

ORDINANCE NO. 2021-2234

AN ORDINANCE OF THE CITY OF NEW PORT RICHEY, FLORIDA, PROVIDING FOR AMENDMENT OF ARTICLE VII OF CHAPTER 2, SECTIONS 2-211 THROUGH 2-223, OF THE NEW PORT RICHEY CODE OF ORDINANCES, PERTAINING TO THE CITY'S PUBLIC LIBRARY; PROVIDING FOR A NINE MEMBER LIBRARY ADVISORY BOARD; PROVIDING FOR ELIMINATION OF ALTERNATE MEMBERS; PROVIDING FOR A QUORUM; PROVIDING FOR CREDIT FOR VOLUNTEER HOURS AT MINIMUM WAGE TO REPAY DEBTS TO THE LIBRARY; PROVIDING FOR CORRECTIONS AND UPDATING OF PROVISIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the Library Advisory Board currently has nine members, two of which are alternate members;

WHEREAS, the elimination of alternate members will improve the function of the Library Advisory Board;

WHEREAS, the City Code pertaining to the public library requires updates and corrections;

WHEREAS, the hourly rate for volunteer service to satisfy debts to the library should equal the minimum wage; and

WHEREAS, it is declared as a matter of legislative determination and public policy that the provisions and prohibitions herein are necessary in the public interest; and it is further declared that the provisions and prohibitions herein are in pursuance of and for the purpose of securing and promoting the public health, safety, welfare and quality of life in the City in accordance with the City's police powers.

NOW, THEREFORE, THE CITY OF NEW PORT RICHEY, FLORIDA HEREBY ORDAINS:

SECTION 1. Chapter 2, Article VII, Sections 2-211 through 2-223, of the Code of Ordinances, pertaining to the City's public library and providing as follows, is hereby amended as follows (strikeout text is deleted and underlined text is added):

ARTICLE VII. LIBRARY

Sec. 2-211. Establishment.

A public library for the residents of the city is established as provided for in Florida Statute F.S. chapter 257. In each annual budget the city may include such amount for the benefit of the library as the city council may determine to be appropriate.

Sec. 2-212. Library director.

Responsibility for operating and maintaining the public library shall be with the city manager who may appoint a city library director. The city library director shall have full charge of the administration of the public library, subject to the review of the city manager. The city library director shall have a voice, but no vote, at meetings of the library advisory board.

Sec. 2-213. Library Advisory Board ~~Creation and purpose.~~

The city council hereby creates the New Port Richey Library Advisory Board. The purpose of the library advisory board is to make recommendations to the library director and the city council concerning matters pertaining to the use of the library. The library advisory board may accept donations on behalf of the library.

Sec. 2-214. Duties and responsibilities.

The duties and functions of the library advisory board are as follows:

- (1) To advise and assist the library director with the long-range planning of the library;
- (2) To assist the library director in the preparation of policies and procedures for the library; and
- (3) To submit reports to the library director and to the city council upon request.

Sec. 2-215. Membership.

- (a) There shall be nine (9) ~~seven (7) regular and two (2) alternate~~ members composing the library advisory board. ~~The alternate will serve as a member in the absence of a regular appointed member.~~ At least seven (7) members (~~regular or alternate~~) shall be resident electors of the city, and two (2) members (~~regular or alternate~~) may shall be residents of Pasco County. A quorum shall consist of five (5) ~~four (4)~~ members.
- (b) The term ~~appointment~~ of members serving ~~to serve~~ on the library advisory board will be ~~for~~ three (3) years. The city council shall select the board members by majority vote. The city council, by a majority vote, may remove any member with or without cause. ~~If available, vacancies shall be filled from the alternate positions.~~
- (c) A board member who misses two (2) consecutive meetings shall be deemed to have resigned unless the absence has been excused by the chairperson prior to the meeting. The chairperson shall notify the city clerk of the member's resignation.

Sec. 2-~~216~~20. Officers.

The voting members of the library advisory board shall elect one of their members to serve as chairperson, one of their members to serve as vice-chairperson, and one of their members to serve as secretary.

Sec. 2-~~217~~21. Voting authority.

All members of the library advisory board and ~~alternates, as well as the~~ general public, shall have a voice pertaining to the business brought before the library advisory board. Only members of the board are entitled to vote on all proceedings. ~~Alternates may not vote unless taking the place of an absent member.~~ Members of the board shall not vote if they have a conflict of interest pursuant to Florida Statutes. Sec. 2-~~218~~22. Meeting schedule.

The library advisory board shall meet once every ninety (90) days, unless it determines to meet more frequently. Meetings shall be open to the public pursuant to section 286.011, Florida Statutes. The date, time, place and the agenda of the meeting shall be posted by the city clerk in city hall one (1) week prior to the meeting unless an emergency exists. All meetings shall be conducted in accordance with Robert's Rules of Order.

Sec. 2-~~219~~23. Compensation.

The members of the library advisory board shall serve without compensation but may receive reimbursement for travel expenditures in accordance with Florida Statutes.

Sec. 2-~~220~~16. Income and gifts.

All income arising from any operation of the library, together with all cash gifts or bequests to the library, shall be devoted to the maintenance and/or improvement of the library. Any bequests or gifts in the form of books, equipment, shelving, furniture, fixtures or other items, other than cash or its equivalent, shall be itemized, documented ~~received for by the library~~ and reported to the city council or city manager from time to time as may be requested or required ~~deemed best~~.

Sec. 2-~~221~~7. Resident and nonresident borrowers.

- (a) *Privileges.* Within the library building the use of the collections of the public library is free to all patrons. Circulation privileges are free to all employees of the city, to all residents of the city, to all people, regardless of place of residence, who pay property taxes to the city and to those customers of any other library with whom the city library maintains an active reciprocal borrowing agreement. Circulation privileges at the library are defined as the ability to check out books and non-print media material from the library's collection. Circulation privileges are subject to the fines and penalties established by resolution of the city council. Special use items are not included in circulation privileges and shall be charged as specified by resolution of the city council ~~as well~~.
- (b) *Fees.* Nonresidents and non-taxpayers, other than city employees and customers of any other library with whom the city library maintains an active reciprocal borrowing agreement, may obtain library circulation privileges after payment of the fees as established by resolution of the city council.

- (c) *Revocation of borrowing privileges.* Failure to pay assessed fines and penalties, or failure to follow library policies, may result in revocation of further library borrowing privileges ~~privileges~~ and/or library services at the discretion of the library director.
- (d) *Special use fees.* The city may charge special use fees for the use of such items including, but not limited to, the use of, cleaning of, and setting-up of meeting rooms; cost of computer, scan and fax print outs; ~~cost of microform print outs~~ cost of notary fees; and use of equipment such as multifunction office machines ~~cassette players, facsimile machines, and copy machines~~. Such special use fees shall be as established by resolution of the city council.

Sec. 2-~~222~~18. Prohibited activities.

- (a) *Unlawful to fail to return library materials.* It shall be unlawful for any person to fail to return any library book, audio or visual video ~~video~~ recording, magazine or any other article of personal property borrowed from the public library, after ten (10) days' ~~have elapsed from the date of~~ written notice requests to return the same from ~~by~~ said library, or an authorized agent of said library. The notice requesting the return of such materials shall be sent by regular or electronic mail addressed to said person at the last known address furnished to the library as evidenced by the records retained by the library.
- (b) *Unlawful to fail to report lost library materials and reimburse for the same.* It shall be unlawful for any person to fail to report any lost library book, audio or visual video ~~video~~ recording, magazine or any other article of personal property borrowed from the public library, and to fail to reimburse the library after ten (10) days have elapsed from the date of written notice requesting reimbursement of said library. The notice requesting reimbursement for such material shall be sent by regular or electronic mail, addressed to said person at the last known address furnished to the library as evidenced by the records retained by the library.
- (c) *Unlawful to defraud library.* It shall be unlawful for any person to register or furnish with the intent to defraud a false name or address, or use with intent to defraud any card other than the one issued to said person for the purpose of borrowing any book or other article from the public library.
- (d) *Unlawful to destroy or damage library materials or to fail to reimburse for such materials or damages thereto.* It shall be unlawful for any person to willfully destroy, deface, mar, or otherwise damage any library book, audio or visual video ~~video~~ recording, film, magazine or any other article of personal property borrowed from the public library, or to fail to reimburse said library for destruction of or damage to such materials after ten (10) days have elapsed from the date of ~~receipt of~~ a written request for reimbursement by the library, or an authorized agent of the library, whether or not said destruction or damage is willful or accidental. The notice for requesting reimbursement for such destruction or damage shall be sent by regular or electronic mail addressed to said person at the last known address furnished to the library as evidenced by the records retained by the library.
- (e) *Service fee.* In addition to any reimbursement herein required, any individual to whom a final notice has been sent under the provisions of this section shall pay to the public library a service fee per item as set forth by resolution ~~resolution~~ of the city council.
- (f) *Unpaid fines and fees.* It shall be unlawful for any person to fail to reimburse the public library for any fines and fees assessed after ten (10) days have elapsed from the date of written notice requesting reimbursement of said library. The notice requesting reimbursement for said fines

and fees shall be sent by regular or electronic mail, addressed to said person at the last known address furnished to the library, as evidenced by the records retained by the library.

