

PROPOSED ORDINANCE NO. 2018-16

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF PEMBROKE PINES, FLORIDA, REPEALING THE EXISTING CHAPTER 97 OF THE CITY'S CODE OF ORDINANCE, ENTITLED "PARKS AND RECREATION," IN ITS ENTIRETY; CREATING A NEW CHAPTER 97 TO REGULATE PARKS AND RECREATION WITHIN THE CITY OF PEMBROKE PINES; PROVIDING FOR DEFINITIONS; PROVIDING FOR COMPREHENSIVE REGULATIONS RELATED TO THE CITY'S PARK FACILITIES, INCLUDING HOURS OF OPERATION, FACILITY USE, PERMIT AND APPROVAL REQUIREMENTS, ALCOHOLIC BEVERAGE AND ILLEGAL SUBSTANCE RESTRICTIONS, SANITATION, NOISE RESTRICTIONS, VEHICLE AND PARKING RESTRICTIONS, AND RESTRICTING CERTAIN ACTIVITIES WITHIN THE CITY'S PARK FACILITIES; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, Chapter 97 of the City of Pembroke Pines Code of Ordinances, entitled "Parks and Recreation" was initially enacted in 1969 and has not been revised or amended since the adoption of Ordinance No. 487 on January 22, 1979; and

**WHEREAS**, the City's Recreation and Cultural Arts Department (the "Department") has engaged in a thorough review of park operations and related facility uses throughout Broward County and the State of Florida; and

**WHEREAS**, the Department is recommending a comprehensive rewrite of Chapter 97 of the City Code to provide reasonable guidelines and procedures

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related to the City's parks and to embrace "best practices" for the use of the City's park facilities; and

**WHEREAS**, the City Commission finds that repealing the existing Chapter 97 of the City Code, in its entirety, and adopting a new Chapter 97 to provide guidelines and procedures related to the use of the City's park facilities is in the best interests of the citizens and residents of the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF PEMBROKE PINES, FLORIDA, THAT:**

**SECTION 1.** The foregoing "WHEREAS" clauses are hereby ratified as true and correct, and incorporated herein by this reference.

**SECTION 2.** Chapter 97 of the City's Code of Ordinance, entitled "Parks and Recreation," is hereby repealed in its entirety.

**SECTION 3.** That a new Chapter 97, to be entitled "Recreation and Cultural Arts," is hereby created to read as follows:

**CHAPTER 97: PARKS AND RECREATION**

**Sec. 97.01 Definitions.**

For purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- (A) *Alcoholic Beverages* shall mean and include any wine, fortified wine, liquor, beer, or any beverage considered to be an alcoholic drink.

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- (B) *City* shall mean the City of Pembroke Pines, Florida, a municipal corporation existing under the laws of the State of Florida.
- (C) *Destructive Device* shall be as defined in Section 791.01, F.S., as may be amended from time to time.
- (D) *Facility Use Agreement* shall mean a contractual agreement that must be obtained from the City with specific rules and requirements for the use of Park Facilities over a period of time.
- (E) *Fireworks* shall be as defined in Section 791.01, F.S., as may be amended from time to time.
- (F) *Law Enforcement Officer* shall mean any member of the City of Pembroke Pines Police Department or any certified law enforcement officer who is a duly sworn officer.
- (G) *Organized Athletics* shall mean any gathering of ten (10) or more individuals for the purpose of playing or practicing for sports activities such as but not limited to football, soccer, baseball, softball, swimming, hockey, lacrosse, rugby, etc.
- (H) *Park Facility or Park Facilities* means any public park, recreational or playground area, or building or facility therein, within the city owned or leased, subleased and maintained as a public park, whether or not such areas have been formally dedicated to serve such purpose.
- (I) *Park Personnel* shall mean the Director or Recreation and Cultural Arts, Assistant Director, Division Director, coordinators, supervisors, contracted personnel and any and all individuals working in the jurisdiction of the department.
- (J) *Permit* means the written permission that must be obtained from the Director of Recreation and Cultural Arts or their designee to carry out a given activity in the park.

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(K) *Weapon* shall be as defined in Section 790.001, F.S., as may be amended from time to time.

