

ORDINANCE NO. O-2023-80

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING CHAPTER 8, "PARKS," ARTICLE I., "DEFINITIONS," AND ARTICLE II., "PROHIBITED ACTS", OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS BY AMENDING SEC. 8-2 "DEFINITIONS," AND SEC. 8-22, "UNAUTHORIZED USE OF MOTOR VEHICLES."; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, it is the intent of the City Council to promote the economic development, growth, and quality of life; and

WHEREAS, park fees can only be changed by City ordinance; and

WHEREAS, the City of Tyler is a home-rule municipality acting under its Charter adopted by the electorate pursuant to Article 11, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, Texas Local Government Code Section 51.072(a) states that a home-rule municipality has full power of local self-government; and

WHEREAS, Texas Local Government Code Section 51.072(b) provides that the grant of powers to a municipality under the Texas Local Government Code does not prevent, by implication or otherwise, the municipality from exercising the authority incident to local self-government; and

WHEREAS, Section 1 of the Tyler City Charter states that the City of Tyler may make any and all rules and regulations by ordinances and resolutions; and

WHEREAS, Section 1 of the Tyler City Charter states that the City may regulate and control, for whatever purposes, public places; and

WHEREAS, Section 2 of the Tyler City Charter states that the enumeration of particular powers by the Charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated in the Charter, the City shall have, and may exercise all other powers which, under the constitution and laws of Texas, it would be competent for the Charter specifically to enumerate; and

WHEREAS, Section 6 of the Tyler City Charter states that pursuant to the provisions of and subject only to the limitations imposed by the State law and the Charter, all powers of the City shall be vested in an elective Council, which shall, among other duties, enact legislation; and

WHEREAS, the City Council finds, it is necessary to revise and adopt certain City of Tyler regulations for the unauthorized use of motor vehicles in City of Tyler parks and facilities; and

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

PART 1. That the findings set forth above are incorporated into the body of this ordinance as if fully set forth herein.

PART 2. That Chapter 8 of the Code of Ordinances of the City of Tyler, Texas, "Parks", is hereby amended by amending Article I, Definitions, Sec. 8-2, and Article II, Prohibited Acts, Sec. 8-22 "Unauthorized Use of Motor Vehicles," to read as follows:

Article I. In General

Sec. 8-2. Definitions.

For purposes of this Chapter:

"Class 1 electric bicycle" means an electric bicycle:

- (a) equipped with a motor that assists the rider only when the rider is pedaling; and
- (b) with a top assisted speed of 20 miles per hour or less.

"Class 2 electric bicycle" means an electric bicycle:

- (a) equipped with a motor that may be used to propel the bicycle without the pedaling of the rider; and
- (b) with a top assisted speed of 20 miles per hour or less.

"Class 3 electric bicycle" means an electric bicycle:

- (a) equipped with a motor that assists the rider only when the rider is pedaling; and
- (b) with a top assisted speed of more than 20 but less than 28 miles per hour.

"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.

"Electric bicycle" means a bicycle:

(a) equipped with:

- i. fully operable pedals; and
- ii. an electric motor of fewer than 750 watts; and

(b) with a top assisted speed of 28 miles per hour or less.

"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)

"Top assisted speed" means the speed at which the bicycle's motor ceases propelling the bicycle or assisting the rider.

Article II. Prohibited Acts

Sec. 8-22. Unauthorized use of motor vehicles.

a. It is unlawful for any person to operate an automobile, motorcycle, or other motor vehicle upon the grounds of any public park or recreation area except upon a public street, road, trail or parking area designated for vehicle operation. This prohibition shall include the operation of Class 2 and Class 3 electric bicycles.

b. It is unlawful for any person to:

1. Stop, stand, or park a motor vehicle, in whole or in part, upon the grounds of a public park or recreation area except upon those areas specifically designated for parking by the traffic engineer.
 2. Stop, stand or park a motor vehicle so as to obstruct, in whole or in part:
 - (a) Any parking space or area specifically reserved for persons with disabilities and conspicuously identified as such according to law;
 - (b) Any point of ingress or egress to such park or recreation area;
 - (c) Any roadway, trail, or parking area established for motor vehicle use.
 3. Stop, stand or park a commercial vehicle (as defined in [Chapter 17](#) of this Code) in or upon the grounds of any public park or recreation area;
 4. Fail to park the entire motor vehicle within the limit lines of a designated stall where such lines have been provided;
 5. Stop, stand, or park a motor vehicle in a manner prohibited or declared unlawful by this Code or the state law.
 6. Stop, stand, park, or operate a Class 2 or Class 3 electric bicycle upon the grounds of a public park or recreation area in a manner prohibited or declared unlawful by this Code.
- c. If a motor vehicle is stopped, parked or left standing in violation of this section and the owner cannot be found, any peace officer having jurisdiction within the City may remove or impound the vehicle or cause the same to be removed or impounded in accordance with this Code.
- d. Speed limits on park roads are set out with other speed regulations in [Chapter 17](#) of this Code. (Ord. No. O-96-53, 6-26-96) (Ord. No. 0-2012-80; 9/26/12)

PART 3: Should any section, subsection, sentence, provision, clause or phrase be held to be invalid for any reason, such holding shall not render invalid any other section, subsection, sentence, provision, clause or phrase of this ordinance and same are deemed severable for this purpose.

PART 4: The City Clerk is hereby directed to record and publish the above rules, regulations, and policies in the City of Tyler's Code of Ordinances as authorized by Section 52.001 of the Texas Local Government.

PART 5: This ordinance shall become effective upon approval.

PART 6: It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that the public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Texas Government

Code, Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED AND APPROVED THIS the 23rd day of August, A. D., 2023.



DONALD P. WARREN, MAYOR
OF THE CITY OF TYLER, TEXAS

ATTEST:


CASSANDRA BRAGER, CITY CLERK

APPROVED:



DEBORAH G. PULLUM,
CITY ATTORNEY