

**PROPOSED LANGUAGE FOR INCLUSION IN CHAPTER 74, PARKS AND
RECREATION, OF THE CITY CODE OF ORDINANCES**

ARTICLE I. – IN GENERAL

Sec. 74-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the following meanings, except where the context clearly indicates a different meaning:

Alcoholic Beverage: Any beverage containing more than one-half of one (1) percent of alcohol by volume.

Amplified Sound: Music or speech projected or transmitted by artificial means including, but not limited to, amplifiers, loudspeakers or any similar devices.

Applicant: A Person who has filed a written application for use of a Park for a specific purpose.

Assembly: A group or gathering of Persons for the purpose of deliberations, legislations, worship or entertainment.

Board: The Park, Recreation and Open Space Advisory Board.

City: The City of McKinney, Texas

Community-Sponsored Not-For-Profit Organization: A non-profit organization existing or operating within the City that has received recognition as a "Department affiliate" by both the Board and the City Council.

Concession Stand: A facility at a Park where food or drink is offered to the public.

Department: The City of McKinney Parks and Recreation Department.

Director: The Director of the Department or his/her authorized representative.

Dangerous Dog: as defined by the Texas Health and Safety Code.

Dog Park: enclosed fenced area designated by the City Council and identified by signage at the entries to the fenced area, in which dogs are allowed to be off leash or unrestrained.

Event: An organized activity, gathering or parade that requires closure of a Park area to the general public, that effectively precludes normal use of a Park area, or that requires dedication of City resources beyond those normally associated with a Park area.

Large Dog: a dog that weighs 25 pounds or more.

Memorandum of Understanding: A written agreement between the City and one or more Persons allowing use of City facilities for specified purposes including, but not limited to league games, practices and post season tournaments.

Motor Vehicle: Any wheeled device of conveyance propelled by motor or engine, including without limitation, any automobile, motorcycle, motor bike, or trailer of any kind, size, or description. The term does not include vehicles owned by the City or operated on the City's behalf.

Nonresident: An individual or family that does not reside in the existing city limits and / or attend a school located within the McKinney Independent School District

Nonresident Team: A team that has more than 45% participants that are defined as nonresidents

Parade: The assembly of 30 or more Persons whose gathering is for the common design and purpose of traveling or marching in procession from one location to another location and whose route includes a portion of a Park.

Park: Any land held, used, owned, leased, maintained or acquired by the City for use as a public park, trail, recreation or playground area, and any building or facility thereon, whether or not such areas have been formally dedicated to such purpose.

Parking Area: Any portion of any Park or any Park road or drive designated by the Director for the parking of Motor Vehicles.

Park Street: A road that was designed to carry Motor Vehicles was constructed entirely within the property lines of a Park, and that serves primarily the Park within which it is located.

Permit: Written permission from the Director to carry out a specified activity in a Park.

Person: Any individual, legal entity, partnership, association, corporation or other organization.

Recognized User Group: An association consisting of various sports associations who are formally approved to use parks facilities within the City. Only one association will be approved annually per individual sport unless already in existence.

Reimbursable Cost: Any costs incurred by the City in the staging of an Event or activity, including, without limitation, the following:

- (1) Utility services provided to the Event, including all of the costs of installation, maintenance and connection;
- (2) Food services inspection;
- (3) Repair, maintenance and removal of facilities in the event of a failure by the Applicant;
- (4) Repair of streets, alleys, sidewalks, Parks, and other public property;
- (5) Park staff support;
- (6) Police protection;

- (7) Fire protection;
- (8) Emergency medical service;
- (9) Garbage disposal and cleanup;
- (10) Traffic control;
- (11) Equipment, including but not limited to bleachers, sound equipment, tents, tables and chairs; and
- (12) Other direct City costs associated with an Event.

Resident: An individual or family that resides in the existing city limits and / or attends a school located within the McKinney Independent School District

Resident Team: A team that has a minimum of 55% participants that are defined as residents

Sidewalk: That portion of a Park Street intended for the use of pedestrians that is located between the curb lines or lateral lines of a roadway and the adjacent property lines.

Skatepark: An open purpose-built recreational environment made for skateboarding, riding a non-motorized scooters and inline skating that comprised of cityscapes, bowls, and various obstacles designed for such purposes and as identified for such use by posted signage.

Small Dog: a dog that weighs less than 25 pounds.

ARTICLE II. PARK BOARD

Sec. 74-2. Created.

There is hereby created a Parks, Recreation and Open Space Advisory Board.

Sec. 74-3. Members.

Members of the Board shall be appointed by a majority of the City Council, and the Board shall consist of five (5) to nine (9) members.

Sec. 74-4. Term of members.

The term of office of members of the Board shall be two (2) years from the date of their appointment. Members may be re-appointed for additional terms. Each member shall serve on the Board until removed by the City Council or until expiration of the member's term, whichever occurs first. Generally, appointments are made effective October 1 of each year.

Sec. 74-5. Officers and duties.

- (a) *Officers enumerated.* The Board shall elect annually the following officers:
 - (a)a) Chairman; and
 - (a)b) Vice-chairman.
- (b) *Duties described.*
 - (b)a) *Chairman:* The Chairman shall preside at all meetings, shall appoint standing committee members and shall perform all other duties as usually pertain to his/her office, or as may be instructed by the Board or City Council.

- (b)b *Vice-chairman*: It shall be the duty of the Vice-chairman to perform the duties of the Chairman in his/her absence.

Sec. 74-6. Compensation.

Members of the Board shall serve without compensation.

Sec. 74-7. Powers and Duties.