#### **Sec. 97.02 HOURS OF OPERATION**

(A) Unless otherwise determined by the City, Park Facilities shall be open to the public every day of the year between sunrise and sunset. Lighted facilities such as lighted courts, baseball/softball diamonds and fields shall be open for use beyond sunset during the times such lights are illuminated; and upon cessation of such illumination, the facilities shall be considered closed. The Director of Recreation and Cultural Arts may extend or contract these times for any park or portion thereof. No person shall enter, be, or remain in any park after the park closing time unless a permit for same has been obtained.

(B) Any section or part of any park may be declared closed to the public at any time or limited to certain users or times as public interest demands, or safety and security dictates at the discretion of the Director of Recreation and Cultural Arts.

#### **Sec. 97.03 POWERS OF THE DIRECTOR OF RECREATION AND CULTURAL ARTS**

The Director of Recreation and Cultural Arts shall have the power to make, from time to time, such reasonable rules and regulations as are necessary to manage, use, preserve and govern Park Facilities and activities.

#### **Sec. 97.04 USE OF PARK FACILITIES**

(A) The Park Facilities of the city are held by the city for the use, convenience and enjoyment of the residents and visitors of the city.

(B) It is intended that the use of all Park Facilities shall be on a first come, first served basis. It is also intended that no group or organization be permitted to monopolize any area of facilities to the exclusion of all others. Whenever the situation warrants, use of the facilities will be regulated by the use of permits and/or Facility Use Agreement. Terms and forms of

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permits or Facility Use Agreement will be formulated and regulated by the Director of Recreation and Cultural Arts to obtain the results intended as expressed above.

(C) In general, the facilities and equipment are to be used for the purposes for which they were designed. Use of facilities and equipment for purposes other than for which they were designed is prohibited.

(D) Playgrounds are restricted to children aged twelve (12) and under. Adults are allowed in playgrounds only when supervising a child.

#### **Sec. 97.05 PERMITS**

(A) Permits are required for certain activities so that Park Personnel can limit or eliminate activities which would tend to damage the park, or which are likely to create an atmosphere which would discourage use of the park for its intended purpose, or which, if not eliminated, would allow monopolizing of a park or some facilities in a park by one group to the exclusion of other groups or individuals.

(B) Facility Use.

(1) Park Facilities may be reserved in advance with the Director of Recreation and Cultural Arts by completing an application and paying the required fees. It is unlawful for any person to make a material misrepresentation with the intent to obtain a facility rental. Any applicant who makes a material misrepresentation will be subject to denial of the facility rental or revocation of authorization for the rental and may be prohibited from obtaining facility rentals for a period of not less than one year. Each material misrepresentation shall constitute a separate offense. The Director of Recreation and Cultural Arts shall be the authority with regards to all applications for use of a Park Facility.

(2) A facility rental permit is required when one or more of the following conditions apply:

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- a. Any picnic, outing, or gathering sponsored by an organization, entity or individual that is will be attended by more than ten (10) persons;
- b. Any commercial activity, contest, exhibit, dramatic performance, play, motion picture, radio, or television broadcast, fair, circus, musical event or any similar event;
- c. Any public meeting, assembly, or parade, including but not limited to, drills, maneuvers, ceremonies, addresses, speeches, or political meetings;
- d. Any activity or gathering involving Organized Athletics;
- e. Any activity to provide for the sale distribution, or sampling of materials, merchandise, food, and or beverages to the general public;
- f. Any use of any Park Facility by a certain organization, person or group of persons to the exclusion of the general public.

(3) No person in a Park Facility shall refuse or fail to produce and exhibit any Permit upon the request of any law enforcement officer or authorized Park Personnel who wishes to inspect the permit for the purpose of ensuring compliance with this Chapter. Failure to produce and exhibit any Permit, upon request of any authorized person who shall desire to inspect the Permit for the purpose of enforcing compliance with any ordinance or rule will result in expulsion from Park Facilities.

#### **Sec. 97.06 ALCOHOLIC BEVERAGES IN PUBLIC PARKS**

No person shall bring into, consume or sell alcoholic beverages in a Park Facility except:

- (1) Alcoholic beverages may be sold by persons operating under a concession from the city, subject to the regulation and control of the Director of Recreation and Cultural Arts. Sale of alcoholic beverages shall be by the individual drink only and the drinks shall only be consumed on the premises of the concession. Sale of beer and wine in unopened containers shall not be permitted.

