

ORDINANCE NO. 2013-04-_____

AN ORDINANCE OF THE CITY OF MCKINNEY, TEXAS AMENDING CHAPTER 74, "PARKS AND RECREATION," OF THE CODE OF ORDINANCES OF THE CITY OF MCKINNEY, THROUGH THE AMENDMENT OF ARTICLE I, ENTITLED "IN GENERAL," BY ADOPTING A NEW SECTION 74-26 TO BE ENTITLED "SKATEPARK RULES"; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING PENALTIES FOR VIOLATIONS OF THIS ORDINANCE; PROVIDING FOR INJUNCTIONS; PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of McKinney, Texas ("City") is a Home Rule City possessing the full power of local self-government pursuant to Article XI, Section 5 of the Texas Constitution, Section 51.072 of Texas Local Government Code and its Home Rule Charter; and

WHEREAS, the City's residents have requested that the City provide a skatepark in which residents are allowed to ride on skateboards, scooters and inline skates; and

WHEREAS, the City's Parks, Recreation and Open Space Department has created an approximately three-acre lighted outdoor site at Gabe Nesbitt Community Park for use as the Gabe Nesbitt Skatepark; and

WHEREAS, the City now desires to establish certain rules and regulations that will govern skateparks within the City; and

WHEREAS, the City Council finds that the adoption of this ordinance serves a public purpose, and protects the health, safety, and welfare of the citizens of the City of McKinney;

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

Section 1. All of the above premises are found to be true and correct and are incorporated into the body of this Ordinance as if copied in their entirety.

Section 2. From and after the effective date of this Ordinance, Article I, "In General," of Chapter 74 of the Code of Ordinances of the City of McKinney, Texas is hereby amended by adopting a new Section 74-26, entitled "Skatepark Rules," to read as follows:

"Sec. 74-26. - Skatepark Rules.

- (a) In this section, "Skatepark" means an open purpose-built recreational environment made for skateboarding, riding non-motorized scooters, and inline skating that is comprised of cityscapes, bowls, and various obstacles designed for such purposes and designated by the City Council upon recommendation of the Parks, Recreation and Open Space Board, and identified as a Skatepark by signage at different points around and about the Skatepark.
- (b) Signs designating an area as a Skatepark must be conspicuously posted at different points around and about the site.
- (c) The following regulations are hereby adopted for the health, safety and welfare of the City's residents. The following

regulations must be conspicuously posted at different points around and about the Skatepark:

- (1) The Skatepark is open from 8:00 a.m. to 10:00 p.m. (“Open Hours”) unless it is raining or the skating area is wet. Using or occupying the Skatepark outside of Open Hours is prohibited. In addition, using or occupying the Skatepark when it is raining or the skating area is wet is prohibited.
- (2) The Skatepark is designed for skateboards, non-motorized scooters, and inline skates only. Bicycles and motorized vehicles are prohibited in the Skatepark.
- (3) Use of the Skatepark is at your own risk! Skateboarding, riding on non-motorized scooters, and inline skating can be hazardous activities.
- (4) This facility may be used by both experienced and inexperienced persons. Serious injury may result from being hit by a skateboard or non-motorized scooter, falling or colliding. The City does not assume responsibility for injuries — **SKATING, SKATEBOARDING AND ANY OTHER USE OF THE SKATEPARK IS AT YOUR OWN RISK!**
- (5) Only one person per skateboard, non-motorized scooter or pair of in-line skates at a time.
- (6) Children under 10 years of age using the Skatepark shall at all times be accompanied and supervised by an adult who is then present in the Skatepark.
- (7) Proper shoes (close-toed) shall be worn at all times in the Skatepark. The use of safety equipment including helmets, kneepads, elbow pads and wrist guards is highly recommended.
- (8) Know your abilities and stay within those abilities. Be mindful of the safety of others as well as your own safety.
- (9) The use of wax is prohibited.
- (10) No personal ramps, rails or obstacles are permitted. The placement or construction of any personal ramps, rails or other obstacles in the Skatepark is prohibited.
- (11) Abide by the flow and direction of flow in open areas. Only one person on a bowl, rail or other obstacle at a time.
- (12) The possession or use of alcohol, tobacco products and illegal substances are strictly prohibited in and about the Skatepark.
- (13) Food, drinks and/or glass containers are strictly prohibited in and about the skating area of the Skatepark.
- (14) Dispose of all trash properly. Help keep the Skatepark clean by using the trash cans.

- (15) Competitive or demonstration events are prohibited without prior written approval of the McKinney Parks, Recreation and Open Space Department.
- (16) Graffiti, tagging, littering, and applying stickers or other items to any area within and about the Skatepark is prohibited. Graffiti/vandalism of the Skatepark will result in a minimum 48-hour closure of the Skatepark.
- (17) One or more violations of any of the above-listed rules may result in the loss of skating privileges and the use of the Skatepark.
- (18) This is your park – Your help in preserving it will ensure you can use it for years to come. To report damage call 972-547-7480.
- (19) For emergencies, call 911.

(d) Any person who enters the Skatepark shall:

- a. assume all risk and waive liability to the City for any injury, damage or loss suffered while using the Skatepark; and
- b. be liable for any damage or injury that person causes to any other person or property while using the Skatepark.

(e) A person commits an offense, punishable by a fine of up to \$2,000, if he fails to comply with any regulation set forth in Subsection (c) of this Section 74-26.

(f) Use of the Skatepark by any person constitutes:

- (1) implied consent to comply with all conditions and regulations stated in this section or promulgated by the park board and posted at the Skatepark; and
- (2) a waiver of liability to the city and an agreement and undertaking to protect, indemnify, defend, and hold the city harmless, from and against any claims, demands and lawsuits arising out of any injury, damage, or loss caused to and/or suffered by the person during any time the person is in the Skatepark.”

Section 3. That this Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of said ordinances except in those instances where provisions of those ordinances are in direct conflict with the provisions of this Ordinance and such ordinances shall remain intact and are hereby ratified, verified and affirmed.

Section 4. If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance, or application thereof to any person or circumstance, is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of the Ordinance, and the City Council hereby declares it would have passed such remaining portions of the Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 5. All of the regulations provided in this ordinance 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 ordinance, acting for the City of McKinney 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 said duties.

Section 6. Any person, firm or corporation who violates any section of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined any sum not in excess of \$2,000.00, and assessed court costs as provided by law.

Section 7. Any violation of this Ordinance may be enjoined, and this remedy shall be in addition to any penal provision in this Ordinance.

Section 8. This Ordinance shall become effective from and after the date of its final passage and publication as provided by law, and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS ON THE 16th DAY OF APRIL, 2013.

CITY OF MCKINNEY, TEXAS

BRIAN LOUGHMILLER
Mayor

CORRECTLY ENROLLED:

SANDY HART, TRMC, MMC
City Secretary
BLANCA I. GARCIA
Assistant City Secretary

DATE: _____

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney