

**ORDINANCE NO: 2021-01**

**AN ORDINANCE OF THE CITY OF MOUNT DORA, FLORIDA, PERTAINING TO REVISIONS TO THE CITY OF MOUNT DORA CODE OF ORDINANCES; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR AMENDMENTS TO THE CITY OF MOUNT DORA CODE OF ORDINANCES, CHAPTER 38, STREETS, SIDEWALKS AND OTHER PUBLIC PLACES; PROVIDING FOR THE IMPLEMENTATION OF ADMINISTRATIVE ACTIONS; PROVIDING FOR CODIFICATION AND SCRIVENER'S ERRORS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Florida Statutes, Chapter 166, confers upon a local government, the authority to adopt regulations designed to promote the public health, safety and general welfare of its citizens; and

**WHEREAS**, pursuant to its home rule powers, the City of Mount Dora may adopt necessary regulations for public lands and facilities; and

**WHEREAS**, from time to time the City of Mount Dora provides updates and amendments to its Code of Ordinances in the best interest of the citizens of and visitors to the City of Mount Dora; and

**WHEREAS**, the City finds that amendments to Chapter 38, of the City of Mount Dora Code of Ordinances, as set forth herein, are not in conflict with the public interest; and

**WHEREAS**, the City has determined that the amendments to its Code of Ordinances, as set forth herein, advance a legitimate public purpose and promote and protect the health, safety and welfare of the citizens of the City of Mount Dora.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF MOUNT DORA, FLORIDA, AS FOLLOWS:**

**SECTION 1. LEGISLATIVE FINDINGS AND INTENT.** The City of Mount Dora has complied with all requirements and procedures of the Florida law in processing this Ordinance. The above recitals are hereby adopted.

**SECTION 2. AMENDMENTS TO CITY OF MOUNT DORA CODE OF ORDINANCES, CHAPTER 38.** The City of Mount Dora Code of Ordinances, is hereby revised and amended as follows:

**Note:** Underlined words constitute additions to existing text and asterisks (\*\*\*) indicate omitted parts which are intended to remain unchanged.

## **CHAPTER 38 – STREETS, SIDEWALKS AND OTHER PUBLIC PLACES**

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### **ARTICLE V. – PUBLIC PARKS AND RECREATION**

#### **Section 38.100. – Application.**

The provisions of this article shall apply to City owned, operated, maintained or supervised public parks and recreational areas which are under the control, jurisdiction, supervision and limits of the City of Mount Dora; however, are in no way intended to nullify any laws of the United States or of the State of Florida and are meant to be supplementary thereto.

#### **Section 38.101. - Definitions.**

The following words, terms and/or phrases when used in this article and article VI Public Docks, Ramps and Watercraft Launching Areas, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

City means the City of Mount Dora.

Motorized Vehicle means any and all devices used for transportation which are propelled by an engine, including but not limited to automobiles, mopeds, motorcycles, go carts, scooters, All Terrain Vehicles (ATV) and Segways. The term specifically excludes any electric personal assistive mobility device, any self-propelled wheelchair, any electrical mobility device operated by and designed for the exclusive use of a person with a mobility-related disability, and any FDA approved devices for use by the disabled on pedestrian facilities.

Public Park means any land, real property, buildings, structures or other facility designated by the City as a park, playground, recreational area, swimming pool, hiking or biking path or trail or other recreational center and shall also include the parking lots and driveways in such areas.

Watercraft means a boat or other vessel that travels on water.

#### **Section 38.102. - Authority to Establish, Acquire and Operate Public Parks and Recreational Areas.**

- (a) The City is authorized and empowered to establish, acquire and operate Public Parks; to designate, acquire, improve, extend, operate and maintain lands, buildings and other facilities for Public Parks; to conduct programs for recreational activities in and on Public Parks; and to levy taxes and appropriate same for such Public Park and recreational uses and to make disbursements as authorized by law.

- (b) The City is authorized to plan, lay out, improve, develop, embellish, preserve and maintain all such Public Parks.
- (c) The City is authorized to construct and reconstruct, alter and renew buildings and other structures and facilities and equipment and maintain same as Public Parks.
- (d) The City is authorized to provide, conduct and supervise the programs and recreational activities in and on Public Parks.
- (e) The City may charge and collect reasonable fees for the use of such Public Park facilities, privileges and conveniences as adopted by Resolution.
- (f) The City may adopt by Resolution such additional rules and regulations as it may desire related to the use and operation of Public Parks.

**Section 38.103. - General Rules for Use.**

All persons using Public Parks shall comply with all federal, state, county and city laws, rules and regulations, in addition to those specific Public Park rules and regulations set forth herein. The City shall not be responsible for any items of personal property left in a Public Park.

**Section 38.104. - Park hours.**

- (a) The hours of operation for all Public Parks shall be as established from time to time by the City Manager or a designee thereof.
- (b) No person shall enter a Public Park outside of the hours of operation as set by the City Manager, or a designee thereof, or which has been posted as “closed”, unless authorized through permit issued by the City.

**Section 38.105. - Prohibited Activity Generally.**

- (a) No person shall consume alcoholic beverages, or possess alcoholic beverages in an open container, in a Public Park with the exception of alcoholic beverages which are legally purchased and consumed at a city-permitted special event taking place at the designated park during event permitted hours or at a Public Park located in the City’s designated Entertainment District.
- (b) No person shall be in a Public Park under the influence of illegal drugs and/or alcoholic beverages.
- (c) The sale of food, beverages or other merchandise is prohibited unless specifically authorized through permit issued by the City.
- (d) No person shall undertake mechanical repair or maintenance of any vehicle in a Public Park, including but not limited to automobile oil changes and engine tune-ups, except in case of an emergency when the vehicle is inoperable.

- (e) No person or entity shall use a Public Park for commercial purposes unless specifically authorized through permit or agreement issued by the City.
- (f) No person shall use a Public Park for washing or waxing of a Motorized Vehicles.
- (g) Lake front areas, fountains and other waterways located within Public Parks shall not be used for swimming, wading or bathing.
- (h) Smoking and vaping in Public Parks shall be in accordance with Florida Statutes, Chapter 386.
- (i) Open fires are prohibited in Public Parks, unless specifically authorized through permit issued by the City. Grills which are permanently affixed in a Public Park may be used with charcoal only provided such charcoal fires are attended at all times.
- (j) No person shall tether, launch or land a hot air balloon in a Public Park, except in case of emergency, or unless specifically authorized through permit issued by the City.
- (k) No person shall intentionally throw, toss, propel or break any glass object in a Public Park.
- (l) No person shall possess, carry or ignite fireworks, as defined by Florida Statutes, incendiary model rockets or sparklers in any Public Park, unless specifically authorized through permit issued by the City.
- (m) No person shall practice golfing or hit golf balls in a Public Parks, unless specifically authorized through permit issued by the City.
- (n) Camping is strictly prohibited in any Public Park unless specifically authorized through permit issued by the City.
- (o) No person shall willfully mark, deface, damage, displace, remove, tamper with or vandalize, in any manner, any tables, benches, fireplaces, railing, paving or paving materials, water lines or other utilities, permanent or temporary signs, placards or notices, monuments, stakes, posts, boundary markers or other structures, equipment or other City property located in a Public Park.
- (p) Other than with the express permission of the City, no person shall cut, deface, disturb, pluck, pull-up, cut, take or remove any shrub, tree, bush, grass, plant or flower located in a Public Park.
- (q) No person shall discharge a firearm in a Public Park, except that blank cartridges may be discharged using a firearm during certain events specifically authorized through permit issued by the City.

