

## **ORDINANCE NO. 1568**

**AN ORDINANCE OF THE CITY OF AUBURNDALE, FLORIDA STRIKING CHAPTER 6, DELETING CHAPTER 18.5, CHAPTER 20.5 AND RESTATING CHAPTER 6 OF THE CODE OF ORDINANCES OF THE CITY OF AUBURNDALE, FLORIDA, REGARDING PARKS AND RECREATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, Chapter 6; Boats, Beaches, and Waterways, of the Code of Ordinances provides regulations for Boats, Beaches and Waterways;

WHEREAS, Chapter 18.5; Parks and Recreation (Impact Fees), of the Code of Ordinances is currently reserved as result of Ordinance 822 where the entire Chapter was repealed and restated in uncodified Ordinance 822;

WHEREAS, Chapter 20.5; Subdivisions of the Code of Ordinances is currently reserved as result of Ordinance 764 where the entire Chapter was repealed as being superseded by the Land Development Regulations; and

WHEREAS, in exercise of its authority, the City Commission of the City of Auburndale, Florida, has determined it necessary and desirable to amend the Code of Ordinances consistent with the public interest within Auburndale, Florida.

NOW THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF AUBURNDALE, FLORIDA:

Chapter 18.5 - Parks and Recreation is hereby deleted;

Chapter 20.5 - Subdivisions is hereby deleted;

Chapter 6 – Boats, Beaches, and Waterways is hereby struck and restated as follows:

### **Chapter 6 – Parks and Recreation**

#### **ARTICLE I. - IN GENERAL**

##### **Sec. 6-1. - Definitions.**

The following words, when used in this chapter, shall have the meaning ascribed herein unless the context clearly indicates otherwise:

*Airboat* means a vessel that is primarily designed for use in shallow waters and powered by an internal combustion engine with an airplane-type propeller mounted above the stern and used to push air across a set of rudders.

*Canoe* means a light, narrow vessel with curved sides and with both ends pointed. A canoe-like vessel with a transom may not be excluded from the definition of a canoe if the width of its transom is less than 45 percent of the width of its beam or it has been designated as a canoe by the United States Coast Guard.

*Motorboat* means a vessel equipped with machinery for propulsion, irrespective of whether the propulsion machinery is in actual operation.

*Sailboat* means a vessel whose sole source of propulsion is the wind.

*Skier* is intended as a generic term to mean any person being drawn across the surface of the water by a boat.

*Lake shore* shall mean any land between the waterline of a lake or a canal and any public road or street, or any land owned by the city and running to the waterline of any lake or canal.

*Personal Watercraft* means a vessel less than 16 feet in length which uses an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than in the conventional manner of sitting or standing inside the vessel.

*Prohibited Activity* means activity that will impede or disturb navigation or creates a safety hazard on waterways of this state.

*Park Special Event* means any meeting; activity; gathering; group of persons, or a combination thereof, having a common purpose, design or goal, within any public park, which event substantially inhibits the usual flow of pedestrian or vehicular travel immediately adjacent to that facility. To be approved as a park special event, said event may not conflict with an established city rental program or city recreational program at that facility. Prior to a park special event occurring, the promoter or organizer shall be required to undergo the complete special event application and approval process as outlined in Article III of this chapter.

## **ARTICLE II. PARKS**

### **Sec. 6-2. - Necessity for rules and regulations.**

It is the responsibility of each person on city property to conduct recreational activities in such a manner so as to prevent injury or loss of life to any person; therefore, it is necessary to prescribe rules and regulations to govern recreational activities in the park areas.

### **Sec. 6-3. - Applicable areas.**

All territory, to include recreation department areas, buildings, locations, and facilities, including all areas within the city or owned by the city, whether they are in the incorporated or unincorporated areas of the city, shall be covered by the provisions of this article.

### **Sec. 6-4. - Authority to regulate park property.**

The city manager is empowered, in the exercise of the city manager's discretion, to regulate the time, place and manner in which the park property of the city, or any portion thereof, is to be used and enjoyed by the public and to authorize the posting of signs regulating public use. In so doing, the city manager is to give due regard to the safety facilities available thereat, the preservation of public property, the number of persons who can be safely protected and safeguarded at the particular location, and the health and welfare of the public using and wishing to use such facilities. The directions of the city manager given pursuant to the authority contained in this section are declared to have the effect of law and shall be enforced by the police officers of the city.

### **Sec. 6-5. - Protection and preservation of property.**

- (1) Regulation of conduct with respect to protection of park property to prevent damage, removal or destruction is necessary to preserve park and recreation areas for the use of future generations.
- (2) As all property in all parks is city property, no unauthorized person shall willfully mark, write on, draw on or otherwise deface, damage or injure in any way, or displace, remove, destroy or tamper with any park facility or any part of the park grounds including, but not limited to, building material, water lines or other public utilities or parts of appurtenances thereof, park signs, notices or other boundary markers, or other structures, equipment, either real or personal.
- (3) No unauthorized person shall transplant or remove from any park area or public beach any sand, whether submerged or not, or any soil, rock, stones, trees, shrubs, plants, seeds, flowers, fruits, nuts, downed timber or other wood materials; make any search or excavation by tool, equipment, blasting or other means or agency; construct or erect any buildings or structures of whatever kind, whether permanent or temporary in character; or run or string any public service utility into, upon or across such lands. Exceptions shall be permitted for minor excavations involving the recovery of lost artifacts on the public beaches or public parks, provided such minor excavations are immediately refilled and no safety hazards to the public are created. Metal detectors are allowed by obtaining a permit from the parks and recreation department.
- (4) Preservation of archaeological and historic sites: no person shall excavate, disturb or remove any historic or prehistoric cultural artifacts, nor any bones, shells, or geological specimens on land owned or managed by the city, except as part of an

authorized and designated study for scientific, documentation or research purposes, and only with written permission from the city manager or his/her designee. Scientific evaluation excavation of any designated or non-designated archaeological site may not be conducted without a state permit.

- (5) Trees, shrubbery and lawns are property assets of the park. No unauthorized person shall cut, carve, or injure the bark, break off limbs or branches of trees, or mutilate trees in any way, or pick the flowers, fruits, seeds or nuts of any tree or plant. No person shall dig in or otherwise disturb the grass areas or in any other way injure or impair the natural beauty or usefulness of any area. No person shall pile debris or material of any kind on or about any tree or plant or attach any item that could result in damage to any tree or plant, whether temporary or permanent in character or use.
- (6) No person shall tie any animals to any tree or plant.
- (7) No person shall stand or sit on any structure not intended for such use in any park.
- (8) No person shall use tacks, nails, staples or other items that penetrate wood on shelters, signs, trees, etc.
- (9) No person shall use water from park water fountains, hose bibs and sinks in restrooms for the purpose of bathing.
- (10) No person shall use or set up inflatable \ amusements without prior authorization by the city in any park.

**Sec. 6-6. – Hours of operation.**

- (1) The hours of operation for each city and neighborhood park is from sunrise to sunset, unless such activity is being conducted by the City of Auburndale.
- (2) No person shall enter or remain upon park property at any time during which the park is closed.

**Sec. 6-7. - Refuse and trash.**

No person shall dispose of any paper, bottles, waste, garbage, trash, cigarette butts, debris, or other litter of any kind on any city owned or operated park or recreation area except in proper receptacles and recyclable containers. Only such paper, waste, garbage, trash, debris or other litter as may have been created or accumulated in the use of a park or recreation area shall be disposed in such receptacles. If there are no such trash receptacles available, then refuse shall be carried away from the park area by the party to be properly disposed of where a receptacle is available.

### **Sec. 6-8. - Pollution of waters.**

Using the fountains, ponds, lakes, streams, or any other bodies of water within the parks or the tributaries, storm sewers or drains flowing into them as dumping places for any substance or matter or thing which will or may result in the pollution of such waters is hereby prohibited.

### **Sec. 6-9. - Picnic areas.**

(1) No person shall build, light or cause to be lighted any fire except in an approved grill, stove, fireplace or other suitable container provided by the city for such purposes in a park. No person who has a fire shall leave the area without extinguishing the fire.

(2) City personnel will regulate activities in picnic areas when necessary to prevent congestion and to secure the maximum use for the comfort and convenience of all. If the facilities are crowded, persons holding picnics in any picnic area, building or structure shall not use the same to the exclusion of others for an unreasonable time. Where the picnic facilities are fully occupied, use of any picnic site more than three hours shall be unreasonable. Use of the individual tables and benches follows generally the rule of first come, first served.

### **Sec. 6-10. - Camping.**

No person shall set up tents, shacks or any other temporary shelters, or any special vehicle to be used or that could be used for such purpose, such as a house trailer, camp trailer, camp wagon or the like on any park property for the purpose of camping.

### **Sec. 6-11. - Alcoholic beverages prohibited in public parks, and playgrounds; exceptions**

It shall be unlawful for any person to consume, and for any person to carry in any cup, can, or other open or unsealed container any alcoholic beverage in the public parks, or playgrounds within the city. Exceptions to this subsection may be obtained only for city sponsored events that first obtain written permission from the city manager.

### **Sec. 6-12. - Merchandising, vending, peddling.**

No person; other than the city or regularly licensed concessionaires acting by and under the authority of the city, shall expose or offer for sale, rent or trade, any article, food or drink of any kind, service or thing, or station or place any stand, cart or vehicle for the transportation, sale or display of any article or merchandise within the limits of any public park except by written authorization from the city.

### **Sec. 6-13. - Fireworks and explosives.**

No person shall, without prior authorization, bring into or have in his/her possession or set off or otherwise cause to explode on any public park area, any fireworks or explosives of inflammable material or any substance, compound, mixture, or article that, in conjunction with any other substance or compound, may explode, discharge, or burn.

### **Sec. 6-14. - Intoxicating substances.**

No person under the influence of any chemical substance set forth in F.S. 877.111, or any controlled substance under F.S. chapter 893, or alcohol to the extent that the person's normal faculties are impaired shall be permitted entry to a public park; and any person so doing, if discovered therein, will be subject to immediate expulsion.

## **ARTICLE III – Special Event Permit**

### **Sec. 6-15. – Special Events.**

No person shall engage in, participate in, aid, form or start any special event in a city park, where more than 50 people are expected to attend, unless a special event permit shall have been obtained from the city.

### **Sec. 6-16. - Application.**

#### *(1) Special event application.*

- (a) A person seeking issuance of a special event permit shall file an application with the city on forms provided by the city.
- (b) An application for a special event permit shall be filed with the Parks and Recreation Department of the city not less than 30 calendar days, and not more than 12 months before the proposed special event date. In extenuating circumstances, the city manager may waive this 30-day rule.

#### *(2) City co-sponsorship application.*

- (a) A person seeking any level of city co-sponsorship of a special event shall file an application with the Parks and Recreation Department of the city on forms provided by the city and containing information regarding the time, date, location, number of participants, utilities needed, security, cleanup arrangements, amplification, and other information relevant to the event.
- (b) An application for any level of city co-sponsorship of a special event shall be filed with the city at least 90 days before the event. In extenuating circumstances, the city manager may waive this rule.

- (3) Provision of a policy of liability insurance shall be required where the special event involves more than 50 persons. This policy shall name the city as an "additional insured" and be equal to, or greater than \$300,000.00.

- (4) The city may require the applicant to submit a full and accurate post event report and submit the post event report within 30 days subsequent to the event. Failure to comply with this requirement may jeopardize approval of future special event applications from this applicant.
- (5) The city shall have the authority to charge a reasonable special event/co-sponsorship application fee to cover administrative costs of processing that may be set from time to time by the City Commission.

### **Sec. 6-17 - Conditions.**

Permits issued pursuant to this division shall be subject to the following conditions:

- (1) A permit may be revoked upon discovery by the city that any of the conditions set forth in section 16.18 exist.
- (2) Special events may only be approved in accordance with Section 6-6.
- (3) The chief of police or the fire chief may cancel or interrupt a special event if the continuance of the event endangers life or property.
- (4) The public forum area is to be left clean and undamaged following any special event. Failure to comply with this may be cause for denial of any future permit requests.
- (5) The city shall have the authority to restrict, limit or prohibit the use or construction of platforms, chairs, or other equipment if the city finds that their use would result in damage to city property or constitute a hazard to safety or would block or infringe upon some other lawful use of the public property.
- (6) The grant of the permit shall not entitle the applicant to violate any other general park rules or regulations, or regulations applicable to the use of public property adopted by ordinance.
- (7) The level of fees or deposits required, where a request is made to use city services, equipment, or property shall be set from time to time by the City Commission.
- (8) The conduct of the event will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route.
- (9) The conduct of the event will not interfere with the movement of firefighting equipment en-route to a fire.
- (10) The conduct of the event is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or create a disturbance.
- (11) Reimbursement to the city for expenses and fees charged for a prior such event or parade.
- (12) The city may charge a rental fee and deposit fee to ensure provisions of this chapter are adhered to. These fee shall be set from time to time by the City Commission.

- (13) The city may require the permit holder to pay for city personnel for event security.

**Sec. 6-18. - Grounds for denial.**

- (1) Within 15 business days of the filing of the application for a special event permit, the city shall send the applicant notice of approval or denial. The permit for the special event shall be granted unless one or more of the following conditions is found to exist:
  - (a) The application is incomplete in a material respect.
  - (b) The application has been fraudulently completed.
  - (c) A prior permit has already been issued for the same area requested within the same calendar month.
  - (d) The application is not for an available public area.
  - (e) An adjacent public area has already been scheduled for use at the same time and simultaneous uses cannot be accommodated.
  - (f) The estimate of the anticipated attendance is in excess of the maximum designated as allowable for the area.
  - (g) The chief of police has factual knowledge that the applicant or sponsoring group specifically intends to cause or create imminent lawless actions in connection with the special event. Anticipated violence on the part of persons unassociated with the applicant or sponsoring group shall not be considered.
  - (h) Fire Chief has knowledge that a special event fails to comply with applicable fire and life safety laws and is considered a danger to public health, safety and welfare.
- (2) Where denial occurs by reason of the conditions set forth in subsections (1)(c) through (f) of this section, the city shall inform the applicant of the existence of a reasonable equivalent site, if available and uncommitted.
- (3) Within 60 business days of the completion of a special event, the city shall send the applicant written notice by regular United States mail of any action the city has taken to deny future occurrences of this event and the specific reasons therefor. A permit for a future occurrence of this special event shall not be granted for one or more of the following conditions:
  - (a) The previous event application was incomplete in a material respect causing undue hardship upon the resources of the City of Auburndale.
  - (b) The application had been fraudulently completed and misrepresented the intent and conduct of the event.
  - (c) The applicant failed to comply with the conditions stipulated in the approval letter.
  - (d) The venue is no longer available for an event of that classification.

- (e) The event is not compatible with the adjacent public or private area.
- (f) The estimate of the anticipated attendance is in excess of the maximum designated as allowable for the area.

**Sec. 6-19. - Appeal of denial.**

- (1) An applicant denied a special event permit required by this article may appeal the decision of the parks and recreation director to the city manager by filing a written notice of appeal with the office of the city manager within five business days of the mailing of the decision of the parks and recreation director denying the permit.
- (2) Such appeal shall be heard and decided by the city manager. The city manager shall set a time and a place for the appeal to be heard. The applicant shall be notified at least 24 hours before the hearing.
- (3) The appeal before the city manager shall be conducted informally in accordance with procedures established by the city manager and shall not be bound by formal rules of evidence.
- (4) The city manager shall have the authority to affirm, reverse or modify the decision of the parks and recreation director. Such decision shall be in writing and contain the reason(s) therefor. The decision in written form shall be mailed to the applicant within fifteen days of the filing of the appeal.
- (5) The decision of the city manager shall be final.
- (6) Denial of city co-sponsorship applicants shall not be subject to appeal.

**Sec. 6-20 through 6-29. - Reserved**

**ARTICLE IV – BOATS AND WATERWAYS**

**Sec. 6-30. - Police power and jurisdiction.**

The city shall exercise full and complete police power and jurisdiction for the purposes set forth in this chapter, over, in and upon the waters of all lakes or portions of lakes, canals and other tributaries leading into or from such lakes, within the city.

**Sec. 6-31. - Public races or other water exhibitions.**

Races are prohibited upon the waterways of the city however, the commission may grant a permit for public races or other water exhibitions on any lake within the city whenever it is made apparent to them that such races or exhibitions will be participated in by sufficient entrants or will be so conducted as to ensure entertainment and amusement interesting to the general public.

**Sec. 6-32. - Operation.**

Airboats or motorboats shall operate at a reduced speed and in no event shall the boat be on a plane nor shall it create a wash or a wake within 200 feet from any shoreline of waters within the jurisdiction of the city.

**Sec. 6-33. - In canals.**

Airboats or motorboats shall traverse canals at a reduced speed and in no event shall the boat be on a plane nor shall it create a wash or a wake.

**Sec. 6-34. - Stopping, parking, mooring; apparatus used for towing.**

It shall be unlawful for any person to leave any trailer, contraption or apparatus used for the purpose of towing or carrying boats, on the beach of any lake in the city in such a manner as to obstruct the free and peaceful use of the surrounding shore or water's edge. It shall be unlawful for any person to leave such trailer within the water of any lake within the city. Such trailer shall be removed and placed a reasonable distance from the water's edge and beach of such lake so as to afford a free and comfortable access to such lake.

**Sec. 6-35. Swimming - Public Parks.**

No person shall swim upon park property in an area that is properly posted that prohibits swimming in accordance with section 6-4.