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- (2) Alcoholic beverages may be permitted to private entrepreneurs who develop and/or operate facilities upon premises leased from the city for food services as the city deems appropriate.

#### **Sec. 97.07 ILLEGAL SUBSTANCES**

No person shall use, distribute, or possess with the intent to use or distribute any illegal substance in any Park Facility at any time. Violators shall be prosecuted to the fullest extent of the law.

#### **Sec. 97.08 SANITATION**

No person shall:

- (1) *Litter*. Throw or cause to be thrown, place, cast, deposit, dump, or drop any bottles, glass, broken glass, boxes, cans, ashes, refuse, fruit, vegetables, garbage, tobacco products, containers or foil, cinders, shells, straw, shavings, paper, scraps, dirt or like matter, filth, waste, refuse, trash, litter, or rubbish of any kind in any Park Facility, except to place the same in cans or receptacles provided for such matter. Where receptacles are not provided, the same shall be carried away from the Park Facilities by the person responsible for its presence and properly disposed of elsewhere. Refuse and trash receptacles shall only be used by those persons using the Park Facilities for park or recreational activities.
- (2) *Pollute waters*. Throw, discharge, or otherwise place or cause to be placed in any fountain, pond, lake, stream or other body of water in or adjacent to any city park, or any storm sewer, or drain flowing into such water, any substance, liquid or solid, organic or inorganic, which will or may result in the pollution of such waters.

#### **Sec. 97.09 NOISE**

- (A) Noise in any Park Facility shall be subject to Chapter 96 of the City's Code of Ordinances, as may be amended from time to time.

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(B) No person shall cause amplified sound at any Park Facility unless such activity is conducted as an incidental activity to a public meeting or assembly for which a facility permit is approved and provided such amplified sound is contained within the rental area.

#### **Sec. 97.10 OPERATION OF VEHICLES WITHIN PARKS**

(A) No person shall operate a vehicle in a Park Facility except upon designated paved or improved park roads or driveways, or in and upon designated areas or trails set aside for use by such vehicles, unless directed by a law enforcement officer or park personnel to do so, or by official signs or markings.

(B) All applicable state and local vehicle and traffic laws and ordinances shall continue in full force and effect in any Park Facility.

(C) No person shall operate a vehicle within a Park Facility in excess of the posted speed limit.

#### **Sec. 97.11 PARKING**

(A) No person shall park a vehicle in any Park Facilities other than in areas designated for parking, unless there is an emergency or unless directed to do otherwise by authorized Park Personnel. Parking shall conform to officially posted signs and markings.

(B) No vehicle shall be left parked in Park Facilities after park closing hours. Any vehicle left parked inside Park Facilities after park closing hours shall be subject to being towed.

(C) No person shall make non-emergency repairs, perform routine maintenance or wash any private or commercial vehicles in any Park Facility.

#### **Sec. 97.12 CERTAIN ACTIVITIES RESTRICTED**

Except as previously authorized by the City, no person shall, in any Park Facility, do or cause to be done any of the following:

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- (1) Willfully mark, deface, or injure in any manner, or displace, remove, or tamper with any park building, bridge, table, bench, railing, paving or paving materials, water line or other public utility or parts thereof, park sign or marking whether temporary or permanent, monument, stake, post, or other structure or equipment, facility, or park property of any kind;
- (2) Willfully dig, cut, move or remove from any park or park area any sand, wood, turf, grass, gravel, plant, tree shrub, or other material, or make any excavation by hand, tool, equipment, blasting or other means;
- (3) Construct or erect any building structure of any kind, whether permanent or temporary, or run or string any public and/or private utility into, upon or across a park;
- (4) Willfully pick, saw, chop, cut, carve, remove or injure any flowers, seeds, blooms, bark, branches, twigs, or leaves of any tree, plant, shrub, vine, bush, or any other vegetation;
- (5) Willfully drive any nail, staple, or attach or fasten any wire, rope, or other device to any tree or plant, or tie or hitch any animal to any tree or plant;
- (6) Willfully dig in or disturb any grass areas, or in any way injure or impair the natural beauty or usefulness of any Park Facility;
- (7) Willfully climb any tree, or walk, stand or sit upon any monument, fountain, railing, fence, or any other park property non designated or normally used for such purpose;
- (8) Willfully bring in or dump illegally at City Facilities.

#### **Sec. 97.13 FIRE**

Fires are not permitted except in city-provided containers such as barbeque grills. No person shall drop, throw or otherwise scatter lighted matches, burning cigarettes or cigars, tobacco, paper or other flammable materials, within any Park Facilities.

#### **Sec. 97.14 ANIMALS**

(A) No animals or pets of any kind are permitted in Park Facilities except city-operated dog parks or equestrian parks.

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(B) This subsection does not apply to the following:

- (1) Service animals, as defined by Section 413.08(l)(d) Florida Statutes, and in accordance with the provisions of Section 413.08 Florida Statutes, as may be amended from time to time;
- (2) Horses or dogs used by a law enforcement officer or Park Personnel in the performance of their duties;
- (3) Animals or fowl kept by the Department of Recreation and Cultural Arts under its direction.

#### **Sec. 97.15 SWIMMING AND BATHING**

No person in any Park Facility shall:

- (1) Swim, bathe or wade in any waterway in or adjacent to any park;
- (2) Frequent any water or places where swimming or bathing or wading is permitted, except during scheduled hours that the Director of Recreation and Cultural Arts has established for such activities;
- (3) Change into bathing clothes from street clothes or from bathing clothes into street clothes, except in a bathroom or other structure designated for such use.

#### **Sec. 97.16 BOATING**

Unless expressly permitted by the City, no person shall bring into or operate any boat, cruiser, canoe, raft or other watercraft whether motor powered or not, upon any park.

#### **Sec. 97.17 FISHING**

No fishing is permitted in any Park Facility

#### **Sec. 97.18 WEAPONS, DESTRUCTIVE DEVICES AND FIREWORKS**

- (A) No person, except a law enforcement officer, shall bring or possess any weapon or destructive device in any Park Facility.

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- (B) No person shall bring into any Park Facility or have in their possession in a Park Facility any fireworks. Fireworks shall not be displayed in any Park Facility without the expressed authorization by the City.

#### **Sec. 97.19 PICNIC AREAS AND USE**

(A) The Director of Recreation and Cultural Arts shall designate those areas of a Park Facility where picnicking is permitted. No person shall picnic other than in a designated area. Park Personnel shall have the authority to regulate the activities in such areas when necessary to prevent congestion and to secure the maximum use for the comfort and convenience of all. Visitors shall comply with any directions given by Park Personnel to achieve this end.

- (B) Picnic areas are subject to permit requirements.

#### **Sec. 97.20 PUBLIC NUISANCE AND DISORDERLY CONDUCT**

No person shall engage in any activity that interferes with the use and enjoyment of Park Facilities by others. Any person that engages in brawling, fighting or violent activity, engages in such conduct as to constitute a hazard to the health, safety or welfare of themselves or other park visitors, or violates the rules and/or regulations of any park area, shall upon due notice of violation be classified as a trespasser, and ordered to leave the park.

#### **Sec. 97.21 VENDING AND PEDDLING**

No person shall expose or offer for sale any article or thing, nor shall any person, station or place any stand, cart or vehicle for the transportation, sale or display of any such article or merchandise within the limits of any Park Facility. Exception is made as to any regularly licensed concessionaire acting by and under the authority and regulation of the City and providing foods, goods or services for the benefit of the public.

#### **Sec. 97.22 ADVERTISING AND PUBLICITY**

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All advertising or publicity posted or announced in or on any Park Facility must be approved by the Director of Recreation and Cultural Arts or designee. No person shall paste, glue, tack or otherwise post any sign, placard, advertisement or inscription whatsoever, nor shall any person erect or cause to be erected any sign whatsoever.

#### **Sec. 97.23 CAMPING**

No camping is permitted in any Park Facility. No person shall set up tents, shacks, or any other temporary shelter for the purpose of overnight camping, nor shall any person sleep in a city park, nor shall special vehicles that could be for such purpose, such as a house trailer, camp trailer, camp vehicle, or like vehicles be left on city property overnight.

