



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY	
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory	
Council Meeting Date:	8/12/13
Department:	Parks and Recreation
Department Head	Amy Fortenberry
Agenda Coordinator (include phone #): Susan Berger (7255)	

CAPTION

An Ordinance of the City of Plano, Texas repealing and replacing Sections 15-1, 15-3,15-4, 15-5,15-24, 15-51, 15-85, 15-91, and 15-122 of Chapter 15, Parks and Recreation, of the Code of Ordinances of the City of Plano, Texas to revise certain definitions, permitted and prohibited activities, the permit process, facility fees, the duties of the Parks and Recreation Planning Board, and penalty language; and providing a repealer clause, a severability clause, a savings clause, a penalty clause, a publication clause, and an effective date.

FINANCIAL SUMMARY

NOT APPLICABLE
 OPERATING EXPENSE
 REVENUE
 CIP

FISCAL YEAR: 2012-13	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0

FUND(S): **GENERAL FUND**

COMMENTS: The proposed changes to Chapter 15 - Parks & Recreation of the Code of Ordinances do not contain any substantive changes that will affect operational revenues or expenditures to the City of Plano. Consequently this item will have no financial impact to the City of Plano.

STRATEGIC PLAN GOAL: Parks & Recreation Administration of the City of Plano facilities relates to the City's Goal of a Financially Strong City with Service Excellence.

SUMMARY OF ITEM

The City's Code of Ordinances is periodically reviewed and updated. These sections located in Chapter 15 – Parks and Recreation, have been reviewed by the Parks and Recreation Planning Board and input received and considered herein. The changes include the definition of where alcohol may be allowed at Oak Point Park and Nature Preserve by special event permit, section 15-1 and 15-3. Also included is language that prohibits sleeping, camping, loitering in the park or near restrooms in the park, section 15-3, also prohibited is feeding or leaving food for the wildlife. Section 15-3 clarifies that while motorized vehicles are generally prohibited in a park facility other than improved roads, streets, or parking lots. Bicycles with a motorized assist will be allowed, section 15-4, parking in areas other than designated parking space may be allowed by permit, section 15-4, people are prohibited from making improvements or installing plant material without permission from the department director or designee, section 15-4. The permit application process, section 15-5 requires specific information related to event application to be submitted within 30 days of the event. Section 15-24 amends the duties of the Parks and Recreation Planning Board to review and make recommendations regarding master



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plans for the development or improvement of parks and recreation facilities. Section 15-51 amends penalty language for violations of the athletic ordinance. Sections 15-85 and 15-91 is amended to reflect the current Council approved fee structures, and Section 15-122 addresses penalty language for trees and landscaping ordinance violations.

List of Supporting Documents:
Ordinance

Other Departments, Boards, Commissions or Agencies

An Ordinance of the City of Plano, Texas repealing and replacing Sections 15-1, 15-3,15-4, 15-5,15-24, 15-51, 15-85, 15-91, and 15-122 of Chapter 15, Parks and Recreation, of the Code of Ordinances of the City of Plano, Texas to revise certain definitions, permitted and prohibited activities, the permit process, facility fees, the duties of the Parks and Recreation Planning Board, and penalty language; and providing a repealer clause, a severability clause, a savings clause, a penalty clause, a publication clause, and an effective date.

WHEREAS, the City Council has previously adopted regulations for park facilities and areas codified in Chapter 15, Parks and Recreation, of the Code of Ordinances of the City of Plano, Texas; and

WHEREAS, the Parks and Recreation staff is recommending changes to Sections 15-1, 15-3, 15-4, 15-5, 15-24, 15-51, 15-85, 15-91, and 15-122 of the Code of Ordinances of the City of Plano, Texas to revise certain definitions, permitted and prohibited activities, the permit process, facility fees, the duties of the Parks Board, and penalty language; and

WHEREAS, the Parks and Recreation Planning Board reviewed the proposed changes at their August 6, 2013 meeting; and

WHEREAS, the City Council deems it in the best interest of the City to repeal and replace Sections 15-1, 15-3,15-4, 15-5,15-24, 15-51, 15-85, 15-91, and 15-122 of the Code of Ordinances as set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. Sections 15-1, 15-3, 15-4, 15-5, 15-24, 15-51, 15-85, 15-91, and 15-122 of the Code of Ordinances of the City of Plano, Texas are repealed and replaced to read in their entirety as follows:

Sec. 15-1. Definitions.

