

**STATE OF GEORGIA
COUNTY OF DEKALB
CITY OF BROOKHAVEN**

ORD 2014-12-08

**ORDINANCE FOR THE ADOPTION OF CHAPTER 19 – *PARKS AND RECREATION* OF
THE CODE OF ORDINANCES OF THE CITY OF BROOKHAVEN, GEORGIA**

WHEREAS, the Mayor and Council of the City of Brookhaven are charged with the protection of the public health, safety and welfare of the citizens of the Brookhaven; and

WHEREAS, pursuant to Section 1.03(b)(28) of the Charter of the City of Brookhaven, the City of Brookhaven has the power to provide for the operation and maintenance of parks and playgrounds and recreational facilities; and

WHEREAS, Article IX, Section II, Paragraph III(a)(5) of the Constitution of the State of Georgia grants municipalities the power to provide for parks, recreational areas, programs and facilities; and

WHEREAS, the Mayor and Council of the City of Brookhaven find that regulating parks and recreation will provide for the health, safety and welfare of the citizens of the City of Brookhaven.

BE IT ORDAINED by the Mayor and Council of the City of Brookhaven, Georgia and it is hereby ordained by the authority of the same:

SECTION 1:

Chapter 19 is hereby deleted in its entirety and replaced with the following:

Chapter 19 - PARKS AND RECREATION

ARTICLE I. - IN GENERAL

ARTICLE II. - PARK AND RECREATION FACILITY RULES

ARTICLE III. – RESERVED

ARTICLE I. - IN GENERAL

Secs. 19-1—19-25. - Reserved.

ARTICLE II. - PARK AND RECREATION FACILITY RULES

Sec. 19-26. - Hours.

Sec. 19-27. - Using parks for golf practice, putting greens, driving ranges.

Sec. 19-28. - Motor vehicles in parks.

Sec. 19-29. - Reservation of picnic shelter areas.

- Sec. 19-30. - Alcoholic beverages.**
- Sec. 19-31. - Reserved.**
- Sec. 19-32. - Special prohibitions.**
- Sec. 19-33. - Littering.**
- Sec. 19-34. - Closing of ballfields.**
- Sec. 19-35. - Public address systems.**
- Sec. 19-36. - Weapons.**
- Sec. 19-37. - Fires.**
- Sec. 19-38. - Swimming.**
- Sec. 19-39. - Watercraft.**
- Sec. 19-40. - Vegetation—Damage or removal.**
- Sec. 19-41. - Artifact or treasure hunting.**
- Sec. 19-42. - Commercial activity.**
- Sec. 19-43. - Native wildlife.**
- Secs. 19-44 - 19-50. Reserved.**

ARTICLE III. – RESERVED

ARTICLE I. - IN GENERAL

- Secs. 19-1—19-25. - Reserved.**

ARTICLE II. - PARK AND RECREATION FACILITY RULES

Sec. 19-26. - Hours.

Parks and recreation facilities shall open at 7:00 a.m., and shall close at sunset, except that parks containing lighting for night use shall close at 11:00 p.m. Only those areas of park and recreation facilities which are illuminated and in use at night shall be interpreted as being open. All other portions of the facilities if not illuminated are considered to be closed. Applicable closing signs shall be conspicuously posted at all park and recreation facilities and any deviation from these times must be approved in writing by the city.

Sec. 19-27. - Using parks for golf practice, putting greens, driving ranges.

No person shall use any park or other area owned or operated by the city for recreation purposes as a field for golf practice, putting green or driving range, except those areas specifically designated as golf clubs.

Sec. 19-28. - Motor vehicles in parks.

- (a) A motorized vehicle means a self-propelled, wheeled conveyance that does not run on rails. A motorized vehicle shall not include a wheelchair used by a person with disabilities as an auxiliary aid. A wheelchair means a device designed solely for use by a mobility-impaired person for locomotion that is suitable for use in an indoor pedestrian area.

- (b) No person shall operate a motorized vehicle of any kind or nature in or on any city park, bicycle path, or other area owned or operated by the city for recreational purposes. This section does not prohibit persons with disabilities from using a wheelchair as an auxiliary aid in or on any city park, bicycle path, or other area owned or operated by the city for recreational purposes.
- (c) This section does not prohibit the use of motorized vehicles for maintenance purposes, golf carts operated on prescribed paths, or motorized vehicles using marked roads, driveways or parking areas.

Sec. 19-29. - Reservation of picnic shelter areas.

- (a) *Fees.* The use of a city park area or picnic shelter may be reserved for a reasonable period of time for the purpose of group activities through application to the city and upon payment of a reservation fee in accordance with the schedule established by action of the city council, a copy of which is on file in the office of the city clerk.
- (b) *Application.* All persons desiring to reserve a park area or picnic shelter shall make application to the parks and recreation department, on a form prescribed by the city.
- (c) *Fund-raisers at picnic shelters.* Any person/group wishing to hold a fund-raiser at a city picnic shelter must follow procedures for reserving picnic shelters (see section 19-30) and provide verification of current registration with the secretary of state.
- (d) *Refusal or revocation permit.* The parks and recreation department reserves the right to refuse or revoke permits. Such a determination shall be based on health, safety and welfare of the public and protection of city property.

