

AN ORDINANCE TO ENACT SECTION 16-36 OF CHAPTER 16, NUISANCES, OF
THE CITY OF BROOKHAVEN CODE OF ORDINANCES

WHEREAS, The City of Brookhaven is a municipal corporation organized and authorized by special legislative action of the State of Georgia, and

WHEREAS, The Charter of the City of Brookhaven empowers the City to exercise police powers within its borders, and

WHEREAS, The Charter of the City of Brookhaven also empowers the City to manage and maintain greenspace and park land within the City limits, and

WHEREAS, The City desires to enact policies and rules affecting the use of its parks, greenspaces, and trails, including but not limited to the Peachtree Creek Greenway,

NOW THEREFORE, it is hereby ordained and enacted by the Mayor and Council of the City of Brookhaven in an open and public meeting, as follows:

Section 1. Code Section 16-36 is enacted as follows:

Sec. 16-36. Rules for the Use and Conduct on and in City Parks, Trails and Greenspace

- a. **Purpose.** The purpose of this section is to secure the quiet, orderly and suitable use and enjoyment of City of Brookhaven parks, trails, and greenspaces.
- b. **Definitions.** The following words shall have the definitions assigned in this subsection. All other words shall bear their usual and customary meaning, unless defined elsewhere in this Code or by State Statute.
 1. **Horse.** A horse, mule, donkey, llama, alpaca, or other ungulate or ruminant that is used to transport people, equipment, or materials.
 2. **Motorized Recreational Vehicle** Any self-propelled, off the road or all terrain vehicle including, but not limited to minibike, motorcycle, go cart, trail bike, dune buggy, all terrain cycle.
 3. **Pet.** Any animal that is tamed and domesticated and kept as a companion.
 4. **Pollutant.** Any substance, solid, liquid or gas, which could cause contamination of air, land or water so as to create or cause a nuisance or render unclean or noxious or impure so as to actually or potentially harmful or detrimental or injurious to public health, safety, or welfare, or that of wildlife or vegetation.
 5. **Property.** Any land, waters, facilities or possessions of the City of Brookhaven
 6. **Responsible Person.** The parent, guardian, or person having lawful custody and control of a minor.
 7. **Roller skater.** Any person riding or propelling oneself by human power or gravity on wheeled devices that are worn on a person's feet or stood upon by a

person. This definition shall not include skate boards or other wheeled devices that are not affixed to the person's feet by laces or brackets.

8. **Smoke/smoking.** The inhaling or exhaling of smoke or gas from any lighted cigar, cigarette, pipe or other lighted tobacco or plant product. Smoking also includes carrying a lighted cigar, cigarette, pipe, or other lighted tobacco or plant product intended for inhalation.
9. **Vehicle.** Every device in, upon, or by which any person or property is or may be transported upon a roadway, except devices moved by human power or used exclusively upon stationary rails or tracks.

c. Public Use Regulations

1. **Hours of Operation for Parks and Greenspaces.** Parks and Greenspaces shall be open to the public daily from dawn to dusk, local time. It shall be unlawful for any person to enter or remain in a park at any other time without a use permit, except when the park area or facility is otherwise designated by the Council. Overnight use shall be unlawful.
2. **Hours of Operation for the Peachtree Creek Greenway** The Peachtree Creek Greenway shall be open from 6:00 a.m. until 11:00 p.m. each day. Overnight use shall be unlawful.
3. **Drug and Alcohol Use.** It shall be unlawful for any person
 - a. to use, possess, or sell any controlled substance in violation of state statutes
 - b. Serve, possess, or consume any alcoholic beverage within a park, except pursuant to a special permit issued by the City.
4. **Disorderly Conduct.** It shall be unlawful for any person to engage in disorderly conduct as defined under State law, as it may be amended from time to time.
5. **Selling of Food Items.** It shall be unlawful to sell any food items except by special permit issued by the City.
6. **Tents, Canopies, or Temporary Shelters.** It shall be unlawful to erect, use, establish tents, canopies, tarpaulins, or other temporary shelter except by special permit issued by the City.
7. **Open Fires, Smokers, or Grills.** It shall be unlawful to ignite, light, or utilize any open fire, smoker or grill, except in permanent installations provided at the park or trail for such purpose.
8. **Animals.** It shall be unlawful to bring, allow or otherwise accompany any horse, or undomesticated animal on the Peachtree Creek Greenway, or into any Park of the City.
9. **Pets.** All pets must be on leash at all times while in a Park, Greenspace, or on the Peachtree Creek Greenway unless within a designated and fenced "dog park" established by the City Council. No leash shall be more than 6 feet in length and must be in the owner's control at all times. Any pet not on a leash shall be deemed "running at large" as defined by the Code of the City of Brookhaven and the owner of such pet subject to citation, adjudication and punishment as permitted by law.

10. **Vandalism and Damage to Landscaped Areas.** It shall be unlawful to commit any act of vandalism or to recklessly harm any park property, amenity, landscaping, hardscaping, equipment, or amenity.
 11. **Fishing.** It shall be unlawful to fish in any stream, river, creek, lake or other body of water, within any park, greenspace or adjacent to any trail, unless the fisherperson shall use monofilament line, of not more than 10 pounds breaking strength, and a single unbarbed hook, using only natural baits. No lures, jigs, or other artificial devices may be utilized. Fishing is prohibited under all circumstances along the Peachtree Creek Greenway.
 12. **Roller skating.** Roller skating shall be allowed on paved surfaces only. The use of any other type of wheeled device or vehicle shall be unlawful.
 13. **Smoking.** It shall be unlawful to smoke or use smokeless tobacco products.
 14. **Swimming or Wading.** It shall be unlawful to swim or wade in any stream, river, lake or other natural body of water.
 15. **Vehicles.** It shall be unlawful to use, operate, or ride any motorized vehicle except in designated parking lots and spaces. This prohibition shall not apply to scooters or bicycles powered by electric motors.
- d. The Brookhaven Police Department, the DeKalb County Sheriff's Department, the DeKalb County Police Department and any other sworn law enforcement agency or employee of any of the enumerated agencies or other agency shall be empowered to enforce this Ordinance by citation to the Municipal Court of the City of Brookhaven, where upon conviction such person may be punished as the Court directs pursuant to Section 1.11 of this Code.
- e. The Council shall have the right to adopt by resolution other rules and regulations related to this section. Such other rules and regulations shall not be a basis for citation, though a violation of such rules and regulations will provide good and sufficient justification for a law enforcement officer to conduct a reasonable inquiry into the conduct of the violation and whether other violations of law may have occurred or be occurring.

Section 2. The Mayor is authorized to execute this Ordinance upon its passage by Council.

Section 3. This Ordinance shall take effect immediately upon passage by Council.

Section 4. The City Clerk, in consultation with the City Attorney, shall be empowered to remedy and correct any scrivener errors in the text of this Ordinance.

**CITY OF BROOKHAVEN
STATE OF GEORGIA**

ORDINANCE ORD 2019-04-01

This _____ day of April, 2019.

JOHN ARTHUR ERNST, JR.
Mayor

Attest:

Approved as to Form:

Susan Hiott
City Clerk

Christopher D. Balch
City Attorney