

**ORDINANCE NO. O-2010-187**

**AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF  
MAGNOLIA, TEXAS, TO PROVIDE RULES AND REGULATIONS  
CONCERNING PUBLIC PARKS IN THE CITY OF MAGNOLIA, TEXAS,  
PROVIDING FOR RULES, REGULATIONS, PROHIBITED ACTS,  
CRIMINAL PROVISIONS AND FINES, AND OTHER FINDINGS.**

\* \* \* \* \*

**WHEREAS**, the City Council of the City of Magnolia, Texas, has purchased and made improvements to park areas within the City, including but not limited to Unity Park; and

**WHEREAS**, the public parks are for the enjoyment of and a benefit to the citizens of the City of Magnolia; and

**WHEREAS**, the City Council finds that an ordinance providing for rules and regulations concerning public parks is good and necessary for the public safety, health and welfare; and

**WHEREAS**, notice of the agenda for this meeting, was given in accordance with law by posting the same at the place reserved and designated for notices of public meetings and public activities and prior to the adoption of this ordinance;

**AND NOW THEREFORE,**

**BE IT ADOPTED BY THE CITY COUNCIL OF THE CITY OF MAGNOLIA, TEXAS:**

1. The City Council of the City of Magnolia having reviewed the findings of fact and conclusions as herein set out and adopts the same for inclusion in this ordinance if the same had been repeated verbatim herein.

2.

(A) Definitions.

*Animal* shall mean any mammal, bird, reptile, amphibian, fish and invertebrate.

*City administrator* shall mean the city administrator for the City of Magnolia or his/her designee.

*City council* shall mean the governing body of the city.

*Employee* shall mean any person who is employed by the city.

*Exotic animal* shall mean any animal not indigenous to the United States, including wolves, cougars, coyotes, leopards, and including all venomous snakes.

*Hours of operation* shall mean hours facilities are open and closed to public.

*Livestock* shall mean horses, camels, and animals with hooves.

*Park and playground facilities* shall mean any park, recreation area and sport field.

*Permit* shall mean any written license issued by or under the authority of the city administrator.

*Person* shall mean any natural person, corporation, company, association, firm or partnership.

(B). Approval and adoption of rules and regulations.

Subject to the approval of the city council, the city shall adopt such rules, regulations and policies as it deems best for the safety and convenience of the public and for the operation of its park areas and facilities. When such rules and regulations have been adopted and approved, they shall be filed in the office of the city administrator and/or his/her designee and a copy attached to this Ordinance. Any person found guilty of violating such rules and regulations shall be subject to the penalties set forth in this Ordinance. This Ordinance controls over any conflict with any rules, regulations or policies adopted by the City Council.

3. Permits.

(A) A person seeking issuance of a permit hereunder shall file an application stating the following:

- (1) The name and address of the applicant;
- (2) The name and number of the person, persons, corporation or association sponsoring the activity;
- (3) The day and hours for which the permit is desired;
- (4) The park area or facility for which the permit is desired;
- (5) The nature and purpose of the activity for which the permit is desired;
- (6) Any other information necessary to make a determination as to whether a permit should be issued hereunder; and
- (7) That all local, state and federal laws and regulations will be complied with.

(B) Standards for issuance of a use permit shall include the following findings:

- (1) That the proposed activity or use will not unreasonably interfere with or detract from the general public's enjoyment of the park area or facility;
- (2) That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation;
- (3) That the proposed activity or use will not include violence, crime or disorderly conduct;
- (4) That the proposed activity will not entail extraordinary or burdensome expense or police operation by the city;
- (5) That the park area or facility desired has not been reserved for other use on the requested date and hour;

(6) That the sponsor will abide by the rules and regulations promulgated by the city administrator and or his/her designee; and

(7) That the sponsor will comply with all health department rules and regulations.

(C) Applications for a park or playground permit shall be filed with the city administrator and or his/her designee, to be approved by the city administrator and or his/her designee, not less than three days and no more than ten days before the date on which it is proposed to conduct any such activity. All cancellations must be made 48 hours prior to the scheduled event to have fee refunded. In the event of a rainout, the applicants deposit and fees will be refunded or the applicant needs to contact the city offices to reschedule.

(D) The city administrator and or his/her designee shall act upon the application for the park, community center, pavilion or ball field permit within three days after the filing of same and upon receiving approval of the city administrator and or his/her designee.

#### **4. Limitation of activities.**

The appropriate designee when authorized by the city administrator may designate particular locations within park areas and facilities for specific activities by issuance of permits. The city council may establish operating hours during which park areas and facilities shall be open to the enactment of specific rules and regulations, provided that such hours shall be posted at entrances of the affected park area and facility.

#### **5. Hours of operation.**

No person shall enter into or remain upon nor shall any vehicle be left unattended in any park area or facility between the hours of 10:00 p.m. and 7:00 a.m., unless, an earlier time is approved by the city administrator and posted in the park area or facility; provided, however, that use of such park area or facility may be allowed during these hours when a permit has been obtained in accordance with the procedures set forth in this chapter. It shall be unlawful for any person, or persons (other than city personnel conducting city business therein), to occupy or be present in said park and playground facilities during any hours in which the same are not open to the public.

Any section or part of the park and playground facilities may be declared closed to the public by the city administrator and or his/her designee or city council at any time and for any interval of time, either temporarily or at regular or stated intervals.

#### **6. Animals.**

It shall be unlawful for anyone to possess, allow or permit any animal of whatever nature into any park area or facility unless the animal shall be on a leash or under the immediate control of its handler. No animal, except seeing-eye dogs under control of their owners, shall be allowed within any building or swimming pool area, unless it is in conjunction with a program approved by the city administrator. Any handler of an animal which is creating a disturbance or which is not being properly supervised, may be evicted from the park area or facility. Under no circumstances shall any exotic animal, wild by nature, be brought or allowed into any park area or facility; except for city-sponsored events. It shall be unlawful for any person to abandon any

animal of any nature in any park area or facility. No animal shall be allowed to defecate on any walkway, path, sidewalk or any frequently walked area of the park or playground. Any animal that defecates on any of the above, the owner of that animal shall be required to pick up after the animal.

**7. Group activity.**

Whenever any group, association or organization desires to use a park, community center, pavilion or ball field facilities for a particular purpose, such as, picnics, parties or theatrical or entertainment performances, a representative of said group, association or organization shall first obtain a permit from the city administrator and/or his or her designee or city council for such purpose.

The city administrator and/or his or her designee shall grant the application if it appears that the group, association or organization will not interfere with the general use of the park or any other facility by the individual members of the public and if the said group, association or organization meets all other conditions contained in the application. The application may contain a requirement for an indemnity bond to protect the city from any liability of any kind or character and to protect city property from damage.

**8. Injury, loss or damage to personal property.**

The city shall not be responsible for any injuries, losses or damages to personal property, which may occur while at the park, community center, pavilion, ball field or playground facilities.

**9. Prohibited acts.**

(1) No person shall commit disorderly conduct as it is referred to in the Texas Penal Code 42.01.

(2) No person shall obstruct a highway or passageway as it is referred to in the Texas Penal Code 42.03.

(3) No person shall mark, deface, disfigure, tamper with, displace or remove any building, table, bench, decorative structure, railing, paving material, water line, monument, stakes, posts or other boundary markers, other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal.

(4) No person shall damage, cut, carve, mark, transplant or remove any plant or injure any vegetation, pick flowers or seed of any tree or plant, dig in or otherwise disturb grass areas; or in any other way injure the natural beauty or usefulness of any area.

(5) No person shall cut any tree, dead or alive, whether erect or fallen, or collect leaves, bark, wood chips, mulch or other organic material, or soil for any purpose without the written permission of the city administrator and or his/her designee.

