

ORDINANCE NO. 2024- 01

**AN ORDINANCE REGULATING THE USE OF PUBLIC PARKS IN THE CITY OF HEBER SPRINGS, PRESCRIBING PENALTIES FOR THE VIOLATION OF ITS PROVISIONS, AND DECLARING AN EMERGENCY.**

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF HEBER SPRINGS, ARKANSAS:**

**This Ordinance shall be known and may be cited as the “City of Heber Spring Parks Ordinance.”**

**ARTICLE ONE  
ADMINISTRATION**

**Section 1  
INTRODUCTION**

**1.1.1 General.**

Recreation is an important element of a healthy life. "City Parks" are special places and facilities within the City of Heber Springs, Arkansas that are expressly reserved for public recreation, and such other purposes as the Parks and Recreation considers to be sufficiently related to, or in the interest of, public recreation. Entry to any City Park is a privilege, not a right, to be enjoyed by persons who adhere to the standards of conduct established by the City of Heber Springs, Arkansas ("City") and the Parks and Recreation ("Department"). This regulation, approved by both the City and the Department, establishes standards of conduct in City Parks and authorizes the Parks and Recreation Director ("Director") and Parks and Recreation Department employees ("Department Employees") to take such actions as are necessary to enforce these standards.

**1.1.2 Authority.**

The City is authorized to own and operate public City Parks under the common law of Arkansas, and by Act 291 of 1941, which is codified at Ark. Code Ann. § 14-54-1301, et seq.

By law, the Department is granted full and complete authority over public City Parks placed in its care. The Department is statutorily authorized to set fees and adopt rules and regulations for the proper operation and management of public City Parks. The City is authorized to adopt ordinances prohibiting activities that endanger the peace, health, safety, or welfare of citizens; and to punish violations of the same as provided by law. This regulation has been approved by both the City and the Department as necessary to ensure the proper operation and management of public City Parks and to protect the peace, health, safety, and welfare of citizens.

**1.1.3 Jurisdiction.**

All City Parks have been assigned to the Department. These parks are identified below with approximate sizes (in acres) and referenced in attachments to this regulation as indicated:

<b>Attachment</b>	<b>City Parks</b>	<b>Approx. size (ac.)</b>
(A)	Sandy Beach	1000.00
(B)	Bridal Vail Falls	5.00
(C)	Spring Park	3.00
(D)	Optimist Park	19.00
(E)	Eagle Bank Park	0.2
(F)	Mare Sports Complex	25.0

#### **1.1.4 Use of City Parks.**

It is imperative that all park visitors respect rules regarding the use of City Parks. These rules are intended to: (a) facilitate the shared use of limited resources; (b) conserve public funds dedicated to recreational use; (c) maintain and improve public property dedicated to recreational use; and (d) protect the peace, health, safety, and welfare of park visitors.

Different areas in the City Parks are dedicated to different recreational uses. While some areas are generally accessible to the public, others are restricted to specific activities. Some facilities in the City Parks are only offered for use on a fee basis that is intended to defray the cost of managing and maintaining the respective facility and associated activities. As described in this regulation, the use of fee-based facilities without paying the designated fee or receiving a written waiver of fees by the Director, is expressly prohibited.

Public parks are considered to be a traditional forum for freedom of expression under the First Amendment to the United States Constitution. Park visitors are free to gather, speak, and express their viewpoint within the park, as long as they adhere to all regulations governing City Park use. These regulations are intended to serve as viewpoint-neutral restrictions on the time place and manner of speech. The Department does not discriminate based upon constitutionally protected status, speech, or viewpoint.

#### **1.1.5 Application, Clarification, and Supplement.**

This regulation applies to all City Parks. The Director may clarify or supplement these rules at City Parks listed above in subsection 1.1.3. All supplemental rules will be effective when posted but must promptly be reported to the Department. No citation shall be based solely upon an alleged violation of a supplemental rule.

