

CITY OF HIGHLAND VILLAGE, TEXAS

ORDINANCE NO. 2012-1121

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HIGHLAND VILLAGE, TEXAS AMENDING IN ITS ENTIRETY CHAPTER 62 “PARK AND RECREATION” OF THE CODE OF ORDINANCES OF THE CITY OF HIGHLAND VILLAGE; PROVIDING FOR A SAVING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PENALTIES OF A FINE NOT TO EXCEED \$500.00; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Highland Village, Texas has adopted the Code of Ordinances (the “Code”) for the City of Highland Village, Texas, hereinafter referred to as the “Code”, including Chapter 62, “Parks and Recreation”; and

WHEREAS, the Parks and Recreation Board has reviewed Chapter 62, Parks and Recreation, and has voted to approve amendments that amend the policies and guidelines related to establishing charges and fees charged for use of City parks and recreational facilities, amend and/or adopt certain fees and charges, adopts a detailed policy regarding refunds of fees paid for parks and recreational facilities, services, and programs; and

WHEREAS, the proposed amendments also reorganizes and makes numerous non-substantive changes to Chapter 62 to provide for clarity of language, elimination of redundant and possibly conflicting sections, and easier administration and enforcement; and

WHEREAS, the City Council has reviewed and finds it in the public interest to adopt the recommended amendments;

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

SECTION 1. The City of Highland Village Code of Ordinances, Chapter 62 “Parks and Recreation” shall be amended in its entirety as follows:

CHAPTER 62 – PARKS AND RECREATION

ARTICLE I. IN GENERAL

Sec. 62-1. Definitions

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

Board means the Parks and Recreation Board as established in accordance with Section 4.06.B. of the City Charter.

Closed field means a playing field or a game field that has been closed for any use due to inclement weather or maintenance requirements by order of the Director.

Community Program means a Department activity offered as a free service to the public with no admission or registration fee and which is considered to be a minimum essential level of park and recreation opportunities in a municipal environment. Attempts are made to cover expenses for a community program through subsidies/sponsorships by businesses and corporations. Examples of community programs include Department sponsored city-wide special events and educational and community service programs.

Copperas Branch Park (West Side) means all of that property, including Lewisville Lake, Denton County, Texas, which is owned by the United States government under the supervision of the Department of the Army, Fort Worth District Corps of Engineers and was annexed by the city by Ordinance No. 83-249 of the city, passed and approved by the City Council on March 14, 1983.

Department means the Parks and Recreation Department of the City of Highland Village.

Director means the director of the Department or his or her authorized designee.

Fees mean charges assessed or levied by the City through the Department to one or more people and/or entities for participation in programs, receipt of services, and/or use of a public park or recreational facility. Fees generally fall into one of the following categories:

(i) *Administration Fee* means a portion of a fee retained to cover administrative costs incurred in processing certain program registration and facility reservation refund requests;

(ii) *Admission Fees*, which are charges made to enter a building, structure, event, or other controlled area;

(iii) *Nonresident Fee* is a fee charged to a nonresident for reservation and use of public park or recreation facilities, and programs and/or services provided or operated by the Parks and Recreation Department.

(iv) *On-Line Convenience Fee* means a fee charged to an individual or entity for utilizing the City's online registration/payment service.

(v) *Permit Fees* are charges for a permit issued by or under the authority of the Director of Parks and Recreation.

(vi) *Rental Fees*, which are charges for the privilege of exclusive use of any public park or recreation facility or equipment;

(vii) *Sales Revenues*, which are revenues obtained from the operation of stores, concessions, etc. and from the sale of merchandise or other property;

(viii) *Special Service Fees* which are charges made for supplying extraordinary, commodities, activities or services as an accommodation to the public; and

(ix) *User Fees*, which are charges for the non-exclusive use of a public park or recreation facility, participation in a program or activity, or a controlled area for which an admission fee is not otherwise charged.

Game field means any portion of a public park that is either owned or leased by the city that has been designated as an area in which athletic league games are played, including fields for football, soccer, softball, baseball or any other sport activity, whether or not sponsored or cosponsored by the Department.

Glass beverage container means a container made of glass and designed for the holding of a liquid for drinking purposes.

Nonresident means a person who (i) lives outside of the incorporated limits of the City and (ii) does not own or lease real property located within the incorporated limits of the City.

Proof of Residency means a current Texas driver's license or Texas state-issued identification card, recent utility bill, current lease accompanied by other identification bearing the person's photograph, property tax statement, or such other documentation request by an employee of the Department to establish the person's place of residence when (i) residence is a criteria for using or reserving for use a public park or facility, obtaining services from the Department, participating in a program sponsored or co-sponsored by the City, or (ii) the amount of the applicable fee is based on the residency of the person.

Public park or recreation facility (when used together or separately) means any of the parks, playgrounds, recreation facilities and recreation areas owned, leased or under the control of the City and includes, but is not limited to, all trails, athletic fields, tennis courts, natural areas and/or open spaces, and other similar playground, athletic and/or recreational facilities owned, leased and/or operated by the City.

Resident means a person who (i) lives on and/or or owns real property within the incorporated limits of the City or (ii) leases real property located within the incorporated limits of the City for purpose of operating a business owned by the person on the leased property; provided, however, a person residing in a hotel or motel located within the City is not considered to be a resident unless the person provides the Director proof of residency showing the hotel or motel to be more than a temporary dwelling.

Vehicle means any motorized or non-motorized wheeled conveyance, including, but not limited to automobiles, trucks, recreational vehicles, motorcycles, mini-bikes, skateboards, all-terrain vehicles, dune buggies, trailers, campers, bicycles, or any other such similar vehicles.

Vessels shall mean watercraft including but not limited to powerboats, cruisers, houseboats, sailboats, rowboats, canoes, kayaks, personal watercraft, and any other such equipment capable of navigation on water, whether in motion or at rest.

ARTICLE II. PARKS AND RECREATION BOARD

Sec. 62-2. Membership; Compensation

The number, method of appointment, method of filling vacancies, method of removal, and compensation of the Board shall be as established by Section 4.06.B. of the City Charter and applicable provisions chapter 2, Article IV of this Code.

Sec. 62-3. Powers and duties.

The Board shall act in accordance with the provisions of the City Charter, and only in an advisory capacity to the City Council, in all matters pertaining to parks and recreation, and shall:

- (a) Acquaint itself with, and make a continuous study and inspection of the City parks system;
- (b) Follow a master plan for park property, structures, facilities, athletic areas or other improvements on public park and recreation facilities;
- (c) Recommend the adoption of standards on areas, programs and financial support;
- (d) Recommend to the City Council rules and regulations governing the use of public park and recreation facilities;
- (e) Advise the City staff of recommendations and reasons therefore; and
- (f) Perform such other duties as the City Council may prescribe.

Sec. 62-4. Officers; duties.

- (a) *Officers enumerated.* The Board shall annually elect the following officers:
 - (1) Chairman; and
 - (2) Vice-chairman.
- (b) *Officer Duties.*
 - (1) *Chairman.* The Board chairman shall preside at all meetings, and shall perform all other duties as usually pertain to the office, or as may be instructed by the Board.

(2) *Vice-chairman.* It shall be the duty of the vice-chairman to perform the duties of the chairman in absence of the chairman.

Sec. 62-5. Meetings.

(a) *On as-needed basis.* The Board shall meet as necessary to conduct the business of the Board, or by written request sent to the chairman or vice-chairman by three members of the Board or the Director.

(b) *Notice.* Notice of meetings of the Board shall be posted as required by law and shall be held at city hall unless otherwise specified in the notice of the meeting.

(c) *Quorum.* A majority of the five voting members shall constitute a quorum. The members absent from any meeting shall be so noted in the minutes of the meeting.

(d) *Director.* The Director or, when the Director is unable to attend, a designated senior staff person from the Department, shall attend all meetings of the Board, and provide staff support and assistance, reports and recommendations.

Sec. 62-6. Committees.

(a) *Appointment.* The Board, by majority vote of the quorum present at any regular or special meeting, may appoint such members and residents to committees and subcommittees of the Board to serve the purposes of the Board.

(b) *Termination.* The Board may terminate committees and subcommittees in the same manner as they are appointed.

ARTICLE III. CONTRIBUTION TO PARKS AND RECREATION FUND

Sec. 62-7. Collection Authorized.

(a) The City Manager is hereby authorized to place a \$2.00 voluntary monthly surcharge on all water and sewer bills rendered after the effective date of Ordinance No. 89-560. The charge shall be displayed on the bill in such a manner as to be optional with the customer.

(b) The funds collected from the \$2.00 voluntary charge shall be kept in a designated parks and recreation fund and only be used for developing, maintaining and implementing a public park system.

ARTICLE IV. NAMING OF PUBLIC PARK AND RECREATION FACILITIES

Sec. 62-8. Procedures and guidelines.

(a) *Procedures for naming public park and recreation facilities.*

(1) The Board will be responsible for recommending a name for public park and recreation facilities.

(2) The Board shall be responsible for research, study and recommendation of a proposed name to the City Council. Rationale for the recommended name shall be given in writing and accompany the recommendation.

(3) The recommended name will be forwarded to the City Council for its consideration and approval.

(4) Public park and recreational facilities may be named immediately prior to or during development, generally not later than 60 days after acquisition or commencement of construction or as otherwise approved by the City Council.

(5) Public parks and recreational facilities shall be named in their entirety. Sections of a named park may be eligible for a different name than the name given to the entire park.

(6) The name adopted for a public park or recreation facility may be changed no more frequently than once every ten years.

(b) *Guidelines for naming public park and recreation facilities.*

(1) Names of public parks and recreation facilities should be familiar to the majority of citizens, easy to recall, unique and lasting.

(2) Public park and recreational facilities may be named:

(i) By outstanding and/or predominate physical characteristics of the land such as:

(a) Those naturally occurring, such as forested areas, streams, rivers, lakes and creeks;

(b) Manmade features such as subdivisions, streets, office/industrial or commercial complexes;

(c) Landmark significance, such as an identifiable manmade or naturally occurring monument; or

(ii) Historical significance, such as the names of early residents or citizens and/or a significant event;

(iii) In honor of a deceased community leader;

(iv) In honor of a deceased national or state leader; or

(v) Based on the activity, event, or function of the land.

ARTICLE V. REGULATIONS AND PROCEDURES

Sec. 62-9. Park hours.

(a) Each and every park owned or operated by the city, with the exception of the portion of Unity Park known as Kids Kastle, shall be open to the general public between the hours of 5:00 a.m. and 11:00 p.m. each day. Kids Kastle shall be open to the general public between the hours of 7:00 a.m. and 9:00 p.m. during the months of April through October and 7:00 a.m. until 7:00 p.m. during the months of November through March.

(b) It shall be unlawful for any person to be in or within the boundaries of a park in the city other than between the hours of 11:01 p.m. and 4:59 a.m. This subsection (b) shall not apply to a person in or within the area of Kids Kastle at Unity Park.

(c) It shall be unlawful for any person, to be in or within the boundaries of Kids Kastle at Unity Park between the hours of 9:01 p.m. and 6:59 a.m. during the months of April through October and between the hours of 7:01 p.m. and 6:59 a.m. during the months of November through March.

(d) It shall be a defense to a violation of this Section 62-9 if the person is in attendance at an event in a public park pursuant to the authority of a permit or other written consent issued the Department.

(e) This Section 62-9 shall not be applicable to a certified law enforcement officer of any federal, state, county, or city law enforcement department or agency, a member of any fire department, or an employee of the city when such person is engaged in the performance of the person's official duties.

Sec. 62-10. Reservations.

(a) Reservations for use of public parks and recreation facilities for which reservations are required shall be made through the Department or its designated representative.

(b) Athletic fields will be available for organized sports league games and practices during months deemed appropriate by the Department except when closed by the Director pursuant to Section 62-16 of this chapter.

(c) An individual or team desiring to reserve an athletic field or game field is limited to two time slots per week (Sunday through Saturday) per calendar month for practices. Residents may make reservations, one week (seven calendar days) prior to the succeeding month.

(d) Except for pavilion rentals, no reservations shall be allowed for picnic areas and play equipment which shall be available on a first-come first-served basis.

Sec. 62-11. Priority use.

(a) The city has priority use of public parks and recreation facilities. Public park and recreation facilities are available to anyone on a first-come, first-serve basis for times not scheduled for city use, and as set forth in this Chapter.

(b) Residents shall have priority over nonresidents for use of public parks and recreation facilities. Residents will be allowed the opportunity to make athletic facility reservations prior to extending this benefit to nonresidents.

(c) A special events permit is required for any organized group not sponsored by the city desiring to use a public park or recreation facility for a gathering place, event or function of any kind including, but not limited to, commercial use and scheduling of sports clinics. A special event application form shall be used to process these requests as required by this chapter. Scheduling of commercial use and/or sports clinics shall not conflict with any scheduled league play or city sponsored event.

(d) Non-profit organizations or for-profit entities that offer recreational services that benefit City residents may be allowed to enter into a facility use agreement as authorized by the City Manager. Facility use agreements for athletic facility use shall address appropriate field allocations for practice and game fields, scheduled season and blackout dates, applicable user fees, payment requirements, and other terms and conditions required by the City Manager.

Sec. 62-12. Motorized vehicles and bicycles.

(a) It shall be unlawful to drive or otherwise operate a motorized vehicle within a park except on designated hard-surfaced park roads and parking areas. It shall be a defense to this subsection (a) if the person with a mobility disability is operating a motorized wheelchair or other type of mobility devices and can show "credible assurance" by producing a State-issued, disability parking placard or card, or other State-issued proof of disability; or

(b) It shall be unlawful to ride a bicycle within or on:

(1) any playground, special display area, tennis court, hockey courts, athletic fields, pavilion or other monument type structure, or in any area where other activities are in progress; or

(2) any area within a park designated by the Director or pursuant to other ordinance and posted with a sign stating "No Bicycles" or similar sign.

(c) No vehicle shall be operated with a public park or recreation facility except in accordance with applicable federal, state and local laws or posted restrictions and regulations.

(d) No vehicle shall not be parked or operated in a public park or recreation facility manner as to:

(1) obstruct or impede normal or emergency traffic movement or the parking of other vehicles;

(2) create a safety hazard; or

(3) endanger any person, property or environmental feature.

Vehicles parked in violation of this Section 62-10(d) are subject to removal and impoundment at the owner's expense.

(e) It shall be a defense to a violation of this Section 62-10 if the operation and/or parking of a vehicle off authorized roadways has been authorized in writing by the Director and such operation and/or parking is within the area and during the time designated by the Director.

(f) The operation or placement of any vehicle through, around or beyond a restrictive sign, barricade, fence, or traffic control device is prohibited.

(g) This Section 62-10 does not apply to the operation of a city-owned or leased vehicle operated by a city employee while in the act of performing the employee's official duties.

Sec. 62-13. Alcoholic beverages.

The consumption or possession of alcoholic beverages including, but not limited to wine, beer, ale and mixed drinks, is prohibited in each and every public park or recreational facility owned or managed by the city unless permitted by Sec. 10-24(d) of this Code.

Sec. 62-14. Unlawful acts.

(a) It shall be unlawful for any person to do any of the following acts within any public park or recreation facility except as may be otherwise provided:

(1) To intentionally or knowingly dump or otherwise dispose of trash, junk, garbage, refuse, unsightly matter, or other solid waste except in a designated trash receptacle or dumpster;

(2) To intentionally or knowingly pick, damage, cut, break, injure, deface, or disturb any tree, shrub, plant, rock, building, cage, pen, monument, fence, bench or other structure, apparatus, or property; or to pluck, pull, cut, take or remove any shrub, plant or flower; or to mark or write upon, paint, or deface any building, monument, fence, bench or other structure;

(3) To swim, wade, or boat in any lake, stream, or pond except in areas designated by a posted sign for such activities;

(4) To make, kindle, or maintain a fire, except in picnic stoves/grills, brazier, fire pits or designated areas provided for that purpose;

(5) To charge fees or solicit donations or contributions for any activity; to sell or offer for sale any food, drinks, confections, merchandise or commercial services; to conduct any commercial business activities of any kind; and/or post, place or erect on any public park or recreation facility any advertising, notice, billboard, paper or other advertising device without the written consent and approval of the Director or pursuant to a written agreement with the city; provided, however, this subsection shall not apply to city officials, employees or agents performing authorized activities or providing notice of official city meetings or functions;

(6) To distribute, post, or erect any advertising handbill, circular, billing notice, paper or other advertising device without prior permission of the Director.

- (7) To practice, carry on, conduct or solicit for any trade, occupation, business or profession or to circulate any petition of whatsoever kind or character without approval of the Director.
- (8) To cut, excavate or remove any wood, turf, grass, soil, rock, sand, gravel or fertilizer from a public park or recreation facility;
- (9) To use or speak any threatening, abusive, insulting or indecent language;
- (10) To commit or perform any obscene, lewd or indecent act or create any nuisance that would disrupt, interfere with or obstruct in any manner any authorized, permissible and/or organized activity, program or use;
- (11) To use or possess any glass beverage container except where any such glass beverage container is used or possessed inside a motor vehicle;
- (12) To play golf or hit golf balls without the approval of the Director;
- (13) To use any public tennis court for any purpose other than playing tennis;
- (14) To wear any footwear on the playing surface of a tennis court other than tennis shoes except with the approval of the Director as indicated by appropriate signage;
- (15) To use metal detectors without the written permission of the Director;
- (16) To enter any portion of a public park or recreation facility posted as "Closed" unless approved in writing by the Director;
- (17) To cause or participate in the construction, placement, or existence of any permanent or temporary structure (including, but not limited to, roads, trails, signs, non-portable hunting stands or blinds, buoys, docks, or landscape features) of any kind under, upon, in or over public parks and recreation facilities, or waters except in accordance with the terms and conditions of a City approved permit, lease, license or other appropriate written documentation. Unauthorized structures are subject to summary removal or impoundment by the Director.
- (18) To erect and/or use an inflatable recreational attraction commonly (sometimes referred to as a "bounce house" prior to:
 - (a) obtaining written approval from the City;
 - (b) submitting to the City proof of insurance and certificates of inspection as required by the Texas Department of Insurance;
 - (c) naming the City as additional insured on the person's or entity's general liability insurance; and

(d) providing City an original certificate of insurance showing the insurance required by subparagraph (c), above, has been endorsed as required..

Sec. 62-15. Game fields: designation, admittance.

(a) The Director is authorized to designate any playing field or game field owned or leased by the City a closed field for purposes of maintenance or to protect the surface of the playing field or game field from damage.

(b) It shall be unlawful to enter upon a playing field or game field on which has been posted a sign designating the field as closed except for the purpose of repairing or maintaining such field pursuant to authority granted by the Director.

Sec. 62-16. Closed Fields; designation, admittance.

(a) The Director is authorized to designate fields as game fields and shall post thereon a sign stating that game fields are restricted to City sponsored league play or city co-sponsored athlete events only.

(b) It shall be unlawful to enter upon a field which has been designated and posted as a game field except for the purpose of observing or participating in league play or tournament play in a city sponsored or cosponsored league play athletic event or an athletic event authorized pursuant to a rental or use agreement with the City.

Sec. 62-17. Animals.

(a) No owner or possessor of any animal shall permit any animal to enter or remain in any area of a public park or recreation facility where a sign is posted prohibiting the presence of animals.

(b) It shall be unlawful for any person to bring any animal into any public park or recreation facility that is not under the immediate control of a responsible individual by means of a cage, leash or rope at all times. This subsection (b) shall not apply to guide dogs or other animals used to assist handicapped or disabled persons, or animals that are part of an activity authorized by the Director.

(c) With the exception of horses located in designated equestrian areas, the person in possession and control of an animal within a public park or recreation facility shall immediately remove and place in a waste receptacle any fecal matter deposited by the animal on the surface of a public park or recreation facility.

(d) It shall be unlawful to ride or allow any type of livestock in any public park or recreation facility except in areas designated for such purpose or with written authorization of the Director.

(e) It shall be unlawful to frighten, annoy, injure, hunt, trap, kill, remove or release any wild or native animal or bird in any public park or recreation facility. The subsection (e) shall not apply to:

(1) city employee or approved representatives of the city performing wildlife management activities; or

(2) the catching of fish in a public park except in swimming areas, on board ramps or docks, or other areas where the Director has indicated fishing is prohibited by the posting of a sign, and the person has in the person's possession any required federal, state, or local fishing permit.

(f) Wild or exotic pets and animals (including but not limited to cougars, lions, bears, bobcats, wolves, and snakes), or any pets or animals displaying vicious or aggressive behavior or otherwise posing a threat to public safety or deemed a public nuisance, shall not be brought onto or allowed to enter any public park or recreation facility except when otherwise permitted by ordinance. Any animal described in this subsection (f) shall be subject to removal in accordance with federal, state and local laws.

Sec. 62-18. Use of park pavilions.

(a) Amplified music may be played only between the hours of 9:00 a.m. and 10:00 p.m., unless otherwise approved by the Director, or as permitted under Sections 38-61 and/or 38-62 of this Code.

(b) Decorations shall not be attached to a pavilion that would tend to deface the structure including, but not limited to, staples, tacks, crepe paper or any material that will stain. Approval shall be obtained from the Director prior to installation or placement of any special decorations on or in a pavillion.

(c) No open flame, candle (other than birthday cake candles), torch, etc., shall be used in a pavilion.

(d) Use of any decoration or equipment that requires electricity must comply with applicable city fire and electrical codes.

Sec. 62-19. Explosives, firearms, other weapons and fireworks.

(a) The possession of loaded firearms, ammunition, loaded projectile firing devices, bows and arrows, crossbows, or other weapons within a public park or recreation facility is prohibited unless:

(1) In the possession of a federal, state or local law enforcement officer;

(2) Written permission has been received from the Director; or

(3) The person is in possession of the firearm consistent with the state's concealed handgun law, V.T.C.A. Government Code Chapter 411, Subchapter H, as it may be amended.

(b) Possession of explosives or explosive devices of any kind within a public park or recreation facility is prohibited unless written permission has been received from the Director, the fire chief or fire marshal.

(c) The provisions of this Section 62-17 shall apply unless expressly preempted by applicable federal or state law.

(d) It shall be unlawful to discharge a firearm in a public park or recreational facility.

Sec. 62-20. Nonmotorized scooters, bicycles, in-line skates, etc. prohibited near recreational fields.

(a) It shall be unlawful to operate or ride any non-motorized scooter, bicycle, in-line skates, skateboard, or other recreational vehicle with wheels within 100 feet of any recreational field, regardless of whether on any paved or unpaved surface, during the hours of operation of the recreational field.

(b) The Director shall designate the area within 100 feet of a recreational field by signs stating "pedestrians only, non motorized scooters, bicycles, in-line skates, skateboards or other recreational vehicles prohibited during game or practice times" or other similar signs.

Sec. 62-21. Unauthorized occupation and trespass.

(a) Occupation of any public park or recreational facility shall be in strict conformance with the permit issued, the regulations set forth in this chapter and as may be published by the Director or set forth in other city ordinances.

(b) Use of City-owned or leased lands or waters shall not be for agricultural purposes unless authorized by City ordinance or agreement.

(c) It shall be unlawful for a person to enter onto or remain in a public park or recreational facility if the person receives notice to depart and fails to do so. Notice for purpose of this section shall mean oral or written communication by the Director, the police chief, or their designee. The continued presence of a person within a public park or recreational facility after notice to depart has been given shall also constitute criminal trespass in accordance with V.T.C.A. Penal Code § 30.05. Written notice shall be deemed delivered when personal delivery is accomplished; a notice is posted on the vehicle located within the public park or recreational facility, on a public marker located where the person's presence is not authorized, or on a stake in the ground within area of the public park or recreation facility where the person's presence is not authorized.

Sec. 62-22. Abandonment and impoundment of personal property.

(a) The provisions of this section shall apply to all property not subject to V.T.C.A. Criminal Procedure Code § 18.17.

(b) Personal property of any kind shall not be abandoned, stored or left unattended upon park land or waters. Personal property left unattended for a period of 24 hours or at any time after a posted closure hour on a public park or recreational facility, shall be presumed to be abandoned.

