



MEMORANDUM
Office of the City Attorney

Legistar No. 041020

Phone: 334-5011/Fax 334-2229
Box 46

TO: Mayor and City Commission

DATE: October 10, 2005
FIRST READING

FROM: City Attorney

SUBJECT: Ordinance No. 0-05-81

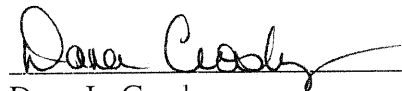
An ordinance of the City of Gainesville, Florida, amending sections in article II, Chapter 18, City of Gainesville Code of Ordinances, relating to Parks and Recreation; amending section 18-18, City of Gainesville Code of Ordinances; updating list of parks; amending section 18-19, City of Gainesville Code of Ordinances; updating and clarifying hours parks will be closed; amending section 18-20, City of Gainesville Code of Ordinances; updating and clarifying prohibited activities in City parks; creating section 18-21, City of Gainesville Code of Ordinances; stating land management provisions applicable to nature parks, centers, and conservation areas; creating section 18-22, City of Gainesville Code of Ordinances; relating to archeological discovery; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

Recommendation: The City Commission adopt the proposed ordinance.

The City Commission at its meeting of August 8, 2005, authorized the City Attorney to draft and the Clerk of Commission to advertise an ordinance revising the sections in Article II, Chapter 18 of the Code, regarding park policies. The Recreation and Parks Department presented an overview of the proposed changes to the Recreation and Cultural Affairs Committee at its meeting on June 16, 2005, and the Committee approved the Department's recommendations.

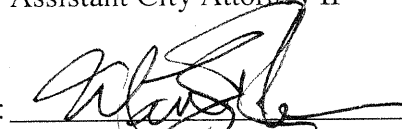
This ordinance requires two readings. If approved on first reading, the second and final reading will be October 24, 2005.

Prepared by:



Dana L. Crosby
Assistant City Attorney II

Approved and
Submitted by:



Marion J. Radson,
City Attorney

MJR:DLC:sw

ORDINANCE NO. 0-05-81

An ordinance of the City of Gainesville, Florida, amending sections in article II, Chapter 18, City of Gainesville Code of Ordinances, relating to Parks and Recreation; amending section 18-18, City of Gainesville Code of Ordinances; updating list of parks; amending section 18-19, City of Gainesville Code of Ordinances; updating and clarifying hours parks will be closed; amending section 18-20, City of Gainesville Code of Ordinances; updating and clarifying prohibited activities in City parks; creating section 18-21, City of Gainesville Code of Ordinances; stating land management provisions applicable to nature parks, centers, and conservation areas; creating section 18-22, City of Gainesville Code of Ordinances; relating to archeological discovery; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

WHEREAS, at least 10 days notice has been given once by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of a Public Hearing to be held in the City Commission Auditorium, City Hall, City of Gainesville; and

WHEREAS, the Public Hearings were held pursuant to the published notice described at which hearings the parties in interest and all others had an opportunity to be and were, in fact, heard.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA:

Section 1. Section 18-18, City of Gainesville Code of Ordinances, is hereby amended as follows:

Sec. 18-18. Listing of City Parks.

The following are City parks to which closing hours set forth in ~~this article apply~~ Sec. 18-19 apply:

- 1) ~~Thomas Center Gardens~~
- 2) ~~Northeast Park~~
- 3) ~~Westside Park~~
- 4) ~~Greentree Park~~
- 5) ~~T.B. McPherson Recreation Complex~~
- 6) ~~ANNE Park~~
- 7) ~~Bivens Arm Nature Park~~
- 8) ~~S.E. Urban Park~~
- 9) ~~Boulevard Springs~~

