

CITY OF COCKRELL HILL, TEXAS

ORDINANCE NO. 2005-N

AN ORDINANCE OF THE CITY OF COCKRELL HILL, TEXAS, ADOPTING A NEW CHAPTER 38, "PARKS AND RECREATION" TO THE CITY OF COCKRELL HILL CODE OF ORDINANCES; ESTABLISHING PARK AND RECREATION REGULATIONS AND PROCEDURES; CREATING OFFENSES FOR VIOLATING PARKS AND RECREATION REGULATIONS; DEFINING TERMS; ESTABLISHING A SPECIAL EVENT PERMIT PROCESS; PROVIDING EXEMPTIONS; ESTABLISHING REGULATIONS FOR PARK USE; PROVIDING FOR ENFORCEMENT BY THE CITY ADMINISTRATOR OF PUBLIC WORKS OR POLICE DEPARTMENT; PROVIDING A PENALTY NOT TO EXCEED \$500.00; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 51.015 of the Texas Local Government Code authorizes the City of Cockrell Hill ("City") to manage and control property belonging to the City; and

WHEREAS, the City Council desires to adopt regulations and procedures to ensure the protection of the City's park land; and

WHEREAS, the City Council has determined that it is in the best interest of the health, safety and general welfare of the public to adopt Chapter 38 of the Code establishing park land regulations and procedures.

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

Section 1. That all of the above premises are hereby found to be true and correct and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

Section 2. The Code of Cockrell Hill, Chapter 38, is hereby adopted and shall read as follows:

CHAPTER 38. PARK POLICY

§ 38.01. Park hours.

- (a) Each and every park owned or operated by the City shall be open to the general public between the hours of 6:00 a.m. and 11:00 p.m. each day.

- (b) It shall be unlawful for any person, except a member of the police or fire departments, or other employees of the City engaged in the performance of official duty to be in or within the boundaries of a park in the City between the hours of 11:01 p.m. and 5:59 a.m.

§ 38.02. Motorized vehicles and bicycles.

- (a) Motorized vehicles including, but not limited to, go-carts, motorcycles, minibikes, four-wheelers, automobiles, pickup trucks and trucks, save and except City officials, official park maintenance vehicles and police and fire vehicles, are hereby prohibited from driving or being driven in each and every park within the City, except on designated hard-surfaced parking areas.

§ 38.03. Alcoholic beverages.

The consumption or possession of alcoholic beverages including, but not limited to wine, beer, ale and mixed drinks, is prohibited in each and every park owned or leased by the City.

§ 38.04. Animals prohibited in areas of park where posted.

No owner or possessor of any animal shall permit any animal to enter or remain in any area of a City park which is posted to indicate such restriction.

§ 38.05. Rental of park facility.

- (a) Music may be played only between the hours of 9:00 a.m. and 10:00 p.m., unless otherwise approved by the city administrator, or as permitted under the City's noise and nuisance ordinances.
- (b) Vehicles will not be allowed in the park except for police, fire, emergency or maintenance vehicles from City departments.
- (c) Decorations shall not be attached to any structure that would tend to deface the structure including, but not limited to, staples, tacks, crepe paper or any material that will stain. Approval shall be obtained from the city administrator for any special decorations.
- (d) Any open flames, candles (other than birthday cake candles), torches, etc., shall not be used in any structure, and use of any decoration or equipment that requires electricity must meet appropriate fire and electrical codes.
- (e) Reservations may be made up to three months in advance and the fees must be paid at the time of reservation. Failure to pay may result in cancellation of the reservation.

§ 38.06. Bounce Houses

Bounce houses or other play structures designed to be inflated are not permitted on City park property.

§ 38.07. Golfing in the parks.

No person shall play or practice the game of golf in any City park.

§ 38.08. Enforcement of article.

The city administrator or his designated representative shall have the primary responsibility for the enforcement of all codes and ordinances regulating the conduct and use of City parks including, but not limited to, this article. The chief of police or her designated representative shall have secondary responsibility for such enforcement.

§ 38.09. Liability.

All of the regulations provided in this article are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this article, acting for the City in the discharge of his duties, shall not thereby render himself personally liable, and he is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his duties.

§ 38.10. Nonmotorized scooters, bicycles, in-line skates, etc. prohibited near recreational fields.

- (a) During the hours of operation of the recreational fields in City parks, no person shall operate any nonmotorized scooter, bicycle, in-line skates, skateboard, or other recreational vehicle with wheels within 100 feet of any recreational field, on any paved or unpaved surface.
- (b) Motorized recreational vehicles shall be prohibited at all times in City parks, except if used on paved parking lots.
- (c) The city administrator or his representative shall designate the area within 100 feet of a recreational field by appropriate "no bicycle" or other similar signs.
- (d) Upon conviction for an offense under this section the maximum fine that may be imposed for one offense is \$25.00. Each citation shall be considered a separate offense.

§ 38.11. Fees.

Park Rental fees.

- (a) In accordance with City policies, the City will collect the following fees for park use rental: \$125.00 refundable security deposit and a \$25.00 non-refundable application fee. There shall be no refunds for cancellations.
- (b) It shall be unlawful to fail to pay authorized recreation use fees as established herein.

§ 38.12. Priority use.

- (a) The City has priority use of all parks and park facilities ("facilities"). Facilities are available to anyone on a first-come, first-serve basis for times not scheduled for City use, and as set forth in this article.
- (b) Residents shall have priority over nonresidents for use of parks and recreation facilities.

§ 38.13. Refunds.

Refunds of fees paid are available due to inclement weather provided, however, that a request for refund is submitted to the department of parks and recreation, in writing, within one week of the scheduled session. Failure to timely submit a request for refund forfeits the refund. Rescheduling in lieu of a refund is permitted based upon availability of time slots.

§ 38.14. Fees and charges.

Fees and charges for park facilities shall be assessed in a manner consistent with this ordinance and as reflected herein, however, the City Administrator or his designee may reduce or waive any fees.

§ 38.15. Vehicles.

- (a) Vehicles shall obey posted restrictions and regulations and shall not be parked or operated in a manner as to obstruct or impede normal or emergency traffic movement or the parking of other vehicles, create a safety hazard, or endanger any person, property or environmental feature. Vehicles so parked are subject to removal and impoundment at the owner's expense.
- (b) The operation and/or parking of a vehicle off authorized roadways is prohibited except at locations and times designated by the city administrator. The operation or placement of any vehicle through, around or beyond a restrictive sign, barricade, fence, or traffic control device is prohibited.

- (c) At designated recreation areas, vehicles shall be used only to enter or leave the area, individual sites or facilities unless otherwise posted.
- (d) Any motorized vehicle shall be operated only with a proper and effective exhaust muffler as defined and required by state and local laws.
- (e) All vehicles shall be operated in accordance with applicable federal, state and local laws.

§ 38.16. Picnicking.

Picnicking and related day-use activities are permitted, except in those areas where prohibited by the city administrator.

§ 38.17. Hunting, fishing and trapping.

- (a) Hunting and discharging firearms is prohibited in all park land.
- (b) Trapping is prohibited in all park land.
- (c) All applicable federal, state and local laws will regulate these activities on City-owned or leased property.

§ 38.18. Sanitation.

- (a) Garbage, trash, rubbish, litter, gray water, or any other waste material or waste liquid generated on park land and incidental to authorized recreational activities shall be either removed from park land or deposited in receptacles provided for that purpose. The improper disposal of such wastes, human and animal waste included, on park land is prohibited.
- (b) No person may dispose of or dump onto park land any household or commercial garbage, trash, rubbish, debris, dead animals or litter of any kind. Park land trash receptacles shall only be used for approved waste disposal as stated herein and not be used for waste generated by non-park land users. No person shall bring trash, rubbish, garbage or waste of any kind onto park land for disposal.
- (c) The spilling, pumping, discharge or disposal of contaminants, pollutants or other wastes, including, but not limited to, human or animal waste, petroleum, industrial and commercial products and by-products, on park land is prohibited.
- (d) Picnickers and all other persons using City-owned property shall keep their sites free of trash and litter and shall remove all personal equipment and clean their sites upon departure. Failure to do so shall be a violation of this section.

- (e) The discharge or placing of sewage, waste, garbage, refuse, or pollutants onto park land from any vehicle is prohibited.
- (f) The disposal of any garbage, trash, rubbish, debris, dead animals or litter (“waste”) of any kind shall be the responsibility of the person renting the park when the waste was created or the registered owner of the vehicle from where the waste came or was transported by.

§ 38.19. Fires.

- (a) Gasoline and other accelerants, except that which is contained in the factory installed storage tanks of vehicles, shall not be carried onto or stored on the park land without written permission of the city administrator or police chief.
- (b) Fires, open flames, and barbeques are prohibited on all park property.
- (c) Use of tobacco or other smoking materials, matches or other burning material is prohibited.

§ 38.20. Control of animals.

- (a) Domesticated animals, such as dogs and cats, shall be permitted in park areas provided the animal is penned, caged, on a leash under six feet in length, or otherwise physically restrained. Animals shall not be allowed to impede or restrict full and free use of park land by the public. Unattended animals shall not be permitted on park land. Animals, except properly trained animals assisting those with disabilities (such as seeing-eye dogs), are prohibited in sanitary facilities, playgrounds and any other areas so designated by the city administrator. Abandonment of any animal on City-owned land is prohibited. Unclaimed or unattended animals are subject to immediate impoundment in accordance with City ordinances.
- (b) No person shall allow animals to bark or emit other noise, which unreasonably disturbs persons on park property. It shall be prima facie evidence of unreasonable disturbance if the animal barks, or emits other noise, for longer than 15 minutes.
- (c) Persons bringing or allowing animals in designated public use areas shall be responsible for proper removal and disposal of any waste/feces produced by these animals.
- (d) No person shall bring or allow horses, cattle, or other livestock onto park land, except as designated by the city administrator.
- (e) Ranging, grazing, watering or allowing livestock on park land is prohibited except when authorized by lease, license or other written agreement with the City.

- (f) Unauthorized livestock are subject to impoundment in accordance with City ordinances.
- (g) Any animal impounded under the provisions of this section shall be subject to all appropriate fees and expenses upon recoupment by the owner or other person with care, custody or control of the animal. All fees shall be paid before the impounded animal is returned to its owner(s).
- (h) Wild or exotic pets and animals (including but not limited to cougars, lions, bears, bobcats, wolves, and snakes), or any pets or animals displaying vicious or aggressive behavior or otherwise posing a threat to public safety or deemed a public nuisance, are prohibited from park land, unless otherwise permitted by ordinance, and are subject to removal in accordance with federal, state and local laws.

§ 38.21. Explosives, firearms, other weapons and fireworks.

- (a) The possession of loaded firearms, ammunition, loaded projectile firing devices, bows and arrows, crossbows, or other weapons is prohibited unless:
 - (1) In the possession of a federal, state or local law enforcement officer;
 - (2) Written permission has been received from the city administrator; or
 - (3) The person is in possession of the firearm consistent with the state's concealed handgun law, V.T.C.A. Government Code ch. 411, subch. H, as it may be amended.
- (b) Possession of explosives or explosive devices of any kind, including fireworks or other pyrotechnics, is prohibited unless written permission has been received from the city administrator or police chief.
- (c) All such activities and possession shall be regulated by the applicable federal, state and local laws.

§ 38.22. Public property.

- (a) Destruction, injury, defacement, removal or any alteration of public property including, but not limited to, developed facilities and vegetative growth, is prohibited except when in accordance with written permission granted by the City.
- (b) Cutting or gathering of trees or parts of trees and/or the removal of wood from City-owned lands is prohibited without written permission of the City.

§ 38.23. Abandonment and impoundment of personal property.

- (a) The provisions of this section shall apply to all property not subject to V.T.C.A., Criminal Procedure Code § 18.17.
- (b) Personal property of any kind shall not be abandoned, stored or left unattended upon park land. After a period of twenty-four (24) hours, or at any time after a posted closure hour in a public area or for the purpose of providing public safety or resource protection, unattended personal property shall be presumed to be abandoned and may be impounded and stored at a storage point designated by the city administrator, who may assess a reasonable impoundment fee against any person who provides proof of ownership and seeks to reclaim such property. Such fee shall be paid before the impounded property is returned to its owner.
- (c) Abandoned or unclaimed personal property may be disposed after thirty (30) days except that if it has a fair market value of \$100.00 or more the property may not be disposed of until ninety (90) days after the date it is received at the storage point designated by the city administrator. The net proceeds from the sale of property shall be conveyed into any fund consistent with City policy and ordinances.
- (d) The city administrator shall cause to, by public or private sale or otherwise, to dispose of all lost, abandoned or unclaimed personal property that comes into City custody or control, consistent with City policies and procedures. However, property may not be disposed of until diligent effort has been made to find the owner, heirs, next of kin or legal representative(s). If the owner, heirs, next of kin or legal representative(s) are determined but not found, the property may not be disposed of until the expiration of thirty (30) days after the date when notice, giving the time and place of the intended sale or other disposition, has been sent by certified or registered mail to the person at the last known address. When diligent efforts to determine the owner, heirs, next of kin or legal representative(s) are unsuccessful, the property may be placed in line for sale, upon the expiration of thirty (30) days from the date of impoundment, consistent with City policies.

§ 38.24. Special events.

- (a) Special events including but not limited to music festivals, dramatic presentations or other special recreation programs, are permitted only by written permission from the city administrator, consistent with City policies and ordinances. The appropriate fees will be assessed in accordance with City ordinances.
- (b) The public may be charged a fee by the sponsor of special events. Proposed fee schedules must be approved in writing by the city

administrator. The city administrator shall have authority to revoke permission, require removal of any equipment, and require restoration of an area to pre-event condition, upon failure of the sponsor to comply with terms and conditions of the permit/authorization.

§ 38.25. Unauthorized occupation of structures; trespass.

- (a) Occupation of any park lands shall be in strict conformance with the application for park use facility, the policies set forth herein and as may be published by the city administrator or by City ordinance.
- (b) Use of City-owned lands shall not be for agricultural purposes, unless set forth by City ordinance or agreement.
- (c) It shall be unlawful for a person to enter onto or remain on park land if he receives notice to depart and fails to do so. Notice for purpose of this section shall mean the oral or written communication by the city administrator, the police chief, or their designee. Such may also constitute criminal trespass in accordance with V.T.C.A., Penal Code § 30.05. Written notice shall be deemed delivered when personal delivery is accomplished, a notice is posted on the vehicle occupying the site, on a public marker identifying the site, or on a stake in the ground within the site.
- (d) The construction, placement, or existence of any structure of any kind under, upon, in or over the City-owned lands is prohibited unless a permit, lease, license or other appropriate written documentation is provided. The design, construction, placement, existence or use of structures in violation of the terms of the permit, lease, license, or other written authorization is prohibited. The City shall not be liable for the loss of, or damage to, any private structures, placed on City-owned lands whether authorized or not. Unauthorized structures are subject to summary removal or impoundment by the city administrator or the chief of police. No such devices shall be permanently affixed to any structure or tree on park lands and the nailing or affixing of any such device to any tree or structure is prohibited.

§ 38.26. Miscellaneous.

- (a) Lost and found articles. All articles found shall be deposited by the finder with the City. Articles will be held for thirty (30) days. Disposition of the property may be had in accordance with the abandoned or unclaimed property procedures set forth herein.
- (b) Advertising and solicitation.
 - (1) Advertising and the distribution of printed matter must be in accordance with City ordinance.