(c) Personal property that is presumed abandoned, or personal property that is left unattended and appears, in the opinion of the Director or other City employee, to pose a danger to person or property or a security risk, may be impounded and stored at a

storage point designated by the Director, who may assess a reasonable impoundment fee in accordance with the City's fee ordinance against any person who provides proof of ownership and seeks to reclaim such property. Such fee shall be paid before the impounded property is returned to its owner.

(c) Abandoned or unclaimed personal property may be disposed (i) after 30 days if it has a fair market value of less than \$100 or (ii) 90 days if the property has a fair market value of \$100.00 or more after the date it is received at the storage point designated by the Director. The net proceeds from the sale of property shall be conveyed into the City of Highland Village Corps Leased Parks Fund, or other fund consistent with City policy and ordinances.

(d) The Director shall, dispose of all lost, abandoned or unclaimed personal property that comes into City custody or control by public or private sale or other manner consistent with City policies and procedures. However, the Director may not dispose of such property until diligent effort has been made to find the owner of the property or the owner's legal representative(s). If the owner, heirs, next of kin or legal representative(s) are determined but not found, the property may not be disposed of until the expiration of 30 days after the date when notice, giving the time and place of the intended sale or other disposition, has been sent by certified or registered mail to the person at the last known address. When diligent efforts to determine the owner, heirs, next of kin or legal representative(s) are unsuccessful, the property may be placed in line for sale, upon the expiration of 30 days from the date of impoundment, consistent with City policies.

Sec. 62-23. Non-discrimination clause.

All public park and recreation facilities shall be available to the public without regard to sex, race, color, creed, age, nationality or place of origin. No lessee, licensee, or concessionaire shall discriminate against any person because of sex, race, color, creed, age, nationality or place of origin.

Sec. 62-24. Applicability; definitions.

(a) The operator of any vehicle or vessel shall be presumed to be responsible for its use within any public park or recreational facility. In the event an operator cannot be determined, the registered owner of the vehicle or vessel whether attended or unattended, will be presumed responsible for the operation of the vehicle or vessel.

(b) The registered user of a campsite, picnic area, pavilion, playing field, or other recreational facility shall be responsible for its use and for any damages to such campsite, pavilion, playing field, or recreational facility that occurs during the period of such use.

(c) The presumptions stated herein are rebuttable and shall have the effects and consequences set forth in V.T.C.A. Penal Code § 2.05. The state department of transportation's computer generated record of the registered vehicle owner is prima facie evidence of the contents of the record.

Sec. 62-25. Enforcement of Chapter.

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

ARTICLE VI. SPECIAL EVENTS

Sec. 62-26. Definitions.

The following words and phrases, when used in this article, shall, shall have the following meaning:

Applicant means a person who has filed a written application for a special event permit.

Block party means the use of a residential street for a neighborhood function for which traffic control is required.

Community-sponsored not-for-profit organization means a non-profit organization existing or operating within the city that has received recognition as a "recognized parks and recreation department affiliate" by the City Council as recommended by the Board.

Concession means a facility at a special event where food or drink is offered to the public.

Parade means the assembly of three or more persons whose gathering is for the common design and purpose of traveling or marching in procession from one location to another location.

Person means any individual, assumed name entity, partnership, association, corporation or other organization.

Promoter means the person seeking to hold a special event, including the promoter's employees, agents, affiliates, successors, permitted assigns and other persons controlled by the promoter.

Reimbursable costs means costs incurred in the staging of the event, including, without limitation, the following:

- (1) Utility services provided to the special 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 of promoter;
- (4) Repair of Streets, alleys, Sidewalks, parks, and other public property;
- (5) Police protection;
- (6) Fire protection;

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

Sidewalk means that portion of a 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.

Street means the entire width between the boundary lines of every way publicly maintained, when any part is open to the use of the public for purposes of vehicular travel.

Permit means written approval from the City or its designated representative for a special event.

Special event means a temporary event or gathering, including a block party and parade, using either private or public property, which involves one or more of the following activities, except when the activity is for construction or house moving purposes only:

- (1) Closing a public street;
- (2) Blocking or restricting access to public property and streets;
- (3) Offer of merchandise, concessions on public property or on private property where otherwise prohibited by ordinance;
- (4) Erection of a tent on public property, or on private property where otherwise prohibited by ordinance;
- (5) Installation of a stage, band shell, trailer, van, portable building, grandstand or bleachers on public property, or on private property where otherwise prohibited by ordinance;
- (6) Placement of portable toilets on public property, or on private property where otherwise prohibited by ordinance;
- (7) Placement of temporary "no parking" or "parking" signs in a public right-of-way.

Sec. 62-27. Permit required; exemptions.

- (a) A person engaging in or sponsoring a special event shall apply for and receive a special event permit from the City, and pay all fees as applicable.
- (b) No permits shall be required under this article for the following:

- (1) The Armed Forces of the United States of America, the military forces of the State of Texas, political subdivisions of the State of Texas, and the forces of the police and fire departments acting within the scope of their duties;
- (2) A funeral procession proceeding by vehicle under the most reasonable route from a funeral home, place of worship, or residence to the place of service or place of internment;
- (3) A peaceful demonstration at a fixed location which is not a street; or
- (4) Sidewalk procession which observes and complies with the traffic regulations and traffic control devices, using that portion of a sidewalk nearest the street, but at no time using more than one-half of the sidewalk.

Sec. 62-28. Application.

(a) A person desiring to hold a special event shall apply for a special event permit by filing with the Department a written application upon a form provided for that purpose. Each application shall be accompanied by a non-refundable application fee in the amount determined from time to time by resolution of the City Council. An application for a permit for special events shall be made not less than 60 days prior to the date and time of the commencement of the special event. The City may waive the 60 and 21-day filing requirements for school functions or charitable fundraisers; however, in no case may an application be filed less than 30 days before the special event unless approved by the City Manager.

(b) An application to conduct a special event must contain the following information:

- (1) The name, home address and telephone number, office address and telephone number, date of birth, and driver's license number of the promoter, the promoter, and of any other persons responsible for the conduct of the special event;
- (2) Criteria:
 - (i) A description of the special event;
 - (ii) Requested date, location, and hours of operation;
 - (iii) Route to be used for a parade, if applicable, including starting and termination locations;
 - (iv) Proposed number, size, type, and location of structures to be used in during the special event, including, but not limited to tents, fences, barricades, signs, banners and restroom facilities;
 - (v) The estimated number of persons participating in or expected to attend the special event;
 - (vi) Details of how the promoter proposes to provide security and traffic control;

- (vii) The time and location of street closings, if any are requested;
 - (viii) Details of the offering, merchandising, or serving of concessions or alcoholic beverages at the special event, designating any street vendors or peddlers involved, and whether or not a permit has been obtained or being sought in accordance with Section 10-24 of this Code, if required;
 - (ix) Description of animals to be used with proof of vaccinations or health status records;
 - (x) Details of how the promoter will clean up the area used after the conclusion of the special event;
 - (xi) Proof that the promoter possesses or is able to obtain all licenses and permits required by this Code or other City ordinance or by state law for the conduct of the special event;
 - (xii) The estimated number of persons to participate in the parade, if applicable, and the estimated number of animals that will be used;
 - (xiii) The estimated number of spectators;
 - (xiv) The estimated number, if any, of animals and riders, animal-drawn vehicles, floats, motor vehicles, motorized displays, and marching units or organizations such as bands, color guards and drill teams;
 - (xv) If applicable, proof of notification signed by substantially all of the households or businesses of the area affected by a block party;
 - (xvi) Proof of insurance or hold harmless agreement as deemed appropriate by the City. When deemed appropriate, a Certificate of Insurance shall be submitted to the City listing the City of Highland Village as an additional insured. Acceptability of insurance is subject to approval by the city attorney:
- (c) An application except for one submitted by a community-sponsored non-profit organizations recognized by city ordinance must also be accompanied by either a performance bond or security deposit in the amount of \$1,000.00.
 - (d) An application for a residential block party shall be accompanied by a deposit of \$50 and a signed hold harmless agreement as deemed appropriate by the City.
 - (e) An application for a permit for a parade or a block party shall be made not less than 21 days prior to the date and time of commencement of the parade or block party.

Sec. 62-29. Approval of plans.

(a) Issuance of a permit shall be subject to promoter receiving city approval of the plans submitted to the city pursuant to this Section 62-24 not less than 30 days before the start of the special event.

(b) The city assumes no liability or responsibility for the conduct of the special event merely by approving the plans submitted with an application for a special event as require by this Section 62-24.

(c) The promoter permit shall prepare and submit to the Director for approval the following plans when applicable to the type of special event:

(1) *Facilities.* A set of plans and specifications relating to all temporary facilities to be constructed or utilized for the special event.

(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) *Concession service.* Plans related to the provision of food and beverages.

(4) *Emergency medical service.* A plan to provide adequate emergency medical services at the special event.

(5) *Parking.* A plan to provide adequate parking for the proposed special event including written permission in the form provided by the city executed by all of the owners of the land to be used for the special event.

(6) *Police and fire protection; emergency medical service.* A plan providing for adequate safety, security, traffic and crowd control in connection with the special event. All public safety services shall be provided by Highland Village Police and Fire personnel. Crowd management requires a minimum of two officers per 500 participants. Emergency medical service, police protection and fire protection beyond that level normally provided will be supplied by the appropriate City department as deemed necessary by the chief of police and fire chief at applicant's expense.

(7) *Promotional.* If applicable, a plan to promote, market and advertise the special event.

(8) *Sanitation plan.* A plan to insure that the highest standards of cleanliness and sanitation are maintained at the special event, including adequate restroom facilities, and a plan to empty refuse containers frequently so as to prevent overflow.

(d) City staff shall determine whether the application and plans meet City safety and other requirements. A promoter may be requested to modify an application to meet the requirements of this article. Should any of the submitted plans fail to give, and after notice, the promoter is unable to provide for, adequate assurances that the plans will be implemented and carried out, the permit application may be denied.

Sec. 62-30. Issuance, denial and revocation of special event permit.

- (a) Upon receipt of an application for a special event, the Director shall forward a copy of the application to the City departments that maybe be affected by the special event or asked to provide support for the special event and shall issue its approval or denial of the application within 21 days of receipt.
- (b) A requirement to obtain licenses and permits required by other City ordinances or applicable law, restrictions, regulations, requirement to pay the cost for City services, safeguards, and other conditions determined necessary by the Director for safe and orderly conduct of a special event may incorporated a condition for issuance of a permit for a special event.
- (c) The promoter shall make full payment of any applicable fees, submit the required liability waiver and submit proof of insurance prior to the issuance of the special event permit. Applicable fees are in addition to the deposit or security bond due at the time of permitting.
- (d) The City may deny a special event permit if:
 - (1) A special event permit has been granted for another special event at the same place and time or within two hours of commencement or conclusion of a previously permitted special event;
 - (2) The proposed special event will unreasonably disrupt the orderly flow of traffic and no reasonable means of rerouting traffic or otherwise meeting traffic needs is available;
 - (3) The promoter fails to comply with, or the proposed special event will violate, a City ordinance or other applicable law, unless the prohibited conduct or activity would be allowed under this article;
 - (4) The promoter makes a false statement of material fact on an application for a special event permit;
 - (5) The promoter has had a special event permit revoked within the preceding 12 months or the applicant has committed two or more violations of a condition or provision of a special event permit or of this article within the preceding 12 months;
 - (6) The promoter fails to arrange for adequate:
 - (i) The protection of event participants;
 - (ii) Maintenance of public order in and around the special event location;
 - (iii) Crowd security; taking into consideration the size and character of the event;

- (iv) Emergency vehicle access; or
 - (v) Safe sanitary conditions for preparation or operation of food concessions.
- (7) The promoter fails to provide proof that the promoter possesses or is able to obtain a license or permit required by City ordinance or other applicable law for the conduct of all activities included as part of the special event;
- (8) The promoter fails to pay any outstanding costs owed to the City for a past special event permit;
- (9) The promoter fails to submit the required deposit (if charged) and agree in writing to reimburse the City for the estimated costs to be incurred by the City for the special event;
- (10) The proposed special event would unduly burden City services; or
- (11) The special event begins or ends outside the City limits, unless the promoter supplies proof of approval of any other affected governmental entity.

Sec. 62-31. Appeal of denial or revocation of permit.

If the City denies the issuance of a permit or revokes a permit, it shall send to the promoter by certified mail, return receipt requested, written notice of the denial or revocation and of the right to appeal. The promoter must appeal the decision in writing to the city manager not later than three days after receipt of the notice of denial or revocation. The city manager will present the appeal to the City Council at its next regular meeting. The City Council shall consider all the 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 Council shall be final.

Sec. 62-32. Operating procedures.

- (a) A special event shall not substantially interrupt the safe and orderly movement of traffic near the special event.
- (b) A parade shall move from its point of origin to its point of termination without unreasonable delays en-route.
- (c) A special event shall not interfere with proper fire and police protection of, or ambulance service to, areas near the special event or unreasonably require the diversion of police and fire protection and ambulance service from other parts of the City.
- (d) A promoter shall comply with all directions and conditions contained within the special event permit and with all City ordinances and other applicable laws.
- (e) The City when reasonably necessary may prohibit or restrict the parking of vehicles along a street or highway or part thereof on a parade route or part thereof or on the approach to a special event. The City shall post notice to such effect; and it shall thereafter be unlawful for any person to park, leave, or stand any unattended vehicle in violation thereof.

(f) For special events held on City or other public property, the promoter shall return the property to at least as good a condition as before the special event. The permit holder shall be liable for the costs of any damage to property or waste removal not performed by the permit holder at the conclusion of the special event.

(g) Use of tents requires a flame retardant certificate per tent if the tent covers a ground area greater than 10 foot by 10 foot or has a minimum of one wall as required under the International Fire Code, section 2404 Temporary and Permanent Tents, Canopies and Membrane Structures.

(h) Amusement rides must comply with the Amusement Ride Safety Inspection and Insurance Act. Rides in compliance will be issued a Texas Department of Insurance Compliance Sticker. All rides must have the compliance sticker affixed to a major component of the ride and be visible to all ride participants. All amusement ride owners/operators must make available a copy of their insurance policy and a copy of the rides inspection certificate.

Sec. 62-33. Indemnification.

An applicant for a special event permit shall execute a written agreement to indemnify the City and its officers and employees against all claims of injury or damage to persons or property, whether public or private, arising out of the special event as approved by the City Attorney.

Sec. 62-34. Offenses.

A person commits an offense if the person:

- (a) Commences or conducts a special event without the appropriate permits or fails to comply with any requirement or condition of a permit or this article; or
- (b) Participates in a special event for which a permit has not been granted.

ARTICLE VII. REGULATIONS FOR DAY USE AND OVERNIGHT AT COPPERAS BRANCH PARK AND PILOT KNOLL PARK

Sec. 62-35. Enforcement.

The public use of Copperas Branch and Pilot Knoll Parks shall be subject to the provisions of this article in addition to the other provisions of this chapter. The Director, the city police, fire and code enforcement departments, as well as all applicable federal, state and local agencies, shall diligently enforce the provisions of this article and shall have the authority to issue or cause to have issued citations or to eject or cause to have ejected from any park area any person acting in violation of this article, in accordance with law.

Sec. 62-36. Reservations; permit; fees.

- (a) *Reservations and permit.*
 - (1) Reservations for campsites at Pilot Knoll Park may be made on-line at www.highlandvillage.org, through the Department or at the gate attendant's

office. Reservations may be made four to 240 days in advance for a period of no more than 14 consecutive days.

(2) Check-in time for reservations is 3:00 p.m. on the arrival date. Normal check-out time is 2:00 p.m. on the scheduled date of departure; however extensions may be granted by the gate attendant office or the Director. Failure to depart a site without an extension as provided herein shall be a violation of this article and may subject the occupant being charged with criminal trespass.

(3) A permit shall be issued for the use of camping sites at Pilot Knoll Park upon the payment of the appropriate fees. The permit holder must display the permit as instructed, as well as any other permit identification documentation that is issued, such as a vehicle decal.

(4) Payment of the appropriate fees is required to confirm and hold a reservation.

(b) *Recreational use fees.*

The city will collect day use fees and special event permit fees for the use of specialized sites, facilities, equipment or services related to outdoor recreation furnished at the city's expense established pursuant to this chapter. Refunds for cancellations may be given based upon the refund policy established under Article VIII of this chapter.

Sec. 62-37. Vessels or Watercraft.

(a) The placement and/or operation of any vessel or watercraft for a fee or profit upon park land is allowed only by permit, lease, license, or concessions contract with the City.

(b) No person shall operate any vessel in a careless, negligent, or reckless manner so as to endanger any person, property, or environmental feature. Vessels shall be operated in a manner consistent with state and federal water safety laws.

(c) Vessels shall not be used as a place of habitation or residency.

(d) Vessels shall not be attached or anchored to structures such as locks, dams, buoys, or other structures unless authorized by the Director.

(e) All vessels when not in actual use shall be removed from park land unless securely moored or stored at designated areas approved by the Director.

(f) No person may place a floating or stationary mooring facilities on, adjacent to, or interfering with a buoy, channel marker or other navigational aid.

(g) All vessels shall be operated in accordance with applicable federal, state and local laws.

Sec. 62-38. Swimming.

- (a) All swimming, wading, snorkeling or scuba diving shall be undertaken at the person's own risk.
- (b) Swimming, wading, snorkeling or scuba diving is permitted except at launching sites, designated mooring points and public docks, or other areas so designated by the Director.

Sec. 62-39. Picnicking.

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

Sec. 62-40. Camping.

- (a) Camping is permitted only at sites and/or areas designated and marked by the Director.
- (b) All persons in any area designated for overnight camping shall sleep inside a camper, tent, or similar unit designed for overnight sleeping accommodations.
- (c) No more than two (2) camping structures are permitted to be located within a campsite. For purpose of this article, a camping structure is defined as:
 - (1) A travel trailer with its towing vehicle;
 - (2) A self-propelled mobile camper;
 - (3) A pop-up trailer;
 - (4) A pickup camper; or
 - (5) A tent
- (d) The site carrying capacity of a camp space or stall is ten people at any one time, inclusive of visitors, and up to three vehicles. It shall be unlawful to exceed the capacity limitation, unless written authorization has been obtained from the director, consistent with public health and safety, taking into consideration the nature, size and location of the particular camp space. If sufficient parking space is not available at the site, vehicles shall park in parking lots within the park.
- (e) Camping at one or more campsites at any park for a period longer than 14 consecutive days during any 28-consecutive day period during the months of May through September, and any 56-consecutive day period during the months of October through April, is prohibited unless an extension is approved by the Director.
- (f) Campers may apply for a 14-day extension after the camper has stayed 11 consecutive days within a 28-consecutive day period from May through September, or within a 56-consecutive day period from October through April. This extension must be approved in writing by the Director.

(g) The digging or leveling of any ground or the construction of any structure without written permission of the Director is prohibited.

(h) It shall be unlawful to occupy or place any camping equipment or personal property at a campsite for which a permit has not been issued or has expired in accordance with the provisions of this article.

(i) No person younger than 19 years of age may rent a campsite. Campers 18 years or younger must have a parent or guardian present and on site during camping stays.

Sec. 62-41. Sanitation.

(a) Garbage, trash, rubbish, litter, gray water, or any other waste material or waste liquid generated on park land and incidental to authorized recreational activities shall be either removed from park land or deposited in receptacles provided for that purpose. The improper disposal of such wastes, human and animal waste included, on park land is prohibited.

(b) No person may dispose of or dump onto park land any household or commercial garbage, trash, rubbish, debris, dead animals or litter of any kind. Park land trash receptacles shall only be used for approved waste disposal as stated herein and not be used for waste generated by non-park land users. No person shall bring trash, rubbish, garbage or waste of any kind onto park land for disposal.

(c) The spilling, pumping, discharge or disposal of contaminants, pollutants or other wastes, including, but not limited to, human or animal waste, petroleum, industrial and commercial products and by-products, on park land is prohibited.

(d) Campers, picnickers, and all other persons using a city-owned or leased property shall keep their sites free of trash and litter and shall remove all personal equipment and clean their sites upon departure. Failure to do so shall be a violation of this section.

(e) The discharge or placing of sewage, galley waste, garbage, refuse, or pollutants onto park land from any vehicle or vessel is prohibited.

(f) The disposal of any garbage, trash, rubbish, debris, dead animals or litter of any kind shall be the responsibility of the person to whom a permit has been issued or the registered owner of the vehicle or vessel.

Sec. 62-42. Fires.

(a) Gasoline and other accelerants, except that which is contained in storage tanks of vehicles, vessels, camping equipment, or hand portable containers designed for such purpose, shall not be carried onto or stored on the park land without written permission of the Director, the fire chief or fire marshal.

(b) Fires shall be confined to those areas designated by the Director, and shall be contained in fireplaces, grills, or other facilities designated for this purpose. Fires shall not be left unattended and must be completely extinguished prior to departure. The

burning of materials that produce toxic fumes, including but not limited to tires, plastic and other floatation materials or treated wood product, is prohibited.

(c) Open burning of any type is prohibited.

(d) Improper disposal of lighted smoking materials, matches or other burning material is prohibited.

(e) All fires shall be contained, to the extent permitted, in accordance with the fire code, as it may be adopted or amended, and all fire-related activities shall be conducted and regulated in accordance with and by applicable federal, state and local laws.

Sec. 62-43. Control of animals.

(a) Domesticated animals, such as dogs and cats, shall be permitted in developed recreation areas or adjacent waters provided the animal is penned, caged, on a leash as required by Section 14-82 of this Code. Animals shall not be allowed to impede or restrict full and free use of park land and waters by the public. No person shall permit any animal to remain outside of a camping structure unless such animal is on a chain or leash that restricts the animal to the campsite. Unattended animals shall not be left outside of the camp structure. Animals, except properly trained animals assisting those with disabilities (such as seeing-eye dogs), are prohibited in sanitary facilities, playgrounds, swimming beaches and any other areas so designated by the Director. Abandonment of any animal on city-owned or leased land or waters is prohibited. Unclaimed or unattended animals are subject to immediate impoundment in accordance with City ordinances.

(b) No person shall allow animals to bark or emit other noise, which unreasonably disturbs persons at other camp sites. It shall be prima facie evidence of unreasonable disturbance if the animal barks, or emits other noise, for longer than 15 minutes or in violation of Section 14-4 of this Code.

(c) Any animal impounded under the provisions of this section shall be subject to all appropriate fees and expenses upon recoupment by the owner or other person with care, custody or control of the animal. All fees shall be paid before the impounded animal is returned to its owner(s).

Sec. 62-44. Miscellaneous.

(a) *Lost and found property.* All personal property found shall be deposited by the finder at the gatekeeper's office or with the parks supervisor and held for 30 days. Disposition of unclaimed personal property shall be in accordance with Section 62-20 of this Chapter

(b) *State and local laws.* Except as otherwise provided in this article or by federal law or regulation, state and local laws and ordinances shall apply in public park and recreational facilities and be enforced by City's Police, Fire and Code Enforcement Departments and by federal, state and county law enforcement agencies established and authorized for that purpose shall apply on park land, including but not limited to state and local laws and ordinances governing:

- (1) Operation and use of motor vehicles, and vessels;
- (2) Hunting, fishing and trapping;
- (3) Use or possession of firearms or other weapons;
- (4) Civil disobedience and criminal acts;
- (5) Littering, sanitation and pollution;
- (6) Alcohol or other controlled substances;
- (7) Fires; and
- (8) Explosives, firearms, other weapons and fireworks.

Sec. 62-45. Restrictions and violations.

(a) The Director may establish and post a schedule of visiting hours and/or restrictions on the public use of park land. The Director may close or restrict the use of a park land when necessitated by reason of public health, public safety, maintenance, resource protection or other reasons in the public interest. Entering or using park land in a manner which is contrary to the schedule of visiting hours, closures or restrictions is prohibited.

(b) Quiet shall be maintained in all public use areas between the hours of 10:00 p.m. and 6:00 a.m. It shall be unlawful to cause noise between the hours of 10:00 p.m. and 6:00 a.m. which unreasonably disturbs persons in other camp sites.

(c) Any act or conduct by any person which interferes with, impedes or disrupts the use of the park or impairs the safety of any person is prohibited. Individuals who are loud, boisterous, rowdy, disorderly, or otherwise disturb the peace may be requested to leave or be subject to ejection, consistent with state and local laws and ordinances.

(d) The operation or use of any sound producing or motorized equipment, including but not limited to generators, vessels, or vehicles, in such a manner as to unreasonably annoy or endanger persons at any time or exceed state or local laws governing noise levels from motorized equipment is prohibited.

(e) Smoking is prohibited in the gatekeeper offices, restrooms, enclosed park buildings, playgrounds and in those areas posted to restrict smoking.

(f) If a check in payment of a fee is returned for insufficient funds and the person does not within ten days of demand pay the City the amount due resulting from the refusal of the check by the financial institution on which the check was drawn, the City may require such person to make all future payments of fees by money order or cash.

(g) The Director may refuse entry to any person for a period of up to one year on the following basis:

- (1) Any breach of the peace that has occurred in a public park or recreational facility within the preceding 12 months;
- (2) Any person who occupies a camp site without a valid permit and/or fails to leave upon the expiration of a permit;
- (3) Any person who has failed to pay the appropriate fee and failed to cure within ten days of demand; or
- (4) Any person who has violated any term or condition of a permit.

ARTICLE VIII. PARKS AND RECREATION FEES AND CHARGES

Sec. 62-50. Fees, rational and purpose.

(a) Fees shall be charged to the general public, individuals and groups to the extent reasonable to recover all or a portion of direct and/or indirect costs associated with the delivery of programs, services or events. Fees are to be evaluated from time to time and revised to remain competitive. User fees are intended to be equitably assessed. Fees for residents shall be kept to a minimum. Nonresidents may be required to pay a higher fee because of their non-resident status or because they do not own property within the city against which city ad valorem taxes may be assessed. The Department shall have some flexibility in adding programs, increasing participation numbers for existing programs, and omitting programs throughout the year, pursuant to the cost recovery goal established herein.

(b) The purposes of fees shall be;

- (1) to obtain revenue to supplement or completely replace maintenance and operational costs;
- (2) to reduce the program impact on the general fund;
- (3) to enable the Department to provide facilities or programs for which funds might not otherwise be available; and
- (4) to provide sufficient revenue to cover costs and provide surplus revenue for expansion of programs and services, and amortize capital investments

(c) Public funds will be used for basic services and to acquire, improve, and manage basic park land and recreation facilities. Examples of basic services and use of facilities where fees would not be charged would include, but are not be limited to, the following:

- (1) general park maintenance;
- (2) gardens, trails, and playgrounds, or
- (3) unreserved use of tennis courts, shelters, picnic units and athletic fields/open space.

(d) A fee would typically be charged if the following rational prevails:

- (1) The process requires the expenditure of administrative resources to create the benefit; or
- (2) The patron(s) enjoys the added value of exclusive, reserved use of the park area or facility.

Sec. 62-51. Determining fees, service classifications and cost recovery.

(a) Fees and charges are evaluated annually using the following process and then charges are presented to the City Council for approval:

- (1) Determine the service classification or cost recovery level;
- (2) Determine the direct costs of providing the service;
- (3) Compare the current market rate or fee being charged for a similar service and adjust accordingly:
- (4) Determine the non-resident cost/fee, if any, which shall be not less than 20% higher of the resident rate or fee is established for a program, activity.

(b) Fees charged for programs, facilities or activities will be placed in the following service classifications to help determine the level of cost recovery appropriate. The percentage of cost recovery within each tier/program classification will take into consideration the level of direct and indirect costs associated with each.

(1) TIER 1 (BASIC COMMUNITY BENEFIT) 0% - 50% Cost Recovery.

(i) Tier 1 programs, facilities and services are those that are determined to benefit the community as a whole and can increase property values, provide safety, address social needs, and improve quality of life within the City. Tier 1 programs, facilities, or services may be provided free of charge and provide little or no instruction. The community generally pays for these basic services through as valorem taxes assessed by the City. Examples of Tier 1 programs, facilities and services may include, but not be limited to, health fairs, special events (festivals, movies in the park, photo contests, Easter egg hunt, etc.), environmental stewardship programs, and unreserved use of public parks and/or recreational facilities and the cost associated with their maintenance.

(ii) Cost for special events classified as Tier 1 will typically be subsidized by the City through expenditures from the City's general fund budget. While alternative methods of funding Tier 1 special events may be aggressively pursued, the funding of Tier 1 special events will no be depending on alternative methods of funding. Careful planning of Tier 1 special events with a high attendance of City residents is of primary importance. The finding of Tier 1 special events shall be addressed through the city's budget process.

(2) TIER 2 (SELECT PROGRAMS) 51% - 100% Cost Recovery. Tier 2 programs and services generally represent a basic level of leisure opportunity available to all residents and that contribute to quality of life in the City. Tier 2 programs and services are generally the more traditionally expected services and beginner instructional levels that are more self-paced and where everyone plays. These services may require considerable staff planning and supervision and benefit both the participant and the community due to their education and/or safety value. Tier 2 programs and services provide beginning to intermediate levels of instruction and/or may address community wide issues such as health/wellness, fine youth athletic leagues and programs, outdoor education programs, family and senior events and activities.

(3) TIER 3 (EXCLUSIVE PROGRAMS) 101% - 150% Cost Recovery. Tier 3 programs and service are those where the individual participant or user group enjoys the exclusive benefits of the program or service. Tier 3 programs or services also provide advanced, high levels of personal instruction, are geared to developing personal skills and may require a person to have prerequisite skills in order to participate. Such programs include, but are not limited to, sports leagues, advanced instructional classes or sessions such as for golf or tennis, private facility rentals/reservations (pavilions/picnic shelters, fields, lighted fields, indoor facilities such as the Robert and Lee DuVall Center), Senior All Star trips (casino, out of town, etc.), community education classes.

Sec. 62-52. Non-sponsored park and recreation function.

(a) Approved non-sponsored parks and recreation functions, activities or services shall be required to pay fees or enter into a facility use agreement with the City to provide for recovery of all direct and indirect City expenses associated with providing the program or service as determined by the Department, utilizing normal and customary methods: Criteria for approving non-sponsored parks and recreation functions are as follows:

(1) The function, activity, or service shall not conflict with city sponsored programs;

(2) The function, activity, or service shall not restrict the public use of city owned or leased facilities for unreasonable periods of time;

(3) The function, activity, or service should provide a positive public service and meet a legitimate public need;

(4) The function, activity, or service may not have any expressed or implied endorsement of commercial products, services or activities;

(4) Commercial functions, activities, or services may receive a special event permit and provide comprehensive general liability insurance as required by Article VI of this chapter.

(5) Sponsors of commercial functions, activities, or services may be charged a percentage of gross revenues and/or rents as deemed appropriate by the Director.

(b) The Department will not supplement non-sponsored functions, activities, or services with public funds.

(c) Special considerations in the form of reduced rates or free services may be given to non-city community sponsored non-profit groups and organizations including but not limited to:

- (1) Lewisville Independent School District;
- (2) Highland Village Business Association;
- (3) Highland Village Parks Foundation;
- (4) Highland Village Parks and Recreation Board;
- (5) Highland Village Lions Club;
- (6) Highland Village Women's Club; and
- (7) Other community sponsored non-profit groups as approved by the City Council.

Sec. 62-53. Refunds.

(a) Refund for fees paid for classes, recreation programs, and athletic leagues shall be made or denied subject to the following:

- (1) No refunds will be given for canceled transactions less than seventy two (72) hours prior to the program start date.
- (2) Cancellation of program participation and a request for a refund received more than seventy-two (72) hours prior to the program start time will receive a full refund less a 20% administrative fee.
- (3) The portion of a fee constituting an online convenience fee is non-refundable and will not be added to calculate the refund authorized by Paragraph (2), above.
- (4) No refund shall be granted for a call class or recreation program after the class or program has commenced. Except as provided in Paragraph (8), below, fees paid for classes or programs with multiple sessions will not be prorated for purposes of making any partial refunds after the first session has commenced.
- (5) Failure to attend a class, program, or activity for which a person has registered will be considered a forfeiture of materials supplied and all fees paid.
- (6) Requests for a refund must be made in writing by completing a Refund Request Form provided by the Department.

(7) No refunds will be issued for team fees after the league schedule is finalized.

(8) A refund will be granted on a prorated amount for the portion of a class or program if a doctor's letter is provided to the Director stating that the person is medically unable to participate in the remainder of the class or program as the result of illness or injury. The amount to be prorated will be based on the date the Department received written notice that the person cannot participate in the class or program, regardless of when the injury occurred.

(b) Refunds for fees paid for reservation of pavilions, athletic fields, and tennis-volleyball-hockey courts shall be subject to the following:

(1) Refund requests may be accepted because inclement weather prevented use of the reserved facility if made in writing and received by the Department not later than one (1) week after the scheduled rental. Failure to timely submit a request for refund pursuant to this Paragraph (1) forfeits the refund.

(2) Subject to the availability of the field or facility originally reserved, the person or organization may reschedule the original event/game in lieu of obtaining a refund.

(3) The online convenience fee is non-refundable.

(c) Refunds for fees for use of the Robert and Lee DuVall Center shall be subject to the following:

(1) In order to receive a full refund of rental fee(s) and deposits(s) for rentals at the Robert and Lee DuVall Center, written notification of cancellation must be received by the Department no later than thirty (30) days prior to the event date. Notification of cancellation received by the Department less than thirty (30) days prior to the date of the event will result in a forfeiture of the entire deposit.

(2) Notification of cancellation received by the Department less than seventy-two (72) hours prior to the time the reservation was to commence will result in a forfeiture of the entire deposit and any rental fee paid to date.

(3) The online convenience fee is non-refundable regardless of when the request for refund is received.

(d) Refunds of Pilot Knoll Campsite reservation fees shall be subject to the following:

(1) Full refunds will be given, less a \$10.00 administrative service fee, for written cancellation requests received by the Department more than seventy-two (72) hours before the commencement of the reserved session date.

(2) General change in plans, early departures, etc. do not constitute the grounds for receiving a refund.

(3) Refund requests must be in writing and submitted to the Department addressed to the attention of the Director. Requests for refunds must include the reservation receipt or a copy of the reservation receipt.

(4) The online convenience fee is non-refundable.

Sec. 62-54. Fees Established.

The following fees for use of public parks and recreation facilities shall be assessed in a manner consistent with this ordinance and as reflected below, provided, however, the city manager or his designee may reduce or waive any fees:

PAVILION RENTALS			
Kids Kastle at Unity Park and Lions Club Park Pavilions			
<u>Number of Participants</u>	<u>Residents</u>	<u>Non-Residents</u>	<u>Minimum Rental Time</u>
1 Through 25	\$20.00	\$30.00	Hourly rental 2hr. Minimum
26 Through 50	\$35.00	\$55.00	Hourly rental 2hr. Minimum
51 Through 75	\$50.00	\$80.00	Hourly rental 2hr. Minimum
76 Through 100	\$65.00	\$105.00	Hourly rental 2hr. Minimum
101 Through 150	\$80.00	\$130.00	Hourly rental 2hr. Minimum
Over 151	TBD By Director		

Doubletree Ranch Park			
Pavilion Full Day Rental	\$100.00	\$120.00	
Pilot Knoll Park			
Pavilions Full Day Rental			
Big Oak	\$100.00	\$120.00	Includes 43 Park Entry Passes
Post Oak	\$75.00	\$90.00	Includes 20 Park Entry Passes
Cedar Elm	\$75.00	\$90.00	Includes 17 Park Entry Passes

Field & Court Reservations			
Tournament Rentals - All Day Rentals for Baseball, Softball, Soccer or Kickball Tournaments - \$100 per field			
Tournament Deposit - \$50 per field			
<u>Baseball (1 1/2 hours)</u>	<u>Residents</u>	<u>Non-Residents</u>	
Practice Session	\$7.50	\$9.00	
Game Fields w/o lights	\$15.00	\$18.00	
Game Fields w/lights	\$35.00	\$42.00	
Batting Cages (1hour)	\$5.00	\$6.00	
<u>Soccer (1 hour)</u>			
Practice Session 1/2 field	\$5.00	\$6.00	
Game Fields w/o lights	\$10.00	\$12.00	
Game Fields w/lights	\$20.00	\$24.00	
<u>Brazos Multi-Purpose Field</u>			
½ field 1 hour	\$5.00	\$6.00	
Full field 1 hour	\$10.00	\$12.00	
<u>Tennis (1 hour)</u>			
Game Session	\$5.00	\$6.00	
Game w/ lights	\$10.00	\$12.00	
<u>In-Line Hockey Court (1 hour)</u>			
w/o lights	\$10.00	\$12.00	
w/lights	\$20.00	\$24.00	

<u>Annual Passes for Copperas Branch and Pilot Knoll Day Use Area</u>			
	<u>Resident</u>	<u>Non Resident</u>	<u>Senior Resident age 65+</u>
Daily Admission per Car	\$10.00	\$10.00	\$10.00
Annual Pass	\$35.00	\$60.00	\$20.00
July 1 through December 31	\$25.00	\$60.00	\$10.00
Commercial Permit \$250 + Annual Pass at \$60.00 per vehicle. Commercial customers must pay daily admission fee per car.			

<u>Pilot Knoll Camping</u>	<u>Resident</u>	<u>Non Resident</u>	<u>Discounts</u>
Campsite per night	Water and Electric		Seniors (65+) receive a 20% discount. All Active or Retired Military Personnel receive a 20% discount.
	\$25.00	\$25.00	
	Primitive Campsites		All Active or Retired Fire and Police Personnel receive a 20% discount.
	\$12.00	\$12.00	

<u>Robert and Lee DuVall Center</u>			
ROOM	SIZE	RATE	DEPOSIT
RM 119 Multi-Purpose	52' x 32' 1,664 sq. ft.	*\$50 Per Hour./ 2 Hour Minimum *\$60 Per Hour./ 2 Hour Minimum-Non Resident Not to exceed \$500-All Day Not to exceed \$600-All Day – Non Resident After Hours Staff Fee \$15 Per Hr.	\$100 - 4 hours or less \$200 – more than 4 hours
RM 117 Activity A	25' x 24' 600 sq. ft.	*\$25 Per Hour / 2 Hour Minimum *\$35 Per Hour / 2 Hour Minimum-Non Resident Not to exceed \$250-All Day Not to exceed \$350-All Day – Non Resident After Hours Staff Fee \$15 per Hr.	\$50
RM 118 Activity B	23" x 22' 506 sq. ft.	*\$20 Per Hour / 2 Hour Minimum *\$30 Per Hour / 2 Hour Minimum-Non Resident Not to exceed \$200-All Day Not to exceed \$300-All Day-Non Resident After Hours Staff Fee \$15 per Hr.	\$40
RM 102 Board Room	20' x 13' 260 sq. ft.	*\$20 Per Hour / 2 Hour Minimum *\$30 Per Hour / 2 Hour Minimum-Non Resident Not to exceed \$200-All Day Not to exceed \$300-All Day-Non Resident After Hours Staff Fee \$15 per Hr.	\$40
RM 115 Kitchen	20' x 16' 320 sq. ft.	\$25 Per Activity or Associated Rental	NA

Reduced rates or free services may be provided to community sponsored non-profits and organizations that meet criteria outlined in this Chapter.

Sec. 62-55. Failure to Pay Fees. It shall be unlawful to fail to pay an authorized recreation use fee as established herein.

SECTION 2. An offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

SECTION 3. Should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Ordinance as a whole.

SECTION 4. Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be punished by a fine not to exceed the sum of Five Hundred Dollars (\$500) for each offense; and each and every day such violation shall continue shall be deemed to constitute a separate offense.

SECTION 5. This ordinance shall take effect immediately from and after its passage on Second Reading and publication of the caption in accordance with the provisions of the Charter of the City of Highland Village, and it is accordingly so ordained.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF HIGHLAND VILLAGE, TEXAS, ON FIRST READING ON THIS THE ____ DAY OF _____, 2012.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF HIGHLAND VILLAGE, TEXAS, ON SECOND READING ON THIS THE ____ DAY OF _____, 2012.

APPROVED:

Scott McDearmont, Mayor

ATTEST:

Diane A. Callahan, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Kevin B. Laughlin, City Attorney