- 1 ~~10) — Thelma A. Boltin Activity Center~~
- 2 ~~11) — Rosa B. Williams/Union Academy Recreation Center~~
- 3 ~~12) — Palm Point~~
- 4 ~~13) — Loblolly Center~~
- 5 ~~14) — Lynch Park~~
- 6 ~~15) — Ring Park~~
- 7 ~~16) — N.E. 31st Avenue Park~~
- 8 ~~17) — Kiwanis Park~~
- 9 ~~18) — Smokey Bear Park~~
- 10 ~~19) — Tumblin Creek Park~~
- 11 ~~20) — Archery Range~~
- 12 ~~21) — Woodlawn Park~~
- 13 ~~22) — Young American Park~~
- 14 ~~23) — Tot Lot No. 1~~
- 15 ~~24) — Tot Lot No. 2~~
- 16 ~~25) — Tot Lot No. 3~~
- 17 ~~26) — Tot Lot No. 4~~
- 18 ~~27) — Tot Lot No. 5~~
- 19 ~~28) — Tot Lot No. 6~~
- 20 ~~29) — Tot Lot No. 7~~
- 21 ~~30) — Tot Lot No. 8~~
- 22 ~~31) — Tot Lot No. 9~~
- 23 ~~32) — Tot Lot No. 10~~
- 24 ~~33) — Morningside Nature Center~~
- 25 ~~34) — Green Acres Park~~
- 26 ~~35) — Community Plaza~~
- 27 ~~36) — Plaza area of City Hall~~
- 28 ~~37) — Citizen's Park~~
- 29 ~~38) — Roper Park~~
- 30 ~~39) — Sharmie Ffar Park~~
- 31 ~~40) — Grandmother's Park~~
- 32 ~~41) — Springtree Park~~
- 33 ~~42) — Northside Park~~
- 34 ~~43) — Wilhemia Johnson Recreation Center~~
- 35 ~~44) — N.E. Liaison Center~~
- 36 ~~45) — Possum Creek Park~~

37

38 (a) Active/Recreational etc:

- 39 (1) ANNE Park
- 40 (2) Citizen's Park/Martin Luther King, Jr. Recreation Complex
- 41 (3) Fred Cone Park/Eastside Center Recreation Complex
- 42 (4) Green Acres Park
- 43 (5) Greentree Park
- 44 (6) Kiwanis Park
- 45 (7) N.E. 31st Avenue Park
- 46 (8) N.E. Community Center Recreation Complex
- 47 (9) Northeast Park
- 48 (10) Northside Park
- 49 (11) Oak Hill Park

- 1 (12) Phoenix Neighborhood Playground
- 2 (13) Porter's Community Center
- 3 (14) Possum Creek Park
- 4 (15) Roper Park
- 5 (16) Rosa B. Williams/Union Academy Recreation Complex
- 6 (17) Smokey Bear Park
- 7 (18) Springtree Park
- 8 (19) T.B. McPherson Recreation Complex
- 9 (20) Tumblin Creek Park
- 10 (21) Tot Lot No. 1
- 11 (22) Tot Lot No. 2
- 12 (23) Tot Lot No. 3
- 13 (24) Tot Lot No. 4
- 14 (25) Tot Lot No. 5 (Barbara Higgins Park)
- 15 (26) Tot Lot No. 6
- 16 (27) Tot Lot No. 7
- 17 (28) Tot Lot No. 9
- 18 (29) Wacahoota Archery Range and Park
- 19 (30) Westside Recreation Complex

20
21 (b) Nature Parks, Centers and Conservation Areas:

- 22 (1) Alfred A. Ring Park
- 23 (2) Bivens Arm Nature Park
- 24 (3) Boulware Springs Nature Park
- 25 (4) Broken Arrow Bluff Nature Park
- 26 (5) Clear Lake Nature Park
- 27 (6) Cofrin Nature Park
- 28 (7) Colclough Pond Nature Park
- 29 (8) Flatwoods Nature Park
- 30 (9) Forest Nature Park
- 31 (10) Gum Root Park
- 32 (11) Loblolly Environmental Facility & Loblolly Woods Nature Park (Hogtown Creek
- 33 (Greenway)
- 34 (12) Morningside Nature Center
- 35 (13) Palm Point Nature Park
- 36 (14) NW 29th Road Nature Park
- 37 (15) Split Rock Conservation Area
- 38 (16) Sugarfoot Prairie Conservation Area
- 39 (17) Terwilliger Pond Conservation Area
- 40 (18) John Mahon Nature Park

41
42 (c) Other:

- 43 (1) Boulware Springs Historic Water Works
- 44 (2) Depot Park
- 45 (3) Downtown Community Plaza
- 46 (4) Lynch Park
- 47 (5) City Hall Plaza

- 1 (6) Springhill Park
- 2 (7) SW 5th Avenue Basin
- 3 (8) Sweetwater Park
- 4 (9) Thelma A. Boltin Senior Activity Center
- 5 (10) Thomas Center and Grounds and Gardens
- 6 (11) Wilhelmina Johnson Center & Sharmie Ffar Complex
- 7 (12) Woodlawn Park
- 8 (13) Ironwood Golf Course
- 9

10 **Section 2. Section 18-19, City of Gainesville Code of Ordinances, is hereby amended as**

11 **follows:**

12 **Sec. 18-19. Park Hours during which parks will be closed.**

13 (a) Except as specifically provided or posted at the park facility, and except for tot lots, the parks
 14 listed in subsections 18-18(a) and 18-18(c) shall be open for public use between the hours of 6:00 a.m.
 15 until 11:30 p.m. (this includes the buildings, pools, and ball fields located within the park boundaries), the
 16 same day and shall be closed to public use from 11:30 p.m. until 6:00 a.m. of the following day. The City
 17 Manager or designee reserves the right to program facilities located in any of the above listed parks,
 18 including but not limited to park grounds, centers, picnic pavilions and ball fields, during the open hours
 19 of operation notwithstanding the fact that public access to these facilities may be limited during
 20 programmed events. Tot lots shall be open during daylight hours only and shall be closed to public use
 21 from dusk ~~to~~ until dawn. The parks listed in subsection 18(b) shall be open during daylight hours only and
 22 shall be closed to public use from dusk until dawn unless otherwise posted. Daylight hours are defined as
 23 those hours between dawn and dusk.

24 (b) Such closing hours shall not apply to activities being held pursuant to ~~approval or permit granted~~
 25 ~~by the city manager or his/her designee, city commission or director of recreation where the approval or~~
 26 ~~permit specifies longer hours.~~ an approved contract for use, signed by the City Manager or appropriate
 27 designee responsible for the park property. In these cases the fully executed contract for use shall state the
 28 waiver of operating hours and shall be signed by the City Manager or appropriate designee.

1 (c) It shall be unlawful for any person to remain in any of the parks and/or facilities listed herein
2 during the hours the park and/or facility is closed to public use, except with prior written approval from
3 the City Manager or designee. Such unauthorized presence shall be grounds for immediate arrest.

4 (d) If a park is designated as such by the City Commission but is not listed in section 18-18, the park
5 shall be posted on the grounds of the park area stating its hours of operation.

6 **Section 3. Section 18-20, City of Gainesville Code of Ordinances, is hereby amended as**
7 **follows:**

8 **Sec. 18-20. Prohibited activities.**

9 It shall be unlawful for any person to do any of the following in any park listed in section 18-18
10 of this article or any other areas officially designated by the City Commission as a park and posted as
11 such, unless specifically permitted ~~to do so~~ by a permit the appropriate authorization received from the
12 City Manager or designee and issued pursuant to this article, except for activities of a governmental
13 agency the City of Gainesville which are undertaken within the scope of its governmental authority:

14 ~~(1)Reserved~~ (2)(a)Construct, erect any hut, shanty or other shelter on park property. Park users may
15 temporarily set up a sun/shade apparatus up to 10 ft x 10 ft in size (larger sizes upon permit issued by the
16 City Manager or designee may be approved by request for special events conducted in the park areas
17 upon the issuance of a facility use agreement by the City Manager or appropriate designee in charge of
18 that park area). Such apparatus must be made of flexible material, and any support lines which extend
19 beyond the length and width of the covering, must be flagged for visibility and cannot be within 15 feet of
20 any game court, sports field, or children’s play equipment. No sun/shade apparatus shall remain in place
21 overnight in any park without a special use permit or facility use agreement being issued by the City
22 Manager or designee. All nature parks, centers and conservation areas are exempt from this provision.

