

ORDINANCE NO. 2016-2062

AN ORDINANCE OF THE CITY OF NEW PORT RICHEY, FLORIDA: AMENDING CHAPTER 16, PARKS AND RECREATION BY CREATING NEW SECTION 16-3, REGULATING LARGE GROUP FEEDINGS IN CERTAIN PARKS AND RECREATIONAL FACILITIES OWNED OR CONTROLLED BY THE CITY; ESTABLISHING A PROHIBITION ON LARGE GROUP FEEDING IN PUBLIC PARKS AND FACILITIES WITHOUT A LARGE GROUP FEEDING PERMIT; LIMITING PERMITS TO TWO PER USER, PER PARK IN A 12 MONTH PERIOD; AND ESTABLISHING A PROHIBITION FOR FAILING TO DISPLAY THE PERMIT TO A LAW ENFORCEMENT OFFICER ON DEMAND, AND PROVIDING FOR APPEAL FROM DENIAL OF A LARGE GROUP FEEDING PERMIT, PROVIDING FOR SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City of New Port Richey encourages use of the City owned and controlled parks by City residents in a safe, sanitary, and aesthetically pleasing atmosphere; and

WHEREAS, large group feedings in public parks in the City require provision of adequate trash receptors, restroom facilities, and additional park personnel for inspection and clean up of park grounds which would be more manageable by advance notice and regulation of large group feedings through a permit system; and

WHEREAS, excessive use of parks and park facilities in the City area for large group feedings by single persons or groups denies that park or facility space for use by other citizens, which placement of reasonable time restrictions on use would resolve; and

WHEREAS, the city encourages use of City-owned or controlled parks by city residents in a safe, sanitary, and aesthetically pleasing atmosphere; and

WHEREAS, unregulated large group feeding in public parks owned or controlled by the city has resulted in litter on park grounds and surrounding right-of-ways such as food, food containers, and other food wrappings, creating hazards to the health, safety and welfare of citizens, birds and animals, and is detrimental to the aesthetic atmosphere of parks; and

WHEREAS, testimony before the City Council has demonstrated that fear, intimidation, have accompanied or followed some large group feedings in the City parks, which has affected the health, safety and welfare of city residents; and

WHEREAS, Aesthetics of parks and other City property is a significant and important government interest; and

WHEREAS, the health, safety and welfare of citizens of the City is a significant and important government interest; and

WHEREAS, preservation of improvements to city property which has been the subject of significant financial and other resources of the city is a significant and important government interest; and

WHEREAS, in light of the evidence of the adverse secondary effects of large group feedings including but not limited to examination of relevant case law in the Eleventh Circuit including, but not limited to, the case of First Vagabonds Church of God v. City of Orlando, Florida 638 F. 3d 756 (11th Cir. 2011), as well as other matters, the City finds it necessary and in the best interest of the health, safety and welfare of its citizens to enact this Ordinance; and

WHEREAS, the City has provided for and set aside reasonable, ample, alternative land space within the City for large group feedings of the homeless by religious and other organizations which land is not covered by or affected by the restrictions of this ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW PORT RICHEY, FLORIDA:

SECTION 1. Section 16-3, of the Code of the City of New Port Richey be, and the same is hereby, created to read as follows:

Sec. 16-3. Definitions

The following terms, when used in this Section shall have the meanings respectively ascribed to them in this section:

Director means the director of parks and recreation department of the City.

Large Group Feeding is defined as an event which includes the delivery of service of food to 15 or more people in a City Park or recreational facility or on adjacent sidewalks or rights-of-ways. Excluded from this definition are activities of City licensed or contracted concessionaires, lessees, or licensees.

Person is any individual persons, of any firm, partnership, association, corporation, company or organization of any kind, or any combination of such person.

SECTION 2. Section 16-3 (a), of the Code of the City of New Port Richey be, and the same is hereby created to read as follows:

16-3 (a). Large Group Feeding in Parks and Recreational Facilities Owned or Controlled by the City.

Except for activities of a governmental agency within the scope of its governmental authority, or unless specifically permitted to do so by a permit or approval issued pursuant to City Code or by City Council:

- (a) It is unlawful to knowingly sponsor, conduct, or participate in the distribution or service of food at a large group feeding at a park or park facility owner or controlled by the City of New Port Richey within the boundary of the City without a Large Group Feeding Permit issued by the City.
- (b) It is unlawful to fail to produce and display the Large Group Feeding Permit during or after the large group feeding to a law enforcement officer upon demand. It is an affirmative defense to this violation if the offender can later produce, to the City Attorney or the Court, a Large Group Feeding Permit issued to him/her, or the group, which was valid at the time of the event.
- (c) The City shall issue a Large Group Feeding Permit upon application and payment of the application fee established by the City. Not more than two (2) Large Group Feeding Permits shall be issued to the same person, group, or organization for large group feedings for the same park in the Central District in a twelve (12) consecutive month period.
- (d) Large Group Feedings shall only occur in the following parks during the specified hours:
 - a. Sims Park, Monday through Sunday from 10:00 a.m. until 2:00 p.m.
 - b. Frances Ave. Park, Monday through Friday from 10:00 a.m. until 2:00 p.m.
- (e) Large Group Feedings are prohibited in the following parks due to lack of adequate restroom facilities: Cotee River Park; Orange Lake Park; Grand Blvd. Park; Jasmine Park; High Street Park; Kulhawik Park; Rivers End Park; or Orange Grove Park.
- (f) James E. Grey Preserve is not covered or affected by the restrictions of this Ordinance.
- (g) The director shall issue a Large Group Feeding Permit upon application and payment of the application fee as established by this section.
- (h) Any applicant shall have the right to appeal the denial of a Large Group Feeding Permit pursuant to appeal procedure in Sec. 16-3(b) with a written notice to the City Manager and with a copy to the City Clerk.

- (i) The director shall have the authority to revoke a large group feeding permit upon a finding of violation of any rule or ordinance, or upon good cause shown.
- (j) A nonrefundable application fee of \$100.00 to cover the administrative costs of processing the permit shall be paid to the City by the person applying for the permit at the time of filing of the application.
- (k) Applicant shall be responsible for the proper disposal of waste and trash associated with the distribution or service of food to maintain the health and safety of the public.

SECTION 3. Section 16-3 (b), of the Code of the City of New Port Richey be, and the same is hereby created to read as follows:

16-3(b) Appeal Procedure.

An applicant shall have the right to appeal the denial of a permit by immediately requesting review with a court of competent jurisdiction or by appealing the decision to the City Manager. The appeal to the City Manager shall be taken by the applicant within five days after receipt of the notice of denial by filing a written notice with the director with a copy to the City Clerk, and City Attorney. The City Manager shall consider the appeal within three business days following receipt of by the director of the notice of appeal. If the applicant is not satisfied with the decision of the City Manager, the applicant may file a request for judicial review by a court of competent jurisdiction.

SECTION 4. Section 16-3 (C), of the Code of the City of New Port Richey be, and the same is hereby created to read as follows:

16-3(c) Penalties.

Any person violating the provisions of any section of this Ordinance shall be subject to a \$500.00 fine or imprisonment for a term not exceeding 60 days, or both such fine and imprisonment, in the discretion of a court. Each day any violation of any provision shall continue, shall constitute a separate offense, and subject such violator to a separate fine or imprisonment, or both for each such separate offense.

SECTION 5. INCLUSION INTO CODE.

This Ordinance shall be incorporated into the City of New Port Richey Code and any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical, and like errors may be corrected and

additions, alternations, and omissions, not affecting the construction or meaning of this ordinance and the City Code may be freely made.

SECTION 6. SEVERABILITY.

If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reasons, such portions shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 7. EFFECTIVE DATE.

This Ordinance shall become effective immediately upon its adoption by the City Council of the City of New Port Richey, Florida.

The above and foregoing Ordinance was read and approved on first reading at a duly convened meeting of the City Council of the City of New Port Richey, Florida, this 20th day of October, 2015 and adopted on second reading at a duly convened meeting of the City Council of the City of New Port Richey, Florida, this _____ day of _____, 2015.

ATTEST:

By:

Doreen M. Summers CAP-OM, CMC
City Clerk

By

Robert Marlowe
Mayor-Council Member

(Seal)

APPROVED AS TO FORM AND LEGALITY
FOR THE SOLE USE AND RELIANCE OF THE
CITY OF NEW PORT RICHEY, FLORIDA:

City Attorney, Joseph A. Poblick