The Board shall act in an advisory capacity to the Director, City Manager and City Council in matters pertaining to Parks and Recreation, and shall:

- (1) Become familiar with the location and current condition of the Parks system;
- (2) Utilize a master plan for the purpose of recommending sites to be purchased and used as City Parks; improvements to existing Park property, structures, facilities, athletic areas or other improvements on Parks; and removal of Parks from the City's Park system for purposes that protect the interest of the public;
- (3) Recommend rules and regulations governing the use of facilities including those related to youth sports associations, as necessary;
- (4) Perform other duties as the City may prescribe; and
- (5) Establish goals and standards for the Board's governance and for the performance of its duties, as necessary.
- (6) Assist in informing citizens about department policies and functions.
- (7) Assist in educating the community about park related items including bond programs, capital projects, partnership opportunities, land donations, and various other resource needs for departmental operations.

Sec. 74-8. Removal from Board; vacancies.

Members of the Board shall be subject to removal from office by the City Council for any lawful cause deemed sufficient for their removal in the interest of the public. Any vacancy in the membership of the Board may be filled by the City Council.

Sec. 74-9. Meetings.

- (1) The Board will meet the second Thursday of each month as necessary and at such other times as needed, or by written request sent to the Chairman or Vice-chairman by three members of the Board.
- (2) Notice of meetings shall be posted to the extent required by law, and shall be held at the Government Center unless otherwise specified.
- (3) A majority of the members shall constitute a quorum. The absence of any member from any meeting shall be noted in the minutes of the meeting. The Director shall submit to the City Council upon request information related to the Board.
- (4) The Director shall attend Board meetings, post notice of meetings and record minutes in accordance with state law.

Sec. 74-10. Subcommittees.

- (1) The Board, by majority vote at any regular or special meeting, may appoint members to subcommittees to serve the purposes of the Board.
- (2) Subcommittees shall be terminated in the same manner as they are appointed.

ARTICLE III. MCKINNEY ARMED SERVICES MEMORIAL CORPORATION

Sec. 74-11. Creation, membership, duties and responsibilities.

- (1) McKinney Armed Services Memorial Corporation created. There is hereby created the McKinney Armed Services Memorial Corporation (“MASMC”) under the authority of the city’s Home Rule Charter and pursuant to its articles of incorporation and the procedures established in its corporate bylaws.
- (2) The MASMC shall initially consist of seven persons. Directors of the corporation (“Director” or Directors”) shall be appointed to the MASMC as follows:
 - a. The council shall approve each director to the MASMC. The number of directors shall increase or decrease at the council’s discretion in accordance with the approved bylaws. The number of directors shall never be less than five persons, and the board shall always be composed of an odd number.
 - b. Each Director shall serve for a two-year term, or until his or her successor is appointed by the council; provided, however, upon the death, resignation or removal of a director, the council shall appoint a replacement director to serve for the unexpired term of office of the replace director. No term limits are imposed by this article. Any restrictions as to term are governed by the council.
- (3) Any director may be removed from office at any time, with or without cause, by the council.
- (4) The city council shall endeavor to appoint persons who are representative of one or more of the following groups, organizations, or interests as voting members of the board:
 - a. A resident of Collin County, Texas; or
 - b. A person employed within Collin County, Texas; or
 - c. A Veteran of the United States Armed Forces; or
 - d. A spouse of a Veteran of the United States Armed Forces.
- (5) The Directors may hold their meetings and may have an office and keep the books of the corporation at such place or places as the board may from time to time determine; provided, however, in the absence of any such determination such place shall be the Parks and Recreation Administration office.
- (6) The board shall meet in accordance with and file notice of each meeting of the board for the same length of time and in the same manner and location as is required of a city under Chapter 551, Texas Government Code (the “Open Meetings Act”).

ARTICLE IV. PARKS AND RECREATION DEPARTMENT

Sec. 74-12. Establishment of parks and recreation department.

There is hereby created for the city the department of parks and recreation.

Sec. 74-13. Director of parks and recreation.

The city manager shall appoint the director of parks and recreation to serve at the pleasure of the city manager, and the director shall have such duties and responsibilities as may, from time to time, be delegated to them by the city manager.

ARTICLE V. PARK REGULATIONS AND PROCEDURES

Sec. 74-14. Park hours and Park closings.

- (1) Parks shall be closed between the hours of 11:00 pm and 5:30 am, except Erwin Park shall be closed between the hours of 10:00 pm and 7:00 am, and as otherwise authorized by the Director.
- (2) The Director may temporarily close or limit the use of any facility, section, or part of any Park at any time if the Director finds it reasonably necessary to take such action for the purpose of hosting Events and activities; for the protection of public health and safety; or for Park maintenance. It shall be unlawful for any Person to use or be present in any closed area or facility unless authorized by the Director.

Sec. 74-15. Fires.

- (1) Unless authorized in writing by the Director and the Fire Department, no Person shall start or maintain, in any Park, any outdoor fire except for cooking fires, which shall be started and maintained only in a fire pit; outdoor fireplace, City installed barbecue pit or grill, or individually owned gas grills or portable camp stoves.
- (2) No Person starting or maintaining any fire in a Park shall leave the fire unattended.
- (3) Any Person who has started a fire within a Park shall not leave the premises without first completely extinguishing the fire, allowing coals to cool down, and disposing of them in a nearby trash receptacle
- (4) Individually owned grills or stoves cannot be used on grass areas or park site furniture.

Sec. 74-16. Motor Vehicle operation within a Park.