- (2) Engaging in or soliciting business on City-owned land without the express written permission of the city administrator is prohibited.
- (c) State and local laws.
 - (1) Except as otherwise provided in this article or by federal law or regulation, state and local laws and ordinances shall apply on park land, including but not limited to state and local laws and ordinances governing:
 - a. Operation and use of motor vehicles, and vessels;
 - b. Hunting, fishing and trapping;
 - c. Use or possession of firearms or other weapons;
 - d. Civil disobedience and criminal acts;
 - e. Littering, sanitation and pollution;
 - f. Alcohol or other controlled substances;
 - g. Fires; and
 - h. Explosives, firearms, other weapons and fireworks.
 - (2) These state and local laws and ordinances may be enforced by the City of Cockrell Hill Police, Department and other federal, state and local enforcement agencies established and authorized for that purpose.

§ 38.27. Restrictions and violations.

- (a) The city administrator may establish and post a schedule of visiting hours and/or restrictions on the public use of park land. The city administrator may close or restrict the use of a park land when necessitated by reason of public health, public safety, maintenance, resource protection or other reasons in the public interest. Entering or using park land in a manner which is contrary to the schedule of visiting hours, closures or restrictions is prohibited.
- (b) It shall be unlawful for any person, firm or corporation to commit any act that is prohibited by this article.
- (c) Quiet shall be maintained in all public use areas between the hours of 10:00 p.m. and 6:00 a.m. Excessive noise between the hours of 10:00 p.m. and 6:00 a.m. which unreasonably disturbs persons is prohibited.

- (d) Any act or conduct by any person which interferes with, impedes or disrupts the use of the park or impairs the safety of any person is prohibited. Individuals who are loud, boisterous, rowdy, disorderly, or otherwise disturb the peace may be requested to leave or be subject to ejection, consistent with state and local laws and ordinances.
- (e) The operation or use of any sound producing or motorized equipment, including but not limited to vehicles, in such a manner as to unreasonably annoy or endanger persons at any time or exceed state or local laws governing noise levels from motorized equipment is prohibited.
- (f) The possession and/or consumption of alcoholic beverages on any portion of park land is prohibited.
- (g) If a person has tendered a hot check, or a check was returned for insufficient funds, and the person did not make good on said check within ten (10) days of demand, the person may be required to make all future payment by money order or cash.
- (h) The city administrator may refuse entry to any person for a period of up to one (1) year on the following basis:
 - (1) Any breach of the peace that has occurred on public lands within the preceding twelve (12) months;
 - (2) Any person who has failed to pay the appropriate fee and failed to cure within ten (10) days of demand; or
 - (3) Any person who has violated any term or condition of the park facility application.
- (i) Any person, firm or corporation violating any provision of this article shall be fined, upon conviction, an amount not to exceed the sum of \$450.00, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. Allegation and evidence of a culpable mental state is not required for proof of an offense committed under this article, unless otherwise specifically required by law for the particular offense.”

Section 3. Penalty Provisions.

Any person, firm or corporation violating this Ordinance, or any portion thereof, shall, upon conviction, be guilty of a misdemeanor and shall be fined not less than one dollar (\$1.00) nor more than five hundred dollars (\$500.00) for each violation; each day that such violation continues shall be considered a separate offense and punishable accordingly.

Section 4. Repeal of Conflicting Ordinances.

This Ordinance, upon its enactment and effective date, shall repeal all conflicting ordinances relative to conflicts of interest.

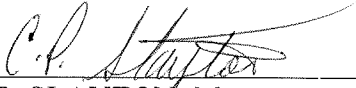
Section 5. Severability.

If any word, section, article, phrase, paragraph, sentence, clause or portion of this ordinance or application thereto to any person or circumstance is held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect for any reason, the validity of the remaining portion of this ordinance; and the City Council hereby declares it would have passed such portions of this ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 6. Effective Date.

This ordinance shall become effective, and be in full force and effect, from and after the date of its passage, and it is accordingly so ordained.

PASSED AND APPROVED this 26 day of July, 2005.



C. P. SLAYTON, Mayor
City of Cockrell Hill, Texas

ATTEST:



JOHN HUBBARD, City Secretary
City of Cockrell Hill, Texas

APPROVED AS TO FORM:



ROBERT F. BROWN, City Attorney
City of Cockrell Hill