

## **ORDINANCE NO. 26-2025**

**AN ORDINANCE OF THE CITY OF DELTONA, FLORIDA, AMENDING THE GENERAL ORDINANCES TO ESTABLISH ARTICLE V, "CITY PARKS AND FACILITIES," OF CHAPTER 58, "STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES" TO PROVIDE FOR RULES AND REGULATIONS PERTINENT TO CITY PARKS AND FACILITIES; PROVIDING FOR CONFLICTS, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, Article VIII of the State Constitution and Chapter 166, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law; and

**WHEREAS**, Section 386.209, Florida Statutes, preempts the regulation of smoking to the State of Florida, except that "municipalities may further restrict smoking within the boundaries of any public beaches and public parks that they own, except that they may not further restrict the smoking of unfiltered cigars;" and

**WHEREAS**, Section 386.209, Florida Statutes, "does not preclude the adoption of county or municipal ordinances that impose more restrictive regulation on the use of vapor-generating devices than is provided in this part;" and

**WHEREAS**, according to the 2006 U.S. Surgeon General's report, "The Health Consequences of Involuntary Exposure to Tobacco Smoke," secondhand smoke causes coronary artery disease, asthma attacks, heart disease, asthma attacks, heart attacks, stroke and lung cancer in adults and Sudden Infant Death Syndrome, middle ear infections, bronchitis, asthma, pneumonia and low birth weight in children; and

**WHEREAS**, secondhand smoke is especially dangerous to children whose bodies are still developing and who are particularly vulnerable to the poisons of secondhand smoke; and

**WHEREAS**, the U.S. Center for Disease Control (“CDC”) indicates that 9 out of 10 smokers begin smoking before the age of 18; and

**WHEREAS**, those minors that smoke are at a greater risk of nicotine addiction, reduction in lung growth, reduced lung function, and early on-set of cardiovascular disease; and

**WHEREAS**, according to the CDC, most e-cigarettes contain nicotine which is highly addictive and can harm brain development, which continues into the early and mid-twenties; and

**WHEREAS**, prohibiting smoking in City of Deltona, Florida (the “City”) parks frequented by children and adults will help to reduce smoking related illnesses and serve as a means to improve health outcomes for residents and visitors to Deltona; and

**WHEREAS**, another significant issue with tobacco smoking in City parks is litter consisting of used cigarette filters, also known as “cigarette butts” which contain hazardous substances that can be toxic to animals; and

**WHEREAS**, Florida is a popular destination for metal detector enthusiasts; and

**WHEREAS**, the City has received requests to conduct metal detecting activities within its parks; and

**WHEREAS**, the City adopted Chapter 58, “Streets, Sidewalks, and Other Public Facilities,” within its General Ordinances; and

**WHEREAS**, Chapter 58, “Streets, Sidewalks, and Other Public Facilities,” shall be amended to establish Article V, “City Parks and Facilities,” in order to provide for rules and regulations to address and accomplish the aforementioned concerns and goals; and

**WHEREAS**, the City Commission finds and determines that these modifications are in the best interest of the public health, safety, and welfare of the residents of the City of Deltona.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA, as follows:**

**Section 1. Recitals Adopted.** The foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this ordinance upon adoption hereof.

**Section 2. Amendment to the Code of Ordinances.** The City Commission hereby approves and adopts Article V, “City Parks and Facilities,” of Chapter 58, “Streets, Sidewalks, and Public Places,” of the General Ordinances, as set forth in “Exhibit A” attached hereto.

**Section 3. Conflicts.** Any and all Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

**Section 4. Severability.** If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application of this ordinance which can be given effect without the invalid provision or application.

**Section 5. Codification.** The provisions of this Ordinance shall be codified as and be made part of the Code of Ordinances of the City of Deltona. The sections of this Ordinance may be renumbered to accomplish such intention.

**Section 6. Effective Date.** This Ordinance shall take effect immediately upon its final adoption by the City Commission.

**PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF  
DELTONA, FLORIDA THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2025.**

First Reading: \_\_\_\_\_

Advertised: \_\_\_\_\_

Second Reading: \_\_\_\_\_

BY: \_\_\_\_\_

Santiago Avila, Jr., MAYOR

ATTEST:

\_\_\_\_\_  
Joyce Raftery, CMC, MMC, CITY CLERK

Approved as to form and legality  
for use and reliance of the City of  
Deltona, Florida

Name	Yes	No
Avila-Vazquez		
Colwell		
Heriot		
Howington		
Lulli		
Santiago		
Avila		

\_\_\_\_\_  
TG Law, PLLC, CITY ATTORNEY

## **EXHIBIT A**

### **ARTICLE V. – CITY PARKS AND FACILITIES**

#### **Sec. 58-38. Purpose.**

The purpose of this article is to regulate the use of city-owned and/or city-operated parks, recreation, nature, and open space facilities in order that all persons may enjoy and make use of the facilities and to protect the assets and resources of these municipal properties.

#### **Sec. 58-39. Applicability.**

This article shall apply to all city-owned, controlled, or operated property, facility, park, building, structure, equipment, appurtenance, and/or adjacent rights-of-way

#### **Sec. 58-40. Penalty.**

Any person convicted of a violation of any of the provisions of this article, unless specifically provided otherwise, shall be punished by a fine not to exceed \$150.00.

#### **Sec. 58-41. Authority.**

It shall be the duty and responsibility of the Volusia County Sherriff's Office, Code Enforcement Officials, and Parks Department employees to enforce all state, county and city laws, including the rules and regulations, as applicable. The City Manager or designee may adopt, amend and rescind daily operating rules and regulations consistent with the article in order to manage and control the parks and recreation system of the city and to manage other public recreational facilities, including but not limited to rules that:

- (a) Clarify, interpret or apply to this article;
- (b) Designate restricted areas in parks and public recreational facilities;
- (c) Regulate and administer recreational programs;
- (d) Establish times for opening and closing of particular parks, park facilities and public recreational facilities to public use and/or for entry or use by motor vehicle as necessary in case of emergencies, construction and/or program and event needs.

#### **Sec. 58-42. Compliance.**

- (a) No person shall fail or refuse to comply with any reasonable order or any order given by any Parks Department employee, or law enforcement officer, or willfully resist, obstruct or abuse any Parks Department employee or law enforcement officer in the execution of his or her office.
- (b) No person shall resist, obstruct, abuse or address in a profane or obscene manner any Parks Department employee or law enforcement officer or agent of the City.
- (c) Any actions that result in the harassment, endangerment, or death of any wildlife constitute grounds for immediate expulsion from any parks site, fine, and any additional law enforcement action as may be deemed appropriate.
- (d) No person shall knowingly make a false statement or knowingly swear or affirm the truth of a false statement previously made to a Parks Department employee or law enforcement officer or agent of the City, when the statement is made in any official proceeding, the statement is made with purpose to incriminate another, the statement is made with purpose to mislead a public official in performing his or her official function, or

## **EXHIBIT A**

the statement is in writing on or in connection with a report or return in which is required or authorized by law.

### **Sec. 58-43. Smoking prohibited in outdoor areas in city parks.**

- (a) Smoking and vaping of any kind shall be prohibited in all city parks and facilities, notwithstanding the preemption of regulation of smoking of unfiltered cigars pursuant to Section 386.209, Florida Statutes.
- (b) The city may, at its sole discretion, allow smoking and vaping in parks during designated events.
- (c) A code enforcement officer or law enforcement officer may issue a citation to any person in violation of the provisions of this section.
- (d) Penalty. Any person issued a citation pursuant to this section shall be deemed to be charged with a civil infraction. A fine of \$150.00 shall be assessed for each violation of this section. Furthermore, any person that refuses to comply with this section may be suspended from the park for 30 days.

### **Sec. 58-44. Metal detecting, permit required.**

- (a) A permit issued by the City Manager or designee shall be required by an individual desiring to engage in metal detecting activities within any city-owned, controlled, or operated property, facility, park, building, structure, equipment, appurtenance, and/or adjacent rights-of-way. Any such permit shall be subject to the following conditions:
  - (1) Metal detecting activities should not contribute to trail-blazing and should not be conducted in prohibited areas or areas such as wetlands, environmentally-sensitive areas, archaeological sites, areas of historical significance or within any facility or structure
  - (2) When metal detecting, the surrounding environment shall not be disturbed. The cutting of vegetation is prohibited.
  - (3) A hand tool for digging purposes is permitted. Holes should be no more than six-inches in depth.
  - (4) Any holes created must be refilled immediately.
  - (5) Metal detecting shall be conducted in patron-use areas only.
  - (6) Metal detecting must take place within known park boundaries and cannot be conducted within 1,000 feet of neighboring houses or commercial/industrial areas adjacent to park perimeters.
  - (7) Metal detecting must take place during established park operating hours.
  - (8) Metal detecting is prohibited in construction areas.
  - (9) Any other such reasonable conditions as may be required by the City Manager or City Attorney.
- (b) All local regulations and ordinances must be followed while metal detecting.
- (c) Violation of any permit conditions or other rules, regulations, or ordinances shall constitute a violation of this section and be grounds for issuance of a penalty as described in Sec. 58-40, revocation of permit for metal detecting, and/or trespass from city facilities for a period not to exceed one (1) year.