

letic organizations that utilize public facilities and have a current existing contract agreement with the city to do so.

Vehicle means every device in, upon or by which any person or property may be transported or drawn upon a highway, excepting devices used exclusively upon station rails or tracks.

(Ord. No. 12-23, § 1, 5-24-12)

Sec. 27-4. Parental responsibility.

No parent, guardian or custodian of a minor shall permit or allow such minor to do any act or thing in any city park or facility prohibited by the provisions of this article. Parents, guardians and custodians of minors shall also be held responsible for the acts of said minors.

(Ord. No. 12-23, § 1, 5-24-12)

Sec. 27-5. Enforcement.

(a) It shall be unlawful for any person to do any act prohibited or fail to perform any act required by this article. Any person who fails to comply with any lawful and reasonable order given by law enforcement officers or authorized city official shall be in violation of F.S. § 843.02.

(b) The city manager, city law enforcement officers, or any employee so designated by the city manager shall have the authority to eject from a city park or facility any person in violation of this article, the Winter Garden Code of Ordinances, or Florida Statutes.

(Ord. No. 12-23, § 1, 5-24-12)

Sec. 27-6. Penalties.

Any person violating any of the provisions of this chapter shall also be subject to the violation and penalty provisions of section 1-15 of this Code.

(Ord. No. 12-23, § 1, 5-24-12)

ARTICLE II. RULES FOR USE OF CITY PARKS AND FACILITIES

Sec. 27-7. Hours of use—Parks and outdoor recreation facilities.

(a) It shall be unlawful to congregate in or use any lighted city park or outdoor recreation facility after 10:00 p.m. and before 7:00 a.m., except for the following:

- (1) Those organized recreational or cultural activities where the organizer has obtained a permit for use of the city park beyond 10:00 p.m. A permit for the use of a city park beyond 10:00 p.m. may be issued to the organizer of a cultural or recreational activity by the city manager or his/her designee.
- (2) Any park or outdoor recreation facility where a sign is posted that specifies closing hours other than those specified in subsection (a).
- (3) Any city sponsored activity that has been authorized to take place in such facilities by the city manager or his/her designee.

(b) It shall be unlawful to congregate in or use any unlighted city park or outdoor recreation facility after dusk and before dawn.

(c) It shall be unlawful to congregate on or use any unlighted trail after 11:00 p.m. and before 5:00 a.m. Lighted trails shall be open at all times.

(Ord. No. 12-23, § 1, 5-24-12)

Sec. 27-8. Prohibited acts in city parks and facilities.

It shall be unlawful for any person using city parks and facilities to either perform or allow the performance of any of the following acts, unless such activity is authorized, permitted or supervised by the city:

- (a) *Damaging property.* No person shall willfully mark, deface, damage, displace, remove or tamper with any park or facility buildings, tables, benches, fireplaces, railing, paving or paving materials, water lines or other utilities, permanent or temporary signs, placards or notices, monu-

ments, stakes, posts, boundary markers or other structures, equipment or parks or recreation property.

- (b) *Improperly using park structures, equipment and furniture.*
 - (1) No person over the age of 14 years shall trespass upon or play upon or use the playground equipment at any city park other than those swings and equipment designated for adult use; however, parents, guardians, and other bona fide caretakers over the age of 14 shall have limited access to playground equipment for the purposes of supervising the use of such equipment by children under their care.
 - (2) No person shall lie or otherwise be in a horizontal position on a table or bench intended for use by the general public.
 - (3) No person may erect signs or affix signs to any tree, post, or park facility or grounds, except for city representatives or other individuals authorized by the city to do so.
 - (4) No person may drive, putt, or otherwise hit a golf ball or throw javelins or other missile type objects except in areas specifically designated for such purposes by the city manager.
 - (5) No person shall sleep, loiter or prowl in bushes, shrubs, or other foliage located within the parks.
 - (6) The city manager may develop and post additional safety rules and regulations particular to each facility.
- (c) *Polluting waters.* No person shall throw, discharge or otherwise place or cause to be placed in the waters of any fountain, pond or lake or any storm sewer or drain flowing into such waters any substance, matter or things, liquid or solid, which will or may result in the pollution of such waters.
- (d) *Damaging plants.* No person shall damage, cut, carve, transplant or remove any

tree or plant, or grass area, or injure the bark or pick the flowers or seeds of any tree or plant, nor shall any person attach any rope, wire, sign or other contrivance to any tree or plant.

