#### **ORDINANCE 2008-05**

AN ORDINANCE PROVIDING FOR SUPERVISION AND CONTROL OF CITY PARK AND RECREATION FACILITIES; PROHIBITING CERTAIN ACTS ON OR IN PARK FACILITIES; PROHIBITING CERTAIN ACTIVITIES WITHOUT A PERMIT; ESTABLISHING A PERMIT APPLICATION PROCEDURE, REASONS FOR PERMIT DENIAL, AND PERMIT DENIAL APPEAL PROCEDURE; AND, ESTABLISHING A PENALTY FOR VIOLATION.

### BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF SHOREACRES, THAT:

Chapter 42, Division 2, "Vehicles" of the Code of Ordinances, City of Shoreacres, Texas, is hereby amended by deleting Section 42-91, "Operation" and Section 42-92, "Operation in specific area" in their entirety; renaming Division 2, "Regulation of Parks"; and, adding sections, to be numbered sections 42-91 through 42-99, which sections read as follows:

#### Sec. 42-91. Definitions.

As used in this chapter, the following terms shall have the respective meanings ascribed to them:

*Group:* An organization or association of individuals having a common interest or purpose and numbering ten (10) or more persons.

Licensed motor vehicle: Any type of device, whether battery, internal combustion or electric powered, used to transport person or persons that is required by law to be registered.

Park or park facility: Any and all land, areas, buildings, and facilities that are owned, leased, or otherwise controlled by the City of Shoreacres and used for recreational purposes by the general public.

*Permit:* Written permission from the city administrator issued pursuant to the provisions of this chapter authorizing a person or organization to carry out the activity specified in the permit at a park facility.

Pollute: To make physically impure, unclean or contaminated.

*Unlicensed motorized vehicle:* Any type of device, whether battery, internal combustion or electric powered, used to transport person or persons that is not registered or ineligible for registration by the Texas Department of Public Safety. This does not include approved devices used to transport a handicapped person or vehicles lawfully registered in another state.

## Sec. 42-92. Purpose of regulation of parks and recreation areas.

All city parks and recreational facilities exist for the benefit, use and enjoyment of the public. Sections 42-93 through 42-99 are meant to control special interest use and general use of city parks and recreation areas to prevent interference with general public enjoyment.

### Sec. 42-93. Supervision.

All parks shall be operated and maintained under the supervision of the city administrator.

#### Sec. 42-94. Prohibited acts.

It shall be unlawful for any person to knowingly do any of the acts specified in this section in or upon any park facility, except as otherwise specifically provided:

Weapons. To carry or discharge firearms, fireworks, air guns, bows and arrows, slingshots or any device which would or could project any object which would or could create a fire hazard or any hazard or danger to the public, except with written approval of the city administrator. Persons who are duly licensed by the state to carry a concealed handgun may do so in accordance with the provisions of the Texas Concealed Weapons Act.

Obstruction of use. To prevent any person from using any park, or any of its facilities, or interfere with such use in compliance with this chapter and the rules applicable to such use.

*Disturbances.* To interfere with any park facility scheduled activities including but not limited to picnics, meetings, classes, games, practices, meets, tournaments, exhibitions, camps, special events, or other such activities.

Restroom use. To enter, remain or linger in, near, or about a public restroom located at or in a park facility for the purpose of engaging in or soliciting any lewd and lascivious or criminal activity. Any person over the age of six (6) years shall not use the restrooms and washrooms designated for the opposite sex. It is a defense, however, for any person regardless of age, to enter an otherwise unoccupied restroom or washroom of the opposite sex for the purpose of assisting a disabled person of the opposite sex.

Tobacco Use. To use or consume any tobacco products:

Inside any building located on park land including, but not limited to, restrooms, concessions, storerooms, and equipment rooms.

Inside the border of a playground or within twenty (20) feet of playground equipment.

Use or consumption of tobacco products is allowed in all other outdoor areas of a park facility unless otherwise prohibited.

*Environmental disturbance.* To destroy, damage, deface or remove shrubbery, trees, soil, grass, turf or other vegetation, rock, or minerals.

Swimming. To swim in, wade in, bathe in, any pond, lake, bayou or stream.

Damage facilities: To willfully mark, deface, disfigure, injure, tamper with, displace or remove any structure, sign, equipment, net, trash receptacle, water fixture, electrical device, light, table, bench, grill, railing, paving or park property or appurtenances.

*Pollute:* To throw, discharge or otherwise place or cause to be placed in the waters of any fountain or drain, any substance, liquid or solid, which will or may result in the obstruction or pollution of said drain. To discharge or otherwise place or cause to be placed on the surface or ground of a park or park facility any liquid or solid waste, oil, fuel, trash or other unwholesome or undesirable material.

Provisions of this section do not apply to city employees, its agents or contractors in the performance of authorized maintenance, construction or repair duties for any park facility.

# Sec. 42-95. Activities allowed with a permit

It shall be unlawful for any person to do any of the acts specified in this section in or upon any park facility except with a permit issued by the city administrator. If a permit is issued under this section, the city administrator may limit the activity to a designated park facility.

Park Hours. To enter or remain in any park facility between the hours of 10:30 p.m. and 5:00 a.m. unless different hours for the park facility have been designated.

Solicitation. To charge fees or solicit donations or contributions for any activity unless for a city sponsored or permitted event.

*Group activities.* To use a park or its facilities for a particular purpose, other than informal sports, by any group.

Commercial or business activities. To conduct any commercial or business activities of any kind for which any participation or admission fee is charged or revenue is otherwise derived.

Amusement for gain: To conduct amusement for gain or for which a charge is made.

*Fires.* To make or kindle a fire except in public stoves, grills, fire pits, or designated areas provided for that purpose. Fires shall not be left unattended and must be extinguished prior to departure.

*Hunting.* To hunt, trap, kill, remove or release any animal; provided however, that fishing shall be permitted subject to Texas Parks and Wildlife Rules and Regulations.

Animals. Dogs and other animals are not permitted inside park facility buildings or playground areas. Any person accompanying a dog or other animal shall immediately clean up any feces left by such animal. Animals that are trained to assist the handicapped are permitted in all park facilities.

Landscape. To willfully cut, trim, remove or relocate any trees, shrubs, ornamental plants or flowerbeds within park property or adjacent rights-of-way.

Camping. To camp overnight in or upon any park facility.

Aircraft. To ascend, descend, operate, or launch any aircraft, including but not limited to hot air balloons, airplanes, paraplanes, ultralights, helicopters, and gliders.

Sound amplification. To use any type of sound amplification devices which include but are not limited to loudspeakers, amplifiers or microphones.

Use of vehicles. The regulations specified in this section govern the use of vehicles in outdoor areas and facilities owned, leased, or otherwise controlled by the city; outdoor areas and facilities include, but are not limited to, parks, athletic fields, tennis courts, golf courses, swimming pools, playgrounds, pavilions, medians, improved and unimproved rights-of-way and parking facilities and recreational trails:

Unlicensed motorized vehicles. To operate, drive or ride any unlicensed motorized vehicle, except for city vehicles or other authorized vehicles, within any outdoor area or facilities owned, leased, or controlled by the city, including park roads, streets and parking lots.

Licensed motor vehicles. To operate, drive or ride any licensed motor vehicle, except for city vehicles or other authorized vehicles, within a park facility upon a surface other than a road, street or parking lot.

Overnight parking. To park a vehicle within a park facility overnight. Vehicles in violation of this subsection may be towed and stored at the owner or operator's expense in accordance with state law.

Parking. To park a vehicle, other than a city vehicle, within a park facility at any place not designated as a parking area. This includes parking on unimproved surfaces such as grass and dirt or any other non-paved surface that has not been designated as a parking area. Vehicles in violation of this subsection may be towed and stored at the owner or operator's expense in accordance with state law.

*Parking exception.* Parking of vehicles shall be permitted in Miramar Park each Fourth of July for the purposes of observing the annual fireworks display sponsored by the Houston Yacht Club.

### Sec. 42-96. Permit application procedure.

A person wishing to conduct an activity in a park facility which requires a permit under section 42-95 of this Code shall file an application with the city administrator. The application shall at a minimum provide the following information:

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;

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

Type of proposed use or activity;

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

An estimate of the anticipated attendance; and

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

Permit applications shall be filed with the city administrator for consideration not less than fifteen (15) business days nor more than three hundred sixty-five (365) days before the date of the proposed use or activity, except as otherwise provided in the rules and regulations of the City of Shoreacres or if waived in writing by the city administrator. The city administrator shall evaluate the application and render a decision in accordance with section 42-97 within ten (10) business days of receipt of such request except in the case of group sport use facilities.

The city administrator may establish an annual application period, deadline, and random drawing procedure for the equitable use of group sport use facilities such as playing fields and courts, the use of which can be reasonably expected to be requested by two or more applicants for the same day and hour. In such case the permit would be issued according to that schedule.

## Sec. 42-97. Reasons for permit denial.

Upon receiving such written application, the city administrator or his designee must grant a written permit to use the designated park facility unless:

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; or

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

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

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

The proposed activity or use would violate any federal, state, or municipal law, or

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.

The city administrator may impose reasonable conditions or restrictions on the granting of a permit including but not limited to any of the following:

A requirement that the applicant post a security deposit as determined reasonable by the city administrator for the repair of any damage to the park facility or the cost of clean up or both. The amount of the security deposit shall be based upon the nature, attendance, and duration of the permitted activity;

A requirement that the applicant pay a fee as set by the city administrator to defray the cost of furnishing adequate city personnel at the proposed use of activity;

A requirement that the applicant furnish additional sanitary and refuse facilities that may be reasonably necessary, based upon the use or activity for which the permit is being sought;

A requirement that the applicant pay a fee as set by the city administrator to cover the administrative costs of the permit application and site support by the city at the proposed use or activity.

# Sec. 42-98. Appeal of permit denial or conditional approval.

Decisions of the city administrator 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. Such appeal shall be in writing and shall be filed within five (5) business days after the issuance of a decision by the city administrator. When making a determination regarding the appeal, the city council shall consider the application under the standards provided in this article and sustain or overrule the city administrator's decision. The decision of the city council shall be final.

### Sec. 42-99. Enforcement.

The city police officers, the city administrator, and other authorized personnel designated by the city administrator, shall have the authority to eject from park facilities any person acting in violation of this ordinance.

If any vehicle is found parked in violation of this Article and the identity of the operator cannot be determined, the owner or person in whose name such vehicle is registered shall be held prima facie responsible for such violation.

The following remedies are cumulative and not exclusive for violations of this chapter.

Any person, firm, company, partnership, corporation, or an association, violating any provisions of this article or the rules and regulations adopted pursuant to this article shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in the sum of not more than five hundred dollars (\$500.00) for each such offense, and each and every day such violation shall continue, shall be deemed to constitute a separate offense.

Jayo Washington, Mayor

PASSED AND APPROVED this the 25TH day of FEBRUARY 2008.

ATTEST:

David K. Stall City Secretary