**Sec. 6-36. - Nets, seines, traps; prohibited; exceptions.**

- (a) It shall be unlawful for any person to place in or use in or upon the waters of any lake within the city any fishing net, seine, fish trap, cast net, trotline or any like fish-taking device, except that cast nets may be used for the taking or harvesting of tilapia (nile perch).
- (b) This section shall not apply to dip nets not exceeding eighteen (18) inches in diameter. Provided, however, that commercial fishermen licensed as such by the Florida Fish and Wildlife Conservation Commission may harvest catfish with trotlines and tilapia with cast nets in the lakes in the city.
- (c) No trotline shall be permitted except for operation under and subject to the following restrictions:

- (1) Such trotlines shall not be used during daylight but only in the hours between sunset and sunrise, and they shall be submerged at least four (4) feet below the water surface with the name and address of the owner thereof attached thereto;
  - (2) Such trotline shall be securely attached to the bottom of the lake in two (2) or more places, shall be located so as not to obstruct any canal, and shall carry a gallon-size plastic float at either end.
- (d) The cleaning of fish in or along the shoreline of any lake or canal is prohibited.
- (e) Permission granted hereunder may be revoked for cause.

**Sec. 6-37. - Confiscation of apparatus.**

Any law enforcement officer of the city, for the purpose of enforcing the provisions of section 6-4, shall have full and complete authority to confiscate any fishing net, seine, fish trap, cast net, trot line or any other like fish-taking device found in or upon any of the waters within the city, and upon order of the judge, may destroy any of the same so confiscated.

**Sec. 6-38. – Abandoned Vessel.**

Any law enforcement officer of the city may, in accordance with F.S. 327.60 (5), cause to be removed any abandoned vessel that is affixed to a public dock. The law enforcement officer must first post a written notice giving the owner/operator 24 hours to remove the vessel.

**Sec. 6-39. - Separate violations.**

Each separate occurrence shall be a separate violation.

**Sec. 6-40. - Liberal, non-conflicting construction.**

The provisions of this section shall be liberally construed such that its purpose is effectively rendered in the interest of the health, safety, and welfare of the citizens and residents of The City of Auburndale.

**Sec. 6-41. - Codification.**

Sections 6-1 through 6-38 of this ordinance shall be published in the City of Auburndale Code of Ordinances.

**Sec. 6-42. - Severability of Provisions**

If any of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this

ordinance which can give effect without the invalid provision or application, and to this end, provisions of the ordinance are declared severable.

**Sec. 6-43. - Conflicts with Other Ordinances**

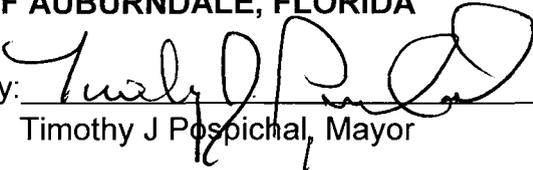
That portion of any Ordinance which may be in conflict with this Ordinance is hereby repealed with the adoption of this Ordinance.

**Sec. 6-44. – Effective Date.**

The provisions of this ordinance shall become effective immediately upon final passage.

**INTRODUCED, PASSED AND DULY ADOPTED ON FIRST READING** by the City Commission of the City of Auburndale, Florida, meeting in regular session on this 6<sup>th</sup> day of August, 2018.

**CITY COMMISSION  
OF AUBURNDALE, FLORIDA**

By:   
Timothy J Pospichal, Mayor

**ATTEST:**

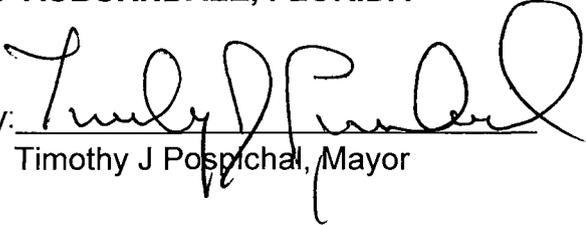
  
Shirley Lowrance, City Clerk

**LEGAL IN FORM AND VALID IF ENACTED:**

  
V. Patton Kee, City Attorney

**ADOPTED AND PASSED** on second and final reading by the City Commission of the City of Auburndale, Florida, meeting in regular session this 20<sup>th</sup> day of August, 2018.

**CITY COMMISSION  
OF AUBURNDALE, FLORIDA**

By:   
Timothy J Pospichal, Mayor

**ATTEST:**

  
Shirley Lawrence, City Clerk