

**CITY OF HEATH, TEXAS
ORDINANCE 090915E**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HEATH, TEXAS, AMENDING SECTIONS 90.02 THROUGH SECTION 90.28 IN CHAPTER 90, PARKS AND RECREATION OF THE CODE OF ORDINANCES TO REVISE PROVISIONS FOR REGULATION OF CITY PARK AND RECREATION FACILITIES; PROVIDING A PENALTY OF A FINE NOT TO EXCEED THE SUM OF \$500; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HEATH, TEXAS:

Section 1. That, Chapter 90, Parks and Recreation of the Code of Ordinances shall be amended as shown in Exhibit A, attached hereto.

Section 2. Any person violating the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction be subject to a fine in accordance with the general provisions of the Code of Ordinances.

Section 3. If any section or provision of this ordinance or the application of that section or provision to any person, firm, corporation, situation or circumstance is for any reason judged invalid, the adjudication shall not affect any other section or provision of this ordinance or the application of any other section or provision to any other person, firm, corporation, situation or circumstance, and the City Council declares that it would have adopted the valid portions and applications of the ordinance without the invalid parts and to this end the provisions of this ordinance shall remain in full force and effect.

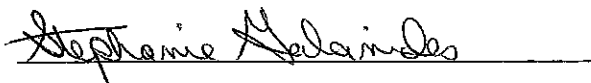
Section 4. That this ordinance shall take effect immediately from and after its passage and approval, and it is so ordained.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF HEATH, TEXAS, this 15th day of September, 2009.



John Ratcliffe, Mayor

ATTEST:



Stephanie Galanides, City Secretary

APPROVED:



Pete Eckert, City Attorney



ORDINANCE 090915E
EXHIBIT A

1. Delete: § 90.02 BASEBALL FIELD HOURS.

§ 90.02 BASEBALL FIELD HOURS.

(A) No person shall engage in any athletic event or play on the City of Heath baseball field between the hours of 11:00 p.m. and 7:00 a.m. on any day.

(B) It shall be unlawful and an offense for any person to switch on or otherwise tamper with the electric lights at the City of Heath baseball field at any time between the hours of 11:00 p.m. and 7:00 a.m. on any day.

(2005 Code, § 9-12-1) (Ord. 121, passed 11-3-1983) Penalty, see § 10.99

2. Add: § 90.15 (C)

(C) *Park*. For purposes of this chapter, park is defined as a public open space designated by the City Council as a park and shall include, but may not be limited to: Towne Center Park, Terry Park, the public point and open space in Antigua Bay, the public open space in Stoneleigh and the trail and pathways system maintained by the City.

3. Replace: § 90.17 HOURS OF OPERATION with the following:

§ 90.17 HOURS OF OPERATION.

The hours of operation for any park shall be recommended by the Park Board and established by the City Council.

(A) Towne Center Park shall be open to the public everyday from 6:00 AM to 10:00 PM, with the exception of the trail system through the Highlands of Heath, which shall not be closed to the public at any time.

(B) Terry Park shall be open to the public everyday from 6:00 AM to 10:00 PM. Boats may only launch from the Terry Park boat ramp after 6:00 AM and before 10:00 PM.

4. Insert: New Section, renumbering accordingly:

§ 90.18 HOURS FOR USE OF LIGHTS.

Subject to the conditions and provisions set out in this chapter, the use of lights at various facilities used in activities covered by this chapter shall be subject to the following:

- (A) All use of lights, whether for practice or games, shall cease and lights shall be turned off at 10:00 p.m. on any and all fields. Lighting may be turned on 30 minutes prior to dusk but not earlier than 6:00 p.m. weekdays and 5:00 p.m. Saturdays and Sundays.
- (B) Only with the approval of the City Manager or a designee, under certain conditions and/or for certain special uses, the light usage time may be extended.

5. Delete § 90.18 and replace with § 90.19 as follows, renumbering accordingly:

§ 90.19 PROHIBITED ACTS.

It shall be unlawful for any person to commit any one or more of the following acts in a park:

- (A) To hitch, fasten, lead, drive or let loose, any animal, reptile or fowl of any kind, provided that this shall not apply to domestic animals or defined by the Animal Control Ordinance when led by a static cord or chain no more than ten feet long or retractable cord not more than 15 feet long, except to designated areas;
- (B) To ride or drive any horse or other animal, except in designated areas;
- (C) To ride, drive or go a rate of speed greater than the posted speed limit, upon any bicycle, motorcycle, in-line skates, automobile or any other vehicle whatsoever, upon any parking lot or area, drive or street in any park, provided, however, bicycles and in-line skating are allowed on park trails, provided that bicycles, in-line skates, skate boards and similar devices not be used in or on the pavilion area, stairs, railings or athletic equipment;
- (D) To ride, drive or park any motorcycle, automobile, motorized scooter or other motorized vehicle upon, over or across any park, curb, sidewalks, grass, lawn, hike or jogging trail or park land, except authorized city vehicles, and in designated areas;
- (E) To carry a firearm, except those persons who are duly licensed by the State of Texas to carry a concealed handgun in accordance with the provisions of the Texas Concealed Weapons Act, as amended;
- (F) To possess (unless permitted under division (E) above), or discharge firearms, fireworks, BB guns, air guns, bows and arrows, slingshots, blowgun, rockets or paint-ball guns;
- (G) To use any tobacco product or to smoke, or to possess a burning tobacco, weed or other plant product in any park or park facility;
- (H) To damage, move, remove, cut, break, injure, deface or disturb any tree, shrub, plant, rock, grass, soil, rock, sand, gravel, building, monument, fence, bench, equipment or other structure, apparatus or property, or to pluck, pull up, cut, take or remove any shrubs, bush, plant or flower, or mark or write upon, paint or deface in any manner any building, monument, fence, bench, equipment or other structure;

(I) To swim, bathe, wade in or pollute the water of any fountain, pond or lake, including Lake Ray Hubbard;

(J) To make or kindle a fire, except in picnic stoves, braziers, fire pits or designated areas provided for that purpose;

(K) To place, abandon or leave garbage, cans, bottles, papers, waste associated with fish-cleaning or other refuse in except in proper waste receptacles; to place or dump any trash, refuse, solid waste, grass clippings, leaves or other objectionable or unsightly matter;

(L) To participate or engage in any activity that will create a danger to the public, a public nuisance, or cause damage to public property;

(M) To remain, stay or loiter in any park except during the posted hours of operation;

(N) To possess or consume alcoholic beverages;

(O) To disturb in any manner any picnic, meeting, service, concert, exercise or exhibition;

(P) To distribute, post, place or erect any static or mobile advertising, handbill, circular bill, notice, paper or other advertising device;

(Q) To sell or offer for sale any food, drinks, confections, merchandise or services except as provided herein; to practice, conduct or solicit for any trade, occupation, business or profession, or to circulate any petition of whatsoever kind or character;

(R) For any person over the age of ten years to use the restrooms and washrooms designated for the opposite sex, unless assistance is necessary;

(S) To allow a domestic animal to defecate in the park without immediate removal and disposal of such feces in proper waste receptacles;

(T) To abandon, place, remove or injure any animal, domestic or wild, including but not limited to dogs, cats, cows, horses, mammals, reptiles, fowls and livestock; to catch and remove any fish unless a fishing license from the Texas Parks and Wildlife Department has been obtained, if required;

(U) To use or operate any gas operated remote controlled airplane, boat, car or other motorized model device, including radio-controlled devices, or helicopter, parasail, hang glider or hot air balloon;

(V) Use of mechanical loudspeakers or amplified music, sound or voices except when authorized by the City Manager or a designee, in connection with the use of park facilities provided the amplified music or sound is within prescribed levels governed by the state or local law, measured at the property boundary;

(W) To conduct or participate in any tournament, camp or organized sporting activity which conflicts with a scheduled activity or event authorized by the City;

(X) To use glass containers;

(Y) To operate any vehicle in a park facility parking lot after normal hours of operation, with the exception of exiting Lake Ray Hubbard via the boat ramp at Terry Park; and

(Z) To park or operate a commercial vehicle, truck, tractor-trailer, semi-trailer, pole-trailer in park facility parking lots except on official business or when attending a park function.

6. Amend: §90.20 – §90.28 as follows, renumbering accordingly:

§ 90.20 USER FEES.

(A) The City Council has determined that it is necessary and proper to establish and levy user fees to be charged for the use of park facilities. The fees will be recommended by the Park Board and established by the City Council.

(B) A ball field light fee may be charged for the use of the city's ball field lights and shall be paid by those individuals making use of the lights.

(C) Different fees may be established for residents and non-residents. In those cases, resident shall be defined as any person residing within the territorial limits of the city.

§ 90.21 CITY SPONSORED OR APPROVED EVENTS.

(A) Use of park facilities, including but not limited to, specific events, fields, and pavilions for tournaments, camps, organized sporting events, and games must be prescheduled with and approved by the City Manager or his or her designee. For sports practices, certain park facilities shall be designated for use by reservation for which a charge may be assessed and certain park facilities may be used free of charge on a first-come, first-serve basis.

(B) The City Manager or his or her designee shall have the authority to issue special permits, grant exceptions, or waivers to any of the terms of the Prohibited Acts described above for authorized events and activities.

§ 90.22 DAMAGES AND COST OF SERVICES.

The person, group, organization or entity reserving the use of a park facility shall be responsible for all damages to city property and for the cost of any park maintenance services, emergency or public safety services including police and fire, provided to, at or dispatched to the park facility as a result of such person's, group's or the organization's misuse, improper or unlawful use of the park facility.

§ 90.23 PERMIT APPLICATION PROCEDURE.

(A) A person wishing to conduct an activity in a park facility which requires a permit, as described herein, above shall file an application with the City Secretary or a designee. The application shall at a minimum provide the following information:

(1) The name, address and telephone number of the applicant. If the use or activity is to be conducted for, on behalf of, or by any person or organization other than the applicant, then the name, address and telephone number of that person or organization must be provided;

(2) The date(s) and hours for which the permit is requested;

(3) Type of proposed use or activity;

(4) The park facility and the portion of the park facility desired to be used to conduct the proposed use or activity;

(5) An estimate of the anticipated attendance; and

(6) Any requested site support for the permitted activity, including the need for additional sanitary and refuse facilities.

(B) Permit applications shall be filed with the City Secretary for consideration not less than 15 business days nor more than 365 days before the date of the proposed use or activity, except as otherwise provided in this chapter. The City Manager or a designee shall evaluate the application and render a decision within five business days of receipt of the request.

§ 90.24 REASONS FOR PERMIT DENIAL.

(A) Upon receiving the written application, the City Manager or a designee may grant a written permit to use the designated park facility unless:

(1) The proposed activity or use of the park facility will unreasonably interfere with or detract from the general public use and enjoyment of the park facility;

(2) The proposed activity or use of the park facility will unreasonably interfere with or detract from the public health, safety or welfare;

(3) The park facility requested by the application has been reserved for another activity or for use at the day and hour requested in the application;

(4) False or misleading information is contained in the application or required information is omitted;

(5) The proposed activity or use would violate any federal, state or municipal law; or

(6) The nature of the proposed activity or use, equipment needed for the event, and/or level of attendance would likely cause unreasonable or undue environmental damage to the park facility.

(B) The City Manager or a designee may impose reasonable conditions or restrictions on the granting of a permit including but not limited to any of the following requirements:

(1) That the applicant post a security deposit as determined reasonable by the Director of Public Works for the repair of any damage to the park facility or the cost of clean up or both. The amount of security deposit shall be based upon the nature, attendance and duration of the permitted activity.

(2) That the applicant pays a fee as set by the City Manager or a designee to defray the cost of furnishing adequate city personnel at the proposed use or activity.

(3) That the applicant furnishes additional sanitary and refuse facilities that may be reasonably necessary, based upon the use or activity for which the permit is being sought.

(4) That the applicant pay a fee as set by the City Manager or a designee to cover the administrative costs of the permit application and site support by the city at the proposed use or activity.

(5) That the applicant has appropriate insurance and provides proof of same.

§ 90.25 FUNCTIONS WHERE SECURITY PRECAUTIONS ARE NECESSARY.

If the City Manager or a designee determines that the conduct of the permitted activity may reasonably cause injury to persons or property, or be detrimental to the health, safety and welfare of the public, additional security precautions may be required to be taken to permit the use of the designated area. In that event, a fee may be imposed to defray the cost of furnishing adequate security forces by the city at the proposed function.

§ 90.26 APPEAL OF PERMIT DENIAL OR CONDITIONAL APPROVAL.

(A) Decisions of the City Manager or a designee regarding the issuance of a permit or the imposition of additional restrictions or conditions upon the granting of a permit may be appealed to the City Council.

(B) The appeal shall be in writing and shall be filed within five business days after the issuance of a decision by the staff. When making a determination regarding the appeal, the City Council shall consider the application under the standards provided in this chapter and sustain or overrule the decision.

§ 90.27 FACILITY MAINTENANCE.

Subject to the conditions and provisions set out in this chapter, maintenance of various athletic facilities owned by the city shall be subject to the following:

(A) Maintenance of all facilities owned by the city will be performed only by the city unless user groups enter into a written maintenance agreement with the City. No modification, alterations, additions or deletions, temporary or otherwise, may be made to any facility unless written approval is obtained from the City; and

(B) Certain facilities as determined by the City Manager may receive enhanced maintenance in cooperation with specific user groups. These facilities shall be used only on a scheduled basis and shall be identifiable by special signage. These facilities may be gated or fenced with controlled access to protect the benefits of enhanced maintenance from unauthorized practices and vandalism.

§ 90.28 CONCESSIONS.

(A) The City Manager shall control all concession rights for all parks and facilities.

(B) No concessions may be sold in any park or facility by any group or individual except with the approval of the City Manager or a designee.