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AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE CODE OF THE CITY OF MESQUITE BY PROVIDING A NEW SECTION 10-77; BY PROVIDING FOR CRIMINAL LIABILITY FOR PARENTS AND OTHERS WHO ALLOW MINORS TO OPERATE MOTORIZED VEHICLES IN PROHIBITED AREAS OF THE CITY PARKS OR UPON PRIVATE PROPERTY WHERE SUCH OPERATION IS PROHIBITED BY LAW; BY PROVIDING CERTAIN DEFINITIONS; BY PROVIDING A SEVERABILITY CLAUSE; BY PROVIDING FOR A PENALTY NOT TO EXCEED TWO HUNDRED (\$200.00) DOLLARS FOR EACH OFFENSE; AND DECLARING AN EMERGENCY:

WHEREAS, the operation of motorized vehicles in public park areas devoted to play and relaxation is hazardous to those legitimately utilizing the park facilities and damages to the park surfaces; and

WHEREAS, the operation of motorized vehicles upon private property where same is prohibited by signs is an invasion of private property rights and is unlawful; and

WHEREAS, certain parents and adults make motorized vehicles available to minors of tender years who are without proper discretion and discernment to realize the harm of operating said vehicles upon prohibited areas and fail to exercise adequate control over the minor's activities to protect persons and public and private property from harm;

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

SECTION 1. That Chapter Ten (10) of the Code of the City of Mesquite is hereby amended by adding a new Section 10-77 as follows:

It shall be an offense and unlawful for a person having the care, custody and control of a minor under the age of seventeen (17) years to through criminal negligence allow said minor to operate a motorized vehicle upon a public park within the City in an area prohibited by law contrary to Section 10-73, Code of the City of Mesquite or to operate said motorized vehicle upon private property in violation of Article 30.05, Texas Penal Code.

It shall be unlawful and an offense for any person over the age of seventeen (17) years of age and having control over a motorized vehicle to, through criminal negligence, make said motorized vehicle available to a minor under seventeen (17) years of age wherein said motorized vehicle is operated by said minor upon a public park

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## ORDINANCE/PAGE 2

within the City in an area prohibited by law contrary to Section 10-73, Code of the City of Mesquite or to operate said motorized vehicle upon private property in violation of Article 30.05, Texas Penal Code.

## Definitions:

Criminal negligence is defined as that culpable mental state wherein a person having been informed once within the preceding twelve (12) month period that a minor under seventeen (17) years of age under his care, custody or control or upon a motorized vehicle made available by him to said minor has operated said vehicle upon a prohibited public area in violation of Section 10-73 of the Code of the City of Mesquite or upon private property in violation of Article 30.05 of the Texas Penal Code and who, within said twelve (12) month period, fails and omits to exercise reasonable care and control to prevent said violation from being repeated by said minor. Proof that reasonable care to prevent said repeat violation was exercised and that said violation occurred notwithstanding such care shall negate criminal negligence.

Motorized vehicle shall mean all wheeled or tracked vehicles powered by other than human or animal effort and shall include, among others, automobiles, trucks, tractors, motorcyles, motorbikes, "dirt bikes", "three-wheelers" and motor scooters. It is expressly intended that the partial listing herein shall not exclude any other motorized vehicle; provided however, that motorized wheel chairs used by the physically handicapped shall not be included.

SECTION 2. That should any paragraph, sentence, subdivision, clause phrase, section or provision of this ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision hereof other than the part so decided to be unconstitutional, illegal, or invalid.

SECTION 3. That any person, violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and upon conviction in the Municipal Court shall be punished by a fine not to exceed Two Hundred (\$200.00) Dollars for each offense.

SECTION 4. The fact that the present ordinances of the City of Mesquite are inadequate to protect the health and welfare the inhabitants of the City of Mesquite creates an urgency and an emergency and necessitates that this ordinance become effective immediately from and after its date of passage and the publication of its caption as the law in such cases provides.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas on the 17th day of March A.D., 1986.

Mrs. Brunhilde Nystrom

ATTEST:

APPROVED AS TO FORM:

Lynn Frugel
City Secretary

Elland Archer City Attorney