Oak Point Park and Nature Preserve Alcohol Permit Area means the facility located on Spring Creek Parkway and, specifically, inside the area defined by the dashed line on the map below.



Alcohol Permit Area
Oak Point Park and Nature Preserve



Authorized vehicles means any vehicle approved by the director of the parks and recreation department or her designee.

Director means the Director of the Parks and Recreation Department for the City of Plano or her designee.

Licensed motor vehicle means any type of device, whether battery, gas or electric powered, used to transport person or persons that is required by law to be registered.

Motor vehicle means any self-propelled vehicle subject to the registration requirements of the Texas Transportation Code, Chapter 502.

Motorized device means any device with an electric or gas motor that does not fall under the definition of "motor vehicle" under the Texas Transportation Code, including motorized scooters and electric bicycles. This definition, however, does not include any device designed to assist the handicapped.

Park or park facility means any and all land, areas, buildings, and facilities that are owned, leased, or otherwise controlled by the City of Plano Parks and Recreation Department, including, but not limited to, parks, athletic fields, tennis courts, golf course, swimming pools, playgrounds, pavilions, medians, and recreational trails.

Permit means written permission from the director issued pursuant to the provisions of this chapter and authorizing a person or organization to carry out the activity specified in the permit at a park facility.

Unlicensed motor vehicle means any type of device, whether battery, gas 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.

Sec. 15-3. Prohibited activities.

(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) *Alcohol*. To sell, possess, or consume alcoholic beverages with the following exceptions:

- a. The sale or serving of alcoholic beverages for on-premise possession and consumption shall be permitted at city operated municipal golf courses.
- b. The sale or serving of alcoholic beverages for on-premise possession and consumption shall be permitted within the Oak Point Park and Nature Preserve Alcohol Permit Area at Oak Point Park and Nature Preserve during events as authorized by city permit or facility use

agreement pursuant to Chapter 15, Article I of the City Code of Ordinances.

- c. Consumption and possession of open containers of alcoholic beverages within the Oak Point Park and Nature Preserve Alcohol Permit Area at Oak Point Park and Nature Preserve during events as authorized by city permit or facility use agreement pursuant to Chapter 15, Article I of the City Code of Ordinances. This provision does not apply to the sale or service of alcoholic beverages in Oak Point Park and Nature Preserve except as allowed in Section 15-3(a)(1)b. above. The requestor must provide an approximate number of people expected to attend the event and comply with all city requirements for protection of the health, safety and welfare of the community. In cases of multiple requests, permits or facility use agreements shall be granted on a first come, first serve basis.

(2) *Weapons.*

- a. To carry a concealed handgun, as that term is defined in Section 14-5 of the Code of Ordinances of the City of Plano, in a city park, except those persons who are duly licensed by the state to carry a concealed handgun in accordance with the provisions of the Texas Concealed Weapons Act.
- b. To carry or discharge firearms (unless permitted under subsection (a)(2)a. above), facsimile firearms (as defined in Section 14-12 of the Code of Ordinances of the City of Plano), 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 parks and recreation director.

(3) *Unauthorized entry onto reserved facilities/scheduled activities.* To enter onto a reserved facility or area, or a location where scheduled activities are occurring, during the period that the area or facility is reserved or during the scheduled activity and remain or return there after the person has been given notice to leave. Reserved facilities and areas, and scheduled activities, include but are not limited to: indoor and outdoor facilities, meeting rooms, gathering areas, camps, and classes, athletic fields and their support/adjacent areas and facilities.