23 ~~(3)(b)~~ Cook foodstuff, except in designated areas where permanent facilities for such preparations are
24 provided by the City or where such use does not on personal grills brought into the park area. Persons

1 may utilize grills provided by the city only for cooking in the park area. No fires or food preparation shall
2 be allowed that pose a hazard to public property or to the general public.

3 ~~(4)(c)~~ Set or stoke a fire, except for city authorized prescribed burns or those fires set or stoked in
4 designated areas where appropriate facilities are permanently provided by the City or where such use does
5 not city grills, where they are provided, and said fire shall not be allowed if it poses a hazard to public
6 property or to the general public;

7 ~~(5)(d)~~ Discharge or deposit human wastes, except in toilet facilities provided by the city;

8 ~~(6)(e)~~ Disturb the natural surface of the ground in any manner unless authorized in writing by the City
9 Manager or designee and done in accordance with a city-initiated land management activity;

10 ~~(f)~~ To allow privately owned animals to discharge or deposit waste on park property. All owners or
11 others in charge of privately owned animals shall remove their waste from the park grounds, and may
12 deposit animal waste in park trash receptacles;

13 ~~(7)(g)~~ Pick flowers, nuts, berries, or fruit and to ~~or~~ damage or remove plants, trees, shrubs, ~~or~~ from any
14 part of the park grounds unless specifically authorized in writing by the City Manager or designee or done
15 in accordance with a city-initiated land management activity ;

16 ~~(8)(h)~~ Erect signs or affix signs to any tree, post, pole, fence or park facility or grounds except as
17 provided by city ordinance, or through an approved facility use contract with the City Manager or
18 appropriate designee.

19 ~~(9)(i)~~ Drive, putt or otherwise hit a golf ball or shoot an arrow, except in areas parks specifically
20 designated for these purposes;

21 ~~(10)(j)~~ To in any way disturb or remove any wildlife, animal, bird or egg located above, upon or below
22 the surface of the park grounds or to allow any privately owned animal to do so unless specifically
23 authorized in writing by City Manager or designee;

24 ~~(11)(k)~~ Write on, draw on, paint on, or otherwise deface, damage, remove or destroy any park facility or
25 any part of the park grounds;

- 1 (l) To carry any firearm, weapons, explosive, or destructive device, as defined in Ch. 790, Florida
2 Statutes, either opened or concealed, onto any park property, except in parks specifically designated for
3 these uses; except as otherwise permitted by law or these ordinances;
- 4 ~~(12)(m)~~ Operate any motorized vehicle, as defined in ch. 316, Florida Statutes, in violation of city
5 ordinance on park grounds, except in areas designated by the city as parking areas, driveways, and
6 roadways. Motorists shall obey all posted speed limit and other directional signs posted within the park.
7 Authorized City personnel or contract personnel shall be allowed to drive vehicles onto park areas during
8 facility maintenance or renovation projects;
- 9 ~~(13)(n)~~ Except as otherwise provided in this Code of Ordinances, purchase, sell, or offer for sale,
10 possess, or consume any alcoholic beverages, illegal drugs or intoxicating substances;
- 11 ~~(14)(o)~~ Use public restrooms to shave and/or shower, unless shower facilities are specifically provided
12 for public use at that park;
- 13 ~~(15)(p)~~ Bathe or otherwise be or remain in a water or drinking fountain and/or its reservoir or to allow
14 any privately owned animal to do so;
- 15 ~~(16)~~ In parks where animals are permitted, the owner or other person in charge of the animal must clean
16 up and properly dispose of the animal's waste;
- 17 ~~(17)(q)~~ Use roller skates, roller blades or skateboards, except on ~~bike paths, sidewalks or in areas~~
18 specifically designated for such purposes by the city manager, ordinance or director of recreation and
19 parks; park facilities specifically designated for this purpose;
- 20 ~~(18)(r)~~ Engage in the sale of any item on park property for any non-city sponsored function(s), except as
21 specifically authorized by permit; allowed by a facility use agreement issued by the City Manager or
22 appropriate designee or in these ordinances;
- 23 ~~(19)(s)~~ Use of any park property for non-city sponsored fundraising activities, except as authorized by
24 ordinance the City Manager or appropriate designee or in these ordinances;

1 (t) Engage in the destruction, removal or alteration of any City owned facility or equipment from any
2 park property except as authorized by the City Manager or designee;

3 (u) Engage in the removal, alteration or destruction of archaeological or cultural resources from any
4 park property and water body except as authorized by the City Manager or designee. For purposes of this
5 article "archaeological or cultural resources" means associated physical remnants and features contained
6 in the ground including but not limited to artifacts, fossils, bones, shell mounds, or primitive culture
7 facilities or items;

8 (v) Engage in the removal, destruction or harassment of animals and plants from or on parklands,
9 except for authorized research efforts, as authorized by the City Manager or appropriate designee; and

10 (w) Engage in the introduction of plants or animals onto park lands unless authorized by the City
11 Manager or appropriate designee.

12 **Section 4. Section 18-21, City of Gainesville Code of Ordinances, is hereby created and**
13 **added to read as follows:**

14 **Sec. 18.21 Land Management Provisions**

15 Unless otherwise specified herein and in addition to the restrictions stated at section 18-20 of this
16 Code, the following land management provisions shall be applicable to the parks listed at subsection 18-
17 18(b), nature parks, centers and conservation areas:

18 (a) Nature parks, centers and conservation areas shall be open to the public; however, the activities
19 established by the City Manager or designee for each park shall be compatible with the protection of the
20 natural resources for each individual park and shall be posted at each park. Nature parks, centers and
21 conservation areas shall be closed to the public when, due to emergency conditions or activities
22 undertaken by the federal, state or local government for maintenance of such areas, closure is necessary to
23 protect such lands or to protect the health, safety and welfare of the public.

- 1 (b) Hiking, defined as travel by foot, is permitted in nature parks, centers and conservation areas only
2 on designated trails, established roads and in firebreaks, and shall not occur in areas posted as restricted to
3 access.
- 4 (c) Bicycling is permitted at certain nature parks, centers and conservation areas and these parks will
5 be so posted. Within a park permitting bicycling, bicycling shall be only permitted on trails or areas so
6 designated within the individual park area.
- 7 (d) Horseback riding is permitted only from the north parking area of Boulware Springs Nature Park
8 to the Gainesville-Hawthorne State Trail unless otherwise authorized in writing by the City Manager or
9 designee.
- 10 (e) Hunting or trapping is prohibited in any nature park, center or conservation area, except where
11 specifically authorized in writing by the City Manager or designee for the purposes of scientific study or
12 the removal of nuisance species and as regulated by the State.
- 13 (f) Dogs are permitted in nature parks, centers and conservation areas (except where otherwise
14 posted) provided that such animals shall be leashed at all times. When authorized in writing by the City
15 Manager or designee, other domestic animals may be permitted at Morningside Nature Center and at
16 nature parks, centers and conservation areas. The owner or other person responsible for the animal shall
17 clean up and properly dispose of the animal's waste as stated in section 18-20.
- 18 (g) Swimming is prohibited at all nature parks, centers and conservation areas except in areas posted
19 for swimming.
- 20 (h) Fishing is permitted at Palm Point Nature Park and Colclough Pond Nature Park in compliance
21 with the guidelines established in state law.
- 22 (i) The disposal of oil, gasoline or other hazardous substances is prohibited at all nature parks,
23 centers and conservation areas.
- 24 (j) The use of metal detectors is prohibited in all nature parks, centers and conservation areas.

1 (k) Concessions may be allowed in certain nature parks, centers and conservations areas, if they are
2 determined to be appropriate to that natural area and are approved in writing by the City Manager or
3 designee. Appropriate to the natural area is described as:

4 (1) The concession is necessary to fulfill a need in the interest of the public and will assist
5 the City in providing public use of nature parks, centers and conservation areas;

6 (2) The concession will be open to the public;

7 (3) The concession will be economically feasible for the City;

8 (4) The concession will be compatible with the protection of the natural resources and the
9 management goals for that land as stated in the management plan; and

10 (5) The concession will not result in an unfair advantage over existing businesses that
11 provide similar services in the area.

12 (l) Research may be permitted in nature parks, centers and conservation areas if said research is
13 compatible with the protection of the natural resources and the management goals for that land as stated
14 in the land management plan for that property and when approved in writing by the City Manager or
15 designee.

16 **Section 5. Section 18-22, City of Gainesville Code of Ordinances, is hereby created to read**
17 **as follows:**

18 **Sec. 18.22 Archaeological Discovery.**

19 Any person discovering archaeological or cultural resources on nature parks, centers and conservation
20 areas shall immediately notify the City Manager or designee of such discovery.

21 **Section 6.** It is the intention of the City Commission that the provisions of Sections 1 through 5 of
22 this ordinance shall become and be made a part of the Code of Ordinances of the City of Gainesville,
23 Florida, and that the Sections and Paragraphs of this Ordinance may be renumbered or relettered in order
24 to accomplish such intentions.

1 Section 7. If any section, sentence, clause or phrase of this Ordinance is held to be invalid or
2 unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the
3 validity of the remaining portions of this Ordinance.

4 Section 8. All ordinances, or parts of ordinances, in conflict herewith are to the extent of such
5 conflict hereby repealed.

6 Section 9. This Ordinance shall become effective immediately upon final adoption.

7
8 PASSED AND ADOPTED this ____ day of _____, 2005.

9
10 _____
11 PEGEEN HANRAHAN, MAYOR

12
13
14
15
16 ATTEST:

Approved as to form and legality

17
18 _____
19 KURT M. LANNON
20 CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

21
22 This Ordinance passed on first reading this ____ day of _____, 2005.

23 This Ordinance passed on second reading this ____ day of _____, 2005.
24

25

**ADVERTISEMENT
NOTICE OF PROPOSED
ENACTMENT OF
ORDINANCE****BY CITY COMMISSION,
GAINESVILLE, FLORIDA**

Notice is hereby given that the proposed ordinances, whose titles appear below will be considered for First Reading on the 10th day of October, 2005, at the City Commission meeting and if then adopted on First Reading will be considered for Second and Final Reading and adoption on the 24th day of October, 2005, at the City Commission meeting. The meetings begin at 6:00p.m. and the ordinances will be read as soon thereafter as may be heard. The meetings are held in the City Commission Auditorium, on the First Floor of City Hall, 200 East University Avenue, Gainesville, Florida. A copy of said ordinances may be inspected by any member of the public at the office of the Clerk of the Commission on the First Floor of City Hall during regular business hours located at 200 East University Avenue, Gainesville, Florida, and at the Public Library, Main Branch, located at 401 East University Avenue. On the dates mentioned above all interested parties may appear at the meeting and be heard with respect to the proposed ordinances. Persons with disabilities, who require assistance to participate in the meetings, are requested to notify the Equal Opportunity Office at 334-5051 or call the TDD phone line at least 2 business days in advance.

**ORDINANCE TITLE
ORDINANCE NO. 041020**

An ordinance of the City of Gainesville, Florida, amending sections in article II, Chapter 18, City of Gainesville Code of Ordinances, relating to Parks and Recreation; amending section 18-18, City of Gainesville Code of Ordinances; updating list of parks; amending section 18-19, City of Gainesville Code of Ordinances; updating and clarifying hours parks will be closed; amending section 18-20, City of Gainesville Code of Ordinances; updating and clarifying prohibited activities in City parks; creating section 18-21, City of Gainesville Code of Ordinances; stating land management provisions applicable to nature parks, centers, and conservation areas; creating section 18-22, City of Gainesville Code of Ordinances; relating to archaeological discovery; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

ORDINANCE NO. 041052

An Ordinance of the City of Gainesville, Florida; rezoning certain lands within the City and amending the Zoning Map Atlas from "RSF-3: 5.8 units/acre single-family residential district" to "Planned Development District"; located in the Northeast Historic District in the vicinity of 204, 210 and 216 Northeast 10th Avenue; adopting a development plan report and development plan maps; providing conditions and restrictions; providing for enforcement; providing a severability clause; and providing an immediate effective date.

Note: "All persons are advised that, if any person decides to appeal any decision made at any of these meetings, they will need a record of the proceedings and, for such purpose, they need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based."

September 30, 2005
Publish Date

Kurt M. Lannon
Clerk of the Commission

29035, 9/30/05
#A000067922