#### **Sec. 97.24 ORGANIZED ATHLETICS/GAMES**

(A) The playing of Organized Athletics and holding organized practices is prohibited except on fields, courts, or areas designated for such use and approved by a Facility Use Agreement or Permit.

(B) The interpretation of organized play will be at the sole discretion of Park Personnel.

#### **Sec. 97.25 AUTHORITY TO DONATE USE OF CITY-OWNED FACILITIES**

The City, through its Director of Recreation of Cultural Arts, is authorized to donate the use of the City-owned Parks Facilities for which a user fee has been established. The association or entity granted a donation shall pay for any other costs to the city in conjunction with their use of the facility, including any staff overtime.

#### **Sec. 97.26 PERMIT TO USE CITY FACILITIES, PUBLIC PARKS OR OTHER AREAS FOR PRIVATE INSTRUCTION**

It is unlawful for any person to use any Park Facility for private instruction for compensation, in money or any other thing of value, without the prior written permission of the Director of Recreation and Cultural Arts.

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### Sec. 97.27 PHOTOGRAPHY

No person shall take still or motion pictures for commercial purposes involving the use of special settings or structures, or the performance of a cast or persons, either amateur or professional, without first obtaining a permit from the Director of Recreation and Cultural Arts.

### Sec. 97.28 TENNIS FACILITIES

(A) It is unlawful for any person to occupy a tennis court at a non-supervised city tennis facility for more than one (1) hour at a time where there are not sufficient vacant courts available at such facility for people waiting for them.

(B) This section does not apply to those courts that are in use by the city authorized tennis instructors. **Sec. 97.29 ENFORCEMENT AND PENALTY**

(A) It shall be unlawful for any person to do any act forbidden or fail to perform any act required by this chapter, or for any person to fail to comply with any lawful and reasonable order given by law enforcement officers or authorized Park Personnel.

(B) The Director of Recreation and Cultural Arts, Park Personnel, or any law enforcement officer of the city or duly sworn officer shall have the authority to eject from a Park Facility any person acting in violation of this chapter, state or federal law.

(C) Any person, including agents, servants, and employees, found guilty of violating the provisions of this chapter shall be punished as provided in Section [10.99](#) of the City's code of ordinances. Each day that a violation is permitted to continue shall constitute a separate offense. The imposition of any fine or penalty shall not be construed as excusing or permitting the continuance of any violation of this chapter.

**SECTION 4.** It is the intention of the City Commission of the City of Pembroke Pines that the provisions of this Ordinance shall become and be made

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a part of the Code of Ordinances of the City of Pembroke Pines, Florida, and that the Sections of this ordinance may be renumbered, re-lettered and the word "Ordinance" may be changed to "Section," "Article" or such other word or phrase in order to accomplish such intention.

**SECTION 5.** If any clause, section, or other part or application of this Ordinance shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered as eliminated and so not affecting the validity of the remaining portions or applications remaining in full force and effect.

**SECTION 6.** All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

**SECTION 7.** This Ordinance shall become effective immediately upon its passage and adoption.

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PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF  
PEMBROKE PINES, FLORIDA, ON THE FIRST READING, THIS \_\_\_\_ DAY OF  
\_\_\_\_\_, 2018.

PASSED ADOPTED BY THE CITY COMMISSION OF THE CITY OF  
PEMBROKE PINES, FLORIDA, ON THE SECOND AND FINAL READING, THIS  
\_\_\_\_ DAY OF \_\_\_\_\_, 2018.

CITY OF PEMBROKE PINES, FLORIDA

By: \_\_\_\_\_

ATTEST:

MAYOR FRANK C. ORTIS

\_\_\_\_\_  
MARLENE GRAHAM, CITY CLERK

ORTIS \_\_\_\_\_

APPROVED AS TO FORM:

GOOD \_\_\_\_\_

CASTILLO \_\_\_\_\_

SCHWARTZ \_\_\_\_\_

\_\_\_\_\_  
OFFICE OF THE CITY ATTORNEY

SIPLE \_\_\_\_\_

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