

**ORDINANCE NO. O-2023-05**

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**SECTION 1.** That Article IV (City Parks) of Chapter 42 (Offenses and Miscellaneous Provisions) is hereby repealed in its entirety and replaced with the following: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

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 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 Sporting Activities. No person shall take part, encourage or abet in organized sporting activities, 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 for 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 hammocks, 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 or 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 or water feature that is within a City Park or introduce any foreign substance or object to the fountain or water feature.

(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.



Philip Suess  
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Mayor

ATTEST:



Andrea Rosedale

City Clerk

**Roll Call Vote:**

Ayes:

Councilwoman Fitch  
Councilwoman Robbins  
Councilman Weller  
Councilman Barbier  
Councilwoman Bray-Parker  
Councilman Brown  
Mayor Suess

Nays: None

Absent: None

**Motion Carried Unanimously**

Passed: February 21, 2023

Published: February 22, 2023

