

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE CODE OF THE CITY OF MESQUITE BY DELETING CURRENT CITY CODE SECTIONS 4-10(c), 4-10(d), 4-14, 9-246, 9-286, 9-287, 9-288, 9-289, 9-290, 9-291, 10-1, 10-22, 10-23, 10-24, 10-25, 10-26, 10-167, 14-10 AND 14-11, AND ADDING A NEW CHAPTER 10.5 ENTITLED PARKS AND RECREATION; THEREBY BRINGING TOGETHER REGULATIONS RELATING TO PARKS AND RECREATION INTO ONE CODE LOCATION; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; AND DECLARING AN EMERGENCY.

WHEREAS, regulations relating to City Parks and Recreation operations have been placed in various City Code Chapters making it difficult to locate such regulations; and

WHEREAS, the City Council finds that it is in the best interest of the citizens of the City to place regulations relating to City Parks and Recreation operations in a Chapter of the City Code entitled "PARKS AND RECREATION."

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

SECTION 1. That the Code of the City of Mesquite, Texas, is hereby amended by deleting current City Code Sections 4-10(c), 4-10(d), 4-14, 9-246, 9-286, 9-287, 9-288, 9-289, 9-290, 9-291, 10-1, 10-22, 10-23, 10-24, 10-25, 10-26, 10-167, 14-10 and 14-11, and adding a new Chapter 10.5 entitled "PARKS AND RECREATION" to read as follows, in all other respects said Code, to remain in full force and effect:

CHAPTER 10.5 PARKS AND RECREATION

ARTICLE I. IN GENERAL

Sec. 10.5-1. Hours of operation of city parks.

- (a) *Operating hours established.* In order to properly preserve and maintain the city parks of the City of Mesquite, the following schedule of hours is adopted for use of city parks by members of the public:

Use	Hours
Organized athletic events	Until the scheduled event is concluded
All other uses	6:00 a.m. to 11:00 p.m.

- (b) *Closed field.* The Director of the Parks and Recreation Department or his designee is authorized to designate any athletic field owned or leased by the City a closed field and a sign or signs shall be posted giving notice of the closed field. Such signs shall read:

“CLOSED FIELD – DO NOT ENTER UPON THIS
FIELD - VIOLATORS SHALL BE SUBJECT TO FINE
UP TO \$500.00”

When such signs are posted, giving notice that an athletic field is a closed field, it is an offense for any member of the public to enter upon such athletic field.

- (c) *Definitions.* For the purpose of this section, the following terms are defined as follows:

- (1) *City park* means any portion of the city park system which has been dedicated for park purposes, including walks, drives, roads and parking facilities within and adjacent to park facilities.
 - (2) *Closed field* means any athletic field that is shut down for the purpose of maintenance, renovation or to protect the surface of the athletic field from damage.
 - (3) *Members of the public* include all users of the city park system other than those engaged in park maintenance and construction under authority of the City and persons engaged in police activity.
 - (4) *Organized athletic event* means a game, sport or other activity whereby permission has been obtained by a person, group or organization to conduct such activity under rules and regulations of the City Parks and Recreation Department.
- (d) *Use of, or presence in, park during unauthorized hours is prohibited.* Use of a city park or presence therein or upon contrary to the hours established herein or as shall, from time to time, be established by ordinance by the City Council is hereby prohibited.

Sec. 10.5-2.-10.5-9. Reserved.

ARTICLE II. ALCOHOL

Sec. 10.5-10. Consumption of alcoholic beverages at city athletic fields.

- (a) *Prohibited.* It is hereby declared to be unlawful for any person to possess or consume alcoholic beverages upon and adjacent to any athletic field owned or controlled by the City at which league games are played.

- (b) *Definitions.* For the purpose of this section, the following terms are defined as follows:
- (1) *Adjacent* means that area about the field, including seating facilities, parking facilities and an area within 100 feet of the play area.
 - (2) *Parking facilities* means those areas utilized primarily for parking by patrons of the playing fields, whether as participants or as spectators, and that area within 25 feet of the parking facility.

Sec. 10.5-11. Consumption of alcoholic beverages between the hours of 10:00 p.m. and 8:00 a.m.

Notwithstanding Section 10.5-10, it shall be unlawful for any person to possess any alcoholic beverage in a designated city park at any location after the hour of 10:00 p.m. and prior to the hour of 8:00 a.m.

Sec. 10-5.12.-10-5.19. Reserved.

ARTICLE III. ANIMALS

Sec. 10.5-20. Animal waste.

- (a) It shall be unlawful for any person owning or having control or custody of any animal to permit or allow the animal to defecate within city parks including designated city/school district park sites unless the owner or the person having control or custody of the animal immediately removes the feces and properly disposes of it.
- (b) For the purposes of this section the term "properly disposes" shall mean the collection of animal feces in a plastic bag and the disposal of said bag in a public receptacle in the park or disposal in a receptacle away from park property.
- (c) It is an exception to subsection (a) if:
 - (1) The animal is a police service animal under the supervision of a police officer in the performance of his official duties; or
 - (2) The animal is a "service animal" performing duties of assisting a person with disabilities.

Sec. 10.5-21. City designated as a bird sanctuary; preservation; protection; nuisance abatement.

- (a) The entire area embraced within the corporate limits of the City be and is hereby designated as a "bird sanctuary."
- (b) All city-owned property shall be managed in such a manner as to promote both human enjoyment and the development of bird and wildlife habitat.
- (c) Wherever possible, the City will leave the environment in its natural state. The City through its Parks and Recreation Department, will attempt to mitigate the affect of development of roads, parking facilities, utilities and other necessary improvements through seasonal plantings and feeding stations. Enhancement programs, such as birdhouses, will be encouraged.
- (d) It shall be unlawful to trap, hunt, shoot or attempt to shoot or molest in any manner any bird or wild fowl or to rob bird nests or wild fowl nests within the City; provided, however, if starlings, pigeons or other birds are found congregating in such numbers in a particular locality that, in the opinion of the Environmental Health Official of the City, they constitute a nuisance or menace to health or property, then the Environmental Health Official shall make arrangements to abate the nuisance in as humane a manner as practicable. The Environmental Health Official may contact the Humane Society or other similar organizations for assistance in abatement. Destruction of the birds shall be permitted only if no other practical alternative for abating the nuisance can be found. The Environmental Health Official shall consult with the Director of Parks and Recreation prior to making any decision to destroy the birds. The Environmental Health Official shall receive assistance from the police or other city departments as needed in any abatement procedure.

Sec. 10.5-22. Dogs prohibited in designated areas within city parks.

- (a) When signs are posted giving notice to such effect, it shall be unlawful for any person owning or having control or custody of a dog to permit or allow such dog to enter upon any portion of a city park, including city/school district park sites, designated as an area prohibited to dogs.
- (b) The Director of the Parks and Recreation Department shall have the authority to designate any portion of a city park, including city/school district park sites, as an area prohibited to dogs by posting signs on one or more of the zone's boundaries.
- (c) It is an exception to subsection (a) if:
 - (1) The dog is a police service animal under the supervision of a police officer in the performance of his official duties; or
 - (2) The dog is a "service dog" performing duties of assisting a person with disabilities.

Sec. 10.5-23.-10.5-29 Reserved.

ARTICLE IV. MISCELLANEOUS

Sec. 10.5-30. Management, use and operation of city-owned property.

- (a) Whenever it is necessary for the preservation or protection of property, the City Manager shall have full power and authority to establish rules and regulations for the management, use and operation of any city-owned property.
- (b) Where any such rule has been established and posted on the affected property so as to give notice of such rules, it shall be unlawful and an offense for any person to violate said rule.
- (c) For the purpose of this section, "city-owned property" shall include, but is not limited to, the municipal parks, golf course, recreation centers, recreational and athletic facilities, activity center, city hall and municipal center, administrative buildings, shooting range, airport, libraries, historic facilities, exhibit hall, fire stations, service center, animal shelter, health clinic, arts center and any other property whether vacant or developed, together with all buildings, facilities and parking lots located in or on such property.

Sec. 10.5-31. Hitting golf balls in city parks prohibited.

When signs are posted giving notice to such effect, it shall be unlawful and an offense for any person to hit or drive golf balls in and upon public parks within the City.

Sec. 10.5-32. Disrupting of supervised play or amusement conducted under authority of Parks and Recreation Department.

- (a) It shall be unlawful and is hereby declared to be a nuisance for any person to willfully disrupt, prevent or hinder the orderly conduct of any supervised play or amusement program being conducted by or under the authority of the Parks and Recreation Department of the City in any building, swimming pool, playground or park area operated by or subject to the direction of the Parks and Recreation Department of the City.
- (b) The Parks and Recreation Department shall be authorized to post in conspicuous places written rules and regulations concerning prohibited or regulated conduct. Proof that a person in charge of a supervised play or amusement activity verbally informed the actor that his conduct was disruptive to such supervised activity shall be prima facie evidence that the actor willfully disrupted, prevented or hindered such supervised play or amusement program and that such act constituted a nuisance, subject to rebuttal as in other cases.

- (c) "Supervised play or amusement program" includes an organized activity where permission or authority for such activity is required from the Parks and Recreation Department for such activity, such as games of sport requiring specific areas of a facility or particular equipment and including, but not limited to, baseball, football, soccer, both practice and inter-team competition, as well as other activities subject to control or authority of the Parks and Recreation Department.

Sec. 10.5-33. Depositing trash, etc., in park.

It shall be unlawful for any person to throw or deposit trash, yard waste or solid waste of any kind or nature in any park within the City, except in public receptacles and in such a manner that the trash, yard waste or solid waste will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or any public place. Where public receptacles are not provided, all such trash, yard waste or solid waste shall be carried away from the park by the person responsible for its presence and properly disposed of as same is provided for herein.

Sec. 10.5-34. Throwing trash, etc., in fountain, pond, etc.

It shall be unlawful for any person to throw or deposit any trash, yard waste or solid waste of any kind or nature whatsoever in any fountain, pond, lake, stream or any other body of water in a park.

Sec. 10.5-35. Water-related activities on city property.

- (a) Except as provided in this section, it shall be unlawful and an offense for any person to wade, swim, fish, boat or ice skate in or upon any pond, drainage area, lake or other water facility located on city park property or other property owned or under the control of the City.
- (b) Swimming in city parks and on city property shall be allowed only at city swimming pools during the hours designated at each pool and when lifeguards are on duty.
- (c) Fishing in city parks and on city property shall be allowed only at designated water facilities.
- (d) The Director of Parks and Recreation or his designee may authorize special events allowing the activities prohibited herein where such activities are sponsored by the City.

Sec. 10.5-36.-10.5-39. Reserved.

ARTICLE V. VEHICLES

Sec. 10.5-40. Operation within parks prohibited; exceptions.

It shall be unlawful for any person to operate or cause to be operated any commercial motor vehicle upon any portion of any street within a public park in the City except to perform a service within the park or for the purpose of loading or unloading within the park.

Sec. 10.5-41. "Motor vehicle" defined.

For the purpose of this article, "motor vehicle" means, but is not limited to, automobiles, trucks, motorcycles, motor scooters, motorized bicycles, go-carts and all other vehicles powered and propelled by any type of self-contained motor or engine and designed to be ridden or driven by a person.

Sec. 10.5-42. Where prohibited; exception.

It shall be unlawful for any person to operate or drive a motor vehicle in and upon all public parks, including designated city school district park sites, situated within the city limits, except on paved roadways and parking areas specifically designed for motor vehicle traffic.

Sec. 10.5-43. City maintenance vehicles excepted.

The provisions of this article shall not apply to city-owned maintenance vehicles or city's contractors engaged in authorized construction, repair or maintenance work in any such above-named parks.

Sec. 10.5-44. City Manager may exempt certain park sites.

The City Manager is hereby authorized to permit off-street parking at those park sites he may designate; provided, such off-street parking shall be allowed only for special events and shall be limited to a specified length of time.

Sec. 10.5-45. Parking prohibited; designated locations.

When notice is given by the erection of signs, no person shall leave, stop, park or stand a vehicle in the following locations:

Paschall Park. Park roadway located on the west boundary line of the park property and north of New Market Road. Both sides of said roadway from New Market to South Mesquite Creek.

Sec. 10.5-46. Criminal liability for allowing minors to operate a motorized vehicle in prohibited areas.

- (a) It shall be an offense and unlawful for a person having the care, custody and control of a minor under the age of 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 10.5-42.
- (b) It shall be unlawful and an offense for any person over the age of 17 years of age and having control over a motorized vehicle to, through criminal negligence, make said motorized vehicle available to a minor under 17 years of age wherein said motorized vehicle is operated by said minor upon a public park within the City in an area prohibited by law contrary to Section 10.5-42.
- (c) *Definitions.*
 - (1) *Criminal negligence* is defined as that culpable mental state wherein a person having been informed once within the preceding twelve-month period that a minor under 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 10.5-42 and who, within said twelve-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.
 - (2) *Motorized vehicle* means all wheeled or tracked vehicles powered by other than human or animal effort and shall include, among others, automobiles, trucks, tractors, motorcycles, motorbikes, "dirt bikes," "three- or four-wheelers," motor scooters and motorized scooters. It is expressly intended that the partial listing herein shall not exclude any other motorized vehicle; provided, however, that motorized wheelchairs used by persons with disabilities shall not be included.


SECTION 2. That all ordinances or portions thereof in conflict with the provisions of this ordinance, to the extent of such conflict, are hereby repealed. To the extent that such ordinances or portions thereof are not in conflict herewith, the same shall remain in full force and effect.

SECTION 3. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the validity of the remaining provisions of this ordinance shall not be affected and shall remain in full force and effect.

SECTION 4. That any person, firm, or corporation 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 Five Hundred Dollars (\$500.00) for each offense.

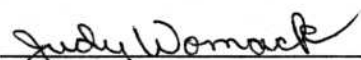
SECTION 5. That the present ordinances of the City of Mesquite are inadequate to provide for the proper regulation of activities in the City Parks and Recreation Department creates an urgency and an emergency for the preservation of the public health, safety, and welfare and requires that this ordinance shall take effect immediately from and after its passage and publication of said ordinance, as the law in such cases provides.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 3rd day of November, 2003.




Mike Anderson
Mayor

ATTEST:



Judy Womack
City Secretary

APPROVED:



B. J. Smith
City Attorney