

ORDINANCE NO. _____ - ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BUDA, TEXAS MODIFYING ARTICLE 18.02 (“PARKS”) OF THE CITY’S CODE OF ORDINANCES, RELATING TO THE PERMITTED USES OF THE CITY PARKS; PROVIDING FOR PENALTIES FOR VIOLATIONS OF THESE REGULATIONS; PROVIDING A SEVERABILITY CLAUSE AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Buda has decided to amend the Code of Ordinances as more specifically set forth herein; and

WHEREAS, this Ordinance was adopted at a regularly scheduled meeting of the City Council of the City of Buda at which a quorum of the members of the Council was present and voting; and

WHEREAS, this Ordinance was adopted at a meeting held in strict compliance with the Texas Open Meetings Act; and

WHEREAS, the City Council of the City of Buda has determined that the provisions of this Ordinance will promote the health, safety, morals and the general welfare of the City of Buda and its surrounding areas;

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

SECTION 1. Article 18.02 (“Parks”) of the City of Buda, Texas Code of Ordinances is hereby repealed and replaced in its entirety with Exhibit “A”, which is attached hereto and incorporated herein for all purposes.

SECTION 2. Except as amended herein, the City of Buda’s ordinances shall remain in full force and effect as they are presently enacted and has been amended from time to time. To the extent of a conflict between this Ordinance and any other ordinances of the City of Buda as same may have existed prior to the adoption of this Ordinance, this Ordinance shall control.

SECTION 3. If any section or part of this Ordinance is held by a court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of this Ordinance but shall be confined in its operation to the specific section or sections that are held unconstitutional or invalid.

SECTION 4. This Ordinance shall be effective immediately upon its passage on second reading by the City Council of the City of Buda.

PASSED and APPROVED on FIRST READING this the ___ day of _____,
2013.

PASSED and APPROVED on SECOND READING this the ___ day of _____,
2013.

CITY OF BUDA, TEXAS

Todd Ruge, Mayor

ATTEST

Danny Batts, City Secretary

Exhibit “A”

ARTICLE 18.02 PARKS[†]

Division 1. Generally

Sec. 18.02.001 Drilling for oil and gas

(a) It shall be unlawful for any person to conduct any drilling operations within the limits of any land within the city limits which is owned by the city and is used and dedicated for park purposes by the city.

(b) Any person who shall violate this section by conducting any drilling operations within the limits of any of the lands above designated shall be guilty of a Class C misdemeanor and upon conviction be assessed a fine not to exceed one hundred and no/100 dollars (\$100.00), and each day that any person, firm or corporation shall act contrary to the provisions of this section shall be a separate offense.

(Ordinance 781219-2, secs. 1, 2, adopted 12/19/78)

Secs. 18.02.002–18.02.030 Reserved

Division 2. Park and Recreation Commission

Sec. 18.02.031 Created; appointment of members; terms

(a) This division creates the parks and recreation commission (“commission”) appointed by the city council. The commission shall consist of seven (7) members who shall reside either in the incorporated city limits or its extraterritorial jurisdiction.

(b) The members of the commission shall serve two-year staggered terms, with four (4) members being appointed in April of even-numbered years and three (3) members being appointed in April of odd-numbered years.

(c) The initial commission, four (4) of the members shall be appointed for one-year terms and three (3) members shall be appointed for two-year terms. Thereafter, all terms shall be two-year terms.

(d) Unless otherwise approved by the city council, members of the commission shall serve a maximum of three (3) consecutive terms. After a member serves his or her three (3) maximum consecutive terms, such ex-member cannot immediately reapply for the parks and recreation commission; however, such ex-member can apply immediately for positions to other boards or commissions that may have vacancies or reappointments. An appointment to fill a vacancy shall be for the unexpired term. A member serving to fill an unexpired term shall be eligible for reappointment to serve two (2) full two-year terms.

(e) Unless otherwise required by state law, all members serve at the pleasure of the city council and may be removed at any time with or without cause.

Sec. 18.02.032 Qualifications of members

(a) Unless otherwise determined by city council, at least five (5) of the members of this commission shall reside within the corporate limits of the city and no more than two (2) members shall be residents of the city's extraterritorial jurisdiction.

(b) If a city resident member of the commission ceases to reside in the city and his or her relocation reduces the number of city resident commission members below four (4), that person shall give such notice of such fact and may be deemed to have resigned from the commission as of the date his or her residence changed, and the city council shall appoint a resident commission member to fill the remainder of the resigning member's term. The temporary lack of four (4) resident members created by the vacancy shall not impair the ability of the commission to perform its duties nor the actions taken by the commission. If a resident commission member moves to the city's extraterritorial jurisdiction and the relocation leaves at least four (4) resident members on the commission, the relocated member shall continue to hold his or her place on the commission. A quorum of the commission shall be required to open meetings, conduct business and take action on any agenda items.

(c) The city council may take into consideration an applicant's history on delinquency in payment of any city taxes, utility bills, citations, municipal court judgments and assessments and so forth in qualifying the applicant.

(d) Notwithstanding any city ad hoc committees or except where duplicate appointments are authorized by ordinance, city charter or by state law, a person may not be appointed as a member of the parks and recreation commission if he or she is currently serving on the city zoning board of adjustment and appeals, planning and zoning commission, historic preservation commission, library commission, economic development corporation board of directors, local government corporation or any other permanent city board or commission.

Sec. 18.02.033 Officers; rules; meetings; quorum; record; conflict of interest

(a) The commission shall have a chairperson and a vice-chairperson elected from its membership to serve for a one-year term. Officers shall be elected annually by the commission. Such officers shall be residents within the city limits.

(b) The chairperson shall preside over the commission and shall have the right to vote on all items before the commission. The vice-chairperson shall fulfill the duties of the chairperson when the chairperson is not available for any reason.

(c) The city manager or his or her designee shall be an ex officio member of the commission.

(d) The commission may establish rules or bylaws as necessary for the orderly conduct of its business, subject to approval by the city council.

(e) The commission shall meet at least monthly, if there is business at hand, at a time and place established by the commission. Special meetings may be called by the chairperson or interim chairperson of the commission, city manager or his or her designee or upon the request of any three (3) commission members. All meetings of the commission shall be open to the public and shall conform with the Texas Open Meetings Act, section 551 of the Government Code.

(f) A quorum shall consist of a majority of the members of the commission except that when a vacancy exists, a quorum shall consist of a majority of the remaining members.

(g) The commission shall keep a record, which shall be reasonably available to the public, of its resolutions, proceedings and actions.

(h) A commission member shall be required to complete any state-mandated training, to include but not limited to open meetings act training, within ninety (90) days after appointment. Any training expenses incurred by the member may be eligible for reimbursement by the city subject to the city's travel and training policy.

(i) A commission member having any potential conflict of interest on any policy, decision, or determination before the commission shall disclose to each of the other members the nature of his potential conflict and shall abstain from voting on such policy, decision or determination. In the event that the commission member recognizes a conflict or clear potential for conflict of interest, he or she shall recuse him or herself from discussion and action on the topic involving such conflict. The disclosure shall be recorded in the commission's minutes. Intentional or knowing failure to disclose a conflict of interest shall be governed under the general penalty section as set forth in [section 1.01.009](#) of this code.

Sec. 1.02.034 Powers and duties

The commission shall serve in an advisory capacity to the mayor and city council and shall have the following purposes and duties, as well as other duties as assigned by the city council, as necessary to perform the business of the commission:

(1) The commission shall act in an advisory capacity to the city council and the planning and zoning commission with advice and recommendations on all policies, rules and regulations relating to the administration of a public park and recreation program.

(2) The commission shall provide advisory oversight of public playgrounds, athletic fields, recreation centers and other facilities and activities on any of the properties owned or controlled by the city or on other properties with the consent of the owners and authorities.

(3) The commission shall have the power to conduct any form of recreation activity that will employ the leisure time of the people in a constructive and wholesome manner.

(4) At the request of the city council, the commission shall make a complete annual report and other required reports to the city council.

(5) The commission will act in an advisory capacity with other municipal departments and/or political subdivisions to provide and establish, operate, conduct, and maintain a supervised recreation system and to acquire, operate, improve and maintain property, both real and personal, for parks, playgrounds, recreation centers, and other recreation facilities and activities.

(6) The commission will follow the directives of the city's comprehensive plan and any subsequent master plans regarding parks, recreation, trails and so forth.

(Ordinance 110705-1 adopted 7/5/11)

Secs. 18.02.035–18.02.060 Reserved

Division 3. Use Regulations

Sec. 18.02.061 Definitions

Public parks. All parks in the corporate limits of the city that have been dedicated to the public, including all such parks that are subsequently annexed into the city limits or dedicated to the public in the city's corporate limits. The term also incorporates the Greenbelt area that is owned by the city, adjacent to the Missouri/Union Pacific Railroad line and the gazebo constructed therein.

Commercial activity. Includes any person, group, or organization, that makes or attempts to make a profit, vend a service or product, receive money, or obtain goods or services as compensation from participants in activities occurring on public parkland that is owned and operated by the city. This includes, but is not limited to nonprofit training/fundraising activity, outdoor revenue generating program, and educational groups that receive money from participants in activities occurring on department land.

Community event. An event in the city that is open to the public in general and that enjoys widespread support, not only from the citizens, but also from the surrounding areas. This will also be classified as exclusive park rental and a community/special events packet must be completed and subject to City Council approval.

Department. The city's park and recreation department.

Director. The director of the park and recreation department and/or his designated representative.

Nudity. Nude or state of nudity means the appearance of a human bare buttock, anus, male genitals, female genitals, female breasts or a state of dress which fails to opaquely cover a human buttock, anus, male genitals, female genitals or areola of the female breast.

Plant Life. All plants including, but not limited to berries, cones, dead or downed wood, fern, foliage, fruit, fungus, grass, lichen, moss, sedge, shrubs, trees, turf, vines, wildflowers, or any other member of the plant family.

Special event. Any special event that is open to the public, requiring a permit, road closure, sales of goods or services or charging of admission. This will be classified as exclusive park rental and a community/special events packet must be completed and subject to City Council approval.

Sports associations, organizations or foundations. Any outside organized non-profit or for-profit sports program that is not operated and or staffed by the city.

Weapon. This includes, but is not limited to air soft guns, archery bow and arrows, BB guns, dart guns, firearms, knives, pellet guns, paintball guns, slingshots, spears, switchblades, swords, stun guns, taser guns, and all illegal weapons in accordance with Texas State Law.

Wildlife. This includes, but is not limited to amphibian, animal, bird, fish, reptile, shellfish or other aquatic life or any portion thereof.

Sec. 18.02.062 Public park hours of operation

(a) The public parks shall be open to the general public between the hours of 6:00 a.m. to 10:00 p.m. In case of an emergency, or for other good cause, a park, or any part thereof, may be closed to the public by a city official.

(b) The city assumes no responsibility for the protection of persons utilizing the trail system because of its inability to supervise the entire trail.

(c) Any exceptions to the requirements of this section are authorized only by council approval.

(d) Any person who shall violate any of the provisions of this section will be asked to leave the public park and/or shall be charged with a Class C misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars (\$500.00) on a per occurrence and/or per day basis.

Sec. 18.02.063 Insurance and liability

(a) The city and its agents disclaim all liability resulting from the exclusive use of a municipal park, its facilities and/or equipment, gazebo and Greenbelts for events which are open to the public (community events, special events, or any other activity specified in these policies).

(b) Organizers of these public events must provide proof of insurance indemnifying the city against any liability arising from such exclusive use naming the City of Buda as an additional insured on the Certificate of Liability Insurance policy. Any event that is opened to the public must provide public liability insurance from an underwriter licensed to do business in the State of Texas in the amounts NOT LESS than indicated. Comprehensive General (Public) Liability or its equivalent, with minimum combined single limits of \$500,000 per person, \$1,000,000 per

occurrence, \$1,000,000 products/completed operations aggregate and \$1,000,000 general aggregate per occurrence. This can be in the form of one day event insurance or by including the event as a rider on an existing insurance policy. Organizer of the event shall furnish the City of Buda with certificates of insurance or copies of policies, evidencing the required insurance one week before the event. However, some closed events (birthday parties, family reunion, etc) will not require the liability insurance. The city council shall have the right to waive the insurance requirement for charitable events. The waiver will be made on a case-by-case basis.

(c) Any exceptions to the requirements of this section are authorized only by council approval.

(d) The director has the authority to decide whether or not liability insurance is required for a closed event.

Sec. 18.02.064 Regulated/prohibited items and activities

(a) Hunting, fishing, camping, and parking. There shall be no hunting, catching or trapping of wildlife within any public park. Any fishing activities must comply with the current applicable federal, state, and local guidelines. Fishing will only be allowed in designated areas. Overnight camping and parking within any publicly owned park or playground within the city limits is prohibited with the exception of a city sponsored program or community/special event and/or the encampment of youth groups for the purpose of learning or demonstrating camping skills at Historic Stagecoach Park.

(b) Alcoholic beverages. Possession, consumption, or distribution of alcoholic beverages is prohibited within all public parks and recreation facilities without obtaining a city alcohol permit except as follows.

(1) Possession and consumption of alcoholic beverages is limited to beer and wine served and/or sold on the premises, during community or private special events by individuals or organizations that have obtained all necessary approval and documents required by the Texas Alcohol Beverage Commission, and the city. The permit holder will hold all liability responsibilities.

(2) Possession and consumption of beer and wine is allowed during designated city organized events in designated areas.

(c) Glass containers. It shall be a violation for anyone exhibiting, using, carrying or disposing of glass beverage containers in all public parks.

(d) Sound amplification. It shall be a violation for any person to engage in using sound amplification equipment of any kind without a proper permit.

(e) Open fires. It shall be a violation to use any open fires or unauthorized cooking pits inside the boundaries of any public parks without a proper permit.

(f) Fireworks, firecrackers, explosives. It shall be a violation to use fireworks, firecrackers, or explosives of any kind, in any public park unless authorized to do so by obtaining proper permits through the county and the city.

(g) Pets. All pets must be on a leash and licensed as required by law. It shall be a violation if pets are on any recreational/soccer/football sports fields and on any fenced-in baseball/softball sports fields at the Sportsplex. It shall be a violation for any person exercising ownership, care, custody or control of a pet/animal to allow such animal knowingly, intentionally or negligently to deposit feces on any city property, unless said person removes the feces immediately once deposited.

(h) Sports association/organization/foundation facility fees.

(1) These groups must meet with the director and agree to terms in a written contract agreement. This contract will cover fees, policies and procedures, maintenance, and operation and standards in which the city facilities will be maintained.

(2) Individual or entities must provide documentation of transactions for goods and/or services as well as provide a copy of liability insurance policy naming the city as an additional insured party when appropriate.

(i) Commercial activity. Commercial use in public park land is not authorized without approval from the city. Individuals or entities engaged with the provision and sale of goods and/or services on public park land will be required to provide all necessary documentation provided by the department and obtain proper permits. Upon the completion of all required documentation, it is the director's discretion to approve the application.

(1) Nonprofit training/fundraising activity. A program/training class operated under the auspices of a not for profit organization that does not collect fees directly from class participants but operates for the ultimate purpose of generating revenues.

(2) Commercial use permit. Written authorization from the department to the applicant to conduct organized educational/leisure classes at designated park sites and to charge a fee of participants who desire to attend or participate in the commercial activity whether it's for profit or fundraising. See attachment to Ordinance 091103-2.

(3) Outdoor fee-based activities. An organized program or activity that takes place at a regular meeting time daily or weekly over a consecutive number of weeks and in which the participants pay an enrollment fee to the organizer or instructor to attend.

(4) Outdoor revenue generating program. Activities/events that are held three or more times a month to generate revenue.

(5) Education program. Program in which attendees pay a fee for any type of training or educational activity.

(j) Abandoned Property. Any items misplaced on public park grounds will become property of the city to dispose of properly after one week if not claimed from the department.

(k) Nudity. It shall be a violation for a person to intentionally or knowingly appear nude in a public park.

(l) Damage/Defacement. It shall be a violation to damage or deface (including graffiti) public parks and park property including, but not limited to turf, fences, trails, benches, picnic tables, grills, playground equipment, basketball goals, pavilions, lights, bulletin boards, signage, apparatus, restrooms, and paved surfaces including the skate park.

(m) Protection of Plant life and Wildlife. It shall be a violation for a person to break, bruise, burn, carve, chase, cut, destroy, deface, dig up, disturb, excavate, frighten, harass, harm, injure, kill, mutilate, pick, prune, pull, pursue, remove, take, tamper with, tear up, transplant or trap any plant life, wildlife, or geological deposits from or in any public park except by express written permission of the director. It is also a violation to attach any cable, wire, rope or sign to any public park tree, plant or shrub. Exceptions include fishing when visible posted signage allows fishing when accompanied by a state issued fishing license.

(n) Littering and Trash. It shall be a violation to leave garbage, cans, paper, or other refuse in a public park anywhere other than in the trash receptacles provided. It is a violation to drop, dump, deposit, place or throw any brush, lawn or garden cuttings, garbage, litter, or trash, on public park property, except that which is generated by park visitors and disposed of in receptacles provided for park use purposes.

(o) Activity Disruption. It shall be a violation for any person to prevent, disrupt, interfere with, or obstruct in any manner any authorized, permissible and/or organized activities, programs, or uses in any public park unless approved in writing by the director.

(p) Unauthorized Trespass. It shall be a violation to enter any public park or sports field posted as "Closed – Do Not Enter up to \$500 Penalty for Violation" unless approved in writing by the director.

(q) Tobacco Products. It shall be a violation to use tobacco products on or within 25 feet of any outdoor city owned sports fields at the Sportsplex, skate parks, splash parks, swimming pools, playgrounds, or playground equipment with the exception of community or special events that has been approved by city council and city organized events.

(r) Trail Use. Bicyclists shall yield to joggers, and joggers shall yield to walkers. Trail users should not be more than two abreast when this action will impede other traffic on the trail. Trail users should leave ample room on the trail for other users to pass safely. All bicycles shall be equipped with properly functioning brakes. Bicyclists shall not travel faster than 10 miles per hour. It shall be a violation for motorized vehicles to be on trails, including but not limited to motorcycles, mini-bikes, and ATV's with the exception being motorized vehicles used by handicapped individuals.

(s) Weapons. It shall be a violation for a person, other than local, state, or federal law enforcement officers or agents to carry any weapon in any public park, whether or not the weapon is loaded, concealed or licensed, except those persons who are duly licensed by the State of Texas to carry a concealed weapon in accordance with the provisions of State Statute 411.172 of the Texas Government Code, and as amended from time to time.

(t) Construction. It shall be a violation for any person to build, construct, or place any structure or improvement, temporary or permanent, in any public park without prior written consent from the director.

(u) Metal Detectors. It shall be a violation to use metal detectors in any public park.

(v) Violations. Any person who shall violate any of the provisions of this section shall be charged with a Class C misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars (\$500.00) on a per occurrence and/or per day basis.

(w) Exceptions. Any exceptions to the requirements of this section are authorized only by city council approval.

(Ordinance 05-0719-2, secs. 1–10, adopted 7/19/05)

Sec. 18.02.065 Activities requiring permits

The city shall promulgate application and permit forms that are required or authorized by this policy, and the parks and recreation staff shall issue permits consistent with the public parks policy. Permits are required for the following uses:

- (1) Consumption, distribution and/or sale of alcoholic beverages.
- (2) Concerts/sound amplification.
- (3) Use of fireworks, firecrackers, and explosives.
- (4) Bounce Houses, Carnivals, Dunking Booths, Petting Zoos, Rock Climbing Walls, Trackless Trains and Waterslides.
- (5) Electricity and/or Water Use.
- (6) Commercial Activity.

Violations. Any person who shall violate any of the provisions of this section shall be charged with a Class C misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars (\$500.00) on a per occurrence and/or per day basis.

Exceptions. Any exceptions to the requirements of this section are authorized only by city council approval.

(Ordinance 05-0719-2, secs. 1–10, adopted 7/19/05)

Sec. 18.02.066 Parks rental application guidelines

(a) Requests for the rental of public park facilities shall be directed to the department, who shall decide the appropriate procedure for approval. Reservation requests shall be accepted no earlier than six months prior to a specific date, except for recurring annual events that are typically approved by the city council. Community and special events may require an additional special event application which will be reviewed by the director or assigned staff of the appropriate departments. Once reviewed, this application will be put on the agenda for council approval.

(1) The special event application must be completed and returned to the department 60 days prior to the event.

(A) Individuals, clubs, organizations, or businesses may rent city parks and recreation facilities, when available.

(B) A deposit shall be required to rent city parks and recreation facilities. The deposit shall be a separate check or credit card hold from rental payment. Upon inspection and determination that parks and recreation facilities have not been damaged and clean up cost have not been incurred, the deposit shall be refunded. Parks should be left as they were upon arrival.

Sec. 18.02.067 Facilities available for rental

(a) Pavilions and gazebo. Available at City Park, Downtown Greenbelt, Garlic Creek Park, Green Meadows Park, Historic Stagecoach Park, Stoneridge Park, and Whispering Hollow Park.

(b) Buda Sportsplex. Available for practices, league games, tournaments, and special events. (4 recreational/soccer/football fields and 4 baseball/softball fields)

(c) Exclusive public park rental for community event/special events. Individuals or groups wanting to have exclusive use of any public parks and recreation facilities must fill out the special event application. The exclusive rental rate will be applied for every 24-hour period the park is rented.

(d) Refunds.

(1) Cancellation of reservations. Must be made no less than 14 days prior to the reserved date in order to receive a refund. Non-use due to inclement weather conditions will be taken into consideration.

(2) Deposits. Will be refunded upon inspection of the parks staff. The standard of cleanup shall be leave the park as it was when you arrived.

(3) Keys. Keys for the Sportsplex Concession stand and other parks shall be returned to the city within 3 calendar days after the event. It shall be a violation for anyone to duplicate, retain or copy any such key. If the key is not returned, the entire deposit will be forfeited.

(e) Waiving of fees. The city may waive all or a portion of the fee with the recommendation of the parks and recreation commission and the approval of the city council when appropriate.

(Ordinance 091103-2 adopted 11/3/09)

Sec. 18.02.068 Motor vehicles

(a) It shall be a violation for any person to drive any unauthorized motor vehicle, motorcycle, motor bike, motor scooter, ATV, or other motor-driven device or vehicle on or across public park land being owned, operated, and maintained by the city.

(b) Nothing in this section shall be construed so as to prohibit operation of any motor-driven vehicle as defined in the previous subsection upon any improved parking area within the public park.

(c) Any person who shall violate any of the provisions of this section shall be charged with a Class C misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars (\$500.00) on a per occurrence and/or per day basis.

(Ordinance 841204, secs. 1, 2, adopted 12/4/84)

Sec. 18.02.069 Fishing in Bradfield Lake

(a) Bradfield Lake, the lake located in the city park adjacent to Bradfield Subdivision, is hereby declared to be a community fishing lake.

(b) All anglers seventeen (17) years of age and older are required to have a valid state fishing license and a freshwater fishing stamp endorsement.

(c) Children twelve (12) years of age or younger must be continuously supervised by an adult while they are fishing.

(d) Fishing is permitted by pole and line only. The use of trot lines, jug lines, seines, spears, crossbows, and throw lines is prohibited in this lake. Anglers may have a maximum of two poles in use at the same time. All poles must be continuously monitored by the angler.

(e) Fish obtained from other water bodies may not be introduced into this lake. Doing so may upset the biological balance being maintained in the lake by the state parks and wildlife department.

(f) Fish may not be cleaned on the banks of the lake, or anywhere within Bradfield Park.

(g) No motorized watercraft of any type is allowed on this lake.

(h) Littering is prohibited.

(i) Any person who shall violate any of the provisions of this section shall be charged with a Class C misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars (\$500.00) on a per occurrence and/or per day basis.

(Ordinance 05-0719-2, secs. 1-10, adopted 7/19/05)