(6) No person shall hunt, molest, harm, frighten, kill, trap, pursue, chase, tease, shoot or throw anything at any animal, wildlife, reptile or bird or give or attempt to give any such animal

noxious substance or anything disagreeable to any such animal, or have in one's possession any wild animal or its young, or the eggs, nest or young of any bird or reptile. Any person convicted of or violating any of the provisions of this subsection shall be guilty of an offense, and upon conviction thereof shall be punished by a fine of not more than \$10,000.00, excluding costs, and imprisonment in the county jail for a period less than 180 days nor more the two years.

**State law references:** Texas Penal Code 42.09 cruelty to animals, Texas Penal Code 12.35 State jail felony.

(7) No person shall skate, glide or coast by means of skates, roller blades, shoe skates, skateboard or bicycles in any park area or facility except those that may be designated by the city administrator and or his/her designee.

(8) No person shall discharge or otherwise place or cause to be placed in any storm drain, storm sewer or drain flowing into such water any substance, matter, thing, liquid or solid which will or may result in the pollution of the waters.

(9) No person shall start the water flowing from any spigot, other than at a fountain or place provided as a water place for people or animals.

(10) No person shall disregard or fail to comply with any rule or regulation posted or displayed at any swimming pool or wading pool.

(11) No person shall make an open fire in any park area or facility. No person shall throw away any lighted match, cigar, cigarette, tobacco, paper or other material, or ignite or set off any model rockets in any park area or facility.

(12) No person shall ride, transport and/or allow a horse in any park area or facility, unless a city-sponsored event or a lawfully permitted event by the City.

(13) No person shall use any portion of any park or facility for toilet purposes, except the public restrooms.

(14) No person shall offer or expose for sale for a profit any article, unless a lawfully permitted event by the City.

(15) No person shall enter into any park area or facility by other than the approved means of access or remove or disturb any barrier intended to prevent access, entry or occupancy. No person shall go into any shrubbery or enclosure or upon any lawn, slope or other area where there is a sign prohibiting such ingress.

(16) The city administrator and or his/her designee may delegate the administration and enforcement of this provision. No vehicle shall be operated in a park at a speed in excess of the posted speed limit, or if no speed limit is posted, in excess of 15 miles per hour. No vehicle designed for the purpose of transporting freight, merchandise or bulk materials of any kind, shall

enter into the park area or facility without first obtaining permission to do so from the city administrator and or his/her designee.

(17) No person shall disregard any rule or regulation promulgated by the city council or city administrator and/or his or her designee, including rules of conduct, covering the use of any park area of [or] facility.

(18) No person shall bring into or have in his possession in any park area or facility any firearm, BB gun, air pistol, bow and arrow, crossbow, shotgun, knife or other weapon capable of inflicting injury to persons, animals or public property.

(19) No person shall disturb any tree in any park area or facility. For purposes of this subsection, disturbing shall include, but not be limited to, clubbing, flailing, thrashing, shaking, throwing objects into, ramming, shooting or climbing into any tree. Any person convicted of violating any of the provisions of this subsection shall be guilty of an offense and upon conviction thereof shall be punished by a fine of not more than \$4,000.00; confinement in jail for a term not to exceed one year; or both such fine and confinement.

**State law references:** Texas Penal Code 28.03 criminal mischief, Texas Penal Code 12.21 Class A Misdemeanor;

(20) No person shall interfere with, disobey or ignore any lawful order of an employee while in the performance of his duties in any park area or facility.

(21) No person shall attach any rope, cable or other contrivance, or post, paint, erect or place any sign, banner or advertisement to any tree, fence, railing, bench or other structure or a unless they have been granted a permit by the City.

(22) No person shall posses or consume any beverage containing alcohol on a road, parking lot or within any park area or facility unless an appropriate state law permit and city permit has been given.

(23) No person shall camp, erect a tent, build a fire or park an automobile or other vehicle for the purpose of sleeping therein or under cover projecting there from within any park area or facility.

(24) No person shall possess, use, consume, sell or distribute any drug or narcotic of any kind.

(25) No person shall commit any assault or engage in fighting.

(26) No person shall disturb the peace, or use any profane, obscene or other language that may be considered fighting words as that term is understood under Texas Law.

(27) No person shall prevent any person from using any park or playground, or any of its facilities, or interfere with such use in compliance with this ordinance and the rules and regulations applicable to such use.

(28) No person shall use a loud speaker, public address system, amplifier or any other device to amplify and direct sound unless a permit has been given by the City.

(29) No motorized vehicles shall be allowed to be driven off the parking lot at the park facility or playground area, unless by an authorized city employee or during authorized city events. And

(30) No fireworks of any kind shall be ignited, lit or set off in any park facility or playground unless a city-sponsored event.

**10. Regulations concerning use of grounds.**

Each person, firm or corporation using the public park and facilities shall clean up all debris and leave the premises in good order, and the facilities in a neat and sanitary condition. When each person is finished with the facility they rented, an inspection of the facility will be completed before the deposit will be refunded. Unless otherwise provided herein, any person violating any of the provisions in this article shall be subject to a fine not exceeding \$2,000.00.

**11. Use of equipment.**

All park and playground equipment shall be used in such a manner as to take care of it and prevent abuse and destruction; adults are not permitted to use equipment acquired for use of children.

**12. Variance.**

For good cause, the city council may grant a variance of any of the provisions hereof.

**13. Severability Clause.**

In the event any clause phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Magnolia, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

**14. Conflict With Existing Ordinances.**

All ordinances and resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed.

**15.** The City Secretary is instructed to publish the Caption of this Ordinance in the Official Newspaper of the City of Magnolia in the manner provided and for the time required by Section 52.011(a) of the Local Government Code at which time this Ordinance takes effect. The City Secretary is directed to attach the notice and date of publication to this Ordinance.

5 PRESENTED on the 12th day of October, 2010, and passed and approved by a vote of  
5 ayes and 0 nays at a regular meeting of the City Council of the City of Magnolia,  
Texas.

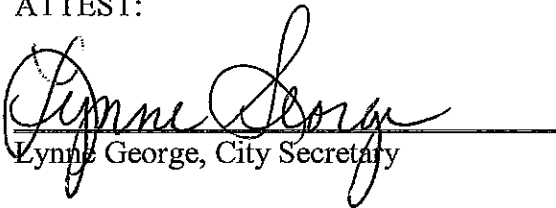
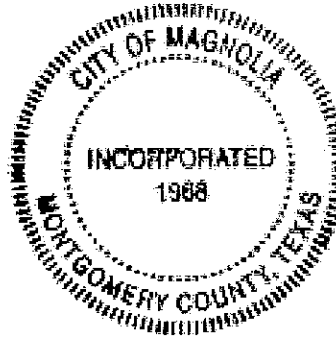
**APPROVED** and **EXECUTED** this, the 12th day of October, 2010.

CITY OF MAGNOLIA, TEXAS



Todd Kana, Mayor

ATTEST:

  
Lynne George, City Secretary



ATTACHMENT "A"  
CITY OF MAGNOLIA PARK FACILITIES RENTAL FEES

TABLE INSET:

Athletic Field	City Resident	Nonresident	Nonprofit Organization
Deposit	\$25.00	\$25.00	\$25.00
Hourly (4 hours or less)	----	\$12.50	----
Daily	----	\$50.00	----

TABLE INSET:

Pavilion	City Resident	Nonresident	Nonprofit Organization
Deposit	\$25.00	\$25.00	\$25.00
Hourly (4 hours or less)	----	\$6.25	----
Daily	----	\$25.00	----

TABLE INSET:

Community Center	City Resident	Nonresident	Nonprofit Organization
Deposit	\$50.00	\$50.00	\$50.00
Hourly (4 hours or less)	----	\$25.00	----
Daily	----	\$100.00	----

*Note: All fees may be waived for city-sponsored or -sanctioned events.  
Non-profit organizations must provide copy of their 501(C)3 status.*