(4) *Restroom use.* To enter, remain in, near, or about a public restroom located at or in a park facility for the purpose of engaging in criminal activity. Any person over the age of six (6) 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 while seated in or within twenty (20) feet of a bleacher provided for spectators at outdoor athletic events or activities; in baseball/softball field plaza areas; in a park restroom or inside the border of a playground. Use or consumption of tobacco products is allowed in all other outdoor areas of a park facility unless otherwise prohibited.
- (6) *Controlled access.* To enter any controlled access portion or any specially designated area of any park facility, except for authorized city personnel.
- (7) *Environmental disturbance.* To destroy, damage, deface or remove shrubbery, trees, soil, grass, turf or other vegetation, rock, minerals or any other personal or real property.
- (8) *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. The director may prohibit all fires in public parks during those periods that he, in her sole discretion, determines that extreme dry weather, high winds or other conditions endanger public health and safety. Notice to the public of any burn ban shall be by press release and publication on the city's web page.
- (9) *Swimming.* To swim in, wade in, bathe in, any fountain, pond, lake or stream.
- (10) *Golfing.* To hit golf balls of any type in a park facility, except in areas specifically designated for this purpose.
- (11) *Signs.* To erect any permanent sign on or in any parks facility or area.

Notwithstanding the provisions of Section 6-491 of chapter 6 of the Code of Ordinances, temporary signs are permitted: on reserved facilities and areas, at permitted events, and at scheduled activities which uses have been previously approved by the parks department. For facilities that have been allocated in accordance with sections 15-56 and 15-57 of chapter 15 of the Code, temporary signs may only be erected or placed during the duration of a tournament or meet and at no other time.

The parks director or her designee may limit the location, size and materials for any temporary sign in order to prevent any damage to park facilities or injury to persons using the facilities.

- (b) None of the above provisions apply to city employees, its agents or contractors in the performance of maintenance, construction or repair duties for any park facility.

Sec. 15-4. Activities allowed with a permit or facility use agreement.

- (a) *Generally.* 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 or facility use agreement issued by the director or her designee. If a permit or facility use agreement is issued under this section, the director or her designee may limit the activity to a designated park facility.
- (1) *Park hours.* To enter or remain in any park facility between the hours of 11:00 p.m. and 5:00 a.m. unless different hours for the park facility have been designated. Soft surface trail and native areas, and other designated areas in Arbor Hills Nature Preserve and Oak Point Park and Nature Preserve shall be closed from dusk until dawn where on-site signage is posted, unless different hours have been posted.
 - (2) *Sale of goods and services.* To sell or offer for sale any food, drinks, confections, merchandise, or services unless provided through a city concessions contract or permit.
 - (3) *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; or, distributing commercial promotional materials or advertising.
 - [(4) *Reserved.*]
 - (5) *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.
 - (6) *Animals.*
 - a. It shall be unlawful to ride, drive, lead, or let loose any animal, reptile or fowl of any kind, except in designated areas as indicated by city signage. These restrictions, however, shall not apply to dogs and cats when restrained by a leash not more than six (6) feet long. Such leash shall at all times serve as a connection between the dog or cat and the person that accompanies the dog or cat.
 - b. It shall be unlawful for any person to tie or restrain an animal by attaching its leash to fencing, trees, benches, bleachers, poles or other park facility infrastructure.
 - c. The leash requirements shall not apply to dogs being used by a peace officer for law enforcement purposes, or dogs participating in authorized search and rescue training and activity as allowed by ordinance.

- d. A person commits an offense if the person accompanying the animal fails to immediately remove and dispose of any excreta the animal produces.
 - e. A person commits an offense if the person accompanying the animal fails to visibly have in his possession materials that can be used to immediately remove and dispose of any excreta the animal produces.
 - f. With the exception of service animals trained to assist individuals with a disability and animals participating in a special event sponsored by the city and approved by the director, no animals are permitted inside park facility buildings, swimming facilities or playground areas. Service animals that are trained to assist individuals with a disability are permitted in all park facilities.
 - g. No person shall feed or leave food for the wildlife or indigenous animals in a park.
- (7) *Camping.* To camp overnight in or upon any park facility.
 - (8) *Boats.* To operate a boat on any body of water.
 - (9) *Aircraft.* To ascend, descend, operate, or launch any aircraft, including but not limited to hot air balloons, airplanes, paraplanes, ultralights helicopters, and gliders.
 - (10) *Models.* To launch or operate model rockets, model airplanes, model gliders, model boats, or model vehicles.
 - (11) *Sound amplification.* To use any type of sound amplification devices which include but are not limited to loudspeakers, amplifiers or microphones. A permit that is granted under this section must be consistent with the provisions of subsection 14-88(4) of chapter 14, offenses and miscellaneous of the City Code.
 - (12) *Motor vehicle and motorized device use.* The regulations and restrictions specified in this section govern both licensed and unlicensed motor vehicles and motorized devices in the outdoor areas and facilities owned, leased, or otherwise controlled by the City of Plano Parks and Recreation Department.
 - a. *Motor vehicles.* A person commits an offense by operating, driving, or riding any motor vehicle within a park facility on a surface other than a road, street, or parking lot. This provision is not applicable to city motor vehicles, emergency vehicles, or motor vehicles that have received a city permit authorizing its operation.
 - b. *Motorized devices.* A person commits an offense by operating, driving, or riding any motorized device in a park facility other than improved roads, streets, or parking lots. Bicycles with a motorized assist are allowed. This provision is not applicable to city motorized devices, to motorized devices that have received a city permit authorizing its

operation, to golf carts operated on a city maintained golf course, or motorized devices used to assist handicapped or physically impaired individuals.

- c. *Speed limit.* A person commits an offense by operating a motor vehicle, motorized device, or bicycle within a park facility at a speed greater than fifteen (15) miles per hour, except where otherwise posted.
- d. *Parking.* A person commits an offense by parking a motor vehicle, other than a city vehicle, within a park facility at any place not designated as a parking area or where authorized by permit. Motor vehicles in violation of this subsection may be either issued a citation or towed and stored at the owner or operator's expense in accordance with state law.
- e. *Overnight parking.* A person commits an offense by parking a motor vehicle within a park facility overnight. Motor vehicles in violation of this subsection may be either issued a citation or towed and stored at the owner or operator's expense in accordance with state law.
- f. *Freight vehicles.* A person commits an offense by operating or parking a motor vehicle or trailer designated for transporting freight, merchandise, brick, stone, or gravel within a park facility, including parking lots. This provision does not apply to motor vehicles or trailers used in the performance of city construction, repair, or maintenance. Freight vehicles in violation of this subsection may be issued a citation or towed and stored at the owner or operator's expense in accordance with state law.

(13) *Use of bicycles.* To operate a bicycle within any outdoor area or facility owned, leased, or controlled by the parks and recreation department, including park roads, streets and parking lots that has posted signage stating bicycle use is prohibited.

(14) *Park Improvements:* No person shall make improvements on park property and/or install any plant material without the approval of the director or her designee.

(b) *Establishment of other rules and regulations.* The parks and recreation department may adopt additional rules, regulations, and policies governing the management and operation of park facilities. A current copy of those rules and regulations shall be maintained on file in the administrative offices of the parks and recreation department. A violation of those rules is not subject to the Enforcement provisions of subsection (c)(1) below.

(c) *Enforcement.* The following remedies are cumulative and not exclusive for violations of this article.

- (1) Any person, firm, company, partnership, corporation, or an association violating any provisions of this article or the rules and regulations adopted pursuant to this article shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in the sum of not more than five hundred dollars (\$500.00) for each such offense, and each and every day such violation shall continue, shall be deemed to constitute a separate offense.
- (2) The director of parks and recreation, other authorized personnel designated by the director, and the police department shall have the authority to eject from park facilities any person acting in violation of this ordinance.

Sec. 15-5. Permit application procedure.

