



City of Foley, AL

407 E. Laurel Avenue
Foley, AL 36535

Signature Copy

Ordinance: 16-2011-ORD

File Number: 16-0198

Enactment Number: 16-2011-ORD

Amendment to the Graham Creek Nature Preserve Ordinance

WHEREAS, the City deems it necessary to set standards for rules and regulations for Graham Creek Nature Preserve, and

WHEREAS, the Graham Creek Advisory Board has reviewed and recommended that the Graham Creek Nature Preserve Ordinance be amended.

BE IT ORDAINED that the Foley City Council as follows:

Section 1. Article III entitled "Graham Creek Nature Preserve" is amended within Chapter 11.5 entitled "Parks and Recreation" of the Code of Ordinances of Foley, Alabama; and

Section 2. Section 11.5-63 entitled "Purpose and Intent", Section 11.5-64 entitled "Short Title", Section 11.5-65 entitled "Applicability", Section 11.5-66 entitled "Hours and Closing", Section 11.5-67 entitled "Reservation of Structures", Section 11.5-68 entitled "Conditions of Reservations", Section 11.5-69 entitled "Rules of Preserve Usage", Section 11.5-70 entitled "Compliance with Rules and Regulations", Section 11.5-71 entitled "Violation, Penalties and Enforcement", Section 11.5-72 entitled "Exceptions", Section 11.5-73 entitled "Saving Clause" of Article III, Chapter 11.5 entitled "Parks and Recreation" of the Code of Ordinances of Foley, Alabama, which Sections are as follows:

Sec. 11.5-63. Purpose and Intent.

The City of Foley hereby finds that it is necessary for the public health, safety and welfare to regulate the use, maintenance, and other aspects of the Graham Creek Nature Preserve. It is the intent of this Ordinance to minimize the problems associated with trespass, facility use, litter and similar matters with regard to the Graham Creek Nature Preserve.

Sec. 11.5-64. Short Title.

This Ordinance shall be known and may be cited and referred to as the "Graham Creek Nature Preserve Ordinance," and shall hereinafter be referred to as the "Ordinance."

Sec. 11.5-65. Applicability.

This Ordinance shall apply to the real property located within the City of Foley, Baldwin County, Alabama commonly known as Foley's Graham Creek Nature Preserve. The four parcels that collectively make up the Graham Creek Nature Preserve are legally described as follows:

Parcel 1 - 61-06-13-0-000-003.010

157 ACC SEC 13 SW1/4 OF SEC 13 LESS & EXCEPT PARCEL DESC AS POB 1359.40' W &

40' S OF NE COR OF SW1/4 TH S 590', W 510', N 590', TH E 510' TO POB ALSO LESS A
PARCEL DESC AS BEG 40'S OF THE NE COR OF THE SW1/4 FOR THE POB TH S 150', TH
W 50', TH N 150', TH E 50' TO THE POB IN THE CITY OF FOLEY SEC 13-T8S-R4E LESS
RD ROW (WD W/VL)

Parcel 2 - 61-06-14-0-000-004.000

166 ACC 160 D SE1/4 IN THE CITY OF FOLEY SEC 14-T8S-R4E (WD W/VL)

Parcel 3 - 61-06-23-0-000-001.000

80 ACC N1/2 OF NE1/4 IN THE CITY OF FOLEY SEC 23-T8S-R4E (WD W/VL)

Parcel 4 - 61-06-23-0-000-002.002

81 AC(C) E1/2 OF NW1/4 LESS R/W IN THE CITY OF FOLEY SEC 23-T8S-R4E (WD
W/VL)

Sec. 11.5-66. Hours and Closing.

The Graham Creek Nature Preserve is open to the general public during daylight hours only (which is approximately 6:00 AM through 8:00 PM daylight savings time and 6:00 AM through 6:00 PM when not in daylight savings time). The City of Foley has the authority to close all or portions of the Nature Preserve partially or entirely during any time period specified by the City Council. The City shall give public notice of any such closing by posting a notice thereof at the City Hall and at the Nature Preserve Interpretive Center and Pavilion. It shall be unlawful for anyone to enter upon, occupy or be within the Nature Preserve contrary to such posted closing. The Interpretive Center is open to the general public from 10:00 AM through 4:00 PM Monday through Saturday, except City observed holidays.

Sec. 11.5-67. Reservation of Structures.

- A. Permitted Uses: Structures within the Nature Preserve may be reserved for the following uses and activities: Nonprofit organization's public events; Weddings; Catered Receptions; Family Gatherings; Festivals (as defined in Ordinance No. 830-05); Meetings.
- B. Reservations: Users are responsible for adhering to and complying with all rules and regulations pertaining to the use of City parks and notably the rules outlined in Sec. 11.5-68 and Sec. 11.5-69. Any violation may result in additional fees. Reservations are on a first come, first serve basis. All fees are required in advance to secure the reservation dates. Final event details must be submitted on the attached application form at least two weeks prior to the scheduled event. Details of the event must include all components such as type of event, expected attendance, staging, tent usage, name of rental companies, entertainment, etc. Application forms and fees must be submitted to the Nature Preserve Staff.

Sec. 11.5-68. Conditions of Reservations.

- A. Insurance Requirements: Any group or individual using the Nature Preserve upon signing the Reservations Application acknowledges the agreement of the indemnity and hold harmless agreement. The City of Foley, at its discretion, reserves the right to require the group or individual to obtain a special event insurance policy.
- B. Rental Fees: Rentals Fees will be assessed on all reserved facilities based on the

attached Nature Preserve Fee Schedule. .

- C. Preparations/Clean-Up: Set-up for events cannot begin before 7 AM. Litter must be picked up as needed during the event. All trash accumulated during the event must be placed in an approved trash receptacle. At the conclusion of the event, a representative of the City will inspect the area. If the user has not cleaned up the Preserve and restored it to its original condition, the City will clean up the Preserve and charge the user for the services.
- D. Restrooms: If additional portable restroom facilities are to be used, please indicate on the application form. Portable restroom facilities must be set-up and removed within 72 hours of the event. Location will have to be coordinated with the Nature Preserve Manager.
- E. Restrictions of Reservations:
 - a. Applicants must be over 18 years of age, and permittees and their guests must fully comply with all the requirements of any special conditions attached to the permit, rules of Preserve usage, all local ordinances, codes and regulations, as well as all state and federal laws.
 - b. The City reserves the right to deny a permit to anyone so it or another public agency may reserve a structure or so the structure can remain open to the general public. The City reserves the right to deny a permit to anyone if it finds that the event is likely to be contrary to the public health, safety and welfare of the community or it finds the use is likely to damage the Preserve, its structures or other public property. The City will deny the issuance of a permit to any applicant or organization which discriminates against any person due to race, religion, sex, age, national origin or disability.
 - c. The Permittee hereby agrees to indemnify and hold the City and its officers, employees and agents harmless for any and all claims for damages or injuries to persons or property resulting from the issuance of the permit or their use of the Preserve or its structures, and the Permittee will be responsible for the group's behavior and actions at all times.
 - d. The City assumes no liability or responsibility for loss of property or for injury or damage to person or property that may be sustained while on the Preserve premises, and the Permittee hereby released and agrees to hold the City harmless for the same.
 - e. The City expressly disclaims any warranty or representation as to the suitability or condition of the Preserve premises, and the Permittee and the Permittee's guests enter at their own risk.
 - f. Permittee shall provide adequate and sanitary portable restroom facilities from a company licensed by the Baldwin County Health Department in such quantity and type as required by all applicable federal, state or local laws. Said portable restroom facilities are required to be present and operational at all times during the event, but they may be installed immediately prior to the event and removed within a reasonable time after the conclusion of the event. All portable restroom facilities shall be located where designated by the Nature Preserve Manager so as to minimize disruption on the usage of the Preserve and its sensitive areas. The Permittee is responsible for contacting the Baldwin County Health Department to obtain all necessary permits and for compliance with the Health Department's rules and

regulations.

