

**ORDINANCE NO: 11-09-14**

**AN ORDINANCE AMENDING AND REPLACING ARTICLE 1.08 PARKS AND RECREATION; PROVIDING A PROCEDURE FOR APPEALING AN EJECTION FROM A PARK; CHANGING TIME PARKS ARE OPEN FOR PUBLIC USE; PROHIBITING LITTERING AND DUMPING; PROHIBITING SMOKING; PROVIDING FIREARM, GOLF, SKATEBOARD, TENNIS COURT, DOG, AND LIVESTOCK AND FOWL REGULATIONS; PROVIDING ADVERTISING REGULATION; REGULATING VENDORS INSIDE PARKS; PROVIDING A REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR ADOPTION AT AN OPEN MEETING; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, because of numerous changes and upgrades in the City's parks, it was determined that certain changes should be made in the Ordinances governing City parks; and

WHEREAS, the City's policies in reference to ejecting someone from a City park needed to be revised because of a recent Court decision concerning such policies; and

WHEREAS, this Ordinance is being adopted to satisfy the Texas Department of State Health Service requirements set out in Grant Contract #2010-034875, effective March 3, 2011;

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

**Section 1: Repeal of Article 1.08**

Article 1.08 Parks and Recreation of the Code of Ordinances is repealed in its entirety.

**Section 2: Adoption of new Article 1.08 Parks and Recreation**

Article 1.08 of the Code of Ordinances of the City of Henderson is replaced with the adoption of the following provisions:

**Article 1.08 PARKS AND RECREATION**

**Sec. 1.08.001 Definitions**

For the purpose of this article, the following terms, phrases, words, and their derivations shall have the meanings given herein:

Alcoholic beverages. The same as defined in the Texas Alcoholic Beverage Code, Section 1.04.

Controlled substance. Any substance defined as a controlled substance by the Texas Controlled Substances Act (V.T.C.A., Health and Safety Code, Chapter 481).

Dangerous drug. Any substance defined as a dangerous drug by V.T.C.A., Health and Safety Code Section 483.001, et seq.

Park. A park, reservation, playground, recreation center or any other area in the city owned, used or designated by the city and devoted to active or passive recreation.

Superintendent. The Public Services Director and Parks Superintendent of the City.

#### **Sec. 1.08.002 Enforcement**

(a) Officials. The superintendent, code enforcement officers of the Community Development Department, or the chief of police, or his designee, shall, in connection with their duty imposed by law, diligently enforce the provisions of this article.

(b) Ejectment. The superintendent, code enforcement officers, or the chief of police, or his designee, shall have the authority to eject from any park any person acting in violation of this article or in violation of any rules and regulations promulgated by the council and to determine the length of time during which such person shall be excluded from such park. No person shall come in or upon any park from which he has been excluded in accordance with the provisions of this section.

(c) Appeal of Ejectment. Any person aggrieved by the enforcement of section (b) of this article may appeal such action within ten (10) days from the date thereof by filing written notice of appeal with the city secretary. Within ten (10) days of the receipt of the notice of appeal, the city manager shall set a time and place for a hearing on the appeal which shall be held no later than forty (40) days from the date of receipt of the notice of appeal.

(d) Notice. Notice of the time and place of the appeal hearing shall be delivered to the person in person, by mail, or by publication at least once in the official newspaper of the City if service in person or by mail are unsuccessful in notifying the aggrieved person of the hearing.

(e) The decision of the city manager on the appeal is final. No other administrative procedure shall be provided by the city.

(f) A person aggrieved by the city manager's decision may appeal the decision to the Rusk County Court at Law no later than ten (10) days after receipt by certified mail of the city manager's decision and not thereafter for a trial de novo.

### **Section 1.08.003 Hours When Parks are Open to the Public; Unlawful Entry**

- (a) Park Hours. Except for events sponsored by the City or unforeseen emergencies, parks shall be only open to the public every day of the year during the hours of 5:00 a.m. until 11:00 p.m. unless different opening and closing hours for each individual park shall be posted therein.
- (b) Unlawful Entry. It shall be unlawful for any person, other than an employee of the city in the course of his employment, or except while anyone is traveling on an established roadway through a park, to be or remain in any park during any time it is not open.
- (c) Unlawful Use. It shall be unlawful to use any park at any time for any unlawful meetings or purposes.
- (d) Closed Areas. Any section or part of any park may be declared closed to the public by the superintendent at any time for any interval of time, either temporarily or at regular and stated intervals.
- (e) Entrance to Parks or Recreation Areas Restricted. No person shall enter a park or recreational area by climbing over, under, or through any fence surrounding the same; or entering the same through or by way of the water on the lake side or from the dam site; or by any other manner except through the designated gates or parking facilities.

