

No. 347

**AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF SHEPHERD, TEXAS REGULATING THE CITY PARKS; PLACING THE ENFORCEMENT OF THE CITY PARK RULES AND REGULATIONS UNDER THE JURISDICTION OF THE SHEPHERD POLICE DEPARTMENT; PROVIDING DEFINITIONS; DESCRIBING THE PARK OPERATING POLICY; PROVIDING RULES AND REGULATIONS FOR TRAFFIC, BEHAVIOR OF PERSONS USING THE PARK, AND OTHER CONDITIONS FOR THE USE OF THE PARK; REQUIRING A PARK PERMIT FOR GROUPS OVER 15 PEOPLE; ASSESSING CRIMINAL PENALTIES FOR VIOLATION OF THE ORDINANCE OF UP TO \$500.00; PROVIDING A SAVINGS CLAUSE AND REPEALING CLAUSE; PROVIDING A TEXAS OPEN MEETINGS ACT CLAUSE; AND DECLARING AN EFFECTIVE DATE UPON PASSAGE AND PUBLICATION.**

**WHEREAS**, Chapter 331 of the Texas Local Government Code authorizes a Texas municipality to acquire and maintain parks accessible to the public; and

**WHEREAS**, the City Council of the City of Shepherd, San Jacinto County, Texas operates public recreational parks for the use and benefit of its residents, including the City park and pavilion on North Liberty Street; and

**WHEREAS**, the City Council has received numerous complaints about vandalism and vagrancy at the City park on North Liberty Street; and

**WHEREAS**, the City Council desires to regulate the use of the city parks and particularly the City park and pavilion on North Liberty Street in order to provide for the health, safety, and convenience of all persons who use the parks; and

**WHEREAS**, the City Council believes that supervision for all city parks and playgrounds should be placed in the City Police Department in order to properly regulate them and enforce the City park rules and regulations;

**WHEREAS**, the City Council believes that it is in the public interest that the Police Department be notified in advance by a permit application of any planned group activity over fifteen (15) persons so as to identify the organizers and prepare the park for the safety and use of the group seeking to use it;

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

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## **CITY PARK ORDINANCE**

### **SECTION 1. GENERAL APPLICABILITY.**

The rules and regulations set out in this Ordinance apply to the use of all city parks and playgrounds located within the City of Shepherd, Texas, and are consistent with applicable Texas Statutes including Local Government Code Chapter 331, and have been adopted by the City Council of the City of Shepherd, Texas for the purpose of providing for the safety of persons in the City. The City Public Works Department shall continue to be responsible for park maintenance.

### **SECTION 2. DEFINITIONS.**

Terms used in these rules and regulations shall have the meanings described below:

**Alcoholic Beverage.** Refers to any alcoholic beverage.

**City.** Refers to the City of Shepherd, San Jacinto County, Texas; its elected and appointed officials; and its employees.

**City Council.** Means the duly elected city council of the City of Shepherd, Texas.

**City Park.** Includes any and all parks, playgrounds, recreation centers, pavilions, or any other area designated by the City of Shepherd, owned or used by the City of Shepherd, and devoted to active or passive recreation.

**Police Department.** Refers to the police department for the City of Shepherd, Texas, its police supervisors, and officers.

**Vehicle.** Means any motor driven or propelled vehicle by which any person or property is or may be transported upon a road and which is required to be registered under the laws of the State of Texas.

**Weapon.** Means a knife, handgun, rifle, bow and arrow, shotgun, gas gun, gas pistol, pellet gun, pellet pistol, BB gun, sling or sling shot, explosive device, taser, or any other instrument that in the manner of its use or intended use is capable of causing bodily harm.

### **SECTION 3. RESERVATION OF RIGHTS BY CITY.**

The City Council reserves the exclusive control and maintenance of all city parks. The City Council retains the exclusive use and control of all buildings, recreational facilities, and all other facilities used in connection with city parks.

### **SECTION 4. ENFORCEMENT OF RULES BY POLICE.**

- A. All rules and regulations concerning the operation and use of the parks shall be enforced by the Shepherd Police Department.
- B. The Police Department shall have the authority to eject from a city park any person violating this Ordinance and ban in writing that person's return for up to thirty (30) days through use of a criminal trespass warning.

#### **SECTION 5. VARIANCES.**

The Shepherd Youth League may use the City-owned ball parks for organized youth activities under the terms of its lease with the City. The City Council may grant a variance to any provisions of this Ordinance.

#### **SECTION 6. REQUIREMENTS CONCERNING USE OF CITY PARKS AND PLAYGROUNDS.**

Each person using the city public parks and playgrounds shall clean up all debris and leave the premises in good order, and the facilities in a neat and sanitary condition.

#### **SECTION 7. PROHIBITED ACTS.**

It shall be unlawful for any person using city parks and playgrounds to either perform or permit to be performed any of the following acts:

- A. Endanger the safety of any person by any conduct or act.
- B. Carry, possess, or drink any alcoholic beverage in any city park or playground, except in designated areas.
- C. Violate any rule for the use of the city park or playground, made or approved by the City Council.
- D. Prevent any person from using any city park or playground, or any of its facilities, or interfere with such use and compliance with this Ordinance and the rules applicable to such use.
- E. Remodel, reconstruct, rebuild, replace, correct or change any city park facility, structure or other improvement, whether permanent or temporary in character, without special written permission by the City Council. (Any and all improvements to city parks or park facilities remain the sole property of the City of Shepherd).
- F. Appear unclothed or clothed in a manner that leaves uncovered or visible through less than fully opaque clothing any portion of the genitals, anus, buttocks or any portion of the female breast below the top of the areola.

- G. Dress or undress except in any city park structures as may be provided for that purpose.
- H. Use, carry or possess any weapon of any description.
- I. Use any glass containers in a city park.
- J. Picnic or lunch in a place other than those designated for that purpose.
- K.. No vehicles of any kind are permitted in any city park.
- L. Discharge, set off or otherwise cause to explode or discharge or burn any fire crackers, torpedo, rockets or any other fireworks or explosives of flammable material except with the permission of the City Council and under the direction of the Police Department.
- M. Build or attempt to build a fire.
- N. Gamble or participate in any game of chance.
- O. Protractedly lounge or loiter in any area.
- P. Bring a pet onto park property unless it remains at all times on a leash of at least six (6) feet or less, and is under the direct control of its owner, who shall be responsible for removing any solid wastes deposited by the animal.
- Q. Bring an animal onto city park property without a current or valid certificate of health signed by a licensed veterinarian in conformity with the Texas Animal Health Commission rules and regulations concerning animals.

**SECTION 8. TRAFFIC REGULATIONS IN PARKS.**

No person in a park shall:

- A. Park a vehicle in other than an established or designated parking area and such use shall be in accordance with the posted directions thereat and with the instructions of any attendant who may be present.
- B. Double park any vehicle on any road or parkway unless directed by park officials or in any manner block any roadway within a park.

**SECTION 9. PARK PROPERTY.**

No person shall:

- A. Willfully mark, deface, disfigure, injure, tamper with, or displace or remove, any building, bridges, tables, benches, fireplaces, railings,

paving or paving material, water lines or other public utilities or appurtenances thereof, signs, notices, or placards, whether permanent, monuments, stakes, posts, or other boundary markers, or other structures or equipment, facilities, or park or playground property or appurtenances whatsoever, either real or personal.

- B. Throw, discharge, or otherwise place or cause to be placed in the waters of any fountain, pool, stream, storm sewer or drain, any substance, matter or thing, liquid or solid, which will or may result in a pollution of such waters.
- C. Bring in or dump, deposit or leave, any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, or refuse, or other trash. No such refuse or trash shall be placed in waters in or contiguous to any city park or playground, or left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided. Where receptacles are not so provided, all such rubbish or waste shall be carried away from the city park or playground by the person responsible for its presence, and properly disposed of elsewhere.
- D. Dig or remove any soil, rock, stones, trees, shrubs, plants, or other wood or materials, or make any excavation by tool, equipment, blasting or other means or agency.
- E. Damage, cut, carve, transplant or remove any tree or plant or injure the bark or pick flowers or seeds of any tree or plant.
- F. Dig in or otherwise disturb grass areas or in any other way injure or impair the natural beauty or usefulness of the park.
- G. Willfully interfere with, disrupt or prevent the orderly conduct of any supervised play or amusement program being conducted by the City.
- H. Run or screen any electrical wiring into, upon or across a city park property or alter existing electrical wiring or electrical systems upon or across city park property, without special permission of the City Council.
- I. Limit or in any way restrict access by city personnel to any city park by altering existing locks or keys, placing personal locks, obstructions, or any apparatus, or restrict access by city personnel to any portion of a city park or playground, including but not limited to concession stands, gates, buildings, electrical service areas, horse arenas, or restrooms.
- J. Create any unreasonably loud, disturbing and unnecessary sound which unreasonably annoys, disturbs, injures, endangers, or disturbs the peace.

## **SECTION 10. PARK OPERATING POLICY.**

- A. **Hours.** Except for unusual or unforeseen emergencies, parks shall be open to the public every day of the year from daylight to dusk.
- B. **Closed areas.** Any section or any part of any park may be declared closed to the public by the City Council or the Police Department at any time for any interval of time, either temporarily or at regular and stated intervals.

#### **SECTION 11. PARK PERMITS.**

No person shall engage in, participate in, aid, form, or organize any assembly or group of fifteen (15) or more people or make any speeches or conduct any musical program or festivals, in any park or playground, unless a permit has been obtained from the Police Department, and unless such permit is carried by the person heading or leading such activity.

#### **SECTION 12. PERMIT APPLICATION.**

Applications for a park or playground permit shall be filed with the City Secretary. Such application shall be sworn to and shall state:

- A. The name of the person or organization wishing to conduct such activity;
- B. If the activity is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization, and of the authorized and responsible head of such organization;
- C. The name, address and telephone number of the person who will be the chair of such activity and who will be responsible for its conduct;
- D. The name, address and telephone number of the person or organization to whom the permit is desired to be issued;
- E. The date when such activity is to be conducted;
- F. The park or playground or portion thereof for which such permit is desired;
- G. An estimate of the anticipated attendance; and
- H. The hour when such activity will start and terminate.

#### **SECTION 13. CONDITIONS FOR ISSUANCE OF PERMIT.**

The Police Department shall grant and issue such park or playground permit if:

- A. The proposed activity or use of the park or playground will not unreasonably interfere with or detract from the general public enjoyment of the park or playground;
- B. The proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation;
- C. The facilities desired have not been reserved for other use at the day and hour required in the application;
- D. The conduct of such activity will not substantially interrupt the safe and orderly movement of traffic;
- E. The conduct of such activity will not require the diversion of so great a number of police officers of the City to properly police such activity and the areas contiguous thereto, as to prevent normal police protection to the City;
- F. The conduct of such activity is not reasonably likely to cause injury to persons or property, incite violence, crime or disorderly conduct; and
- G. Such activity is not to be held for the sole purpose of advertising any product, goods, or event, and is not designed to be held purely for private profit.
- H. A refundable deposit of \$50.00 shall be required, but it will be refunded if the park facility is left clean and undamaged.

**SECTION 14. CONTENTS OF PERMIT.**

Each park or playground permit shall state the following:

- A. Date of such activity;
- B. Park or playground or portion thereof to be used; and
- C. Hour when such activity shall start and terminate.

**SECTION 15. DENIAL AND NOTICE.**

If the Police Department finds the application should not be granted for any reason, it shall deny the application and shall notify the applicant in writing of the reasons for such denial within five (5) days of the applicant's receipt. Any application not denied within such period shall be deemed approved. Denial and notice shall be deemed given upon mailing by certified mail, return receipt requested, to the applicant at the address set forth upon the application.

**SECTION 16. APPEAL OF DENIAL.**



Any applicant shall have the right to appeal the denial of a park or playground permit to the City Council by filing a written notice of appeal with the City Secretary within ten (10) days of the date upon which the notice of denial was given by the Police Department. Such appeal shall be heard and determined by the City Council within thirty (30) days of the filing of the notice with the city secretary.

**SECTION 17. SECURITY.**

Security is the responsibility of the park user; the City does not provide security for any individual or group activity or event. The type of activity will dictate whether the City will require any particular activity or event to obtain security services; the Police Department will advise whether security is required upon reservation.

**SECTION 18. LOSSES AND DAMAGES.**

The City is not responsible for lost, damaged or misplaced property placed in or on its park or park facilities. Users of parks or park facilities shall release and discharge the City from any and all liability for loss, injury, damage to persons or property that may be sustained arising out of the use or occupancy of a park or park facility.

**SECTION 19. INSURANCE.**

Liability coverage is the responsibility of the user. Requirements for liability coverage depend on the nature of the activity and will be set out in a Permit. Should the City require evidence of liability coverage, the user will provide the appropriate certificate of insurance naming the City as additional insured.

**SECTION 20. CRIMINAL PENALTY.**

- A. A person, firm or corporation violating any provision of this Ordinance shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$500 for each act of violation, and each day of violation shall be considered a separate violation.
  
- B. In addition to proceeding under authority of subsection (A) of this Section, the City is entitled to pursue all other criminal and civil remedies to which it is entitled under authority of statutes or ordinances against a person continuing to violate this Ordinance.

**SECTION 21. REPEALING CLAUSE.**

All existing City ordinances in conflict with provisions of this Ordinance are repealed to the extent of the conflict.

**SECTION 22. SAVINGS CLAUSE.**

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

**SECTION 23. TEXAS OPEN MEETINGS CLAUSE.**

It is hereby officially found and determined that the meeting at which this Ordinance was considered was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

**SECTION 24. EFFECTIVE DATE AFTER PUBLICATION.**

This Ordinance shall take effect and be in full force and effect from and after the date of its passage and publication as provided by law.

PASSED AND APPROVED this 10th\_day of July 2023.

THE CITY OF SHEPHERD, TEXAS

\_\_\_\_\_  
Charles Minton, Mayor

ATTEST:

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Debra Hagler, City Secretary