- (r) No person shall participate in archery or willfully, negligently or recklessly discharge, use or propel any object or projectile capable of causing serious physical or bodily injury, including but not limited to an air gun, BB gun, pellet gun, dart gun, crossbow, slingshot, blowgun, javelin or spear, unless specifically authorized through permit issued by the City.
- (s) No person shall engage in a lewd or lascivious act or sexual activity in a Public Park.
- (t) No person shall engage in skateboarding in a Public Park, unless specifically authorized in a designated area of a Public Park.
- (u) No person shall engage in diving or jumping from bridges or catwalks located in any Public Park.
- (v) No person shall engage in any activity within any Public Park that is dangerous to the health, safety or welfare of any person or that would cause damage to the property of another.
- (w) Children under the age of twelve (12) shall not be in a Public Park unless under the immediate supervision of a responsible adult of at least 18 years of age or older.

#### **Section 38.106. - Animals.**

- (a) *Domestic animals.* Dogs, cats, horses and other domestic animals are prohibited from and shall not be allowed on or in the confines of any Public Park, except in areas set aside for such animals. Dogs which are kept on a leash and under the control of the owner at all times, service animal as defined by Florida law and animals being used by the City in the course of official City business are exempt from this regulation.
- (b) *Wild animals.* It is unlawful to feed, catch, touch, tease, kill, wound, injure, remove, destroy, intentionally disturb or interfere in any way with birds, squirrels or any wildlife or wild animals within a Public Park with the exception of venomous reptiles.
- (c) *Release of animals.* It is unlawful to release any animal, reptile, arachnid or bird, either wild or domestic, into a Public Park.
- (d) *Fishing.* Fishing shall be in accordance with the State Fish and Wildlife Conservation Commission and the State Department of Environmental Protection rules and regulations.

#### **Section 38.107. - Motorized Vehicles.**

- (a) No motorized vehicles shall be allowed in a Public Park, except in designated parking areas or in other designated areas of a Public Park. This subsection shall not apply to:
  - (1) City employees or others authorized by the City to perform inspection, repair or maintenance work;
  - (2) persons providing emergency search and rescue, medical or veterinary services;
  - (3) vendors, on Public Park related business, as authorized by the City; and
  - (4) persons who have a valid permit for uses of a Public Park which permit specifically allows for such use of motorized vehicles.
- (b) Overnight parking of motorized vehicles is prohibited in a Public Park.

**Section 38-108. - Picnicking.**

- (a) Picnic areas in Public Parks are to be used on an order of arrival basis unless a specific permit has been issued by the City authorizing a special event or reservation of a picnic area.
- (b) No person shall move picnic tables from a picnic area in a Public Park.
- (c) No person shall leave a picnic area before completely extinguishing a grill fire or before all trash, waste and debris is placed in the disposal receptacles provided therefor.

**Section 38-109. - Littering Prohibited.**

No paper, waste, garbage, trash or debris or any other litter shall be left or disposed of on any Public Park in any other place other than appropriate receptacles provided therefor. Under no circumstances shall any household or personal garbage be brought in and disposed of in any park or recreational area.

**Section 38-110. - Permits in Public Parks and Revocation.**

- (a) A permit shall be obtained from the City in order for any person to secure exclusive use of a Public Park for a special event or to reserve a pavilion, picnic or other park facility located in a Public Park.
- (b) A permit holder shall comply with the provisions of this article and such other rules and regulations as may have been promulgated by the City.
- (c) The permit application for exclusive use of a Public Park or park facilities located within a Public Park shall be submitted in the form established by the City Manager with all necessary attachments requested.
- (d) The City Manager or a designee thereof or any City of Mount Dora police officer may revoke a permit, for any violation of the terms of the permit, any rules and regulations established by the City, any City ordinances and/or Florida or Federal laws, by the permit holder or any person using the facility pursuant to the permit.

In the event of revocation under this provision, the permit holder shall cease use of the reserved portion of the Public Park immediately. A permit holder who has a permit revoked pursuant to this article shall not be entitled to a refund of any fees paid.

- (e) Unless otherwise expressly determined by the City, the revocation of a permit as set forth herein shall constitute grounds for denial of future use permits related to the exclusive use of a Public Park or park facilities for a period of one hundred eighty (180) days following any such revocation.
- (f) Denial of a permit which is based on prior revocation shall be subject to appeal to the City Manager. Any such appeal shall be in writing, give the reasons or grounds for the appeal and shall be filed with the City Manager within seven (7) calendar days from the denial. The decision of the City Manager related to the appeal shall be final.

#### **Section 38.111. - Penalties and Enforcement.**

- (a) In addition to any remedies otherwise available under Florida law, any City police officer who has probable cause to believe that a person has committed an act in violation of this article is empowered to enforce this article through the issuance of a citation. The civil penalty for such any such infraction is as follows:
  - (1) For the first violation, the fine shall be \$50.00;
  - (2) For the second violation, the fine shall be \$100.00;
  - (3) For the third and subsequent violations, the fine shall be \$250.00 per violation.
- (b) Unless the violation is by its nature uncorrectable within a 24-hour period, each day during which the violation continues shall constitute a separate violation. The penalties provided for in this section may be imposed in addition to any other penalties imposed by this article or otherwise available under Florida law.
- (c) Any person issued a citation pursuant to this article may:
  - (1) Pay the civil penalty, either by mail or in person, within ten days of receiving the citation; or
  - (2) Contest the citation in county court.
- (d) Any person electing to contest the citation and choosing to appear in county court shall be deemed to have waived the limitations on the civil penalty specified in subsection (a) of this section. The court, after a hearing, shall make a determination as to whether an infraction has been committed. If the commission of a violation has been proven, the court may impose a civil penalty not to exceed \$500.00.
- (e) Any person who willfully refuses to sign the citation issued by the police officer is guilty of a misdemeanor of the second degree, punishable as provided in Florida

Statutes, Sections 775.082, 775.083, or 775.084. This violation shall be enforced by an officer of the City police department.

- (f) Any person who has not requested a hearing and who has not paid the fine specified in subsection (a) of this section within ten days is guilty of a misdemeanor of the second degree, punishable as provided in Florida Statutes, Sections 775.082, 775.083, or 775.084. This violation may be enforced by an officer of the City police department or by the issuance of a warrant through the court.
- (g) If any person fails to pay the civil penalty or fails to appear in court to contest the citation as required by subsection (c) of this section, the court may issue an order to show cause upon the request of the City. This order shall require such person to appear before the court to explain why action on the citation has not been taken. If any person who is issued such order fails to appear in response to the court's directive, that person may be held in contempt of court.

## **ARTICLE VI. – PUBLIC DOCKS, RAMPS AND WATERCRAFT LAUNCHING AREAS.**

### **Section 38-150. – Application.**

The provisions of this article shall apply to City owned, operated, maintained or supervised docks, ramps and/or Watercraft launching areas which are under the control, jurisdiction, supervision and limits of the City of Mount Dora; however, are in no way intended to nullify any laws of the United States or of the State of Florida and are meant to be supplementary thereto.

### **Section 38.151. - Prohibited Activity Generally.**

- (a) No person or entity shall leave a Watercraft overnight, anchored or in any way secured to a dock, dock slip, launching area, ramp or area adjacent thereto, which is owned by the City or under the care and/or custody of the City unless:
  - (1) The Watercraft is inoperable and cannot be removed under its own power, and the owner or operator has notified the City of the inoperable condition of the Watercraft; or
  - (2) The owner or operator of the Watercraft has an emergency situation.
- (b) No person or entity should use a public ramp, dock or launching area, or premises or property adjacent thereto, which is owned by the City or under the care and/or custody of the City for commercial purposes of any type, including but not limited to:
  - (1) Picking up and dropping off passengers;
  - (2) Soliciting or advertising commercial activity for hire;
  - (3) Designating the City property address as the physical address of a commercial business or the meeting location for commercial business activity; or
  - (4) Collecting or attempting to collect any compensation on City property or property under the care and/or custody of the City.



- (c) No person shall replenish, fill, or attempt to replenish or fill, any type of Watercraft, with a petroleum product of any type, while said Watercraft is located at a public ramp, dock or launching area, or premises or property adjacent thereto, which is owned by the City or under the care and/or custody of the City.

**Section 38.152. - Exemptions.**

- (a) Commercial fishing guides who hold valid permits and licenses, as required, are exempt from the regulations of this article.
- (b) Vendors providing specific services to the City of Mount Dora through a valid agreement with the City of Mount Dora are exempt from the regulations of this article, so long as such agreement specifically addresses the permitted and prohibited uses. In the event such an agreement does not specify permitted and prohibited uses, the provisions of this article shall prevail.

**Section 38.153. - Penalties and Enforcement.**

Penalties and enforcement for a violation of this article shall be pursuant to Section 38.111.

**SECTION 3. IMPLEMENTATION OF ADMINISTRATIVE ACTIONS.**

The City Manager is hereby authorized and directed to take such actions as deemed necessary and appropriate in order to implement the provisions of this Ordinance. The City Manager may, as deemed appropriate, necessary and convenient, delegate the powers of implementation as herein set forth to such City employees as deemed prudent.

**SECTION 4. CODIFICATION AND SCRIVENER'S ERRORS.**

A. The revisions to City of Mount Dora Code of Ordinances, as set forth in Section 2 above shall be codified in the City of Mount Dora Code of Ordinances.

B. The sections, divisions and provisions of this Ordinance may be renumbered or re-lettered as deemed appropriate by the codifier of the City of Mount Dora Code of Ordinances.

C. Typographical errors and other matters of a similar nature that do not affect the intent of this Ordinance, as determined by the City Clerk and City Attorney, may be corrected with the endorsement of the City Manager, or designee, without the need for a public hearing.

**SECTION 5. SAVINGS CLAUSE.** All prior actions of the City pertaining to the amendments to the City of Mount Dora Land Code of Ordinances, Chapter 38, as well as any and all other applicable matters, are hereby ratified and affirmed consistent with the provisions of this Ordinance.

**SECTION 6. CONFLICTS.** All ordinances or part of ordinances in conflict with this Ordinance are hereby repealed; provided, however, that any code or ordinance that provides for an alternative process to effectuate the general purposes of this Ordinance shall not be deemed a conflicting code or ordinance.

**SECTION 7.**      **SEVERABILITY.**    If any section, sentence, phrase, word, or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word, or portion of this Ordinance not otherwise determined to be invalid, unlawful, or unconstitutional.

**SECTION 8.**      **EFFECTIVE DATE.**    This Ordinance shall become effective immediately upon enactment by the City of Mount Dora.

**PASSED AND ADOPTED this 16th day of February, 2021.**

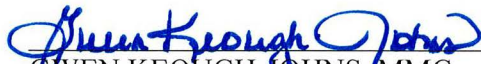
**FIRST READING:            2/02/21**

**SECOND READING:        2/16/21**



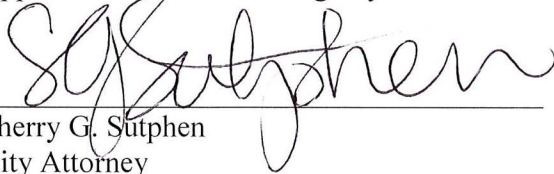
CATHERINE T. HOECHST  
MAYOR of the City of Mount Dora, Florida

ATTEST:



GWEN KEOUGH-JOHNS, MMC  
CITY CLERK

For the use and reliance of the City of Mount Dora only.  
Approved as to form and legality.



Sherry G. Sutphen  
City Attorney