- (1) The maximum lawful prima facie speed limit in all Parks shall be twenty (20) miles per hour.
- (2) It shall be unlawful and an offense for any Person to:
 - a. Drive or operate any Motor Vehicle within a Park except on Park Streets, roadways designated for traffic, or designated Parking Areas;
 - b. Drive, use, operate, park or stop any Motor Vehicle at any place in a Park in such a manner or condition as to endanger or interfere with the lawful traffic or use of a Park Street or Parking Area; or
 - c. Stop, stand or park any Motor Vehicle in a Park, except in designated Parking Areas; or to fail to park the entire Motor Vehicle within the limit lines of a designated parking stall, where such lines have been provided.
- (3) If a Motor Vehicle is parked or left in violation of this section, and the owner or operator of the Motor Vehicle cannot immediately be found to move such vehicle, the Police Department of the City may remove or impound the vehicle in accordance with applicable laws.
- (4) If a Motor Vehicle is found unattended or unoccupied in a Park in violation of any provision of this article, the fact that such vehicle is unattended or unoccupied by any

Person shall be prima facie evidence that the owner unlawfully stopped, placed or parked such vehicle. The records of the State Highway Department or the County Highway License Department showing the name of the Person to whom state highway license plates were issued shall constitute prima facie evidence of ownership by the Person therein named.

Sec. 74-17. Sports leagues, associations, and organizations.

All sports association member organizations may enter into a Memorandum of Understanding for use of Park facilities for team tryouts, practices, games or post season tournaments. It is prohibited for any sports league, sports association, or sports organization of any kind to use any Park facility for team tryouts, practices, games or post season tournaments, unless the organization has executed a Memorandum of Understanding with the City and is in full compliance with such Agreement unless otherwise approved in writing by the Director.

Only Recognized User Groups may execute a Memorandum of Understanding with the City. Members of the Recognized User Groups are: MSA-McKinney Soccer Association; MSC-McKinney Sports Connection; MBA-McKinney Baseball Association; MLLB-McKinney Little League Baseball; MLC-McKinney Lacrosse Club; NTC-Nortex Cricket Club; and MGSA-McKinney Girls Softball Association. Recognized User Groups are limited to one group per recreational sport.

Obtaining Recognized User Group status:

1. Groups, clubs or leagues must complete a recognized user group application and submit for review a minimum of 3 months prior to the planned start date to be considered. The following factors shall be considered as significant reasons to consider granting recognized status to a new group, club or association:
2. New organizations caused by a mandated split due to national or state association bylaws of a current recognized sport;
3. A different activity or sport that is not currently offered or cannot be offered by existing organizations. The City will recognize only one sport group to deliver that sort to the city residents; and
4. Facilities, staff and funding by the parks and recreation department must be available to recognize the new groups, clubs or leagues.

Minimum requirements for each applicant applying for a Recognized User Group status are:

1. Written evidence of a need for the sport to be offered
2. Registration of no less than 50 persons
3. Ninety percent of all participants must be residents of the city
4. One hundred percent of the games played on City fields must include city teams
5. Non-profit certification with the State of Texas
6. Submittal of Bylaws for the organization including protocols for background checks and grievance procedures
7. Commitment to provide annual financials including revenues and expenditures upon request and in a format required by the City

Maintaining the Recognized User Group status requires:

1. Completion of the Memorandum of Understanding annually
2. Compliance with the terms and conditions of the Memorandum of Understanding
3. Attending an annual meeting with the Parks and Recreation Department
4. Submittal of the annual financials including revenues and expenditures upon request and in a format required by the City
5. Submittal of the number of participants for each league including a breakdown of residents and nonresidents
6. Anticipated number of participants for upcoming leagues
7. Proof of insurance listing the City as an additional insured

The City reserves the right to suspend or revoke a recognized group if they do not adhere to the terms of the Memorandum of Understanding.

The City reserves the right to close, cancel, postpone the use of City facilities at any time for maintenance, safety, inclement weather and other reasons deemed in the best interest of the public.

The group may appeal the suspension or revocation of the recognized user group within five days of the action by written letter to the City Manager. While under appeal, the league may not participate on city facilities. The City Manager shall respond to the appeal in writing within 10 days of receipt.

Prevention of participation in any sport is prohibited based on financial capabilities, race, color, creed, national origin, religion, sex or disability.

Facility allocation and seasons for each of the Recognized User Groups shall be included in the Memorandum of Understanding. The Memorandum of Understanding shall be for a one year timeframe effective January 1 of each year.

The City reserves the right to reserve park facilities at any time not allocated and included in the Memorandum of Understanding for the Recognized User Groups. Fees may be charged at a rate established by the Parks and Recreation Department.

Sec. 74-18. Resident and nonresident

The city will not schedule or prepare facilities for leagues that are solely played on city facilities whereby the number of nonresident teams exceeds the amount of resident teams and there is not a minimum of four resident teams within a particular league.

Sec. 74-19. User Fees

User fees shall be charged for use of the city's public parks and recreation facilities.

Nonresidents who participate in a league played on city public parks and recreation facilities shall pay \$10 per league.

Residents who participate in a league played on city public parks and recreation facilities shall pay \$5 per league.

Sec. 74-20. Remote controlled model aircraft users.

All remote controlled model aircraft users shall enter into a Memorandum of Understanding annually and submit a list of members upon execution of said agreement. Users shall comply with all existing rules and regulations and limit operations to the established flight zone in Erwin Park. All users shall provide proof on insurance in the amount of \$2,500,000 per occurrence and listing the City as an additional insured.

Sec. 74-21. Dog park users.

All dog park users shall comply with signage posted at each dog park entry. Users shall allow large dogs use of the designated large dog area, only. Users with small dogs are allowed use of the small dog area and, although not recommended, the large dog area.

The following are strictly prohibited from use of the dog park: dangerous dogs; dogs in heat; persons in possession of more than three dogs at one time; puppies under four month of age; dogs without current rabies vaccination tags showing the dog is registered with the City and vaccinated in accordance with applicable law. Children under the age of 12 must be accompanied by an adult.

Dog park users shall:

1. Carry materials needed to remove and adequately dispose of pet waste
2. Lead the dog on a leash and retain the dog in custody when entering and exiting the Dog Park and while outside the gate
3. Allow the dog to be off-leash inside the dog park
4. Have a leash readily accessible at all times
5. Remove any spiked, pinch or prong collars before entering the dog park
6. Keep the dog under visual and voice control at all times while in the Dog Park
7. At no time leave a dog unattended
8. Immediately remove the dog at the first sign of aggressive behavior
9. Not carry any human food or dog food into, on or about the premises of the dog park (human drinks only are permitted provided the drinks are not in a glass container)
10. Not smoke inside the dog park
11. Be liable for any damage or injury inflicted by a dog in their custody
12. Keep children less than 12 years of age under strict supervision

Sec. 74-22. Permit required; exemptions.

A Person wishing to hold an Event in a Park must first obtain a Permit from the Director.

A Person must also obtain a Permit from the Director in order to engage in any of the following activities in a Park:

- (1) An exhibit, music event, play, or motion picture;
- (2) Any assembly or parade;
- (3) Use of amplified sound equipment;
- (4) Sale of food, drinks or goods;

- (5) General park use between 11:00 p.m. and 5:30 a.m.; and use of Erwin Park between 10:00 p.m. and 7:00 a.m.
- (6) Cutting or removal of any trees.

The holder of a Permit issued pursuant to this section must keep a copy of the Permit in the area where the Event or activity is conducted, and must produce the Permit upon demand of any authorized representative of the City.

At the discretion of the Director, Persons who have entered into a written Agreement with the City may be exempted from the requirements of this section with respect to any Events or activities conducted pursuant to and in compliance with the terms of such Agreement.

The requirements of this section are in addition to the requirements of any other applicable law or ordinance.

Sec. 74-23. Additional prohibited acts.

It shall be unlawful and an offense for any Person to do any of the following in a Park:

- a. Swim, wade, or use or operate a boat, kayak or canoe in any lake, stream or pond located in any Park unless such activities are specifically authorized and permitted by other written regulations and policies; except that model boats or radio-controlled sport boats which are incapable of carrying occupants may be used in water bodies located in Parks with the written approval of the Director;
- b. Place or permit to be placed trash, garbage, debris or other waste materials not accumulated during the course of normal Park activities;
- c. Consume, sell or possess alcoholic beverages;
- d. Possess any animal, or allow any animal to enter or remain, in any area of a Park where posted signs state that such an animal is prohibited;
- e. Cut, break, deface or in any way injure trees, shrubs, plants, grass, turf, fountains, seats, structures, improvements, ornaments, monuments or any other property of any kind;
- f. Construct or erect any building or structure of any kind, whether permanent or temporary, without the express, prior written consent of the Director; except that small, pop-up shade structures may be used in Parks without prior permission;
- g. Enter onto or remain in any Park with an unrestrained dog except in areas or on paths or trails expressly designated as dog off leash areas by posted Park signs, rules or regulations. Without limitation, use of a leash or restraining device greater than 6'-0" long shall be considered a lack of restraint;
- h. Abandon or leave a domestic animal or pet unattended;
- i. Capture, attempt to capture, hunt, molest, injure, trap, or administer or set out any trap or harmful substance for, any wild or domesticated animal, or remove or possess the young, eggs or nest of any animal, without a permit from the Director; except that any Person is permitted to fish for and remove from the lakes, ponds and streams, any fish as allowed by state law (including all licensing requirements);
- j. Camp overnight except in a designated area with a Permit;

- k. Ride a horse or other animal except in areas or on paths or trails expressly designated as equestrian areas by posted Park signs, rules or regulations;
- l. Sell merchandise, food or beverages without a Permit from the Director in the park, parkways, recreational facilities, or on public streets and rights-of-way within 300 feet of the boundary of the same, except in developed properties zoned retail or commercial;
- m. Cause unreasonably loud or raucous noise;
- n. Possess a glass container;
- o. Hit golf balls;
- p. Carry a concealed hand gun; carry or discharge a projectile weapon without written approval of the Director and City Fire Marshall;
- q. Engage in any activity other than tennis on tennis courts, or enter a tennis court without wearing tennis shoes; or
- r. Explore, extract or conduct any other activity relating to exploitation of oil, gas or other minerals.
- s. Leave any child under seven (7) years of age in any park or recreational facility except for a supervised program or activity in which the child is registered.

Sec. 74-24. Penalty for violation.

Any Person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction in municipal court shall be subject to a fine of not more than two hundred dollars (\$200.00) for each offense. Each and every day a violation occurs or continues shall constitute a separate offense.

A Person who holds a Permit, but who fails to comply with any requirement or condition of that Permit, engages in activities that exceed the scope of the Permit, or damages City property or facilities while acting pursuant to the Permit, is guilty of a misdemeanor, and, in addition to being subject to the above penalty, shall make restitution to the City for all damages incurred by the City as a result of the Person's violation.

Sec. 74-25. Enforcement of article.

The Department, as well as the City's Code Enforcement Department, Fire Department, and Police Department shall be responsible for the enforcement of all codes and ordinances regulating the conduct and use of Parks.

ARTICLE VI. PARKS AND RECREATION FACILITY USE, FEES AND CHARGES

Sec. 74-26. Facility use; fees.

- (1) The Director is authorized to set and charge fees for use of Park facilities and for Department programs. The Director may submit a proposed schedule of fees to the Park Board and City Council for input and approval as part of the City's annual budget process, and the City Council may require the Director to adjust facility use fees at any time. Such fees may be charged to help offset some or all of the maintenance and operational costs associated with the facilities and resources used. The Director may evaluate fees from time to time and revise them as necessary to reflect changes in costs

and/or competition. Nonresidents may be required to pay a higher fee due to the fact that they are not assessed City ad valorem taxes.

- (2) The Director is authorized to add Department programs, increase participation numbers for existing programs, and omit programs as necessary in the Director's discretion to meet the needs of the community and maintain appropriate cost recovery.
- (3) The City may, at its discretion, sponsor, subsidize, or reduce or eliminate fees for special Events or activities that further the City's mission, including without limitation Events or activities that are highly attended by McKinney residents or that promote tourism and enhance the quality of life. Such financial support of special Events may be addressed during the permitting process and/or the City's budget process.
- (4) Non-sponsored Events or activities will be required to pay fees that cover all measurable Reimbursable Costs associated with them. The Department, utilizing normal and customary methods, will determine the amount of Reimbursable Costs associated with an Event or activity. The Director is authorized to charge additional fees for commercial and "for profit" Events. The amount of such additional fees may be determined as a percentage of gross revenues, as a rental amount, or by any other method deemed appropriate by the Director.

Sec. 74-27. Priority use.

- (1) Subject to Permits granted by the Director, or formal written use agreements approved by the City, and the provisions of this chapter, Park facilities shall be available to anyone on a first-come, first-served basis.
- (2) Residents of McKinney may be given priority in the use of Parks, including through preferential treatment in fees and the permitting process.

ARTICLE VII. Permitting process

Sec. 74-28. Application.

A Person desiring to hold an Event or engage in activity for which a Permit is required by this chapter shall apply for an Event Permit by filing with the Department a written application. The Director may require that applications be submitted using a form developed by the City. Otherwise, an application must generally contain the following information, subject to appropriate adjustment by the Director depending on the nature of the proposed Event or activity:

- a. Name, home address and telephone number; office address and telephone number; date of birth; and driver's license number of the Applicant, the promoter, and of any other Persons responsible for the conduct of the Event or activity.
- b. Detailed plans related to the Event or activity should address each of the following items:
 1. Facilities - A set of plans and specifications relating to all temporary facilities to be constructed or utilized for the Event or activity;
 2. Fire protection - A plan for prevention of fires and for adequate protection of Persons and property in the event of a fire, including, without limitation, adequate exits, fire extinguishers, adequate access for fire trucks and emergency vehicles;

3. Concessions - A plan to provide food and beverages, a health permit, and proof of insurance from the concession operator listing the City as an additional insured;
4. Emergency medical service - A plan to provide adequate emergency medical services at the Event or activity;
5. Parking – A plan to provide adequate parking for the Event or activity, including proof of consent by any private landowners whose property will be used for parking;
6. Police protection - A plan providing for adequate safety, security, traffic and crowd control in connection with the Event or activity. All public safety services shall be provided by McKinney Police and Fire personnel;
7. Promotional - If applicable, a plan to promote, market and advertise the Event or activity;
8. Sanitation plan - A plan to ensure that the highest standards of cleanliness and sanitation are maintained at the Event or activity, including adequate restroom facilities, and a plan to clean and stock public restrooms, police and maintain litter-free grounds, empty refuse containers frequently so as to prevent overflow, contain all on-site waste, and provide proper containers for recycling if available;
9. Estimated number of Persons participating;
10. Estimated number of spectators;
11. Proof of insurance with the City listed as an additional insured;
12. Proof of vaccinations if Event includes use of animals; and
13. Any other information reasonably requested by the Director.

An application must be filed sufficiently in advance to allow for reasonable staff planning and approval. Generally, an application must be filed at least 30 days in advance of the Event or activity for which a Permit is sought in order to be considered timely. Failure to timely file an application is sufficient grounds for denial of the application.

Sec. 74-29. Approval, denial and revocation of Event Permit.

City staff shall determine whether the application and plans meet City safety and other goals. Criteria used by the City for assessing applications may include, without limitation, the following:

- a. Any scheduling conflicts with City sponsored programs, events, or other Park uses;
- b. The extent to which the Event or other activity would restrict the public use of City owned or leased facilities;
- c. The extent to which the Event or other activity would provide a positive public service and meet a legitimate public need;
- d. Any public safety issues created by the Event or activity; and
- e. Any involvement or endorsement of commercial enterprise(s).

The Director may require the Applicant to modify an application in order to assist the Director in reaching a decision on the application.

If the Director determines that issuance of a requested Permit is appropriate and in the best interests of the public, the Director may issue the Permit. If the Applicant fails to provide viable plans and sufficient assurances to satisfy the Director that the Event or activity will be carried out in a manner that is in the best interests of the public, the application may be denied. The decision to grant or deny a permit is at the discretion of the Director, subject to the appeal provisions herein.

The Director may require the Applicant to satisfy certain conditions before issuing a Permit, or the Director may issue a Permit subject to stated conditions. Appropriate conditions include, but are not limited to:

- a. Compliance with other applicable laws and ordinances;
- b. Advance payment of Reimbursable Costs and/or any applicable fees;
- c. For commercial or “for-profit” activities, payment of a percentage of gross revenues and/or rents as deemed appropriate by the Director;
- d. Execution of an indemnification agreement in favor of the City;
- e. Restrictions on fires, fireworks, Amplified Sound, dancing, sports, use of animals, equipment or Motor Vehicles, the number of Persons to be present, the location of any bandstand or stage, or any other use which appears likely to create a risk of unreasonable harm to the use and enjoyment of a Park;
- f. A requirement that the Applicant post a reasonable deposit or security for the repair of any damage to Park property or the cost of cleanup, or both in addition to any cost for City services paid in advance of the Event;
- g. A requirement that the Applicant furnish additional sanitary and refuse facilities that may be necessary, based on the use or activity for which the Permit is being sought; and
- h. Any other safeguard required for protection of the public interest.