Sec. 19-30. - Alcoholic beverages.

- (a) *Prohibited; exception.* No person shall serve, consume or transport in open containers any alcoholic beverage within a city park or recreation facility, except at a group function for which a permit has been issued by the parks and recreation department.
- (b) *Application for permit.* All persons desiring to obtain a permit to serve or consume alcoholic beverages on city park property shall make application to city hall on a form prescribed by the parks and recreation department, and shall pay a permit fee in the amount established by action of the city council, a copy of which is on file in the office of the city clerk.
- (c) *Locations where permitted.* Permits may be issued by the parks and recreation department director for the consumption of alcoholic beverages at all City of Brookhaven parks.

- (d) *Refusal and revocation of permits.* The parks and recreation department director, or his designee, shall have the right to refuse and revoke permits for cause.

Sec. 19-31. – Reserved.

Sec. 19-32. - Special prohibitions.

- (a) *Paint.* It shall be unlawful for any unauthorized person to possess paint, in any form, in or on any park or other area owned or operated by the city for recreation purposes.
- (b) *Glass containers.* No person shall possess a glass container in or on any park or other area owned or operated by the city for recreation purposes.
- (c) *Bicycles on athletic fields.* No person shall ride or walk a bicycle or other nonmotorized vehicle in or on any athletic field owned or operated by the city for recreational purposes. This section does not prohibit persons with disabilities from using a wheelchair as defined in section 19-28 as an auxiliary aid on such fields.
- (d) *Bicycles on park trails and paths.*
- (1) No person shall ride, carry, push or otherwise manually transport a one-, two- or three-wheeled cycle on or through any trails owned or operated by the city and designed solely for pedestrian use.
 - (2) This subsection does not prohibit the use of such cycles on trails or paths specifically designated for bicycling or multi-uses that include cycling. No person shall operate a one-, two- or three-wheeled cycle or a trailer attached to a cycle on trails specifically designated for bicycling or multi-uses that include cycling, if the width of the trailer or cycle exceeds 36 inches as measured from the outer rim of the back tires.
 - (3) This section does not prohibit persons with disabilities from using a wheelchair as defined in section 19-28 as an auxiliary aid on city-owned or city-operated trails and paths.

Sec. 19-33. - Littering.

- (a) *Litter* shall mean garbage, refuse, paper, rubbish, debris, trash and all other waste material whether natural or artificial.
- (b) It shall be unlawful for any person to throw, dump, or deposit litter on the grounds, streets, sidewalks, ponds, lakes, swimming pools or other body of water in any city park or recreation facility, except within public. Where public receptacles are not provided, all such litter shall be carried away from the recreation facility by the person responsible for its presence and shall be properly disposed of elsewhere.

Sec. 19-34. - Closing of ballfields.

The parks and recreation department may close to the public particular ballfields for maintenance purposes. Such ballfields shall be posted, and it shall be unlawful for any person to enter a closed field.

Sec. 19-35. - Public address systems.

No public address systems, loud speakers or amplifying devices shall be used in city parks unless written authorization for use is given by the parks and recreation department director, or his designee.

Sec. 19-36. - Weapons.

- (a) Weapons include, but are not limited to, firearms; knives; air guns; paintball guns; archery equipment; explosives; fireworks; slingshots; fishing spears; any device designed to launch a projectile by physical strength, compressed gas/compressed air or a fuel source; and other devices designed for the purpose of offense or defense.
- (b) It shall be unlawful for any person other than law enforcement officers to shoot, use, carry, or employ any weapon or similar device in any park or other area owned or operated by the city for recreational purposes.
- (c) It shall be unlawful for any person other than law enforcement officers to discharge any firearm in any park or other area owned or operated by the city for recreational purposes.
- (d) The director of the parks department or his designee may issue a permit for a time-limited use of weapons other than firearms, and the permit shall set forth specific conditions for use and handling of such weapons.

Sec. 19-37. - Fires.

- (a) It shall be unlawful for any person to build or maintain a fire in any park or other area owned or operated by the city for recreational purposes except in designated areas clearly marked by signs or defined by the existence of city-approved fire rings.
- (b) Permanently mounted grills may be used and personal grills may be used in designated authorized areas.
- (c) Camp fires may be allowed with written authorization from the director of the parks and recreation department or his designee for organized groups allowed in any park or other area owned or operated by the city for recreational purposes after closing time. The written authorization must be on site with the event organizer or his designee and available for inspection at the time of the camp fire.

Sec. 19-38. - Swimming.

- (a) It shall be unlawful for any person to disobey the lawful direction of a lifeguard at a city-owned or -operated pool facility during the hours of operation.

- (b) Swimming is prohibited in lakes, ponds, or creeks located inside any park or other area owned or operated by the city for recreational purposes.
- (c) Entering and using any body of water located in any park or other area owned or operated by the city for recreational purposes for bathing or excretory functions is unlawful.

Sec. 19-39. - Watercraft.

- (a) Lakes and streams located in city parks or other areas owned or operated by the city for recreational purposes may be used for boating.
- (b) Boats, canoes, rubber rafts or other floating watercraft may not be used in any park or other area owned or operated by the city for recreational purposes if such equipment is powered by more than twelve-volt electric motors.
- (c) It shall be unlawful for any person to operate a watercraft with a petroleum-based, fuel-burning engine in any park or other area owned or operated by the city for recreational purposes.
- (d) All watercraft must be carried by hand to the water's edge for launching. Water craft shall not be permitted to be towed by vehicle to the edge of any body of water in any park or other area owned or operated by the city for recreational purposes.
- (e) This section shall not apply to official use of watercraft by law enforcement, fire and rescue personnel, or by city crews for maintenance and inspection.

Sec. 19-40. - Vegetation—Damage or removal.

- (a) It shall be unlawful for any person to dig up, cut, damage or remove any tree, tree limb, shrubbery, flowers, rock, mulch or other vegetation/natural fixture located in any park or other area owned or operated by the city for recreational purposes.
- (b) This section shall not apply to personnel employed or engaged by the city to maintain city parks and recreational areas or an authorized group of volunteers involved in a city-approved project for the enhancement of a park or other area owned or operated by the city for recreational purposes.

Sec. 19-41. - Artifact or treasure hunting.

- (a) It shall be unlawful for any person to search any park or other area owned or operated by the city for recreational purposes for historic artifacts or for the purpose of locating lost or abandoned personal property of another, unless such person specifically is authorized by the owner of that personal property to make such search on the owner's behalf.
- (b) It shall be unlawful for any person to remove any historic artifacts or lost or abandoned personal property of another from any park or other area owned or operated by the city for

recreational purposes unless such person specifically is authorized by the owner of that personal property to recover such personal property on the owner's behalf.

- (c) It shall be unlawful for any person to dig in or otherwise disturb the ground in a park or other area owned by the city for recreational purposes, except under the circumstances permitted in subsection 19-40(b) above.
- (d) This section does not prohibit a person from visually searching for and reclaiming his/her own lost property in any park or other area owned or operated by the city for recreational purposes, either by himself/herself or by someone specifically authorized by the owner of the lost personal property to act on his/her behalf.
- (e) The prohibitions of this section shall not apply to law enforcement personnel engaged in the lawful execution of their duties or to persons employed or engaged by the city when performing their duties in any park or other area owned or operated by the city for recreational purposes.

Sec. 19-42. - Commercial activity.

Unless approved by prior written permit issued by the director of the parks and recreation department or his designee, it shall be unlawful for any person in any city park to:

- (a) Sell or offer for sale any merchandise;
- (b) Operate or attempt to operate a concession; or
- (c) Engage in any commercial or charitable activity in a city park.

The written permit must be on site with the event organizer or his/her designee and available for inspection at the time the activity regulated in this section is occurring.

Sec. 19-43. - Native wildlife.

- (a) It shall be unlawful to remove or disturb any living or dead native creatures in city parks, including mammals, birds, fish, amphibians, and reptiles, or the parts or progeny thereof, such as nests, eggs, or antlers.
- (b) Fishing activities in city park lakes or streams shall be allowed from the shore of a body of water or from watercraft, if the location is designated by a city sign as allowing fishing at that particular location.

Sec. 19-44 - 19-50. Reserved.

ARTICLE III. – RESERVED

SECTION 2:

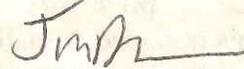
Severability. Should any court of competent jurisdiction declare any section of this Ordinance invalid or unconstitutional, such declaration shall not affect the validity of this Ordinance as a whole or part thereof, which is not specifically declared to be invalid or unconstitutional.

SECTION 3:

The provisions of this Ordinance shall become and be made part of The Code of the City of Brookhaven, Georgia, and the sections of this Ordinance may be renumbered to accomplish such intention.

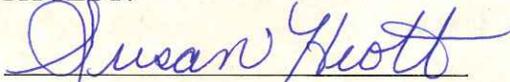
SO ORDAINED, this 16th day of December, 2014.

APPROVED:



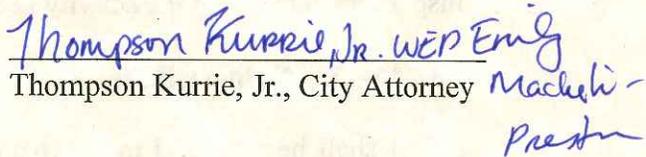
J. Max Davis, Mayor

ATTEST:



Susan Hiott, City Clerk

APPROVED AS TO FORM:



Thompson Kurrie, Jr., City Attorney

