ORDINANCE No. 2016-204

AN ORDINANCE AMENDING SHOREACRES CITY CODE SECTION 42-91 AMENDING DEFINITION OF CITY PARKS; AMENDING SECTION 42-95 PARKING AND CITY PARK OURSS; AMENDING SECTION 42-94 ESTABLISHING SPEED ZONES WITHIN CERTAIN CITY PARKS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF; MAKING VARIOUS FINDINGS AND PROVISIONS RELATING TO THE SUBJECT; FINDING COMPLIANCE WITH THE OPEN MEETINGS LAW; AND PROVIDING AN EFFECTIVE DATE HEREOF.

* * * * *

Whereas, the city council has the exclusive authority under Texas Transportation Code section 311.002(b-2) to change and regulate streets of the city, by declaring specific highways as part of the city's public parks; and,

Whereas, the city council has the authority under Texas Transportation Code section 542.202(6) to regulate the speed of a vehicle in a public park.

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

That, the facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct; and,

That section 42-91 of the Shoreacres City Code is hereby amended to read as follows:

Sec. 42-91. Definitions.

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

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

(b) *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.

(c) *Park or park facility*: Any and all land, including streets or portions of streets directly adjacent to the park, 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.

(d) *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.

(e) *Pollute*: To make physically impure, unclean or contaminated.

(f) *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.

That section 42-94 of the Shoreacres City Code is hereby amended to read as follows:

Sec. 42-94. Prohibited acts.

(a) 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:

(1) *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.

(2) *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.

(3) *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.

(4) *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 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.

(5) *Tobacco use*. To use or consume any tobacco products:

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

b. Inside the border of a playground or within 20 feet of playground equipment.

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

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

(7) *Swimming*. To swim in, wade in, bathe in, any pond, lake, bayou or stream.

(8) *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.

(9) *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.

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

(c) Vehicle Speed Limits within Parks.

(1) The maximum speed within the park known as Miramar Park is 20 miles per hour.

(2) The maximum speed within the park known as Circle Park is 10 miles per hour.

That section 42-95 of the Shoreacres City Code is hereby amended to read as follows:

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.

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

(b) *Amusement for gain*. To conduct amusement for gain or for which a charge is made.

(c) *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.

(d) *Camping*. To camp overnight in or upon any park facility.

(e) *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.

(f) *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.

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

(h) *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.

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

(j) *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.

(k) *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.

(l) *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, except for park streets designed for vehicle traffic.

(m) *Parking*. To park a vehicle, other than a city vehicle, within a park facility at any place not designated as a parking area or on the side of a park street adjacent to private property. This includes parking on unimproved surfaces such as grass and dirt or any other nonpaved 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.

(n) *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.

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

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

(q) *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.

(r) *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.

That if any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance; and,

That the City Council officially finds, determines, recites, and declares that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, Texas Government Code; and that this meeting has been open to the public as required by law at all times during which this ordinance and the subject matter thereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof; and,

This Ordinance shall be effective upon its passage and approval. The City Secretary shall give notice of the passage of this ordinance by causing the caption hereof to be published in the official newspaper of the City of Shoreacres at least once after the passage of this ordinance.

PASSED AND APPROVED this the 11th day of April 2016.

_____
Rick Moses, Mayor

ATTEST:

_____
David K. Stall, CFM, TEM
City Secretary

M/2		Yea	Nay	N/V	Absent
	R. Moses	☐	☐	☐	☐
	R. Adams	☐	☐	☐	☐
	D. Jennings	☐	☐	☐	☐
	J. McKown	☐	☐	☐	☐
	N. Schnell	☐	☐	☐	☐
	M. Wheeler	☐	☐	☐	☐

Passed / Failed _____
David Stall, City Secretary - Date