



# City of Apopka

## CITY COUNCIL STAFF REPORT

**Type of Form:** Public Hearing/Ordinances/Resolution

**Meeting Date:** January 18, 2023

**Department:** Legal

**SUBJECT:**

Ordinance 2997 – Establishing Public Health and Safety Regulations on Public Property within City

**REQUEST:**

That the City Council conduct a public hearing to consider the adoption of Ordinance 2997 establishing public health and safety regulations on public property within the corporate limits of the City of Apopka.

**SUMMARY:**

The attached ordinance seeks to adopt regulations which regulate public health and safety upon public property within the corporate limits of the City of Apopka, including but not limited to general standards for personal conduct within parks and public property within the city limits, including but not limited to sidewalks, trails, and other public property.

The regulations drafted seek to protect the health, safety, and welfare of all of the citizens of the City, as well as visitors to the City. The regulations were drafted with the assistance and cooperation of the Apopka Police Department, and enforcement shall be conducted pursuant adopted civil citation measures of the Code of Ordinances, City of Apopka as civil infractions.

**FUNDING SOURCE:**

Not applicable.

**RECOMMENDED MOTION:**

The City staff request that the Council approve the first reading of Ordinance Number 2997 and hold over for a second reading and adoption.

**ATTACHMENTS:**

- Ordinance 2997

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**ORDINANCE NO. 2997**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF APOPKA, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF APOPKA BY AMENDING CHAPTER 42, MISCELLANEOUS OFFENSES, BY CREATING ARTICLE VII – PUBLIC ORDER OFFENSES, TO REGULATE STANDARDS OF CONDUCT WITHIN PUBLIC PLACES WITHIN THE CITY OF APOPKA; BY AMENDING CHAPTER 46, PARKS AND RECREATION, SECTION 46-4, HOURS OF OPERATION, TO PROVIDE FOR NOTICE; BY AMENDING CHAPTER 46, SECTION 46-6, GENERAL STANDARDS FOR PERSONAL CONDUCT, TO PROVIDE FOR ADDITIONAL STANDARDS IN PUBLIC PARKS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Section 166.021(3), Florida Statutes, provides, in pertinent part, that “[t]he Legislature recognizes that pursuant to the grant of powers set forth in Section 2(b), Art. VIII of the State Constitution, the legislative body of each municipality has the power to enact legislation concerning any subject matter upon which the state legislature may act” except for certain very limited matters; and

**WHEREAS**, the City Council of the City of Apopka, Florida, has determined that the continued protection of the health, safety, and welfare of its citizens is for the benefit of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF APOPKA, FLORIDA, AS FOLLOWS:

**SECTION I. AMENDMENT** - Chapter 42, Article VII, Code of Ordinances, City of Apopka, is hereby created to read as follows:

**ARTICLE VII – PUBLIC ORDER OFFENSES**

**Sec. 42-150. - Urinating or Defecating in Public**

It shall be unlawful for any person to urinate or defecate in a public place other than one set aside and designated for that particular purpose.

**Sec. 42-151. - Camping Prohibited; Exceptions**

(a) For the purpose of this section, “camp” is defined as sleeping or otherwise being in a temporary shelter outdoors; or sleeping outdoors.

(b) It shall be unlawful for any person to camp on public property not set aside as a campground, except as may be specifically authorized by the appropriate government authority.

**Sec. 42-152. – Sitting or Lying on Sidewalks or Bicycle Paths Prohibited**

- 1 (a) It is unlawful for any person, after having been notified by a law enforcement officer of the  
 2 prohibition in this section, to sit or lie down upon a public sidewalk or bicycle path, or upon any  
 3 blanket, chair, stool or any other object placed upon a public sidewalk or bicycle path.  
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- 5 (b) It is an affirmative defense to the prohibition in this section if it is shown that:  
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- 7 (1) Sitting or lying down on the sidewalk or bicycle path is due to a medical emergency;  
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- 9 (2) The person is operating or patronizing a commercial establishment conducted on the public  
 10 sidewalk pursuant to permit; or a person participating in or attending a parade, festival,  
 11 performance, rally, demonstration, meeting or similar event conducted on a public  
 12 sidewalk pursuant to a street use or other applicable permit;  
 13
- 14 (3) The person is sitting on a chair or bench located on the public sidewalk or bicycle path  
 15 which is supplied by a public agency;  
 16
- 17 (4) The sitting or lying is while waiting in an orderly line for entry into a building, awaiting  
 18 social services, or outside a box office to purchase tickets to a sporting event, concert,  
 19 performance, or other special event;  
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- 21 (5) The sitting on a sidewalk is temporary while awaiting a particular bus at a bus stop and the  
 22 person is not obstructing the ability of others to use the sidewalk; or  
 23
- 24 (6) The sitting or lying is an integral part of first amendment activity occurring on the sidewalk  
 25 and the person is not obstructing the ability of others to use the sidewalk.  
 26

27 **Sec. 42-153- Indecent Exposure**  
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29 It is unlawful for any person to appear upon any public street or in any other public place in a state  
 30 of nudity, or to have their genitalia visible, or in an indecent exposure of his or her person. A mother  
 31 breastfeeding her baby is not a violation of this section.  
 32

33 **SECTION II. AMENDMENT** – Section 46-4, Code of Ordinances, City of Apopka, is hereby  
 34 amended to read as follows:  
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36 **Sec. 46-4 Hours of Operation**  
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- 38 (a) Except as otherwise specifically provided, city parks shall be open for public use from sunrise to  
 39 sunset, and closed from sunset to sunrise unless there is sign posted by the city indicating other  
 40 extended hours. Such closing hours shall not apply to activities being held pursuant to approval  
 41 or permit granted by the city administrator, the city council, the recreation director or their  
 42 designee when such approval or permit specifies longer hours. The city administrator or his  
 43 designee is authorized, upon application of any citizen, to permit a reasonable expansion or  
 44 contraction of city park hours for specific events if good cause is shown.  
 45
- 46 (b) It shall be unlawful for any person, other than city personnel conducting city business therein, to  
 47 occupy or be present in such park during hours in which the park is not open to the public. Any  
 48 section of the park, including parking areas, may be declared closed by parks manager at any time.  
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- 50 (c) All persons engaged in authorized activities shall vacate the city property upon completion of the  
 51 event.

- 1  
2 (d) The term city park includes any county park located within the city or any section of the Orange  
3 County bicycle path or trailhead, to include under any bridges or structures located within or under  
4 the park, which are located within the city if authorized by a supervisor of the Orange County Parks  
5 and Recreation Division.  
6

7 **SECTION III. AMENDMENT** – Section 46-6, Code of Ordinances, City of Apopka, is amended  
8 to read as follows:  
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10 **Sec. 46-6. - General standards for personal conduct with parks within the city limits.**

11 It shall be unlawful for any person to either perform or permit to be performed any of the acts  
12 prohibited in this section within a park located in the city limits:  
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- 15 (1) *Defacing or damaging property.* No person shall willfully mark, deface, disfigure, injure,  
16 tamper with or displace or remove any buildings, bridges, tables, benches, fireplaces,  
17 railings, paving or paving material, landscaping, water lines or other public utilities or  
18 parts or appurtenances thereof, signs, notices or placards, whether temporary or  
19 permanent, monuments, stakes, posts or other boundary markers, or other structures or  
20 equipment, facilities or park property or appurtenances whatsoever, either real or  
21 personal.  
22
- 23 (2) *Polluting bodies of water.* No person shall throw, discharge or otherwise place or cause  
24 to be placed in the waters of any fountain, pond, lake, stream, bay or other body of water  
25 in or adjacent to any park, or any tributary, stream, storm sewer or drain flowing into  
26 such waters, any substance, matter or thing, liquid or solid, which will or may result in  
27 the pollution of such waters.  
28
- 29 (3) *Dumping garbage or refuse.* No person shall bring in or dump, deposit or leave any  
30 bottles, paper, broken glass, ashes, boxes, cans, dirt, rubbish, waste, garbage, refuse or  
31 other trash. No such refuse or trash shall be placed in any waters in or contiguous to any  
32 park, or left anywhere on the grounds thereof, but shall be placed in the proper receptacles  
33 where these are provided. Where receptacles are not so provided, all such rubbish or  
34 waste shall be carried away from the park by the person responsible for its presence, and  
35 properly disposed of elsewhere.  
36
- 37 (4) *Endangering personal safety.* No person shall endanger the safety of any person by any  
38 conduct or act.  
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- 40 (5) *Fighting.* No person shall commit any assault or battery or engage in fighting.  
41
- 42 (6) *Alcoholic beverages.* No person shall carry, possess or drink any alcoholic beverage in  
43 any park unless a permit is issued by the city for a particular event occurring in a city  
44 park.  
45
- 46 (7) *Violation of rules.* No person shall violate any rule for the use of the park.  
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- 48 (8) *Interference with use.* No person shall prevent any person from using any park, or any of  
49 its facilities, or interfere with such use in compliance with this chapter and the rules  
50 applicable to such use.  
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- 1 (9) *Swimming, bathing or walking in waters or waterways.* No person shall swim, bathe or  
2 walk in any waters or waterways in or adjacent to any park, except in such waters and at  
3 such places as are provided therefor, and in compliance with such regulations as are set  
4 forth in this chapter or may be hereafter adopted.  
5  
6 (10) *Use of tobacco products.* No person shall be permitted to smoke cigarettes, cigars, or  
7 pipes or consume any other types of tobacco products within 100 feet of any city-owned  
8 playground apparatus or equipment. It is unlawful for a person to possess or consume  
9 any tobacco product, including e-cigarettes, in or upon city parks, facilities, or properties,  
10 as set forth in either the city Code or the rules promulgated by the city. All recreation  
11 and parks facilities shall be tobacco-free and drug-free zones.  
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13 (11) *Public Bench.* No person shall lie or otherwise be in a horizontal position on a park bench,  
14 table or where prohibited by signs.  
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16 (12) *Foliage.* No person shall lie or otherwise be or remain in any bushes, shrubs or other  
17 foliage.  
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19 (13) *Unattended items.* No person shall leave unattended items within a park, including but  
20 not limited to, within a bush, shrub, foliage, park bench, picnic table, or gazebo.  
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22 (14) *Human waste.* No person shall discharge or deposit human waste except in designated  
23 public toilet facilities provided by the city.  
24  
25 (15) *Public Bathrooms.* No person shall use public restrooms to shave, bathe, shampoo hair,  
26 shower, or wash clothes, however showering is permitted where shower facilities are  
27 specifically provided for public use.  
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29 This section applies to all parks within the city limits and includes any county park located within  
30 the city or any section of the Orange County bicycle path or trailhead, to include under any bridges or  
31 structures located within or under the park, which are located within the city within the city if authorized  
32 by a supervisor of the Orange County Parks and Recreation Division.  
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34 **SECTION III: AUTHORIZING INCLUSION IN CODE.** The provisions of this ordinance shall  
35 be included and incorporated into the Code of Ordinances of the City of Apopka, as additions or  
36 amendments thereto  
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38 **SECTION IV: SEVERABILITY.** Should any word, phrase, sentence, subsection or section be held  
39 by a court of competent jurisdiction to be illegal, void, unenforceable, or unconstitutional, then that word,  
40 phrase, sentence, subsection or section so held shall be severed from this ordinance and all other words, phrases,  
41 sentences, subsections, or sections shall remain in full force and effect.  
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43 **SECTION V: CONFLICTING ORDINANCES.** All ordinances or part thereof, in conflict  
44 herewith are, to the extent of such conflict, repealed.  
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46 **SECTION VI: EFFECTIVE DATE.** That this ordinance and the rules, regulations, provisions,  
47 requirements, orders and matters established and adopted hereby shall take effect and be in full force and  
48 effect immediately upon its passage and adoption.  
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1 **PASSED UPON** at the first reading of the City Council, this \_\_\_\_\_, 2023.

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4 **PASSED UPON** at the second and final reading of the City Council, this \_\_\_\_\_, 2023.

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**BRYAN NELSON**

Mayor

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11 **ATTEST:**

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SUSAN M. BONE

City Clerk

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DULY ADVERTISED FOR PUBLIC  
HEARING:

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19 APPROVED as to legal sufficiency and form:

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MICHAEL A. RODRÍGUEZ

City Attorney

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