## **Section 2 PARKS AND RECREATION**

### **1.2.1 General.**

City Parks and City recreation programs are governed by the Director, and Department Employees function as a City Parks and Recreation Department in order to take advantage of centralized purchasing, accounting, human resource support, legal representation, and other administrative functions. The Parks and Recreation Department ("Department"), adopts all City management policies in order to facilitate integration of Department employees and functions.

Under the supervision of the Director, the Department maintains and improves City Park property and establishes City Park programs. All fees imposed for the use of Park property or participation in City Park programs shall be approved by the Director and presented to City Council.

### **1.2.2 Parks and Recreation Director.**

The Director is the head of the Department. The Director is responsible for implementing this regulation and communicating the need for any amendments to the Mayor and City Council. Unless stated otherwise, any task that the Director is obligated to perform under this regulation may be delegated by the Director to such other employees as the Director may deem appropriate. Within such limits as may be prescribed by the Mayor, the Director shall be authorized to spend Park funds in accordance with the purpose and amount of the Department's annual budget and such policies, rules, and laws that govern the expenditure of public funds by the City. When authorized by official act by the Mayor and City Council, the Director may execute contracts that bind performance of the Department. When authorized by official act of the Heber Springs City Council ("Council"), the Director may execute contracts that bind performance of the City.

The Director shall ensure Department employees are properly supervised and, as necessary, disciplined according to the policies and procedures of the City.

The Director exercises the daily authority of the Department as custodian of all Department property, real and personal, to ensure that such property is maintained, safeguarded, and used for such public purposes as authorized by the City.

### **1.2.3 Park Employees.**

Park Employees are employees of the Department who are delegated the responsibility to assist in overseeing one or more City Parks or facilities by the Director. Park Employees shall have no authority to issue citations but may exercise administrative authority.

### **1.2.4 Athletic Contest Officials.**

Many athletic contests are performed in City Parks. These contests are often monitored by a neutral official ("Athletic Contest Official") who enforces the rules of the contest, as well as the spirit of fair play and sportsmanship for participants and observers. Athletic Contest Officials shall be treated with respect. The senior Athletic Contest Official at any athletic contest shall be authorized to temporarily suspend the privilege of one or more persons, based on the unreasonable conduct of such persons, to participate in the contest, to observe the contest, or both. Persons who are not authorized to observe a contest may remain within the City Park, but no closer than a distance determined by the Athletic Supervisor, which shall not exceed 300 feet from the contest area for the duration of the contest. Any person violating an order of suspension issued under this section may be cited for a violation of section 4.1.2 of this regulation or, if warranted, for criminal trespass under Ark. Code Ann. § 5-39-203(a)(2).

### **1.2.5 Volunteers.**

Volunteers are important to the operation of successful Department programs. The Director shall establish policies and procedures to ensure that all volunteers understand that they are not authorized to receive pay or benefits from the Department, or the City. Volunteers shall not present themselves as Department Employees and will be subject to a background check at the request of the Director. Volunteers shall not be authorized to contract with vendors on behalf of the Department, or City, or to spend public funds, unless authorized in writing by the Director.

The use of volunteers shall comply with the Arkansas Volunteers Act, codified at Ark. Code Ann. § 21-13-101, et seq., as well as all Department, and City ordinances and policies related to volunteers.

### **1.2.6 Recreational Associations.**

The Department may enter agreements with recreational associations to administer recreational programs using City Parks. These agreements shall provide that programs are administered on behalf of the government with all protections traditionally associated with governmental programs. No recreational association may lease, or acquire rights in, City Park property without open bidding and proper authorization as described in Ark. Code Ann. § 22-4-501, et seq.

## **Section 3 VIOLATIONS OF CITY PARK RULES**

### **1.3.1 Fines.**

Except as otherwise provided, a person convicted of violating any provision of this regulation shall be punished by a fine not to exceed \$500.00 or double such sum for each repetition thereof. If the violation is continuous in nature, the penalty for allowing the continuance thereof shall be a fine not to exceed \$250.00 for each day that the violation is unlawfully continued. The judge will determine the actual fine and may, for specific offenses, establish a standardized amount that may be tendered with a guilty plea in lieu of appearing in court.

