “Parks and Recreation”, Article I “In General”, Section 66-14 “Merchandising; Advertising and Signs” of the Code of Ordinances, Kennesaw, Georgia;
- Amending Chapter 66 “Parks and Recreation”, Article I “In General”, Section 66-16 “Parks and Recreation Facilities, Regulations Governing Use” of the Code of Ordinances, Kennesaw, Georgia

as described above.

PASSED AND ADOPTED by the Kennesaw City Council on this 15th day of August, 2011.

ATTEST:

Debra Taylor

Debra Taylor, City Clerk

CITY OF KENNESAW:

Mark Mathews

Mark Mathews, Mayor