- (g) *Appeals.* Library ~~patrons~~ customers may appeal library fines and un-returned or damaged material assessments to the library director. The library director shall make the final determination. This determination may include the dismissal or reduction of the fee, the institution of a payment plan or the substitution of volunteer hours for the amount owed. The criteria used by the library director to evaluate the appeal shall be as provided in subparagraphs (1) and (2) hereof, as follows:

- (1) Elimination of late fees. The late fees charged to a patron shall be eliminated upon the occurrence of the following:

- a. The library director determines that the patron was erroneously charged due to an inadvertent mistake made by the library staff or due to a computer malfunction;:-
- b. The patron provides the library director with written confirmation from a hospital that the library patron was confined to a hospital and unable to return the library materials in a timely fashion?:-
- c. The patron provides the library director with a death certificate or funeral notice indicating that a member of the patron's immediate family is deceased and, as a result, the patron was unable to return the library materials in a timely fashion;:-
- d. The patron provides the library director with a police report indicating that the library materials were stolen from the patron's residence, vehicle, or person. Notwithstanding the foregoing, the patron shall remain responsible for reimbursement to the library for the replacement cost of all stolen library materials; and-
- e. The patron provides the library director with an insured claim report indicating that the patron's home or vehicle was destroyed resulting in the loss of library materials. Notwithstanding the foregoing, the patron shall remain responsible for reimbursement to the library for the replacement cost of all destroyed library materials.

- (2) Reduction of late fees. The late fees charged to a patron shall be reduced upon the occurrence of the following:

- a. The patron provides the library director with a note from a licensed physician indicating that the patron suffered from an illness that prevented the patron from returning the library materials or renewing them via the telephone or online; and-
- b. The library director determines that it is impossible to ascertain whether or not an error created or caused by the library staff was a contributing factor for the patron's untimely return of the library material, provided the patron has no history of prior late fees or un-returned materials.

- (3) Payment plans. A ~~The~~ patron shall be permitted to pay his/her late fees pursuant to a payment plan if said patron informs the library director in writing that he/she is unable

to pay the entire late fee in one lump sum by the date when due. The payment plan shall be for a time period not to exceed ninety (90) days in duration.

- (4) Substitution of volunteer hours for fees owed. A ~~The~~ patron shall be permitted to contribute voluntary services in lieu of paying ~~for~~ his/her late fees if said patron informs the library director in writing that he/she is unable to pay the entire late fee in one lump sum by the date when due and that he/she permits the city police department to conduct a background check on him/her. For purposes of this subsection, each hour of volunteer service contributed by a patron shall be equal to the prevailing minimum wage ~~a one dollar (\$1.00) payment of library fees~~. In order to be eligible for the voluntary services option, the patron must first pass a background check conducted by the police department and shall not have been convicted of ~~for~~ a sex crime or other crime involving moral turpitude or dishonesty.

Sec. 2-~~22319~~. Penalties for violation.

- (a) Any person or persons who shall violate the provisions of section 2-~~22218~~, as amended from time to time, shall, upon conviction, be guilty of a civil infraction whose penalties shall not exceed five hundred dollars (\$500.00) for each and every library book, audio or visual ~~video~~ recording, ~~film~~, magazine or ~~any~~ other article of personal property borrowed from the public library.
- (b) Each book, audio or visual ~~video~~ recording, ~~film~~, magazine or ~~any~~ other article of personal property borrowed from the public library and not returned, or for which the city has not been reimbursed for the destruction of the same, shall constitute a separate violation of section 2-~~22218~~ of this Code, as amended from time to time and shall subject the person or persons found guilty thereof ~~violation~~ to a separate penalty.
- (c) The city shall be entitled to collect any and all unpaid fines and fees against any person who violates section 2-~~22218~~ (f) hereinabove. In an action to collect unpaid fines and fees, the city is entitled to recover all costs that it incurs in said collection action, including, but not limited to costs for service of process, reasonable attorney's fees, costs of filing the suit, recording of lien costs, and all other costs and expenses expended in the collection of the unpaid fines and fees.

SECTION 2. Enforcement. The provisions of this Ordinance shall be enforced as otherwise provided in the Code of Ordinances.

SECTION 3. Conflict with Other Ordinances and Codes. All ordinances or parts of ordinances of the City of New Port Richey, Florida, in conflict with the provisions of this ordinance, are hereby repealed to the extent of such conflict.

SECTION 4. Severability. If any provision or portion of this ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this ordinance shall remain in full force and effect.

SECTION 5. Effective Date. This ordinance shall take effect immediately upon its adoption as provided by law.

The foregoing Ordinance was duly read and approved on first reading at a duly convened meeting of the City Council of the City of New Port Richey, Florida this ____ day of _____, 2021, and read 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 _____, 2021.

ATTEST:

By: _____
Judy Meyers, 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:

Timothy P. Driscoll, City Attorney