### **Section 1.08.004 Conduct of Persons**

No person in a park shall:

- (1) Willfully or intentionally mark, deface, disfigure, injure, tamper with or displace or remove any building, bridge, table, bench, fireplace, railing or paving material, water line or other public utilities or parts or appurtenances thereof, signs, notices or placards, whether temporary or permanent, monuments, stakes, posts or other boundary markers, or other structures or equipment, facilities or park property or appurtenances, either real or personal.
- (2) Fail to cooperate in maintaining restrooms and washrooms in a neat and sanitary condition.
- (3) Dig or remove any soil, rock, stones, trees, shrubs or plants or other wood or materials, or make any excavation by tool, equipment, blasting or other means or agency.

- (4) Damage, cut, carve, transplant or remove any tree or plant or injure the bark or pick the flowers or seeds of any tree or plant.
- (5) Dig in or otherwise disturb grass areas, or in any other way injure or impair the natural beauty or usefulness of the area.
- (6) Willfully interfere with, disrupt or prevent the orderly conduct of any supervised play or amusement program being conducted by the city.

**Section 1.08.005 Littering and Dumping Prohibited**

- (a) It is unlawful for any person to throw, discard, dump, deposit or leave in and upon the grounds or waters of a public park or recreation area any litter, garbage, trash, or debris except in receptacles provided for this purpose. Where public receptacles are not provided, all such litter, garbage, refuse and the like shall be picked up, carried away from the park grounds, and otherwise disposed of in accordance with this Code.
- (b) Persons placing litter in public receptacles shall prevent the litter from being carried or deposited by the elements upon the park grounds or other public places.
- (c) It is unlawful for any person, while a driver or passenger in or upon a motor vehicle, to throw or deposit litter, garbage, or refuse onto the grounds of a City park.
- (d) All trash receptacles located within parks shall be used for the disposal of waste generated from within the parks and not for disposal of waste generated elsewhere.

**Section 1.08.006 Smoking Prohibited**

It shall be unlawful for any person to smoke within a park as defined in Sec.6.04.001.

**Section 1.08.007 Traffic Regulations**

No person in a park shall:

- (1) Fail to comply with all applicable provisions of the state motor vehicle traffic laws in regard to the equipment and operation of vehicles, together with such regulations as are contained in this article and other ordinances.

- (2) Fail to obey all traffic officers and park employees, such persons being hereby authorized and instructed to direct traffic whenever needed in the parks and on the highways, streets, or roads immediately adjacent thereto.
- (3) Fail to observe carefully all traffic signs indicating speed, direction, caution, stopping, or parking and all others posted for proper control and to safeguard life and property.
- (4) Operate or drive any vehicle at a speed in excess of ten (10) miles per hour, except upon such roads as the superintendent may designate, by posted signs, for speedier travel.
- (5) Park a vehicle in other than an established or designated parking area, and such use shall be in accordance with the posted directions there at and with the instructions of any attendant who may be present.
- (6) Double park any vehicle on any road or parkway unless directed by a park official or in any manner block any roadway within a park.
- (7) Drive any motor vehicle on any area except the paved park roads or parking area.
- (8) Ride a bicycle on other than a paved vehicular road or path designated for that purpose and ride a bicycle other than on the right-hand side of the road paving as close to the edge as conditions permit. A bicyclist shall at all times operate his machine with reasonable regard to the safety of others, signal all turns , pass to the right of any vehicle he is overtaking and pass to the right of any vehicle he may be meeting.
- (9) Operate a motor vehicle of any kind on the walking trails.

**Section 1.08.008 Behavior**

No person in a park shall, unless authorized by the superintendent:

- (1) Bring alcoholic beverages into a park, nor shall any person consume alcoholic beverages at any time in a park. However, alcoholic beverages may be served and consumed inside the Henderson Civic Center building located at Lake Forest Park in Henderson, Texas in accordance with all laws of the state and ordinances of the city concerning alcoholic beverages and public intoxication. Service and/or consumption of alcoholic beverages outside said building and inside the respective park in which said building is located are prohibited.

- (2) Enter or remain in a park while under the influence of alcoholic beverages, controlled substances, or dangerous drugs.
- (3) Discharge, set off or otherwise cause to explode or discharge or burn any firecracker, torpedo, rocket or any other fireworks or explosives of inflammable material.
- (4) Build or attempt to build a fire except in such areas and under such regulations as may be designated by superintendent.
- (5) Gamble or participate in or aid any game of chance.

**Section 1.08.009 Glass Containers in City Parks**

- (a) It shall be unlawful for any person to bring into, have in one's possession, or leave any glass containers within any city park.
- (b) Should any person, firm or corporation, their agent, servant or employee violate the terms and/or provisions of this sections, such persons, firm or corporation, their agents, servants or employees shall be deemed guilty of a misdemeanor, and upon conviction thereof by a court of competent jurisdictions, such person, firm or corporation, their agents, servants or employees may be fined as provided in section 1.01.009 of this chapter.

**Section 1.08.010 Recreation Activities**

No person in a park shall:

- (1) Swim, bathe, or wade in any water or waterways in or adjacent to any park, except in such water and at such places as are provided therefore, and in compliance with such regulations as are set forth in this article.
- (2) Wear a bathing suit or any other clothing so as to indecently expose his person.
- (3) Bring into or operate any boat or other watercraft, whether motor powered or not, upon any waters, except at places designated by the superintendent.
- (4) Fish in any waters, except in waters designated by the superintendent for that use and under such regulations and restrictions as have been or may be prescribed by the superintendent. Traps, nets and seines are prohibited.
- (5) Hunt, stalk, trap, or kill any bird, animal, or other wildlife in or upon the grounds of a public park or recreation area.
- (6) Possess, carry, or discharge any firearm except as allowed by state law.

- (7) Possess or discharge any bow and arrow, crossbow, or other archery equipment.
- (8) Drive, putt, or otherwise hit a golf ball in or upon the grounds of any public park.
- (9) Skateboard or skate in any areas other than designated for that purpose.
- (10) Occupy tennis courts for any purpose other than playing tennis or handball.

**Section 1.08.011 Dogs - Owners Responsibility**

- (a) All dogs entering city parks shall be leashed at all times.
- (b) Owners shall be responsible for collecting and disposing of their dog's solid waste at all times within park property.

**Section 1.08.012 Livestock and Fowl in Parks Generally**

It shall be unlawful for any person, being the owner of or having control thereof, and without the permission of the city, to suffer or permit any chickens, ducks, geese, hogs, swine, cattle, horses, sheep, goats, or any other livestock or fowl, as defined in Chapter 2 of this code, to stray into or to run at large or unattended or to trespass upon any park. If any of the livestock or fowl prohibited by this subsection, straying into, running at large or unattended or trespass onto park property, such animals may be impounded by Animal Control.

**Section 1.08.013 Park Policy Regarding Advertising inside City Parks**

Businesses, firms, organizations and individuals are allowed to advertise their respective businesses by displaying a 4'X8' banner located on the softball fields from the left field foul pole to the right field foul pole. An annual fee, which is on file with the city secretary, is charged for the advertisement and the banner material must comply with the City of Henderson's Zoning Ordinance, Section 26. The banners must be installed by the City and removed if renewal payment is not received the following year. The advertiser shall be responsible for the condition of the banner, whether or not deterioration is caused by vandalism or by the weather. The City shall not be responsible for damaged or stolen banners, once installed. No alcoholic beverage, foods or others beverages, other than water, may be advertised on the outside of a building located in the park or on the outside of a vending trailer acting as a concession stand or on the banners. The city manager will review all applications prior to approval.

**Section 1.08.014 Vendors inside Parks**

Vendors will be allowed into parks by permit only. Applications must be made through the Community Development Department and must meet the requirements described in Chapter 4, of this code. No advertisements of foods or beverages, other than water, may be made in the park, except for advertisements erected inside of a building or enclosed trailer acting as a concession stand.

**Section 3: Repealer**

All ordinances or parts of ordinances inconsistent with the terms of this Ordinance are hereby repealed, provided, however, that such repeal shall be only to the extent of such inconsistency and, in all other respects, the subject matter covered by this Ordinance shall continue to be in effect.

**SECTION 4: Severability**

If any provision, exception, section, subsection, paragraph, sentence, clause or phrase of this Ordinance or the application of same to any person or set of circumstances shall for any reason be held unconstitutional, void or invalid, such invalidity shall not affect the validity of the remaining provisions of this Ordinance or their application to other persons or sets of circumstances and, to this end, all provisions of this Ordinance are declared to be severable.

**SECTION 5: Open Meeting**

It is hereby found that this Ordinance was adopted at an Open Meeting as required by law

**SECTION 6: Effective Date**

This ordinance shall take full effect and force upon the passage by the City of Council of the City of Henderson, Texas, and publication as required by law.

**PASSED AND APPROVED** upon the first reading on this the 23rd day of August, 2011.

**PASSED, APPROVED, AND ADOPTED** on the second and final reading on this the 13th day of September, 2011.



Attest:

Kelly Poovey  
KELLY POOVEY, City Secretary

J. W. Fullen  
J. W. FULLEN, Mayor



**ORDINANCE NO. 11-09-13**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HENDERSON, TEXAS, AMENDING SECTION 3.03.071 OF THE CODE OF ORDINANCES OF THE CITY OF HENDERSON TO ADOPT THE NATIONAL ELECTRIC CODE, 2011 EDITION, AS IT IS PUBLISHED BY THE NATIONAL FIRE PROTECTION ASSOCIATION; PROVIDING FOR REPEAL OF ALL ORDINANCES OR PORTIONS THEREOF IN CONFLICT HEREWITH; PROVIDING A SEVERABILITY CLAUSE; ESTABLISHING A PENALTY; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Henderson, Texas, finds and determines that the rules and regulations set out in the National Electric Code, as established and published by the National Fire Protection Association, constitute nationally recognized rules and standards for electric safety and fire prevention; and.

**WHEREAS**, the City Council of the City of Henderson, Texas, finds and determines that the National Electric Code provides standards, rules and guidelines necessary to save lives and property through their implementation by the appropriate building officials, hereby serving the public health, safety and welfare; and,

**WHEREAS**, the City Council of the City of Henderson, Texas, finds and determines that the City of Henderson has not updated its Electric Code since adoption of the 2002 Edition.

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

**Section 1:** That Section 3.03.071 of the Code of Ordinances of the City of Henderson is hereby amended to read as follows:

“The National Electric Code, 2011 Edition, with all amendments and appendices thereto, as recommended and published by the National Fire Protection Association, is hereby adopted as the official electric code of the City of

Henderson, Texas, and incorporated herein by reference as though fully copied herein, and the provisions thereof shall be controlling as the minimum standard for the installation and construction of all electrical wiring, devices and equipment within the limits of the City of Henderson; save and except, however, such portions of such code inconsistent with the other provisions of this chapter.”

**Section 2:** That if any section, subsections, sentence, clause, or phrase of this ordinance or the Code adopted herein, or the application of same to a particular set of persons or circumstances, should for any reason be held to be invalid, such invalidity shall not affect the remaining portions of this ordinance of said Code, and to such end the various portions and provisions of this ordinances and said Code are hereby declared to be severable.

**Section 3:** That all ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict only.

**Section 4:** That any person, including, but not limited to, the owner of a building or structure, who violates or assists in the violation, of any provision of this ordinance or the Codes adopted herein, or who shall erect, construct, alter or repair, or has erected, constructed, altered or repaired electrical wiring, devices or equipment in a building or structure or portion thereof, in violation of a detailed statement or plan or submitted and approved hereunder, or of a permit or certificate issued thereunder, shall be guilty of a misdemeanor, and, upon conviction, be punished as provided for Section 1.01.009 of the Code of Ordinances of the City of Henderson, Texas, as said section shall currently be applied or shall hereafter be amended.

**Section 5:** It is hereby found that this Ordinance was adopted at an Open Meeting as required by law.

**Section 6:** That this ordinance shall be in full force and effect on and after its date of passage and publication as required by law.

**PASSED AND APPROVED** on first reading on this the 23rd day of August, 2011.

**PASSED, APPROVED, AND ADOPTED** on second reading on this the 13th  
day of September, 2011.

  
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**J. W. FULLEN, Mayor**

**Attest:**

  
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**KELLY POOVEY, City Secretary**