- g. If a tent or other temporary facility will be used or erected in the Park, the Permittee shall obtain all necessary permits or approvals with the City of Foley Community Development Department prior to the event. A Permittee is allowed to erect or locate a tent or temporary structure immediately prior to the scheduled event and leave the tent or temporary structure in place after the conclusion of the event for a reasonable time without incurring additional rental charges from the City so long as its presence does not conflict or interfere with the City's, the public's or another Permittee's use of the Preserve or its structures. The tent or other temporary facility shall be located where designated by the Nature Preserve Manager so as to minimize disruption on the usage of the Preserve and its sensitive areas.
- h. No nails, tacks, brackets, self-adhesive tape or any material that will deface, mar or damage a finished surface will be allowed on or in walls, ceiling, or floors. No painting of any type will be permitted. No candles or open flames will be allowed within the facilities or outside areas. No decorations and/or banners will be placed on any structure prior to the day and time of use as outlined in the application form. All decorations must be removed from the facilities at the end of rental hours. Any person(s) caught damaging or defacing any part of the Preserve or its facilities will be prosecuted to the fullest extent of the law.

Sec. 11.5-69. Rules of Preserve Usage.

- A. Any person who utilizes the Nature Preserve does so at that person's own risk. The City assumes no liability or responsibility for loss of property or for injury or damage to person or property that may be sustained while on the Preserve premises, and the user hereby releases and agrees to hold the City harmless for the same.
- B. No person shall drive, park or store any vehicle, automobile, truck, motorcycle or bicycle within the Nature Preserve, except in areas specifically designated by the City for such purposes. No vehicle or person shall block any entrance, exit, parking area on or within the Preserve. Any parking area which is designated with a handicap parking sign shall be utilized only by handicapped persons as defined by Alabama law. The City has the authority to remove or tow any vehicle or equipment which is improperly parked, placed or stored anywhere within the Nature Preserve and the owner of such equipment or item shall be responsible for reimbursing the City for any and all towing or removal costs and expenses.
- C. All terrain recreational vehicles and other privately owned vehicles such as four wheelers and jeeps are prohibited from use within the Nature Preserve except by City employees for maintenance activities, City sponsored events, as directed by the Preserve Manager and emergency personnel such as firefighters and police officers.
- D. There shall be no hunting or trapping in the Nature Preserve or adjacent rights of way, with the exception of invasive nuisance species following federal and state guidelines.
- E. There shall be no camping or overnight stays within the Nature Preserve, unless pre-approved by the Nature Preserve Manager as part of a service organization or City event. For large events, overnight campers/motor homes are limited to area

surrounding the Interpretive Center area as security purposes for vendors.

- F. No person shall start or maintain a fire within the Nature Preserve, unless pre-approved by the Nature Preserve Manager as part of a service organization or City event.
- G. All pets, such as dogs or cats must be detained by a leash when using the Nature Preserve. All animal waste must be collected by the owner and properly disposed in a waste receptacle.
- H. No person or entity shall lease, sell or offer for sale any article, beverage, thing, privilege or service within, at, from or on the Nature Preserve. Furthermore, there shall be no begging, hawking, peddling or soliciting at, on or from the Nature Preserve. Notwithstanding such prohibitions, the City may grant a permit to allow the sale of food, beverages, or items approved by the City at its discretion for special events or under limited circumstances. The City can attach reasonable conditions to the granting of any such permit and may also charge a permit fee, as well as require any approved vendor to enter into a written contract or agreement with the City pursuant to the granting of any such permit.
- I. Garbage and refuse shall be removed from the Nature Preserve by the person or persons creating or originating such garbage or refuse, unless properly deposited in garbage receptacles provided at the Nature Preserve by the City. Trash or garbage receptacles are for the use of Nature Preserve users only.
- J. No person or entity shall deface, alter, disturb, or destroy any portion of the Nature Preserve, any property, structure, or building in the Nature Preserve, any tree, flora, fauna, or any similar item in the Nature Preserve. Any person or entity causing damage to the Nature Preserve (or to any tree, flora, fauna, structure, building, or item within the Nature Preserve) shall be responsible for fully reimbursing the City for any and all costs and expenses associated with the repair of the damage or replacement of the damaged item.
- K. No person or entity shall do any of the following at, from, or on the Nature Preserve:
 - a. Either by word or act, indulge in any noisy, boisterous, disorderly, or indecent conduct
 - b. Disturb the peace
 - c. Disturb the good order of the community
 - d. Gamble or play any game of chance
 - e. Do or engage in any indecent, lascivious, lewd, or improper act or conduct
 - f. Be under the influence of alcohol or drugs
 - g. Consume or possess any alcoholic beverage or drugs or drug paraphernalia
 - h. Discharge any firearm (with the exception of firing blanks for start of races)
 - i. Possess, sell, light or discharge any fireworks (with the exception of City managed events)
 - j. Engage in games that will deface, alter, disturb, or destroy any portion of the Nature Preserve.

Sec. 11.5-70. Compliance with Rules and Regulations.

Anyone using the Nature Preserve or present at or on the Nature Preserve shall comply with any and all rules and regulations regarding the Graham Creek Nature Preserve adopted by the City of Foley.

Sec. 11.5-71. Violation, Penalties and Enforcement.

Any person directed by a police officer or the Preserve Manager to leave the Nature Preserve shall do so promptly and peaceably. A violation of this Ordinance constitutes a municipal civil infraction. Any person, who violates, disobeys, omits, neglects or refuses to comply with any provision of this Ordinance, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this Ordinance, shall be in violation of this Ordinance and shall be responsible for a civil infraction. The civil fine for a municipal infraction shall be not less than one hundred dollars (\$100.00) for the first offense and not less than two hundred dollars (\$200.00) for subsequent offenses, in the discretion of the court, in addition to all other costs, damages, expenses and remedies provided by law. For purposes of this section, "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person within twelve (12) months of a previous violation of the same provision of this Ordinance or similar provision of this Ordinance for which said person admitted responsibility or was adjudged to be responsible. Each day during which violation continues shall be deemed a separate offense.

Sec. 11.5-72. Exceptions.

Specific provisions of this Ordinance shall not apply to any City official, law enforcement officer, fire fighter, emergency personnel or State or Federal agent engaged in a lawful government function, use or activity.

Sec. 11.5-73. Saving Clause.

- A. Nothing in this article shall impair the right of the city to maintain a civil or criminal action to abate or assess the costs of abatement of the public nuisances defined by this article.
- B. In the event that any section, subsection, sentence, clause or phrase of this Ordinance shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other sections, sentences, clauses or phrases of this Ordinance, which shall remain in full force and effect, as if the section, subsection, sentence, clause or phrase so declared or adjudged invalid or unconstitutional were not originally a part thereof.
- C. This Ordinance shall become effective immediately upon its adoption and publication.
- D. The City Administrator/Clerk is hereby directed to cause a copy of this Ordinance to be published in the Foley Onlooker, a newspaper published in and of general circulation in the city.

Section 3. "The terms and provisions of this ordinance are severable. If any part or portion of this ordinance is declared invalid, void, or unconstitutional, that portion shall be deemed severed, and the remaining portions of the ordinance shall remain in full force and effect."

Section 4. All ordinances or parts of ordinances, in any manner conflicting herewith are hereby repealed.

Section 5. This ordinance shall become effective upon its publication as required by law.

PASSED, APPROVED AND ADOPTED this 2nd day of May, 2016.

President's Signature _____

Date _____

Attest by City Clerk _____

Date _____

Mayor's Signature _____

Date _____