- (e) *Harming or molesting animal life.* No person shall molest, harm, frighten, kill, trap, hunt, chase, capture, shoot or throw missiles at any mammal, bird, reptile or amphibian; nor shall any person remove or in any way harm the eggs, nest or young of any mammal, bird, reptile or amphibian. Fishing shall be permitted in accordance with section 27-10 of this article.
- (f) *Littering.* No person shall bring in or dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, refuse or other litter, or place refuse or litter in any waters in or contiguous to any park or facility, or anywhere on the grounds thereof, except for within those receptacles provided by the city and designated for such purposes.
- (g) *Igniting fires.* No person shall ignite or attempt to ignite any fire against or on any vegetation or park or facility structure, except in city provided fireplaces or grills when used for cooking. Persons are permitted to use a personal grill of type approved by the parks and recreation department in a designated picnic area; provided that such persons accept responsibility for proper off-site disposal of all charcoal, wood chips or other cooking materials after such use.
- (h) *Unauthorized operation of vehicles.* No person shall drive or otherwise operate a vehicle in a park or recreation area upon surfaces other than those maintained and open to the public for purposes of vehicular travel, except upon temporary parking areas as may be designated from time to time by the city commission or city manager, and further excepting vehicles in the

service of the city, animal control vehicles, law enforcement vehicles, and motorized wheelchairs.

- (i) *Possessing or consuming alcoholic beverages.* No person shall sell, possess or consume alcoholic beverages, including beer or wine; provided, however, that alcoholic beverages may be permitted by the city manager for special events or within certain designated facilities.
- (j) *Fireworks.* No person shall possess, carry or ignite fireworks or sparklers in any city park or facility, unless authorized as part of a city sponsored or authorized event such as a Fourth of July celebration or similar community celebration. The terms "fireworks" and "sparklers" shall have the same meaning as such terms are defined by F.S. § 791.01.
- (k) *Gambling.* No person shall conduct in any city park or facility any card game for money or any other game for money or participate in any form of betting or gambling as defined in Florida Statutes. A drawing for chance conducted by a charitable or non-profit organization may be conducted only in accordance with F.S. § 849.0935.
- (l) *Vending, soliciting, advertising, etc.* No person shall practice, carry on, conduct or solicit for any occupation, business, or profession in any city park or facility; or sell or offer for sale any food, beverage, merchandise, article, or anything whatsoever in any park or facility. No person shall beg or solicit contributions. This paragraph shall not apply to any person, association, organization, entity or group acting pursuant to a contract with the city or under a special event permit granted by the city.
- (m) *Operating amplified sound equipment.* No person shall install, use, and operate within a park amplified sound equipment for the purposes of giving instructions, directions, talks, addresses, or lectures, or for transmitting music to any persons or groups of persons in any park, or in the vicinity thereof, except when installed, used, or operated in compliance with a special event permit issued by the city and when operated in accordance with terms of the permit. This paragraph shall not apply to the use of a loudspeaker or other amplified sound equipment that might be used on an athletic field during an athletic competition or other event sponsored by a school or community organization or when amplified sound equipment is authorized by a negotiated agreement with the city.
- (n) *Launching or operating aircraft, radio-controlled model airplanes, etc.* No person shall launch or operate any aircraft, including but not limited to, hot air balloons, airplanes, ultralights, helicopters and gliders except in areas or at times specifically designated for this purpose by special permit issued by the city manager.
- (o) *Camping.* No person shall camp in a city park or recreation area except at such times and places as may be designated by the city manager and except pursuant to a special permit issued by the city.
- (p) *Erecting structures.* No person shall construct or erect any tent, building, shed, shelter or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon, or across a city park or recreation area except as authorized by the city manager or his/her designee.
- (q) *Endangering the public.* No person shall endanger the safety of any person or group by any conduct or act or by any failure to observe the rules established by this article.
- (r) *Interfering with use of the park by others.* No person or group shall prevent any other person or group from using any park or any of its facilities, or interfere with such use in compliance with this article and with the rules applicable to such use. Conducting activities authorized by a reserved use or special event

permit issued pursuant to this article shall not constitute a violation of this section.

- (s) *Lewd or lascivious acts and sexual activity.* No person shall engage in a lewd or lascivious act or sexual activity in a city park or facility.
- (t) *Sanitation.* No person shall discharge or otherwise deposit human wastes in a city park or facility, except in appropriate toilet facilities provided by the city for such purposes. Furthermore, no person shall shave or shower in any city park or facility except in appropriate bathing facilities provided by the city for such purposes.

(Ord. No. 12-23, § 1, 5-24-12)

Sec. 27-9. Domestic animals in parks and recreation facilities.

(a) No animals, other than dogs or cats, are permitted on park property unless a permit is applied for and obtained from the city manager to expressly authorize such animal(s). Dogs must be kept at all times on leashes no longer than eight feet. Cats must be kept at all times on leashes or restrained within a pet carrier or cage. All animal excrement must be properly cleaned up and properly disposed of by the owner or keeper of the animal.

(b) No person shall bring into any park any animal that constitutes a safety hazard or detriment to the enjoyment of the area by the public.

(c) No person having in charge or custody any dog or cat shall permit, allow or suffer such dog or cat to enter upon or remain within any playground or park area reserved for children or to enter any sandbox or play apparatus area.

(Ord. No. 12-23, § 1, 5-24-12)

Sec. 27-10. Fishing.

Fishing shall be permitted in accordance with state law in those areas of ponds, lakes, and streams designated by the city for such activity, a record of which shall be maintained by the city's parks and recreation department and made available to the public.

(Ord. No. 12-23, § 1, 5-24-12)

Sec. 27-11. Alcoholic beverages.

No person shall sell, offer for consumption, or consume any alcoholic beverage, including beer and wine, within any city park or facility except as follows:

- (a) The city commission may approve the sale or consumption of alcoholic beverages in a city park or facility in conjunction with the issuance of a special event permit when possession and consumption is specifically authorized by permit or license of the state division of alcoholic beverages and tobacco.
- (b) The city manager may approve the consumption of alcoholic beverages at private social functions in city facilities designated for such functions.

(Ord. No. 12-23, § 1, 5-24-12)

ARTICLE III. USE PERMITS

Sec. 27-12. General provisions.

(a) *Application for permits.*

- (1) Applicants may be required to provide liability insurance in accordance with section 27-12(e) if, in the sole discretion of the city manager, the requested use of the facility represents a significant risk of loss to the city.
- (2) Parks and facility use permits will not be issued to persons under 18 years of age; youth groups must have an adult sponsor.
- (3) The permittee listed on the park or facility use permit shall be considered the person or entity responsible for the conduct of the activities occurring during the event and shall be responsible for the condition of the park or facility after its use. All other conditions listed on the park or facility use permit shall apply.

(b) *Permit fees for reserved use.*

- (1) The city is authorized to establish fees for reserved use of park, recreation and com-

munity facilities and to offset the cost to the public for additional services provided by the city in connection with such use.

- (2) A fee will not be charged for use of a facility for city sponsored or co-sponsored programs or events.
- (c) *Standards for review of permit applications.*

- (1) The city manager shall approve an application for permit unless the city manager finds that any one or more of the following basis for denying a permit application exists: (i) if the applicant or the person on whose behalf the application for permit was made has on prior occasions made material misrepresentations regarding the nature or scope of an event or activity previously permitted or has violated the terms of prior permits issued to or on behalf of the applicant; (ii) the application for permit (including any required attachments and submissions) is not fully completed and executed; (iii) the applicant has not tendered the required application fee with the application or has not tendered the required user fee, indemnification agreement, insurance certificate, or security deposit within the times prescribed by the city; (iv) the application for permit contains a material falsehood or misrepresentation; (v) the applicant is legally incompetent to contract or to sue and be sued; (vi) the applicant or the person on whose behalf the application for permit was made has on prior occasions damaged city property and has not paid in full for such damage, or has other outstanding and unpaid debts to the city; (vii) a fully executed application for permit with priority for the same time and place has been received, and a permit has been or will be granted to another applicant authorizing uses or activities which do not reasonably permit multiple occupancy of the particular park or part hereof; (viii) the use or activity intended by the applicant would conflict with previously planned programs organized and conducted by the city and previously sched-

uled for the same time and place; (ix) the application is in conflict with the facility reservation frequency restrictions under this chapter; (x) the applicant has exhibited an inability or unwillingness to satisfy conditions of a permit; (xi) the proposed use or activity is prohibited by or inconsistent with the classifications and uses of the park or part thereof designated pursuant to this chapter; (xii) the use or activity intended by the applicant would present an unreasonable danger to the health or safety of the applicant, or other users of the park, of city employees or of the public; (xiii) the use or activity intended by the applicant would reasonably be calculated to incite violence, crime or disorderly conduct on the part of the participants; (xiv) the use or activity intended by the applicant would reasonably be calculated to entail unusual, extraordinary or burdensome expense for supervision, maintenance, cleanup or police protection by the city; or (xv) the use or activity intended by the applicant is prohibited by law, by this chapter or the Code of Ordinances.

- (2) Under no circumstances shall the sex, age, race, religion, political views, or national origin of applicants, event coordinators or participants be used as a basis for denying a permit.
- (3) Upon receipt of a fully executed and complete permit application, the city manager shall have 21 days to approve, approve with conditions or deny the permit application. If the 21-day application review period expires on a Saturday, Sunday or city observed holiday, the city manager shall be given until the following business day to take action on the applicable permit application. If a permit application is denied, the city manager shall explain to the applicant the city manager's reasons for denial.
- (4) Applications for permits shall be processed in order of receipt; provided however, in the event more than one application is received for reservation of the

same park or park facility during the review of a pending application(s), the city may give priority preference, first to an applicant that is a city resident or entity maintaining an office within the city's municipal boundaries, and second to an applicant with the fewest reservations of park facilities within the previous twelve-month period. The use of a particular park facility or part thereof shall be allocated based on the receipt of fully executed and complete application. Any amendment or revision of an application or permit shall for purposes of determining the priority of the application for permit, relate back to the original filing thereof; but the time in which the city manager shall approve, approve with conditions or deny the application for permit and serve notice of such denial shall be computed from the date of the amendment or revision.

(d) *Conditions of permits.*

(1) Permits will be issued under this article subject to such special regulations and instructions as may be prescribed by the city manager including, but not limited to:

- a. Restrictions on the number and other designations of persons who may participate in such permitted activities.
- b. Restrictions on the days of the week and the time of day that the particular facility may be used by the permittee.
- c. Provisions for maintenance by the permittee of the sanitation, cleanliness, and appearance of the facility. At times, portable restrooms may be required for special events.
- d. Provisions for security and the maintenance of law and order, including compliance with noise, parking, safety and other appropriate regulations. It is at the city's discretion to require security on the premises to enforce the policies of facility use. If security is deemed necessary, it is the respon-

sibility of the user group or individual to reimburse the city for costs incurred in providing such security.

- e. Restrictions on the installation of apparatus or modification in any manner, either temporary or permanent, by the permittee to a sports field or adjacent structures.
 - f. Requirements that all applicable fees shall be paid prior to use, unless other payment arrangements have been authorized.
 - g. Requirements that a certificate of insurance in accordance with subsection 27-12(e), naming the city as the additional insured, must be on file at the city prior to any permit being approved.
- (2) By applying for and obtaining a permit, permittees agree to indemnify and hold the city and the city's officials, employees, and agents harmless from any and all claims for loss, injury or damage to any persons (including death or illness) and property whatsoever caused, in whole or part by the negligence of permittees and permittees' officers, directors, employees, members, participants, invitees, spectators and agents (or any combination thereof) in the exercise or use of such permit. Without limitation to the protections afforded to the city by foregoing sentence, the city may require a permittee to execute an indemnity and hold harmless agreement in a form acceptable to the city as a condition to a permit. Nothing in or required by this chapter is intended as or shall be construed as a waiver of the city's sovereign immunity protections.

(e) *Liability insurance required for certain uses of city parks and facilities.*

- (1) The city shall require each large organized activity taking place at any city facility to have insurance for said activity. Permittee shall procure and maintain for the term of the permit insurance against claims for injuries to persons or damages

to property which may arise from or in connection with the activities described hereunder performed by the permittee, his agents, representatives, or employees. Except where otherwise specified in this article, insurance shall be provided in an amount to be determined by the city manager, provided that such amount reflects a reasonable expectation of potential liability. Insurance is to be placed with insurers authorized to do business in the state and acceptable to the city. This may not apply for infrequent use; however, a one-time special event shall be subject to this requirement. For the purpose of this subsection (e)(1), the term "large organized activity" shall apply to sporting events and competitions, special events, exhibitions, shows, speaking engagements, celebrations, concerts, performances, camps, fairs, programs and other such activities involving the assembly of 100 or more participants, spectators or other persons at any city park or facility for a common purpose under the direction and control of a person or group of persons. The city manager is authorized to waive the requirement for liability insurance when the applicant for a use permit is a regular user of the facility or an established not-for-profit group and such user or group has no history of misusing the city's parks or facilities. The city manager is also authorized to require liability insurance for an activity when not specifically required above if, in his/her opinion, the proposed activity represents a significant risk to bystanders, equipment or facilities, wildlife, or wildlife habitat. Nothing in or required by this chapter is intended as or shall be construed as a waiver of the city's sovereign immunity protections.

- (2) The certificate of insurance, naming the city as the additional insured along with an endorsement, is to be submitted prior to permit authorization or execution of a negotiated use agreement. A 30-day written notice of cancellation clause is required.

(f) *Challenge of permit decisions.*

- (1) *City manager decisions.* Any applicant or other aggrieved party in connection with a permit decision by the city manager or his/her designee made pursuant to this chapter may challenge such decision to the city commission. A challenge to the city commission of a city manager's or his/her designee's decision shall be valid only if such is submitted in writing to the city manager no later than 5:00 p.m. on the seventh day after the decision being challenged was rendered. Failure to timely submit a written challenge shall constitute a waiver of the right to challenge the decision. Upon receipt of a timely challenge, a hearing before the city commission shall be scheduled to be conducted within 30 days. The time, date and location of the city commission hearing on the challenge shall be noticed in the same manner as the city notices regular city commission meetings. The city commission shall conduct a hearing de novo and hear the testimony of witnesses and other evidence offered by the appealing party, city staff and other aggrieved persons and interested parties to the appeal. The city commission may, in conformity with the city Code of Ordinances, reverse, or affirm, wholly or partly, or modify the decision of the city manager or his/her designee. The city commission's determination on the challenge shall constitute the city's final determination of the matter.
- (2) *City commission decisions.* Any party aggrieved or adversely affected by the city commission's decision on a challenge conducted pursuant to subsection (f)(1), may challenge such decision by filing a petition for writ of certiorari as provided by the Florida Rules of Appellate Procedure in the Circuit Court of Orange County. The petition for writ of certiorari shall be filed within 30 days of the rendition of the city commission's decision, or the right to challenge the decision is waived. The court shall not conduct a trial de novo, but shall be limited to reviewing whether the deci-

sion was supported by competent substantial evidence in the record, the essential elements of the law were followed and due process was afforded. The proceedings before the city commission, including applicable city ordinances, rules and regulations, testimony of witnesses, and any exhibits and documents filed before it, shall be the subject of review by the circuit court. The person filing the petition for certiorari shall be responsible for filing with the circuit court a true and correct transcript and the complete testimony of the witnesses from the city commission hearing or meeting in which the decision was rendered. Any aggrieved person may intervene as a respondent in the certiorari proceeding authorized by this section.

(Ord. No. 12-23, § 1, 5-24-12)

Sec. 27-13. Use permits—Parks.

(a) *Picnic shelters.* Reservations for picnic shelters or park pavilions and the appurtenances thereto must be obtained in advance by filing a permit application and obtaining a use permit. A group consisting of more than 20 persons assembled for a common purpose shall make a reservation and obtain a use permit prior to the use of picnic shelters and park pavilions. Reservations must be for a specific time and duration for each such facility and shall be subject to the conditions and provisions contained in the use permit. Applications for reserved use of picnic shelters or park pavilions shall be made on forms provided by the city and in accordance with procedures promulgated by the recreation department. Reservations shall be made no less than 48 hours in advance and no longer than six months in advance. In order to allow opportunities for varied users, picnic shelters and park pavilions may not be reserved on a recurring basis by any group or individual more frequently than once each month. Use permits shall be issued only after payment of a damage deposit and fees as required by city staff. The city manager or his/her designee may establish a policy on which picnic shelters and park pavilions are available for reservation.

(b) *Public demonstrations, meetings and other public assemblies.*

- (1) No person, entity, or association shall initiate, sponsor, organize, promote, conduct or advertise a public assembly of 100 or more persons to be gathered in a park or recreational area unless a permit has been obtained from the city manager. A separate permit shall be required for each such assembly and the period of time for which such is authorized shall be clearly stated. Such permits shall clearly define the nature of the activity and the limit of its scope and time, and shall set forth such other restrictions and requirements, such as restrictions concerning the use of electronic microphones and other amplified sound equipment as the city manager or his/her designee may deem necessary to ensure that such use does not unreasonably impact the general public's use of the location or facility. Applications for permits shall be submitted no less than two weeks in advance of the date of the activity and no longer than six months in advance.
- (2) No entertainment, concert, exhibition or performance by any musical, theatrical or circus group shall be given in any park or recreation area and no electronic microphones or amplifying devices shall be used in connection therewith, except in accordance with a special event permit approved by the city manager pursuant to article IV of this chapter. Applications for special event permits shall be submitted no less than 45 days in advance of the date of the activity and no longer than 12 months in advance.

(Ord. No. 12-23, § 1, 5-24-12)

Sec. 27-14. Use permits—Recreation facilities.

(a) *Negotiated agreements for recurring use.* Regardless of any restrictions to the contrary, nothing in this article shall prohibit the city from entering into a negotiated agreement with any person or organization for recurring use of a city recreation facility in return for renovation or