If, after issuing a Permit, the Director becomes aware of new or additional information that demonstrates the Event or activity is not in the best interests of the public, the Director may revoke the Permit. Without limitation, the Director has authority to revoke a Permit upon a finding of violation of any rule, ordinance, or law, or upon the violation of any condition or restriction under which the Permit was issued. If the Director finds that an Applicant falsified any information related to a Permit application, the Director may revoke the Permit and deem any fees (including deposits and bonds) paid by the Applicant forfeited.

Permits are not transferable without written consent of the Director. An Applicant shall be bound by all Park rules and regulations and all applicable ordinances as fully as though the same were stated in the Permit. Issuance of a Permit pursuant to this Article does not waive the requirements of any other ordinance or law. The City, by issuing a Permit pursuant to this article, assumes no liability or responsibility whatsoever.

Sec. 74-30. Appeal of denial or revocation of Event Permit

If the Director denies a Permit application or revokes a Permit, the Director shall notify the Applicant in writing of the Director's decision and of the right to appeal. Any appeal must be taken within three (3) days by written notice of appeal to the City Manager. The City Manager shall consider all the available evidence in support of or against the action appealed and render a decision either sustaining or reversing the denial or revocation. The decision of the City Manager shall be final.

Sec. 74-31. Interference with Permitted use of Park Areas.

It is unlawful for any Person to interfere with the exclusive use of and access to Park facilities of any other Person who holds a Permit or Facility Use Agreement that entitles such Person to exclusive use of those Park facilities.

Sec. 74-32. Simple facility reservations.

The Director may, at his/her discretion, waive any requirement of this article except for the provisions relating to appeal. In particular, for any Event or other activity for which a Permit is required, but which, in the Director's judgment, imposes minimal burdens on the City and the public, the Director may grant a Permit utilizing any reasonable reservation process, without requiring compliance with the other provisions of this article.

ARTICLE VIII. NAMING OF PARKS

Sec. 74-33. Naming of Parks.

The Board will be responsible for recommending to the City Council names for Parks.

- (1) The Board shall be responsible, with the assistance of the Department, for research, study and recommendation of a proposed name to the City Council.
- (2) Names should have meaning and be recommended utilizing the direction of the City Council as described in Resolution No. 2014-01-008 (R).
- (3) The recommended name will be communicated to the City Council for its consideration and approval.
- (4) A Park name may be changed for cause at any time.

ARTICLE IX. YOUTH PROGRAM STANDARDS OF CARE

Sec. 74-34. Definitions.

The following definitions apply to this article, in addition to the definitions outlined in Section 74-1.

Contractor: Those individuals under contract with the City who provide Youth Program Services, but are not employees of the City.

Counselor(s): Those individuals hired and employed by the City or their Contractor, and have assigned responsibility for managing, administering, or implementing some portion of the Youth Program.

Parent(s): One or both Parents or other adult with legal custody and authority to enroll a child or children in the Youth Program.

Participant: A youth whose parent(s) have completed all required registration procedures and who is eligible for the Youth Program.

Youth Program Manager: The full-time Department employee or his/her designated representative, who is responsible for the management of the Youth Program including personnel, programs, space allocation, trips and overseeing management, administration and implementation of the Youth Program.

Site: The site may vary and the location may be a permanent facility or park or it may be a temporary location or site for day trips.

Site Director: The Youth Program Site Director, a full-time, professional employee of the Department or a paid Contractor not less than 21 years of age with a minimum two years of experience planning and implementing recreational, youth activities.

Staff: The Person(s) authorized to attend and assist with the Youth Program.

Youth: A child aged six (6) to twelve (12) years.

Youth Program: The City children's camp and youth summer recreation programs.

Youth Program Manual: The notebook of policies, procedures, required forms, and organizational and programming information relevant to the Youth Program.

Sec. 74-35. Purpose.

- (1) This article shall define the standard of care for the City's Youth Program.
- (2) This article allows the City to operate the Youth Program without adopting the state-prescribed day care standards of care and licensing requirements.
- (3) The City declares its Youth Program is not required to be and will not be licensed by the state, and the Youth Program will not be advertised as a child-care facility or program in accordance with state law.

Sec. 74-36. Administration.

- (1) The governing body of the Youth Program is the City Council. Implementation of the Youth Program Standards of Care is the responsibility of the Parks and Recreation Department Director and the Departmental employees. These standards of care will apply to the Youth Program. The Program Site will have available, for public and staff review, a current copy of the Youth Program Standards of Care. Parents of Participants will be provided a current copy of the Youth Program Standards of Care during the Youth Program registration process. Criminal background checks will be conducted on prospective Youth Program Staff in the same manner in which the City conducts criminal background checks on all City employees. No Person is allowed to

be hired as staff for the Youth Program if the Person fails to satisfy the general City background check standards.

- (2) Before a Participant may be enrolled, a Parent must sign registration forms that contain:
 - a. Name, address, home telephone number of the Participant;
 - b. Name, address and telephone number of both Parents who may need to be contacted during Youth Program hours;
 - c. Alternate emergency contact information;
 - d. The names, telephone numbers and driver's license numbers of people to whom the Participant may be released;
 - e. A statement of the Participant's special problems or needs, including allergies;
 - f. Emergency medical authorization;
 - g. Proof of residency or enrollment in local school district; and
 - h. A liability release that encompasses all personal injury, including death, and property damage resulting from participation in the Youth Program.
- (3) A monthly inspection report will be initiated by the Program Director of each Youth Program to confirm adherence to the Youth Program Standards of Care. Inspection reports will be sent to the Youth Program Manager for review and kept on record for at least two years. The Youth Program Manager will review the report and establish deadlines and criteria for compliance with the Youth Program Standards of Care. The Youth Program Manager will make visual inspections of the Youth Program no less than twice during each Youth Program period.
- (4) Complaints regarding enforcement of the Youth Program Standards of Care will be directed to the Site Director. The Site Director will be responsible to take the necessary steps to resolve the problems. Complaints not involving threats to life safety, regarding enforcement of the Youth Program Standards of Care and their resolution, will be recorded by the Youth Program Manager. Complaints involving life safety as related to enforcement of the Youth Program Standards of Care will be addressed by the Director and the complaint and resolution will be noted.
- (5) The Director will make an annual report to the Park Board on the overall status of the Youth Program and their compliance with the Youth Program Standards of Care.