### **1.3.2 Appeals.**

Any person after being found guilty of a violation or after entering a plea of guilty or nolo contendere to a violation shall have those appellant rights granted under the Laws of the State of Arkansas, United States Constitution, and Arkansas Rules of Criminal Procedure. Any appeal of a conviction of a violation of this regulation will be heard in Cleburne County Circuit Court.

## **Section 4 ADMINISTRATIVE REMEDIES**

### **1.4.1 General.**

The purpose of this section is to provide a procedure for (1) the suspension of Park privileges; (2) the suspension or revocation of various permissions, certificates, licenses and permits issued by the Department; and (3) other administrative determinations.

**1.4.2 Suspension of Privilege to Enter City Parks.**

(A) *Director.* In addition to all other remedies, the Director may temporarily suspend a person's privilege to enter City Parks when such person continuously or egregiously violates Park Ordinances. A person whose City Park privileges have been suspended may seek in writing an appeal of the decision of the Director to the Mayor within thirty (30) calendar days. The Director may not delegate the authority in this section.

An order from the Director suspending a person's City Park privileges shall: (1) be in written form; (2) shall state the effective date of suspension, (3) shall state the ending date of the suspension which shall not be more than 90 calendar days after the effective date, and (4) shall inform the person about the right to appeal.

(B) *Park Employees.* In addition to all other remedies, Park Employees may temporarily suspend a person's privilege to enter a City Park or Park Facility, or activity supervise the person when such persons continuously or egregiously violate Park Ordinances. A person whose City Park privileges have been suspended may seek an appeal of the decision of the Park Employee in writing to the Director within ten calendar (10) days.

An order from a Park Employee suspending a person's City Park privileges shall: (1) be in written form; (2) shall state the effective date of suspension, (3) shall state the ending date of the suspension which shall not be more than three (3) calendar days after the effective date, and (4) shall inform the person about the right to appeal to the Director within ten (10) calendar days.

**1.4.3 Suspension to Conduct Business in City Park.**

The privilege of entering a City Park property does not include the privilege of conducting business on City Park property. Any person who conducts business in the City Park is required to have proper authorization as described in section 2.1.2. In addition to all other remedies, the Director may suspend or revoke authorization of business in the City Park when such person continuously or egregiously violates this regulation. A person who has been suspended may seek an appeal of the decision of the Director in writing to the Mayor within thirty (30) calendar days. The Director may not delegate the authority in this section.

An order from the Director suspending or revoking a person's authorization to conduct business in the City Park shall: (1) be in written form; (2) shall state the effective date of the suspension or revocation, (3) shall state whether the order suspends or revokes the authorization of conducting business in the park and, if suspension, identifies the ending date of the suspension; and (4) shall inform the person about the right to appeal.

**1.4.4 Suspension or Revocation of Other Certificates, Licenses, Permits or Authorities.**

The Director may, from time-to-time, grant other certificates, licenses, permits, or authorities to persons that provide additional or enlarged privileges on City Park property which may be suspended or revoked by the Director pursuant to the same criteria and procedures identified in section 1.4.3 of this regulation.

#### **1.4.5 Order to Vacate.**

Any Department Employee who identifies a person in a City Park, at a place or time that is prohibited, may order such person to vacate immediately. Any person violating an order to vacate issued under this section may be cited for a violation of section 4.1.2 of this regulation or, if warranted, for criminal trespass under Ark. Code Ann. § 5-39-203(a)(2).

#### **1.4.6 Appeals.**

Any person who desires to appeal an administrative determination of a Park Employee, or other Department employee may do so in writing to the Director within ten (10) calendar days of the administrative determination, The Director shall expeditiously review the administrative determination, giving full consideration of the appeal, and may rescind, uphold, or modify the determination.

Any person who desires to appeal an administrative determination of the Director may do so in writing to the Mayor within thirty (30) calendar days of the administrative determination. The Mayor shall review the administrative determination, giving full consideration of the appeal, and may rescind, uphold, or modify the determination. Appeals to the Mayor shall be heard, in person, by appointment at the Mayor's Office at City Hall.

#### **1.4.7 Records.**

Records of administrative determinations shall be subject to the Freedom of Information Act and, unless rescinded or revoked, shall be preserved for a period of not less than one year.

## **ARTICLE TWO BUSINESS IN CITY PARKS**

### **Section 1 GENERAL**

#### **2.1.1 Introduction.**

City Parks are dedicated to public recreation. Any use of City Parks for business or profit is secondary to, and should be complementary of, public recreation; including the generation of revenue to fund City Park activities, maintenance, and improvement. Business in City Parks shall be restricted according to these principles.

#### **2.1.2 Authorization Required.**

For purposes of this prohibition, "business" is defined as: (1) the solicitation of money for goods, services, or any other purpose; and/or (2) providing a good or service in exchange for money.

No person, firm, corporation, partnership, or group comprising the same, may conduct business in a City Park without written authorization from the Director, or an approved City Employee. Authorization may be provided through an event permit, a rental agreement, a business permit, or such other authorizing documents that may be approved by the Director from time-to-time through the Parks Department.

No authorization by the Director, to conduct business in a City Park shall be deemed to waive any other license or permit requirement of the City, or any other regulatory entity.

### **2.1.3 Prohibited Businesses.**

The following businesses are found to be insufficiently related to, or in conflict with, public recreation, and are prohibited.

- (A) Adult oriented businesses are prohibited in City Parks.
- (B) Weapon sales are prohibited.
- (C) Alcohol sales (including wine, beer or other spirituous liquors) of any kind whatsoever are prohibited in City Parks .
- (D) Rummage sales are prohibited. For purposes of this section, rummage sales shall mean the sale of miscellaneous articles, used or new, to raise money for charitable or for profit purposes. This provision shall not apply to vendors associated with a permitted event within the parks who have complied with the City of Heber Springs Parks Department.

### **2.1.4 Signs.**

- (A) Citizens historically expect City Parks to exhibit a natural aesthetic beauty. The City finds that this high aesthetic standard demands curtailment of signs and advertising in the City Parks. No sign of any type shall be installed in a City Park without written permission from the Director. Where signs are allowed, the Director shall not discriminate based upon a sign's message.
- (B) The Director, at their discretion, may permit temporary signs that may contain certain advertising at limited and appropriate locations within a City Park, if a request is submitted in writing to the Director.
- (C) Examples of advertising signs traditionally permitted in City Parks (dependent on size, application, and financial considerations):
  - (1) Field or facility sponsorships.
  - (2) Tournament or event sponsorship; and
  - (3) Program sponsorship.

## **Section 2 COSTS**

### **2.2.1 Fee Schedule.**

The Department shall approve and publish a fee schedule reflecting the cost of conducting business in the City Park. No person shall conduct business within a City Park unless and until the corresponding fee, as published in the fee schedule, has been paid.

### **2.2.2 Other Fees and Taxes Unaffected.**

No person shall conduct business in a City Park without first obtaining all other governmental permits and authorizations applicable to the business being conducted.

**ARTICLE THREE  
RESERVED USE OF CITY PARKS**

**Section 1  
GENERAL**

**3.1.1 Fair Access.**

The privilege of using City Parks for reserved use shall be extended to all persons complying with regulations and procedures used to reserve facilities in accordance with the purpose of the facility.

**3.1.2 Facilities Reserved by Fee.**

No person shall use a facility within a City Park that is identified by signage as one that is used by reservation only *unless* the Department has properly authorized use of the facility. Reserved facilities may require the payment of a fee for use. Authorization may be granted by receipt, form, agreement, or such other means approved by the Director. Authorizations may be exclusive, partially exclusive, or non-exclusive. Persons authorized exclusive (or partially- exclusive) use of a facility have the right to exclude others from simultaneous use of the facility during the time-period reserved.

**3.1.3 Facilities Reserved by Purpose.**

No person shall use a facility within a City Park that is reserved for a particular purpose in any manner other than the permitted use without express permission of the Director.

Facilities may be reserved by both fee and purpose.

**3.1.4 Unrestricted Facilities.**

Open park spaces, trails, playgrounds, and similar areas are generally considered "unrestricted" in that these areas may be used without a prior reservation or payment of a fee. The privilege of using unrestricted facilities is hereby extended to every person who uses the same in a manner consistent with these rules, and such other requirements as may be imposed from time to time to protect the health, safety, and welfare of visitors to City Parks. Use of unrestricted facilities is not exclusive. To the maximum extent possible, unrestricted facilities will be shared by all persons desiring simultaneous use. When sharing is not feasible, unrestricted facilities shall be used on a first-come, first-served basis with a two hour (2) time-limit.

Unrestricted facilities are considered traditional forums of free speech and may be used as such consistent with these rules and such other requirements as may be imposed from time to time to protect the health, safety, and welfare of visitors to City Parks. Conversely, restricted facilities are not considered traditional free speech forums.



## Section 2 COSTS

### 3.2.1 Fee Schedule.

A schedule of all fees related to the reservation of City Park facilities, participation in Department programs, and any other fee imposed, shall be established by the Department and maintained for public inspection by the Department. The fee schedule may include deposits, fees, or other forms of financial security, as may be required by the Department.

### 3.2.2 Mandatory Physical Security.

Based upon the magnitude and scope of an activity, as well as other risk factors, the Director, in his sole discretion, may mandate the use of security related to any event. Requirements may include number, type, and use of security personnel. Under certain circumstances, contracting through the Heber Springs Police Department may be required.

### 3.2.3 Combined Fees (business and rental).

The Department may combine business and rental fees into a single fee for ease of administration.

## ARTICLE FOUR CONDUCT IN CITY PARKS

### Section 1 GENERAL

#### 4.1.1 Definitions.

- (A) ***Athletic Contest Official.*** The term "Athletic Contest Official" shall have the same meaning as described in section 1.2.4.
- (B) ***Camping.*** As used in this article, the term "Camping" means temporarily residing in nature; normally associated with camper trailers, recreational vehicles, tents, sleeping bags, blankets, and the like.
- (C) ***City.*** The City of Heber Springs, Arkansas.
- (D) ***City Parks.*** Special places and facilities within the City of Heber Springs, Arkansas that are expressly reserved for public recreation, and such other purposes as the City considers to be sufficiently related to, or in the interest of, public recreation listed in section 1.1.3,
- (E) ***Department.*** The Director and staff of the Parks Department which functions as a department of the City.
- (F) ***Director.*** The term "director" shall have the meaning as described in section 1.2.2.
- (G) ***Dumping.*** To transport large amounts of trash or refuse (such as: yard waste, brush, furniture, appliances, inoperable vehicles, trash bags, and the like) to a City Park and leaving the same without the express permission of the Director.
- (H) ***Facility.*** A building, structure, or any improvement within a City Park.
- (I) ***Littering.*** To drop, place, or otherwise abandon trash in any place other than a designated trash receptacle.
- (J) ***Nudity.*** For purposes of this article, "nude" shall mean less than a fully opaque covering over the genitals, pubic area, buttock, or breast of a female.

(K) **Park Employee.** The term "Park Employee" shall have the meaning as described in section 1.2.3.

(L) **Person.** The term "person" includes groups, associations, corporations, and similar entities.

(M) **Weapon.** For purposes of this article, the term "weapon" shall include any item defined as a weapon under Ark. Code Ann. § 5-73-120, as well as any shotgun, rifle, or other firearm or explosive.

(N) **Wildlife.** Any non-domestic animal. The term "wildlife" includes domestic species, such as cats and dogs, which have returned to a feral or wild state.

#### **4.1.2 Unlawful Entry or Presence in City Parks.**

No person shall enter or remain in a City Park, or any part thereof, when prohibited or notified that access is closed to the public unless engaged in official duty for the Department or City. Conspicuous posting or barriers shall be effective public notice of access restrictions.

#### **4.1.3 Unlawful Activity in City Parks.**

(A) **Archery.** No person shall use bows, arrows, or other archery equipment except in designated archery areas, as established by the Parks Department.

(B) **Boating.** No person shall launch, land or leave unattended any boat, canoe, raft, or other watercraft upon any water, lagoon, lake or pond within a park except at locations and times designated for that purpose. Persons operating boats shall comply with all applicable Arkansas boat safety laws.

(C) **Camping.** No person shall camp in a City Park except in designated areas and when authorized by the Director. There is a rebuttable presumption that any person found sleeping in a City Park is camping.

(D) **Discharge of Firearms.** No person shall discharge a firearm in a City Park except as expressly authorized by the Director, or as part of the necessary function of City employees in the official conduct of their duties.

(E) **Fires.** No person shall make, or allow to be made, a fire in any City Park except in a designated group fire location, and provided such fire is used only for that purpose. Any fire must be under constant supervision by an adult, 18 years of age and up. Those found to have failed to properly supervise a fire and subsequently cause damage to a City Park may be held financially and criminally responsible as the law allows. Burn bans implemented by the City, County or State representatives supersedes this privilege.

(1) It shall be unlawful to leave any area before the fire is completely extinguished. Ashes must be cold and properly disposed of before leaving the area. Not doing so would fall under the definition of Dumping described in 4.1.1 and is eligible for a fine described in 1.3 .1.

(2) Certain areas within the City Parks to be used solely for the purpose of an outdoor group fire area designated by the Director.

(3) Exception: Prescribed burns as authorized by the Department and Chief of the Fire Department.

(D) **Fishing.**

(1) No person shall fish with any equipment other than a pole, hook and line. Trotlines and Nets are not permitted.

(2) No person shall fish in a City Park without a valid state fishing license

issued by the Arkansas Game and Fish Commission that is available for inspection by the Park Ranger or other law enforcement officer on demand.

(E) **Hunting.** No person shall hunt wildlife in any City Park by any means unless an exception has been granted in writing by the Director, consistent with federal and state regulations.

(F) **Noise.** No person within a City Park shall make, continue or cause to be made or continued any loud and raucous noise, which term shall mean any sound which, because of its volume level, duration or character, annoys, disturbs, injures or endangers the comfort, health, peace or safety of reasonable persons of ordinary sensibilities.

(G) **Swimming.** No person shall swim, bathe, or wade in any waters or waterways in a City Park except those designated for such use, and then only during posted hours.

(H) **Tobacco Use.** No person shall smoke or use tobacco-related products except in an enclosed vehicle. 4.1.4.

#### **4.1.4 Unlawful Use of Restricted Facilities.**

(A) No person shall use any City Park facility restricted for use by fee or purpose without possessing a valid reservation issued by the Department and producing the same upon demand by any Department Employee or law enforcement officer.

(B) No person shall enter a reserved area without authority of the person holding the reservation.

#### **4.1.5 Unlawful Contraband in City Parks.**

(A) **Glass containers.** Broken glass poses distinct risks to persons using areas for athletic or recreational purposes. No person shall possess any glass container within any City Park.

(B) **Weapons.** No person shall possess a weapon of any kind in a City Park except as permitted by Ark. Code Ann. § 5-73-122.

**Other items declared illegal under federal, state, or other law.** City Parks are frequented by children and others who are particularly vulnerable to dangerous or hazardous materials. No person shall transport, possess, or control any item or material declared unlawful by federal, state, or local authority into or within a City Park. Any person violating this subsection may be cited in addition to any charge under federal, state, or local law.

#### **4.1.6 Nudity.**

No person shall knowingly appear nude in a City Park a woman is not in violation of this section for breastfeeding a child in a public place or any place where other individuals are present.

#### **4.1.7 Motorized Vehicles.**

(A) No person shall operate or park any motorized vehicle in a City Park or trail *except* on streets, parking lots, and trails designated for motorized traffic, including axled trailers.

(B) No person shall operate or park any vehicle of any type in any pavilion, including axled trailers.

(C) This section shall not apply to any person operating or parking an emergency vehicle, Department vehicle, or wheelchair as defined by DOJ, Title II, 28 C.F.R. § 35.104 and Title III, 28 C.F.R. § 36.104.

(D) **Abandoned Vehicles.** Park Employees shall have the authority to have vehicles

removed from park property for vehicles left longer than two (2) consecutive days.

**4.1.8 Use of Other Power Driven Mobility Devices.**

(A) Definition. Other Power-Driven Mobility Devices (OPDMD) means any mobility device powered by batteries, fuel, or other engines - whether or not designed primarily for use by individuals with mobility disabilities - that are used by individuals with mobility disabilities for the purpose of locomotion. Examples include, but are not limited to, golf carts, mobility scooters and electronic personal assistance mobility devices (EPAMDs) such as Segway® PT. OPDMDs are not wheelchairs. DOJ, Title II, 28 C.F.R. §35.104 and Title III, 28 C.F.R. §36.104.

(B) Permit. Any person requiring an Other Power-Driven Mobility Device (OPDMD) as defined by this section, who would like to use an OPDMD on trails due to a disability, shall submit an application to the Department for a Special Use Permit.

(C) Factors. The Department shall evaluate applications for OPDMD Special Use Permits using the following factors:

- (1) The type, size, weight, dimensions and speed of the device;
- (2) The facility's or area's volume of pedestrian traffic (which may vary at different times of the day, week, month or year);
- (3) The facility's or area's design and operational characteristics;
- (4) Whether legitimate safety requirements can be established to permit the safe operation of the OPDMD in the specific facility or area; and
- (5) Whether the use of the OPDMD creates a substantial risk of serious harm to the environment or natural or cultural resources or poses a conflict with Federal Land Management laws and regulations.

(D) Appeal. A person who upon application, is denied a Special Use Permit for an OPDMD may submit an appeal in writing to the Mayor. The Mayor shall decide the appeal within ten (10) days.

**4.1.9 Non-Motorized Vehicles.**

No person shall ride, drive, operate, or push a bicycle, skateboard, roller-skates, or other non-motorized mode of transportation except on a street, trail, or course designated for that purpose.

**Section 2  
ANIMALS**

**4.2.1 Wildlife Sanctuary.**

The Department hereby declares its intent to safeguard and protect the native wildlife present in all City Parks in a manner that allows visitors to reasonably use City Park facilities and to coexist with the variety of species in an ecologically sound manner.

**4.2.2 Releasing Animals in Public Places.**

- (A) No person shall knowingly release any animal in any City Park.
- (B) As used in this section, the term "animal" shall include any animal other than a human being.

#### **4.2.3 Feeding of Animals.**

No person shall offer food, feed, or cause to be fed a domestic or wild animal or waterfowl in a City Park. It is also unlawful to scatter food, seed, or edible matter for the possible consumption of animals or waterfowl in a City Park. Exceptions will be made with authority granted by the Director, or when a domesticated animal is fed under the handler's control and care in the City Park.

#### **4.2.4 Pets.**

(A) **Leash Required.** No Pet is allowed to "run free" within City Parks. All pets shall be leashed, and the leash shall be no longer than 10 feet. The pet shall be reined in to within four feet of the pet handler whenever it approaches or is approached by another park user. An exception to this rule shall be provided for City employees or law enforcement officers, or other person(s) designated by the Department, in the official conduct of their duties and pet- training exercises authorized by the Director.

(B) **Vaccinations and Licenses.** No pets of any kind shall be permitted in any City Park for any purpose unless they are vaccinated for rabies.

(C) **Aggressive Pets.** Aggressive and/or pets deemed vicious by Animal Control are not permitted within any City Park.

(D) **Strays.** Park Employees and Animal Control Officers are authorized and directed to remove any stray dog in any City Park.

(E) **Feces.** It shall be unlawful, while within a City Park, for a pet owner or handler to fail to remove and properly dispose of his/her pets feces. It shall furthermore be the duty of any person having custody or control of any pet on or about any public place to have in such person's possession suitable equipment (i.e. plastic bags or a scooping device) for picking up, removing and disposing of feces in a sanitary manner. The provisions of this section shall not apply to a certified guide dog accompanying a blind person, a certified service dog accompanying a disabled person, or dogs used in official police activities with the permission of the city's police department.

(F) **Sandy Beach.** No pet leashed or unleashed will be allowed on the sand at any time.

#### **4.2.5 Horses.**

(A) No person shall ride or lead a horse in a City Park.

(B) No person shall allow any horse to graze or go unattended, nor shall any person tie or secure any horse to any rock, tree, shrub, bridge, facility, or vehicle. Hitching posts, when available, must be used to tie or secure horses. A horse may be cross tied between two trees, where each tree is more than six (6) inches in diameter. An exception is provided for persons temporarily tying or securing horses in designated horse loading/unloading areas. An additional exception is provided for law enforcement officers in the performance of their duties.

(C) No person shall park horse trailers, load horses, or unload horses in a City Park.

**Section 3**  
**PRESERVATION OF CITY PARKS**

**4.3.1 Preservation of Nature.**

No person shall willfully cut, damage, transplant, deface, or remove any tree, flower, grass or other vegetation, or rocks, stones or other native materials, or animals in a park or make any excavation in a park without prior approval of the Director.

**4.3.2 Preservation of City Park Property.**

No person shall remove, damage, deface, destroy, or modify any government-owned property in a City Park without express written authority of the Director. In addition to any fine imposed, any person violating this section shall be liable for the full cost of restoring the government-owned property.

**4.3.3 Littering and Dumping Prohibited.**

Persons entering City Parks have an affirmative duty to maintain control of their trash and property. Littering and Dumping, as defined herein described in section 4.1.1, is prohibited and may be punishable, even though it may be the result of mere negligence on the behalf of the offender.

- (A) No person shall deposit, drop, or abandon trash or garbage of any kind whatsoever onto any place, land, or waters within a City Park other than into the trash receptacles and bins provided by the Department. If no such trash receptacles are available, then persons possessing trash shall carry it away from the City Park and properly dispose of it elsewhere.
- (B) No person shall leave any area before all trash in the nature of boxes, papers, cans, bottles, garbage and other refuse is placed in the appropriate trash receptacles where provided. If no such trash receptacles are available, then persons possessing trash shall carry it away from the City Park and properly dispose of it elsewhere.
- (C) No person shall dispose of sewage within a City Park.

**4.3.4 Restrooms and Washrooms.**

- (A) No person shall use any restroom or washroom that is designated for persons of the opposite gender *except* children under five (5) years of age.
- (B) No person shall vandalize or smoke in any restroom or washroom in a City Park.
- (C) No person shall use a restroom or washroom in such a manner as to render it, or any part of it, unsanitary for use by others.

**4.3.5 Vandalism.**

No person shall willfully mark, deface, disfigure, move, or tamper with any buildings, monuments, bridges, tables, benches, fireplaces, railings, signs, public utilities, structures or equipment in a City Park. See 1.3.1 Fines.

**ARTICLE FIVE  
MICELLANEOUS**

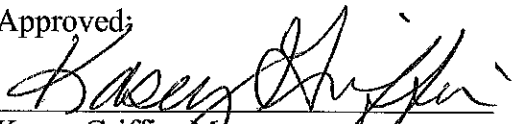
**5.1** Any ordinance or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**5.2** That the provisions of this ordinances are hereby declared to be severable and if any section, phrase or provision shall be declared or held invalid, such invalidity shall not affect the remainder of the sections, phrases or provisions.

**5.3** Emergency Clause. The need to regulations for the use of city parks in order provide for the public peace, health, safety, and welfare, is deemed by the City to be an emergency and this ordinance shall be in full force and affect from and after its passage.

Passed this 25 day of January, 2024.

Approved;

  
\_\_\_\_\_  
Kasey Griffin, Mayor

  
\_\_\_\_\_  
Vicki McPherson, City Clerk