- (a) A person wishing to conduct an activity in a park facility which requires a permit under Sections 15-3 and 15-4 of this Code shall file an application with the director. The application shall at a minimum provide the following information:
 - (1) The name, address, and telephone number of the applicant. If the use or activity is to be conducted for, on behalf of, or by any person or organization other than the applicant, then the name, address and telephone number of that person or organization must be provided;
 - (2) The date(s) and hours for which the permit is requested;
 - (3) Type of proposed use or activity;
 - (4) The park facility and the portion of the park facility desired to be used to conduct the proposed use or activity;
 - (5) An estimate of the anticipated attendance;
 - (6) Any requested site support for the permitted activity, including the need for additional sanitary and refuse facilities; and
 - (7) Any additional information required by the director for organizational, health, safety and welfare purposes of the city related to the size and nature of the event.
- (b) Permit applications shall be filed with the director for consideration not less than thirty (30) business days nor more than three hundred sixty-five (365) days before the date of the proposed use or activity, except as otherwise provided in the rules and regulations of the City of Plano Parks and Recreation Department or if waived in writing by the director. The director shall evaluate the application and render a decision in accordance with section 15-6 within five (5) business days of receipt of such request.

Sec. 15-24. Duties and responsibilities.

The parks and recreation planning board shall have the following duties and responsibilities:

- (1) Review and make recommendations regarding the acquisition of park land.
- (2) Periodically review and make recommendations regarding the park master plan.
- (3) Annually review and make recommendations regarding the parks and recreation capital improvement program.
- (4) Review and make recommendations regarding master plans for the development or improvement of parks and recreation facilities.
- (5) Analyze the long range parks and recreation facility needs of the community.
- (6) Make recommendations regarding parks and recreation board referenda to meet community needs for parks and recreation facilities.
- (7) Review and make recommendations regarding the establishment of or revisions to park facility user fees.
- (8) Periodically review the effectiveness of Article III - Athletic Activities, and recommend changes to athletic policies to the city council at such times as deemed necessary.
- (9) Provide opportunities for citizen input regarding appropriate parks and recreation issues of major community importance.
- (10) Reserved.
- (11) Conduct special studies necessary to effectively plan for the future development of parks and recreation facilities.
- (12) Review and make recommendations regarding other appropriate long range planning issues of major community importance.

Sec. 15-51. Penalty.

(a) Any sponsoring organization, group or person violating any provision of the rules and regulations contained in this article may be penalized in the following manner:

- (1) Any sponsoring organization, group or person may be notified of the violation in a written notice by the parks and recreation department.
- (2) Any sponsoring organization, group or person, upon written notification, may be provided an opportunity to resolve the violation determined by the director of parks and recreation or the director's designee.
- (3) Any sponsoring organization, group or person violating any of the rules and regulations contained in this article may be refused the scheduled usage of athletic facilities if such action is deemed necessary by the director of the

parks and recreation department upon the review and disposition of the violation.

- (4) Any violation of the provisions or terms of this ordinance by any person, firm or corporation shall be a misdemeanor offense and shall be subject to a fine in accordance with Section 1-4(b) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

[(b) Reserved.]

Sec. 15-85. General facility user fee.

A user fee shall be charged to and paid by program participants. Program participant shall be defined as any person registering for city parks and recreation department sponsored classes, camps, and athletic teams that use facilities owned, leased, or otherwise controlled by the parks and recreation department of the city, as well as any person registering for non-city sponsored athletic teams that use facilities owned, leased, or otherwise controlled by the parks and recreation department of the city.

Sec. 15-91. Facility fee reductions.

Facility use fees may be reduced for residents of the City of Plano who have limited incomes or who are sixty (60) years of age or older. Procedures for said reductions, including amount of the reduction and eligibility criteria, will be established and administered by the director of parks and recreation.

Sec. 15-122. Penalty for violation.

Any violation of the provisions or terms of this ordinance by any person, firm or corporation shall be a misdemeanor offense and shall be subject to a fine in accordance with Section 1-4(b) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

Section II. All provisions of the ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano not in conflict with the provisions of this Ordinance shall remain in full force and effect.

Section III. The repeal of any ordinance or part of ordinances affected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

Section IV. Any violation of the provisions or terms of this ordinance by any person, firm or corporation shall be a misdemeanor offense and shall be subject to a fine in accordance with Section 1-4(b) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

Section V. It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable, and the invalidity or partial invalidity of any section, clause or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

Section VI. This Ordinance shall become effective immediately upon its passage and publication as required by law.

DULY PASSED AND APPROVED this the 12th day of August, 2013.

Harry LaRosiliere, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY