

MEMORANDUM

TO: The Honorable Mayor and City Council
FROM: Michael G. Dzugan, City Manager
DATE: January 17, 2023
SUBJECT: **City Parks Ordinance Amendments, Chapter 42**

At the December 12, 2022 Planning Session the City Council discussed amendment to Chapter 42, Article IV, City Parks, to address uses permitted in City Parks, with a focus on Adams Park. Based upon comments and complaints the staff had received about certain uses taking place in Adams Park, the staff drafted certain amendments to Chapter 42, Article IV, City Parks, with the goal of establishing more passive vs. active type use provisions which was shared with the City Council.

Based upon the City Council comments at the Planning Session, the staff made a few changes to the ordinance. I have attached a redlined version of the ordinance showing the changes. In summary, the changes included:

- Closing parks at 11:00 pm.
- Prohibition of "organized" games and activities.
- Deletion of damage provisions as such is codified elsewhere.
- Permitting of animals.

The Ordinance is placed on the agenda for a first reading.

Attachments.



WHEATON MAYOR PHILIP J. SUESS

CITY MANAGER MICHAEL DZUGAN

CITY COUNCIL: MICHAEL BARBIER | ERICA BRAY-PARKER | SCOTT BROWN | SUZANNE FITCH | LYNN ROBBINS | SCOTT WELLER

ARTICLE IV. CITY PARKS

Sec. 42-106. Use of ~~€~~City ~~¶~~Parks.

City Parks are generally used for the inspiration, education, use and enjoyment by the public. This article is intended to help carry out this function as well as regulate the use of City Parks to protect ~~City ¶~~Park property, structures and natural resources as well as protect the rights of those owning property adjacent to such ~~City ¶~~Parks.

City Parks shall include the following:

Adams Park (bounded by Wesley Street to the south, Main Street to the West, Seminary Avenue to the north, and Cross Street to the east) Adams Park is a ~~City ¶~~Park owned and maintained by the City of Wheaton. Adams Park is a Wheaton community centerpiece place of quiet retreat.

Volunteer Park (north of Front Street near the intersection of Wesley Street and Front Street)

Founders Park (north side of Liberty Drive between West Street and Wheaton Avenue)

Liberty Square (northwest corner of the intersection of West Street and Liberty Drive)

(1) *Hours of operation.*

- a. City Parks shall be open from the time of sunrise, as determined by the National Oceanic and Atmospheric Administration, to ~~10~~11:00 p.m., unless different hours are posted by the city manager.
- b. No persons shall remain in any City Park when the City Park is closed.

(2) *No reservation of space.* City Parks cannot be reserved. This prohibition on the reservation of space includes but is not limited to ceremonies.

(3) *Prohibited activities and restrictions.*

It is unlawful for a person in a ~~€~~City ~~¶~~Park to engage in any of the prohibited activities or to violate any of the restrictions set forth in this subsection, unless otherwise allowed pursuant to this article:

- a. Organized Games and aActivities: No person shall take part ~~in~~, encourage or abet in the playing of ball or other organized activities or games, organized athletic recreation, or any active participatory amusements, ~~or ceremonies, which may injure or damage the grass, lawn, trees, shrubbery, or other landscaping, or structures and other improvements located on city park property, or which involve hazardous or dangerous propelled or thrown objects such as arrows, javelins, darts, discs, balls, or rocks.~~
- b. Endangerment of or Interference with Health, Safety, Welfare and Use: No person shall commit any act in a City Park which endangers the health, safety, or welfare of themselves, the public, or City Park property or that unreasonably interferes with a person's reasonable and lawful use or enjoyment of a City Park.
- c. Amusement Enterprise: No person shall conduct any activity for a business or fundraising purpose which provides amusement, games, entertainment, or food and beverage concessions to those persons who attend, whether a fee is charged or is not charged for admission or for

participation in any of the activities, and includes, but is not limited to, a concert, circus, fair, animal show, festival, theatrical presentation, athletic contest, exhibition, or pageant.

- d. Fires/Grills: No person shall light, maintain, or make use of any fire in any City Park except at such places and at such time the City may designate or such purpose and then only under such rules as may be prescribed by the City. No cooking or grilling equipment shall be used in any City ~~p~~Park unless expressly permitted by the City.
- e. Sledding, Ice Skating, and Snowmobiling: No person shall ice skate, sled, toboggan, inner tube, ski, slide or engage in similar activities in any City Park or on any City Park property or improvement.
- f. Models and ~~e~~Drones: No person shall use or operate in any City Park any drone or radio-controlled or non-radio-controlled model, including a model aircraft, model boat, and model motorized wheeled or tracked vehicle.
- g. No person shall affix rope, string, bungee cords-, straps, yarn, signs, handbills, wires, nails, screws, bolts or other materials to any trees, shrubs, other landscaping or other City Park property.
- h. No person shall plant any vegetation in any City Park unless authorized by the city manager.
- ~~i. No person shall bring any animal into any Adams Park. The prohibition in this subsection shall not apply to service animals accompanying a person with a disability.~~

(4) *City sponsored events and activities.*

- a. The City may sponsor certain events and activities, including but not limited to Nights of Lights.
- b. City sponsored events and activities are exempt from the prohibition on the reservation of space, all prohibited activities and restrictions set forth in this article.

(5) *First Amendment expressive activity.*

No provision of this article is intended to prohibit any person from conducting constitutionally protected First Amendment activities, as defined in law or its reasonable corollaries, such as noncommercial demonstrations, protests, or assembly for noncommercial purposes, in any City Park.

(Code 1996, § 42-106; Ord. No. E-4129, § 1, 9-18-1995)

Sec. 42-107. Protection of property, structures, and natural resources.

- (1) *Destruction misuse of property and structures.* No person shall, upon or in connection with any City Park. destroy, deface, paint, apply graffiti, write on, colorize, alter, climb, walk on, hang from or remove any structure, monument, vase, statue, sculpture, plaques, stone marker, bench, lamp post, wall, fence, gate, railing, refuse container, fountain, drinking fountain, sign, lighting system, camera system, sprinkler system, or any other property lawfully located within a City Park area.
- (2) *Destruction or misuse of natural resources.* No person shall, negligently or wantonly, upon or in connection with any City Park: cut, remove, uproot, relocate, gird, pick, saw, chop, injure or, damage any tree, bush, shrub, flower or plant whether alive or dead, or chip, blaze, box, trim or otherwise deface or injure any tree, shrub or bush or break or remove any branch or foliage thereof, pick or gather any seed of any tree or other plant unless necessitated by the performance of restorative maintenance or construction work by ~~e~~City employees or by contract with the ~~e~~City.

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- (3) *Fountains.* No person shall swim, wade, or bathe at any time in any fountain that is within a City Park or introduce any foreign substance which will affect or impact the operation of a fountain.
- (4) *Refuse.* No person shall bring in, dispose of, dump, abandon, or leave any refuse including but not limited to bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, landscape waste, uneaten or partially consumed food or beverages; or other trash in a ~~€City~~ ~~øP~~Park except refuse or trash present by lawful use of a City Park may be properly placed in ~~€City~~ provided receptacles but where receptacles are not provided, all such rubbish or waste shall be carried away from the ~~City~~ ~~øP~~Park by the person responsible for its presence, and properly disposed of elsewhere.

(Code 1996, § 42-107; Ord. No. E-4129, § 1, 9-18-1995)

Sec. 42-108. Penalty for violations.

Any person who violates any section of this article shall be subject to the imposition of a penalty as provided in section 1-8 of this Code.

Secs. 42-109—42-124. Reserved.

ORDINANCE NO. O-2023-xx

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF WHEATON CHAPTER 42 (OFFENSES AND MISCELLANEOUS PROVISIONS), ARTICLE IV (CITY PARKS)

WHEREAS, the City of Wheaton ("City") is an Illinois Home Rule Municipality pursuant to provisions of Article VII, Section 6 of the Illinois Constitution, and as such the City may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the subject matter of this ordinance pertains to the government and affairs of the City and its residents; and

WHEREAS, the City of Wheaton desires to amend certain restrictions pertaining to the use of City Parks in order to provide for the protection and preservation of the City Park property, facilities and resources by the establishment of passive City Park use provisions.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Wheaton, Illinois by its home rule authority, that the Wheaton City Code, Chapter 42 (Offenses and Miscellaneous Provisions), Article IV (City Parks) is hereby amended.

SECTION 1. That Chapter 42 (Offenses and Miscellaneous Provisions) Article IV (City Parks) is hereby repealed in its entirety and replaced with the following:

Sec. 42-106. Use of City Parks.

City Parks are generally used for the inspiration, education, use and enjoyment by the public. This article is intended to help carry out this function as well as regulate the use of City Parks to protect City Park property, structures and natural resources as well as protect the rights of those owning property adjacent to such City Parks.

City Parks shall include the following:

Adams Park (bounded by Wesley Street to the south, Main Street to the West, Seminary Avenue to the north, and Cross Street to the east). Adams Park is a City Park owned and maintained by the City of Wheaton. Adams Park is a Wheaton community centerpiece place of quiet retreat.

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Founders Park (north side of Liberty Drive between West Street and Wheaton Avenue).

Liberty Square (northwest corner of the intersection of West Street and Liberty Drive).

(1) Hours of operation.

a. City Parks shall be open from the time of sunrise, as determined by the National Oceanic and Atmospheric Administration, to 11:00p.m., unless different hours are posted by the city manager.

b. No persons shall remain in any City Park when the City Park is closed.

(2) No reservation of space.

City Parks cannot be reserved. This prohibition on the reservation of space includes, but is not limited to, ceremonies.

(3) Prohibited activities and restrictions.

It is unlawful for a person in a City Park to engage in any of the prohibited activities or to violate any of the restrictions set forth in this subsection, unless otherwise allowed pursuant to this article:

a. Organized Games and Activities: No person shall take part, encourage or abet in organized activities or games, organized athletic recreation, or any active participatory amusements.

b. Endangerment of or Interference with Health, Safety, Welfare and Use: No person shall commit any act in a City Park which endangers the health, safety, or welfare of themselves, the public, or City Park property or that unreasonably interferes with a person's reasonable and lawful use or enjoyment of a City Park.

c. Amusement Enterprise: No person shall conduct any activity for a business or fundraising purpose which provides amusement, games, entertainment, or food and beverage concessions to those persons who attend, whether a fee is charged or is not charged for admission or for participation in any of the activities, and includes, but is not limited to, a concert, circus, fair, animal show, festival, theatrical presentation, athletic contest, exhibition, or pageant.

d. Fires/Grills: No person shall light, maintain, or make use of any fire in any City Park except at such places and at such time the City may designate or such purpose and then only under such rules as may be

prescribed by the City. No cooking or grilling equipment shall be used in any City Park unless expressly permitted by the City.

e. Sledding, Ice Skating, and Snowmobiling: No person shall ice skate, sled, toboggan, inner tube, ski, slide or engage in similar activities in any City Park or on any City Park property or improvement.

f. Models and Drones: No person shall use or operate in any City Park any drone or radio-controlled or non-radio-controlled model, including a model aircraft, model boat, and model motorized wheeled or tracked vehicle.

g. No person shall affix rope, string, bungee cords, straps, yarn, signs, handbills, wires, nails, screws, bolts or other materials to any trees, shrubs, other landscaping or other City Park property.

h. No person shall plant any vegetation in any City Park unless authorized by the city manager.

(4) City sponsored events and activities.

a. The City may sponsor certain events and activities, including but not limited to Nights of Lights.

b. City sponsored events and activities are exempt from the prohibition on the reservation of space, all prohibited activities and restrictions set forth in this article.

(5) First Amendment expressive activity.

No provision of this article is intended to prohibit any person from conducting constitutionally protected First Amendment activities, as defined in law or its reasonable corollaries, such as noncommercial demonstrations, protests, or assembly for noncommercial purposes, in any City Park.

Sec. 42-107. Protection of property, structures, and natural resources.

(1) Destruction misuse of property and structures.

No person shall, upon or in connection with any City Park destroy, deface, paint, apply graffiti, write on, colorize, alter, climb, walk on, hang from or remove any structure, monument, vase, statue, sculpture, plaques, stone marker, bench, lamp post, wall, fence, gate, railing, refuse container, fountain, drinking fountain, sign, lighting system, camera system, sprinkler system, or any other property lawfully located within a City Park area.

(2) Destruction or misuse of natural resources.

No person shall, negligently or wantonly, upon or in connection with any City Park: cut, remove, uproot, relocate, gird, pick, saw, chop, injure or damage any tree, bush, shrub, flower or plant whether alive or dead, or chip, blaze, box, trim or otherwise deface or injure any tree, shrub or bush or break or remove any branch or foliage thereof, pick or gather any seed of any tree or other plant unless necessitated by the performance of restorative maintenance or construction work by city employees or by contract with the city.

(3) Fountains.

No person shall swim, wade, or bathe at any time in any fountain that is within a City Park or introduce any foreign substance which will affect or impact the operation of a fountain.

(4) Refuse.

No person shall bring in, dispose of, dump, abandon, or leave any refuse including but not limited to bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, landscape waste, uneaten or partially consumed food or beverages; or other trash in a City Park except refuse or trash present by lawful use of a City Park may be properly placed in city provided receptacles but where receptacles are not provided, all such rubbish or waste shall be carried away from the City Park by the person responsible for its presence, and properly disposed of elsewhere.

Sec. 42-108. Penalty for violations.

Any person who violates any section of this article shall be subject to the imposition of a penalty as provided in section 1-8 of this Code.

Secs. 42-109—42-124. Reserved.

SECTION 2. In all other respects, the terms and provisions of the Wheaton City Code are ratified and remain in full force and effect.

SECTION 3. All ordinances or parts of ordinances in conflict with these provisions are hereby repealed.

SECTION 4. In the event that any section, clause, provision, or part of this ordinance shall be found and determined to be invalid by a court of competent jurisdiction, all valid parts that are severable from the invalid parts shall remain in full force and effect.

SECTION 5. This ordinance shall become effective from and after its passage, approval, and publication in pamphlet form in the manner prescribed by law.

Mayor

ATTEST:

City Clerk

Roll Call Vote:

Ayes:

Nays:

Absent:

Passed:

Published: