

INTRODUCED: March 6, 2019

AN ORDINANCE No. 2019-063

To amend and reordain City Code § 8-274, concerning the issuance of permits and conditions for concessions in public parks and playgrounds of the City, and the fees set forth in Appendix A of the City Code for § 8-274(a)(2), for the purpose of providing for permit fees for the issuance of permits for concessions in public parks and playgrounds of the City.

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Patron – Mayor Stoney

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Approved as to form and legality  
by the City Attorney

PUBLIC HEARING: APR 22 2019 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That section 8-274 of the Code of the City of Richmond (2015) be and is hereby amended and reordained as follows:

**Sec. 8-274. Issuance of permits and conditions for concessions.**

(a) The Director of Parks, Recreation and Community Facilities, referred to as “Director,” is hereby authorized to permit the sale of beverages other than alcoholic beverages, confections, food and tobacco products and the renting of boats, or any of them, referred to as “merchandise,” in the public parks and playgrounds of the City by persons, firms, associations,

AYES: 9 NOES: 0 ABSTAIN: \_\_\_\_\_

ADOPTED: MAY 13 2019 REJECTED: \_\_\_\_\_ STRICKEN: \_\_\_\_\_

organizations and corporations, referred to as “cessionaires,” upon the following terms and conditions, by the issuance of written permits therefor in form approved by the City Attorney:

(1) Each concessionaire will remove from the premises used before 10:00 a.m. of the day following each use all paper, paper products and containers, refuse and litter of every kind resulting from such use and the sale of merchandise thereon.

(2) Each concessionaire, before the permit is issued, will ~~[deposit with]~~ pay to the Director in cash the ~~[sum]~~ permit fee as set forth in Appendix A to this Code for the sale of each class of merchandise~~[, which shall be expended by the Director for the removal of paper, paper products and containers and refuse and litter resulting from the use of the premises whenever the concessionaire fails to do so. Upon the expiration of the permit, should the sum deposited or any portion thereof remain unexpended for the purpose, such sum shall be returned to the concessionaire. Should the Director require the concessionaire to furnish a bond as provided in Subsection (a)(15) of this section, the Director may waive requirement of the cash deposit].~~

(3) Each concessionaire will observe, obey and comply with all laws, ordinances, rules and regulations relating to the sale and distribution of merchandise.

(4) No concessionaire will sell or distribute merchandise after the hours prescribed by the Director for the closing of parks and playgrounds or any of them.

(5) Each concessionaire will pay all license taxes assessed or assessable for the sale or offering for sale of merchandise before the permit is issued.

(6) All beverages shall be sold in paper containers, for which a charge not exceeding \$0.03 for the container may be made, and all bottles, cans or other glass or

metal containers shall remain at all times in the actual control and possession of the concessionaire and shall be kept at all times in places not accessible to the public.

(7) Each concessionaire will offer for sale and sell merchandise at such times as shall be required by the Director.

(8) Every person, whether a concessionaire or the agent or employee of a concessionaire, actually engaged in offering merchandise for sale, will provide the Director with sufficient proof as may be required at any time of such person's qualifications to sell or offer merchandise for sale. Whenever it appears to the Director that such person is unfit to do so, if the person is the concessionaire, the permit shall be revoked upon notice to that effect given the concessionaire by the Director; if the person is the agent or employee of the concessionaire, such person's services shall be dispensed with upon notice to that effect given the concessionaire by the Director.

(9) The Director shall have the authority to promulgate and enforce from time to time such rules and regulations as are necessary to control and regulate the sale of merchandise not inconsistent with this section, and each concessionaire shall observe, obey and comply therewith.

(10) The Director shall revoke any permit issued at any time upon notice in writing to any concessionaire whenever the concessionaire fails, refuses or neglects to observe, obey or comply with any of the terms and conditions of this section or rule or regulation promulgated pursuant thereto. Upon such revocation, any sum paid by the concessionaire for the issuance of the permit shall be retained by the City.

(11) Each permit issued shall state that it is issued at the will of the Director and shall be terminable by either the Director or the concessionaire at any time upon

either the Director's giving to the concessionaire or the concessionaire's giving to the Director written notice of intention to terminate such permit. Any such permit shall expire on December 31 of the year in which it is issued, and the sale or offering for sale of merchandise shall be unlawful and constitute a violation of this section after the termination date of a permit.

(12) Not more than one concessionaire will be permitted to sell or offer for sale each class of merchandise in a park or playground or in any area or part thereof designated by the Director.

(13) The concessionaire shall indemnify, keep and hold the City free and harmless from liability on account of injury, damage or loss to persons and property growing out of or directly or indirectly resulting from the grant of the concession, the sale or offering for sale of commodities and the use of the City property for such purposes. If any suit or proceeding shall be brought against the City, at law or in equity, either independently or jointly with the City on account thereof, the concessionaire shall defend the City in any such suit or proceeding at the cost of the concessionaire. If a final judgment or decree is obtained against the City, either independently or jointly with the concessionaire, the concessionaire shall pay such judgment or comply with such decree with all costs and expenses of whatever nature and hold the City harmless therefrom.

(14) The concessionaire shall insure its liability under Subsection (a)(13) of this section and its liability for injury or death or damage to or loss of property in connection with the operation of the concession, the sale or offering for sale of commodities and the use of City property for such purposes in an amount of not less than \$1,000,000.00 to cover the injury to or death of one person in any one occurrence and not less than

\$1,000,000.00 to cover the injury or death of more than one person in any one occurrence, together with property damage of not less than \$1,000,000.00. The City shall be named as an additional insured under the insurance contract. Premiums chargeable for the insurance shall be paid by the concessionaire, and it shall be kept in full force and effect for the term or duration of the concession. It shall contain a provision that it shall not be canceled or terminated or otherwise allowed to expire prior to 60 days' notice in writing to that effect given to the Director. The insurance contract shall be approved by the City Attorney. The insurance contract shall be provided and shall be in force at the time the concession is granted.

(15) The Director may require any concessionaire, prior to the issuance of a permit, to furnish to and deliver to the City a corporate surety bond, in such amount as may be specified by the Director, conditioned upon the payment by the concessionaire of all sums of money due the City for use of City facilities by the concessionaire and for the repair or restoration of all property of the City damaged or destroyed as a result of or incident to the use of City facilities. The bond shall be approved as to form by the City Attorney. The concessionaire shall pay the cost of such bond, which bond shall be kept in full force and effect during the permit term, and the bond shall contain a provision that it shall not be permitted to terminate nor expire during the permit term and that it shall not be canceled during the permit term without 90 days' prior notice in writing furnished to the Director and to the City Attorney.

(b) It shall be unlawful and shall constitute a violation of this section for any concessionaire to fail, refuse or neglect to comply in all respects with the terms and conditions of this section or rule or regulation promulgated pursuant to this section. Upon such violation, the

concessionaire shall be subject to a fine of not less than \$50.00 nor more than \$150.00. Each violation and each day's continuance thereof shall constitute a separate offense.

(c) Before issuing any permit under this section, the Director shall, whenever practicable, give opportunity for competitive bidding. The issuance of the permit, whenever practicable, shall be based on competitive bids, which may be informal, after public notice thereof given by publication of the notice in a daily newspaper of general circulation published in the City at least once or by posting the notice on a bulletin board in the Department of Parks, Recreation and Community Facilities from the time bids are invited until they are opened or by mail or any other means as in the opinion of the Director is desirable in the public interest. The Director shall have the authority to reject any or all bids, to readvertise for bids, or to issue the permit to any concessionaire who is ready, willing and able to provide the service in accordance with the terms and conditions of this section. Whenever a permit is issued upon competitive bids, it shall be granted to the highest and most responsible bidder. The Director, whenever it is in the public interest to do so, may issue permits without resort to competitive bidding and without the payment of any fee or charge for the sale of merchandise by athletic leagues or athletic associations at playgrounds equipped for playing sports and for the sale of merchandise by civic associations on special occasions and by civic clubs, associations or organizations. In issuing permits to athletic leagues and associations, civic associations and civic clubs, associations or organizations, the Director may waive the furnishing of indemnity and insurance provided for in Subsections (a)(13) and (a)(14) of this section.

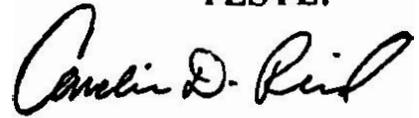
§ 2. That the fee set forth in Appendix A of the Code of the City of Richmond (2015) for section 8-274 (a)(2) of the Code of the City of Richmond (2015) be and is hereby amended and reordained as follows:

<i>Code Section</i>	<i>Description</i>	<i>Fee</i>
8-274(a)(2)	<del>[Cash deposit of each concessionaire with the Director of Parks, Recreation and Community Facilities, before the permit is issued,]</del> <u>Permit fee</u> for the sale of each class of merchandise	\$50.00

§ 3. This ordinance shall be in force and effect upon adoption.

**A TRUE COPY:**

**TESTE:**



**City Clerk**