Sec. 74-37. Standards of care.

- (1) Staff-Participant ratio.
 - a. The standard ratio of Participants to Counselors will be twenty (20) to one. In the event a Counselor is unable to report to the Program Site, a replacement will be assigned; and
 - b. Each Participant shall have a Youth Program employee who is responsible for him or her and who is aware of the Participant's habits, interests, and any special problems as identified by the Participant's Parent during the registration process.
- (2) Discipline.
 - a. Youth Program employees will implement discipline and guidance in a consistent manner based on the best interests of Participants;
 - b. There shall be no cruel, harsh, or physically administered punishment or treatment;

- c. Youth Program employees may use brief, supervised separation from the group if necessary;
 - d. As necessary, Youth Program employees will initiate discipline reports to the Parent(s) of Participants. Parents will be asked to sign discipline reports to indicate they have been advised about specific problems or incidents;
 - e. A sufficient number and/or severe nature of discipline reports as detailed in the Youth Program Manual may result in Participant being suspended from the Youth Program; and
 - f. In instances where there is a danger to Participants or Staff, the offending Participant will be removed from the Site as soon as possible.
- (3) Programming.
- a. Youth Program employees will attempt to provide activities for each group according to the Participants' ages. The activities must be appropriate to Participants' health, safety, and well-being. The activities also must be flexible and attempt to promote the Participants' emotional, social, and mental growth;
 - b. Youth Program employees will attempt to provide Youth Programs that include:
 - 1. Alternating active and passive activities;
 - 2. Opportunity for individual and group activities; and
 - 3. Outdoor time each day if weather permits.
 - c. Youth Program employees will be attentive and considerate of the safety of Participants on field trips and during any transportation provided by the Youth Program;
 - d. During trips, Youth Program employees supervising Participants must have immediate access to emergency medical forms and emergency contact information for each Participant;
 - e. Youth Program employees must have a written list of the Participants in the group and must check the roll frequently; and
 - f. Youth Program employees must have first aid supplies and a guide to first aid and emergency care available on field trips.
- (4) Communication.
- a. The Program Site will have a telephone to allow the Site to be contacted by Department personnel and the Site will have access to a telephone for use in contacting the City or making emergency calls; and
 - b. The Site Director will post the following telephone numbers adjacent to a telephone accessible to all Youth Program employees at the Site:
 - 1. City ambulance or emergency medical services;
 - 2. Youth Program Manager;
 - 3. City police department;
 - 4. City fire department;
 - 5. City Government Center;
 - 6. City Parks and Recreation Department;
 - 7. Numbers at which parents may be reached; and
 - 8. The telephone number for the Program Site itself.
- (5) Transportation.

- a. Before a Participant may be transported to and from Youth Program activities, a transportation form, completed by the Parent of the Participant, must be filed with the Program Site Director;
 - b. First aid supplies and a first aid and emergency care guide will be available in all Youth Program vehicles that transport children; and
 - c. All Youth Program vehicles used for transporting Participants for field trips and other activities offered as part of the program during typical program hours, must have available a 6-BC portable fire extinguisher which will be installed in the passenger compartment of the vehicle and must be accessible to the adult occupants.
- (6) Safety.
- a. Youth Program employees will inspect the Site daily to detect sanitation and safety concerns that might affect the health and safety of the Participants. A daily inspection report will be completed by Youth Program employees and kept on file by the Program Site Manager;
 - b. Buildings, grounds, and equipment on the Program Site will be inspected, cleaned, repaired, and maintained to protect the health and safety of the Participants;
 - c. Youth Program equipment and supplies must be safe for the Participant's use;
 - d. Youth Program employees must have first aid supplies and a guide to first aid and emergency care readily available at the Site, during transportation to an off-site activity, and for the duration of any off-site activity;
 - e. Youth Program air conditioners, electric fans, and heaters must be mounted out of the reach of Participants or have safeguards that keep Participants from being injured; and
 - f. Youth Program porches and platforms more than 30 inches above the ground must be equipped with railings Participants can reach.
- (7) Fire.
- a. In case of fire, danger of fire, explosion, or other emergency, the first priority of Youth Program employees is to evacuate the Participants to a designated safe area;
 - b. The Program Site will have an annual fire inspection by the local fire department, and the resulting report will detail any safety concerns observed. The report will be forwarded to the Director who will review and establish deadlines and criteria for compliance;
 - c. The Program Site must have at least one fire extinguisher approved by the fire marshal readily available to all Youth Program employees. The fire extinguisher is to be inspected monthly, and a monthly report will be forwarded to the Director who will keep the report on file for a minimum of two years. All program employees will be trained in the proper use of fire extinguishers; and
 - d. Fire drills will be initiated at the Program Site during each program period.
- (8) Illness or injury.
- a. A Participant who is considered to be a health or safety concern to other Participants or employees will not be admitted to the Youth Program;
 - b. Illnesses and injuries will be handled in a manner to protect the health of all Participants and employees;

- c. Youth Program employees will follow plans to provide emergency care for injured Participants with symptoms of an acute illness as specified in the Youth Program Manual; and
 - d. Youth Program employees will follow the recommendation of the Texas Department of Health concerning the admission or re-admission of any Participant after a communicable disease.
- (9) Medication.
- a. Youth Program employees will administer medication only if:
 - 1. Parent(s) complete and sign a medication form that provides authorization for Staff to dispense medication with details as to time and dosages. The form will include a hold harmless clause to protect the City;
 - 2. Prescription medications are in the original containers labeled with the child's name, a date, directions, and the physician's name.
 - 3. Youth Program employees will administer the medication only as stated on the label. Youth Program employees will not administer medication after the expiration date;
 - 4. Non-prescription medications are labeled with the child's name and the date the medication was brought to the program. Non-prescription medication must be in the original container. Youth Program employees will administer it only according to label directions;
 - 5. Medication dispensed will be limited to routine oral ingestion not requiring special knowledge or skills on the part of Youth Program employees. No injections will be administered by Youth Program employees; and
 - 6. Youth Program employees must ensure medications are inaccessible to Participants or, if it is necessary to keep medications in the refrigerator (when available). Medications will be kept separate from food.
- (10) Toilet facilities.
- a. The Program Site will have inside toilets located and equipped so Participants can use them independently and Youth Program Staff can supervise as needed;
 - b. There must be one flush toilet for every 30 Participants. Urinals may be counted in the ratio of toilets to children, but they must not exceed 50 percent of the total number of toilets; and
 - c. An appropriate and adequate number of lavatories will be provided.
- (11) Sanitation.
- a. The Program Site must have adequate light, ventilation, and heat;
 - b. The Youth Program must have an adequate supply of water meeting the standards of the Texas Department of Health for drinking water and ensure that it will be supplied to the Participants in a safe and sanitary manner.

Sec. 74-38. Youth Program staff.

Staff qualifications and responsibilities:

- (1) Program Site Director qualifications:
 - a. Will be a full-time, professional employee of the Department or a Contractor not less than 21 years of age;

- b. Must have two years' experience planning and implementing youth, recreational activities;
 - c. Must pass a background investigation including testing for illegal substances;
 - d. Must have successfully completed a course in first aid and Cardio Pulmonary Resuscitation (CPR) based on either American Heart Association or American Red Cross standards; and
 - e. Must be able to furnish proof of a clear tuberculosis test within 12 months prior to their employment date.
- (2) Program 1 Site Director responsibilities:
- a. Administers the daily operations of the Youth Program in compliance with the Youth Program Standards of Care;
 - b. Recommends for hire, supervises, and evaluates Counselors;
 - c. Plans, implements, and evaluates the daily activities of Youth Program; and
 - d. Investigates allegations or concerns regarding suspected child abuse and will report suspected child abuse or neglect immediately to the Director or other authority in accordance with the Texas Family Code.
- (3) Counselor qualifications:
- a. Part-time or temporary employees of the City or Contractor;
 - b. Will be age 17 or older; however, each site will have at least one Counselor 18 years or older present at all times;
 - c. Have successfully completed a course in first aid and CPR based on either American Heart Association or American Red Cross standards. An exception can be made for no more than one Staff member at each site, and that person shall successfully complete a first aid and CPR course within four weeks of starting work;
 - d. Be able to furnish proof of a clear tuberculosis test within the 12 months prior to their employment date; and
 - e. Pass a background investigation including testing for illegal substances.
- (4) Counselor responsibilities:
- a. Be able to consistently exhibit competence, good judgment, and self-control when working with Participants;
 - b. Relate to Participants with courtesy, respect, tolerance, and patience;
 - c. Provide Participants with an environment in which they can feel safe, enjoy wholesome recreation activities, and participate in appropriate social opportunities with their peers;
 - d. Be responsible to know and follow all City, Departmental, and Youth Program standards, policies and procedures that apply to the Youth Program; and
 - e. Ensure that Participants are released only to a Parent or Person on record as being authorized by the parent for pickup. All Youth Program Sites will have a copy of the Department approved plan to verify the identity of a Person authorized to pick up a Participant.
- (5) Training and orientation:
- a. The Contractor or City will provide training and orientation to Counselors in working with Participants and for specific job responsibilities. Each Counselor will be provided with a Youth Program Manual specific to the Youth Program;
 - b. Counselors will be trained in appropriate procedures to handle emergencies;

- c. Counselors will receive training in areas including City, Departmental, and Youth Program policies and procedures, provision of recreation activities, safety issues, child psychology, and City organization; and
- d. Youth Program employees will be required to sign an acknowledgment that they received the required training and are expected to conduct activities in accordance with training and the Youth Program Standards of Care.

ARTICLE X. No private right of action.

Sec. 74-39. No private right of action.

Nothing in this chapter creates a private right of action.

SECTION 3. SEVERANCE CLAUSE

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid, unconstitutional or otherwise unenforceable by any court of competent jurisdiction, such shall be deemed to be a separate, distinct and independent provision and such holding will not affect the validity of the remaining portions thereof.

SECTION 4. INCORPORATION INTO THE CODE OF ORDINANCES

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of McKinney, Texas, and shall be appropriately renumbered as necessary to conform to the uniform numbering system of the Code.

SECTION 5. EFFECTIVE DATE

This ordinance shall take effect immediately upon the passage, approval and adoption by the City Council of the City of McKinney, Texas.

SECTION 6. PUBLICATION

The City Secretary is hereby authorized and directed to cause publication of the descriptive caption and penalty clause hereof as an alternative method of publication as provided by law.

PASSED, APPROVED and ADOPTED by the City Council of the City of McKinney, Texas, on this _____ day of _____, 2015.

Tom Muehlenbeck, Interim City Manager

ATTEST:

Sandy Hart, City Secretary

APPROVED AS TO FORM:

Mark Hauser, City Attorney

DRAFT