

ORDINANCE NO. O-2020-63

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING CHAPTER 8, "PARKS", OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS, BY UPDATING AND CLARIFYING REGULATIONS RELATED TO THE SCOPE OF CHAPTER 8, DEFINITIONS, MASTER PARKS PLAN, RESPONSIBILITIES OF THE PARKS BOARD, NAMING/RENAMING OF PARKS, THE TIME FOR SENIOR CITIZEN'S CENTER RENTALS, AND DELETING UNNECESSARY REFERENCES TO RULES AND REGULATIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, it is the intent of the City Council to promote the public health, safety and welfare; and

WHEREAS, the City Council is acting pursuant to its police powers, home-rule authority, Texas Local Government Code Sections 51.001 and 51.072 Texas Local Government Code Section 341.903(1), and City Charter Sections 1, 2 and 6; and

WHEREAS, the City Council has established regulations in Tyler City Code Chapter 8 that govern activities in parks and recreational areas within the City limits; and

WHEREAS, Texas Local Government Code Section 217.042(a) provides that a home-rule municipality may define and prohibit any nuisance within the limits of the municipality and within 5,000 feet thereof; and

WHEREAS, Texas Local Government Code Section 217.042(b) provides that a home-rule municipality may enforce all ordinances necessary to prevent and summarily abate and remove a nuisance; and

WHEREAS, it is important to update certain regulations in Tyler City Code Chapter 8; and

WHEREAS, Tyler City Code Section 8-1.b. states that the Parks Board shall make recommendations to the City Manager and City Council with reference to the operation and maintenance of public parks in the City; and

WHEREAS, on June 22, 2020, the Parks Board reviewed this proposed ordinance and voted to recommend approval;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS:

PART 1: That Tyler City Code Chapter 8, "Parks", Article I., "General", is hereby amended by amending the following Sections to read as follows:

PARKS

ARTICLE I. IN GENERAL

Sec. 8-1. Applicability of Chapter.

This Chapter applies to parks and recreation areas within or outside the City that are owned and operated by the City and that are administered by the Parks and Recreation Department. However, City parks and recreation areas adjacent to Lake Tyler, Lake Tyler East and Lake Bellwood Reservoir Area, are exclusively governed by Chapter 19. (0-2006-17, 2/8/06) (Ord. No. 0-2012-46, 6/13/2012) (Ord. No. 0-2020-63; 7/8/20)

Sec. 8-2. Definitions.

For purposes of this Chapter:

"Commercial printed matter" includes any printed or written matter, whether a sample, device, leaflet, circular, pamphlet, paper, or booklet, whether printed, reproduced, or copied which:

1. Advertises for sale any merchandise, product, commodity, or service; or
2. Directs attention to a business or commercial establishment or other activity for the purpose of either directly or indirectly promoting sales; or
3. Directs attention to or advertises a meeting, performance, exhibition or event for which an admission fee is charged for private gain or profit but does not include a meeting, performance, exhibition, or event for which an admission fee is charged or a collection is taken up only for the purpose of defraying expenses; or
4. While containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes or for the private benefit and gain of any person so engaged as advertiser or distributor.

"Director" means the Director of the Parks and Recreation Department.

"Dog" is defined in Section 14-1.

"Goods" are any goods, wares, merchandise or other tangible personal property of any nature whatsoever specifically including, but not limited to, food, beverages, confections, produce, agricultural products, clothing, souvenirs, plants, and other items of tangible personal property.

"Livestock" includes, but is not limited to, horses, cattle, ratites, poultry, mules, and the like normally kept for farm, ranch, or similar purposes. (Ord. No. 0-2020-63; 7/8/20)

"Organized sporting or recreational event" means any event held on a playing field or other area located in a City park or recreation area, and which requires the participants to obtain prior approval of the Parks and Recreation Department for the use of such park or recreation area.

"PARD" means the City Parks and Recreation Department.

"Playing field or area" means any portion of a City park or recreation area on which the participants in a sporting or recreational event may engage in an authorized activity. The term includes, but is not limited to, areas designated for spectators to view said event, areas where participants may rest while not engaged in said event, and any areas where concession stands are located.

"Sale," "sell," or "selling" includes the exchange of goods for consideration or the offer, exhibition, solicitation, or taking of orders for the sale of goods or the distribution of commercial printed matter in aid of any such sale.

"Special event" means any one-time or periodic group activity, other than routine park usage such as team sports, but including concerts, fund-raisers, or memorial events. (Ord. No. O-96-53, 6-26-96) (Ord. No. 0-2020-63; 7/8/20)

Sec. 8-3. Parks Master Plan.

A Parks, Recreation and Open Space Master Plan has been adopted as part of an overall City Comprehensive Plan. Copies of the latest adopted Parks Master Plan are available from the Parks Department or City Clerk (0-99-91; 11/17/99) (Ord. No. 0-2012-46, 6/13/2012) (Ord. No. 0-2020-; 7/8/20)

Sec. 8-4. Parks Board Created; membership; responsibility.

a. There is hereby created a board to be known as the "Tyler Parks Board," hereinafter the "Board," composed of nine (9) members to be appointed in accordance with Chapter 1 of this Code. (Ord. No. 0-2012-46, 6/13/2012)

b. The Board acts in an advisory capacity with regard to the operation and maintenance of all the public parks and cemeteries belonging to the City. The Parks Board shall make recommendations to the City Manager and City Council with reference to the operation, improvement, regulation and maintenance of public parks, adequate funding for parks and recreation areas, including recommendations for the proposed annual operating budget, ~~in the City~~, entertainment and recreation in public parks and for extension of park areas and acquisition of new park sites. (0-2006-17, 2/8/06) (Ord. No. 0-2012-46, 6/13/2012)

c. The Board shall adopt such rules of procedure for the conduct of its meetings including fixing the time of meeting, etc., as it may deem necessary. (Ord. No. O-96-53, 6-26-96) (Ord. No. 0-2020-63; 7/8/20)

Sec. 8-5. Naming and renaming park lands and park facilities.

a. Procedure for naming and renaming park lands.

1. Park lands shall be named within sixty (60) days after acquisition. Any requests for anonymity will be respected. No park shall be given the same name as an existing school site or public facility, except where sites abut one another. Names of park lands may be changed.

2. Each time a request for consideration of naming or renaming a park is received, the Board chair shall name a committee, hereinafter referred to as the Park Naming Committee, which will be responsible for recommending a name for that particular request.

3. The Park Naming Committee is responsible for research, study and recommendation of a proposed name to the Parks Board. Rationale for the selection of the recommended name shall be given to the Board in a formal written report.

4. Prior to Parks Board review, the staff shall provide written notice to the area property owners and provide an opportunity for comments at the Board meeting.

(a) Area property owners shall be defined as all owners of real property situated within 200 feet of the Park on which the proposed action would occur as recorded on the current Smith County Appraisal District tax roll.

(b) The written notice shall:

(1) be mailed not less than 15 days before the date set for the Parks Board Meeting where the Park Naming Committee will present its formal written report to the Board,

(2) mailed notices must be sent by first class U.S. mail to all owners of real property situated within 200 feet of the Park on which the proposed action would occur as recorded on the current Smith County Appraisal District tax roll

(3) outline and/or summarize the committee's recommendations,

(4) list the date, time and location of the Parks Board Meeting,

(5) notify the property owners that they will be provided an opportunity to make comments at the Parks Board Meeting, and

(6) a statement informing the property owner that if the Parks Board approves of the name recommended by the Park Naming Committee the recommendation will be forwarded to the City Council for consideration; therefore, the written notice shall also contain the projected date, time and location of the public hearing to be held at City Council.

5. The Parks Board shall recommend approval, disapproval or modification of the name recommended by the Park Naming Committee to the City Council.

6. The Parks Board recommendation will be forwarded to the City Council for consideration where a public hearing on the recommendation will be held. The City Council shall make final approval, disapproval or modification of the recommendation of the Board.

(a) Prior to City Council review, the staff shall provide written notice to the area property owners and provide an opportunity for comments, in the form of a public hearing, at the City Council meeting.

(b) The written notice referenced above in Section 8-3 b(3)(b) sent to the property owners before the Parks Board Meeting, is sufficient notice of the City Council public hearing if the notice contains the correct date, time and location of the City Council Meeting.

(c) The notification by mail of owners of property in the ETJ whose property is within 200 feet of the proposed action is provided as a courtesy to such owners and should not be construed as conferring standing to protest such action.

7. Guidelines for naming and renaming park lands.

Park lands shall be named:

- (1) In honor of individuals who donate land for park space; or
- (2) In honor of individuals who sell open space to the City at a value considerably below market value; or
- (3) In honor of national and state heroes; or
- (4) In honor of deceased community leaders; or
- (5) In relation to the predominant characteristics or physical features (lake, trees, stream, river) of the land; or
- (6) In relation to subdivisions within the City; or
- (7) In relation to streets adjacent to the park.

b. Procedure for naming and renaming park facilities.

1. Each time a request for consideration of naming or renaming a park facility is received, such as a game field, the chair of the Parks Board shall name a committee, hereinafter referred to as the Park Facility Naming Committee, which will be responsible for recommending a name for that particular request.

2. Guidelines for naming and renaming park facilities.

Park facilities shall be named or renamed:

- (1) In honor of individuals who donate land for park space; or
- (2) In honor of individuals who sell open space to the City at a value considerably below market value; or
- (3) In honor of national and state heroes; or

- (4) In honor of living or deceased community leaders; or
- (5) In relation to the predominant characteristics or physical features (lake, trees, stream, river) of the land; or
- (6) In relation to subdivisions within the City; or
- (7) In relation to streets adjacent to the park; or
- (8) In honor of an individual, group, or business that donates the total estimated funding for a Park facility, or contributes a minimum of 75% of the total estimated monetary funding required for a Park facility.

3. Park facilities shall not be given the same name as an existing school site or public facility, except where sites abut one another. Names of park facilities may be changed.

4. The Park Facility Naming Committee is responsible for research, study and recommendation of a proposed name or name change to the Parks Board. Rationale for the selection of the recommended name shall be given to the Parks Board in a formal written report.

5. The Parks Board shall recommend approval, disapproval or modification of the name recommended by the Park Facility Naming Committee to the City Council.

6. The City Council shall make final approval, disapproval or modification of the recommendation of the Parks Board. (Ord. No. O-96-53, 6-26-96) (Ord. No. O-2010-21)(Ord. No. O-2015-32; 3/25/15) (Ord. No. O-2020-63; 7/8/20)

Sec. 8-6. Parks closed during certain hours.

a. All public parks owned and operated by the City are open from sunrise until sunset. It is unlawful to enter or remain within a park or recreation area when said park or recreation area is closed. (Ord. No. O-2006-39, 4/12/06) (O-2010-120, 11/10/10) (Ord. No. O-2012-46, 6/13/2012) (Ord. No. O-2013-91; 10/02/13) (Ord. No. O-2019-80; 9/25/19)

b. All public trails owned and operated by the City shall be regulated by this Section and City signage posted at trail heads. Rose Rudman Trail, Lindsey Trail, Faulkner Trail and all other public trails shall open at 5:00 a.m. and close at 10:00 p.m. It is unlawful to enter or remain on a public trail when said trail is closed. (Ord. No. O-2020-17; 2/12/20).

c. This section does not apply during times when there are permitted events, activities sponsored or sanctioned by the City, or explicitly indicated by City signage. (Ord. No. O-96-53, 6-26-96) (Ord. No. O-2019-80; 9/25/19) (Ord. No. O-2020-17; 2/12/20). (Ord. No. O-2020-63; 7/8/20)

Secs. 8-7-8-19. Reserved.

PART 2: That Tyler City Code Chapter 8, "Parks" Article II., "Prohibited Acts", 1 is hereby amended by amending Section 8-33 to read as follows:

Sec. 8-33. Domestic animals regulated; livestock prohibited.

a. It unlawful for any owner, keeper, or other person having custody or control of any dog, cat, or other domestic animal to allow such animal to run astray in and upon the grounds of any public park or recreational area except in areas specifically designated by the Director.

b. In the event a dog is brought upon the grounds of any public park or recreation area, it is unlawful for the owner, keeper, or person having custody or control of such dog to permit the dog to be situated or remain within one hundred (100) feet of any playing field or area of said park or recreation area while an organized sporting or recreational event is in progress on said playing field or area. The fact that a dog is restrained as defined in Section 14-1 is not a defense to prosecution under this subsection. This subsection shall not apply to dogs specially trained to assist persons with disabilities.

c. It is unlawful for any person to cause or permit any livestock to enter into and upon the grounds of any public park or recreation area. However, nothing in this subsection shall be interpreted or construed so as to prohibit the lawful use of any service animal as defined in federal law, or an assistance animal defined in State law, that is specially trained or equipped to assist persons with disabilities. (Ord. No. O-96-53, 6-26-96) (Ord. No. 0-99-61; 8-18-99) (Ord. No. 0-2012-80; 9/26/12) (Ord. No. 0-2020-63; 7/8/20)

PART 3: That Tyler City Code Chapter 8, "Parks", Article III., "Concessions; Special Events", is hereby amended by deleting Section 8-40 as follows:

Sec. 8-40. Reserved.

PART 4: That Tyler City Code Chapter 8, "Parks", Article V., "Fee", is hereby amended by amending Section 8- 81 to read as follows:

Sec. 8-81. Senior Citizen's Center Facilities Charges

The rates and charges for the use of the Senior Citizen's Center facilities are as provided in this section. All such rates and charges shall be paid in advance. The rates shall be determined in accordance with the following:

Senior Citizen's Center (Rentals on ~~1st and 3rd~~ Saturdays only. Facility hours are from 8:00 a.m. to 10:00 p.m.)

Senior Citizen's Center

Regular Rate Add. Hour

Building	\$240 for first 4 hours with minimum of 4 hours	\$60 per hour or \$240 per 4 hour block
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Damage Deposit \$150

(Ord. 0-2005-78, 9/28/05) (Ord. 0-2009-103, 9/23/09) (Ord. No. 0-2019-80; 9/25/19) (Ord. No. 0-2020-63; 7/8/20)

PART 5: That if any provision or any section of this ordinance shall be deemed to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 6: That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this ordinance has a penalty for violation, it shall become effective upon its publication in the newspaper as provided by Section 85 of the Charter of the City of Tyler, Texas, which date is expected to be July 10, 2020.

PASSED AND APPROVED THIS the 8th day of July, A. D., 2020.



MARTIN HENNES, MAYOR
OF THE CITY OF TYLER, TEXAS

ATTEST:

APPROVED:


CASSANDRA BRAGER, CITY CLERK




DEBORAH G. PULLUM,
CITY ATTORNEY