

ARTICLE 1.01 CODE OF ORDINANCES'

Sec. 1.01.001 Adoption

There is hereby adopted the Code of Ordinances of the City of Moulton, Texas, as compiled, edited and published by Franklin Legal Publishing, Inc.

Sec. 1.01.002 Designation and citation of code

The ordinances embraced in this and the following chapters, articles and sections shall constitute and be designated the "Code of Ordinances, 2005, City of Moulton, Texas," and maybe so cited.

Sec. 1.01.003 Catchlines of articles and sections

The catchlines of the several articles and sections of this code are intended as mere catchwords to indicate the contents of the article or section and shall not be deemed or taken to be titles of such articles and sections, nor as any part of the articles and sections, nor, unless expressly so provided, shall they be so deemed when any of such articles and sections, including the catchlines, are amended or reenacted.

Sec. 1.01.004 Definitions and rules of construction

In the construction of this code, and of all ordinances and resolutions passed by the city council, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the city council:

Generally. Words shall be construed in their common and usual significance unless the contrary is clearly indicated.

Otv and town. Each means the City of Moulton, Texas.

City administrator, city secretary, chief of police or other city officers. The words "city administrator," "city secretary," "chief of police" or other city officers or departments shall be construed to mean the city administrator, city secretary, chief of police or such other municipal officers or departments, respectively, of the City of Moulton, Texas.

Council. Whenever the words "council" or "this council" or "the council" are used, they shall mean the city council of the City of Moulton, Texas.

County. The term "county" or "this county" shall mean the County of Lavaca, Texas.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships, associations and corporations as well as to males.

Mav. Is permissive.

Month. The word "month" shall mean a calendar month.

- State law reference-Authority of municipality to codify ordinances, V.T.e.A., Local Government Code, ch.53.

Must and shall. Each is mandatory.

Number. Any word importing the singular number shall include the plural, and any word importing the plural number shall include the singular.

Oath. The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

Official time standard. Whenever certain hours are named herein they shall mean standard time or daylight saving time as may be in current use in the city.

Owner. The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or of a part of such building or land.

Person. The word "person" shall extend and be applied to associations, corporations, firms, partnerships and bodies politic and corporate as well as to individuals.

ProDertv. Means and includes real and personal property.

Real Droptv. Means and includes lands, tenements and hereditaments.

Sidewalk. Means that portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.

Sif/nature or subscription. Shall include a mark when a person cannot write.

State. The words "the state" or "this state" shall be construed to mean the State of Texas.

Street. Shall have its commonly accepted meaning and shall include highways, sidewalks, alleys, avenues, recessed parking areas and other public rights-of-way including the entire right-of-way.

Tense. Words used in the past or present tense include the future as well as the past and present.

VTC.S.. VTP.C.. VTC.C.P.. VTC.A. Refer to the divisions of Vernon's Texas Statutes Annotated.

Written or in writinf!. The term "written" or "in writing" shall be construed to include any representation of words, letters, or figures, whether by printing or otherwise.

Year. Shall mean a calendar year.

Sec. 1.01.005 Severability of parts of code

It is hereby declared to be the intention of the city council that the sections, paragraphs, sentences, clauses and phrases of this code are severable ,and if any phrase, clause, sentence, paragraph or section of this code shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this code, since the same would

have been enacted by the city council without the incorporation in the code of any such unconstitutional phrase, clause, sentence, paragraph or section.

Sec. 1.01.006 Repeal of ordinances

The repeal of an ordinance or any portion thereof shall not repeal the repealing clause of an ordinance or revive any ordinance which has been previously repealed.

Sec. 1.01.007 Amendments or additions to code

All ordinances of a general and permanent nature, and amendments to such ordinances, hereafter enacted or presented to the city council for enactment, shall be drafted, so far as possible, as specific amendments of, or additions to, the Code of Ordinances. Amendments to this code shall be made by reference to the chapter and section of the code which is to be amended, and additions shall bear an appropriate designation of chapter, article and section; provided, however, the failure so to do shall in no way affect the validity or enforceability of such ordinances.

Sec. 1.01.008 Supplementation of code

(a) By contract or by city personnel, supplements to this code shall be prepared and printed whenever authorized or directed by the city council. A supplement to the code shall include all substantive permanent and general parts of ordinances passed by the city council or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the code. The pages of a supplement shall be so numbered that they will fit properly into the code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this code, all portions of the code which have been repealed shall be excluded from the code by omission thereof from reprinted pages.

(c) When preparing a supplement to this code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions;
- (2) Provide appropriate catchlines, headings and titles for articles, sections and other subdivisions of the code printed in the supplement and make changes in such catchlines, headings and titles;
- (3) Assign appropriate numbers to articles, sections and other subdivisions to be inserted in the code and, where necessary to accommodate new material, change existing article or section or other subdivision numbers;
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this section," "this subsection," etc., as the case may be; and
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance articles or sections inserted into the code; but, in no case, shall the codifier

make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the code.

Sec. 1.01.009 General penalty for violations of code; continuing violations

Whenever in this code or in any ordinance of the city an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, the violation of any such provisions of this code or any such ordinance shall be punished by a fine of not exceeding five hundred dollars (\$500.00). However, a fine or penalty for the violation of a rule, ordinance or police regulation that governs fire safety, zoning or public health and sanitation including the dumping of refuse may not exceed two thousand dollars (\$2,000.00); provided, however, that no penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of the state. Each day any violation of this code or of any ordinance shall continue shall constitute a separate offense. In the event that any such violation is designated as a nuisance under the provisions of this code, such nuisance may be summarily abated by the city. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

(Ordinance adopting Code)

ARTICLE 1.02 RECORDS MANAGEMENT*

Sec. 1.02.001 Definition of municipal records

All documents, papers, letters, books, maps, photographs, sound or video recordings, microfilm, magnetic tape, electronic media, or other recording media, regardless of physical form or characteristic and regardless of whether public access to them is open or restricted under the laws of the state, created or received by the city or any of its officers or employees pursuant to law or in the transaction of public business are hereby declared to be the records of the city and shall be created, maintained and disposed of in accordance with the provisions of this article or procedures authorized by it and in no other manner.

Sec. 1.02.002 Additional definitions

Department head. The officer who by ordinance or administrative policy is in charge of an office of the city that creates or receives records.

Essential record. Any record of the city necessary to the resumption or continuation of its operations in an emergency or disaster, to the re-creation of its legal and financial status, or to the protection and fulfillment of obligations to the people of the state.

Permanent record. Any record of the city for which the retention period on a records control schedule is given as permanent.

- State law reference-Local Government Records Act, V.T.C.A., Local Government Code, sec. 201.001 et seq.

Records control schedule. A document prepared by or under the authority of the records management officer listing the records maintained by the city, their retention periods, and other records disposition information that the records management program may require.

Records management. The application of management techniques to the creation, use, maintenance, retention, preservation, and disposal of records for the purposes of reducing the cost and improving the efficiency of recordkeeping. The term includes the development of records control schedules, the management of filing and information retrieval systems, the protection of essential and permanent records, the economical and space-effective storage of inactive records, control over the creation and distribution of forms, reports, and correspondence, and the management of micrographics and electronic and other records storage systems.

Records management officer. The person designated in section 1.02.005 of this article.

Records management plan. The plan developed under section 1.02.006 of this article.

Retention period. The minimum time that must pass after the creation, recording, or receipt of a record, or the fulfillment of certain actions associated with a record, before it is eligible for destruction.

Sec. 1.02.003 Municipal records declared public property

All municipal records as defined in section 1.02.001 of this article are hereby declared to be the property of the city. No municipal official or employee has, by virtue of his or her position, any personal or property right to such records even though he or she may have developed or compiled them. The unauthorized destruction, removal from files, or use of such records is prohibited.

Sec. 1.02.004 Policy

It is hereby declared to be the policy of the city to provide for efficient, economical and effective controls over the creation, distribution, organization, maintenance, use and disposition of all municipal records through a comprehensive system of integrated procedure for their management from creation to ultimate disposition, consistent with the requirements of the Texas Local Government Records Act and accepted records management practice.

Sec. 1.02.005 Designation of records management officer

The city administrator, and the successive holders of said office, shall serve as records management officer for the city. As provided by state law, each successive holder of the office shall file his or her name with the director and librarian of the state library within thirty days of the initial designation of taking up the office as applicable.

Sec. 1.02.006 Records management plan to be developed; approval of plan; authority of plan

(a) The records management officer shall develop a records management plan for the city for submission to the city council. The plan must contain policies and procedures designed to reduce the cost and improve the efficiency of recordkeeping, to adequately protect the essential records of the municipality, and to properly preserve those records of the municipality that are of historical value. The plan must be designed to enable the records management officer to carry out his or her duties prescribed by state law and this article effectively.

(b) Once approved by the city council the records management plan shall be binding on all offices, departments, divisions, programs, commissions, bureaus, boards, committees, or similar entities of the city and records shall be created, maintained, stored, microfilmed, or disposed of in accordance with the plan.

(c) State law relating to the duties, other responsibilities, or recordkeeping requirements of a department head do not exempt the department head or the records in the department head's care from the application of this article and the records management plan adopted under it and may not be used by the department head as a basis for refusal to participate in the records management program of the city.

Sec. 1.02.007 Duties of records management officer

In addition to other duties assigned in this article, the records management officer shall:

- (1) Administer the records management program and provide assistance to department heads in its implementation;
- (2) Plan, formulate, and prescribe records disposition policies, systems, standards and procedures;
- (3) In cooperation with department heads identify essential records and establish a disaster plan for each municipal office and department to ensure maximum availability of the records in order to reestablish operations quickly and with minimum disruption and expense;
- (4) Develop procedures to ensure the permanent preservation of the historically valuable records of the city;
- (5) Establish standards for filing and storage equipment and for recordkeeping supplies;
- (6) Study the feasibility of and, if appropriate, establish a uniform filing system and a forms design and control system;
- (7) Monitor records retention schedules and administrative rules issued by the state library and archives commission to determine if the records management program and the municipality's records control schedules are in compliance with state regulations;
- (8) Disseminate to the city council and department heads information concerning state laws and administrative rules relating to local government records;
- (9) Ensure that the maintenance, preservation, microfilming, destruction, or other disposition of the records of the city is carried out in accordance with the policies and procedures of the records management program and the requirements of state law;
- (10) Maintain records on the volume of records destroyed under approved records control schedules or through records destruction authorization requests, the volume of records microfilmed or stored electronically, and the estimated cost and space savings as the result of such disposal or dispositions;

- (11) Report annually to the city council on the implementation of the records management plan in each department of the city, including summaries of the statistical and fiscal data compiled under subsection (10); and
- (12) Bring to the attention of the city council noncompliance by department heads or other municipal personnel with the policies and procedures of the records management program or the Local Government Records Act.

Sec. 1.02.008 Duties and responsibilities of department heads

In addition to other duties assigned in this article, department heads shall:

- (1) Cooperate with the records management officer in carrying out the policies and procedures established in the city for the efficient and economical management of records and in carrying out the requirements of this article;
- (2) Adequately document the transaction of government business and the services, programs, and duties for which the department head and his or her staff are responsible; and
- (3) Maintain the records in his or her care and carry out their preservation, microfilming, destruction or other disposition only in accordance with the policies and procedures of the records management program of the city and the requirements of this article.

Sec. 1.02.009 Records control schedules to be developed; approval; filing with state

- (a) The records management officer, in cooperation with department heads, shall prepare records control schedules on a department by department basis listing all records series created or received by the department and the retention period for each series. Records control schedules shall also contain such other information regarding the disposition of municipal records as the records management plan may require.
- (b) Each records control schedule shall be monitored and amended as needed by the records management officer on a regular basis to ensure that it is in compliance with records retention schedules issued by the state and that it continues to reflect the recordkeeping procedures and needs of the department and the records management program of the city.
- (c) Before its adoption a records control schedule or amended schedule for a department must be approved by the department head and the city council.
- (d) Before its adoption a records control schedule must be submitted to and accepted for filing by the director and librarian as provided by state law. If a schedule is not accepted for filing, the schedule shall be amended to make it acceptable for filing. The records management officer shall submit the records control schedules to the director and librarian.

Sec. 1.02.010 Implementation of records control schedules; destruction of records under schedule

(a) A records control schedule for a department that has been approved and adopted under section 1.02.009 shall be implemented by department heads according to the policies and procedures of the records management plan.

(b) A record whose retention period has expired on a records control schedule shall be destroyed unless an open records request is pending on the record, the subject matter of the record is pertinent to a pending lawsuit, or the department head requests in writing to the records management officer that the record be retained for an additional period.

(c) Prior to the destruction of a record under an approved records control schedule, authorization for the destruction must be obtained by the records management officer from the city council.

Sec. 1.02.011 Destruction of unscheduled records

A record that has not yet been listed on an approved records control schedule may be destroyed if its destruction has been approved in the same manner as a record destroyed under an approved schedule and the records management officer has submitted to and received back from the director and librarian an approved destruction authorization request.

(Ordinance 93-12-1 adopted 12/9/93)

ARTICLE 1.03 CLAIMS AGAINST CITY.

Sec. 1.03.001 Notice required

(a) The city shall never be liable for any claim for property damage or for personal injury, whether such personal injury results in death or not, unless the person damaged or injured, or someone in his behalf, or in the event the injury results in death, the person or persons who may have a cause of action under the law by reason of such death or injury, shall, within sixty (60) days for good cause shown from the date the damage was received, give notice in writing to the mayor and city council of the following facts:

- (1) The date and time when the injury occurred and the place where the injured person or property was at the time when the injury was received.
- (2) The nature of the damage or injury sustained.
- (3) The apparent extent of the damage or injury sustained.
- (4) A specific and detailed statement of how and under what circumstances the damage or injury occurred.
- (5) The amount for which each claimant will settle.

- State law reference-Texas Tort Claims Act, V.T.C.A., Civil Practice and Remedies Code, ch. 101.

- (6) The actual place of residence of each claimant by street, number, city and state on the date it is presented.
- (7) In case of personal injury or death, the names and addresses of all persons who, according to the knowledge or information of the claimant, witnessed the happening of the injury of any part thereof and the names of the doctors, if any, to whose care the injured person is committed.
- (8) In case of property damage, the location of the damaged property at the time the claim was submitted along with the names and addresses of all persons who witnessed the happening of the damage or any part thereof.

(b) No suit of any nature whatsoever shall be instituted or maintained against the city unless the plaintiff therein shall ever prove that previous to the filing of the original petition the plaintiff applied to the city council for redress, satisfaction, compensation, or relief, as the case may be, and that the same was by vote of the city council refused.

Sec. 1.03.002 Filing of notice

All notices required by this article shall be effectuated by serving them upon the city administrator at the city offices, and all such notices shall be effective only when actually received in the office of the person named above.

Sec. 1.03.003 Exceptions in cases of actual notice

(a) The above written notice requirements shall be waived if the city has actual knowledge of death, injury or property damage likely to result in a claim against the city. The city shall not be deemed to have actual knowledge unless that knowledge is attributable to an appropriate city official whose job duties include the authority to investigate and/or settle claims against the city.

(b) Notice requirements shall likewise be waived in cases in which the plaintiff can demonstrate good cause or civil rights violations.

Sec. 1.03.004 Notice to be sworn to

The written notice required under this article shall be sworn to by the person claiming the damage or injuries or by someone authorized by him to do so on his behalf. Failure to swear to the notice as required herein shall not render the notice fatally defective, but failure to so verify the notice may be considered by the city council as a factor relating to the truth of the allegations and to the weight to be given to the allegations contained therein.

(Ordinance adopting Code)

ARTICLE 1.04 LIBRARY

Sec. 1.04.001 Department created

Pursuant to the desire to provide the benefits of a library to city citizens, a department is hereby created within the framework of the governmental organization of the city, which shall be known

as the library department, and it shall function according to the laws of the state and the provisions of this article.

Sec. 1.04.002 Gifts and donations

The city hereby accepts all gifts and donations of library materials and equipment made for the public library, with grateful thanks to the donors. Such material and equipment become the property of the public library and may be used, given to another institution, sold or disposed of according to the needs of the library.

Sec. 1.04.003 Funding

The public library is to be funded by the proceeds of the city's recycling program, donations, grants and, upon a separate motion by the city council, other funds as approved.

Sec. 1.04.004 Intellectual freedom

It is the intention of the public library to provide such library services as it may in accordance with the American Library Association freedom to read statement and the library bill of rights as adopted by the American Library Association Council and as follows:

(1) Freedom to read.

- (A) It is in the public interest for publishers and librarians to make available the widest diversity of views and expressions, including those which are unorthodox or unpopular with the majority.
- (B) Publishers, librarians and booksellers do not need to endorse every idea or presentation contained in the books they make available. It would conflict with the public interest for them to establish their own political, moral or aesthetic views as a standard for determining what books should be published or circulated.
- (C) It is contrary to the public interest for publishers to determine the acceptability of a book on the basis of the personal history or political affiliations of the author.
- (D) There is no place in our society for efforts to coerce the taste of others, to confine adults to the reading matter deemed suitable for adolescents, or to inhibit the efforts of writers to achieve artistic expression.
- (E) It is not in the public interest to force a reader to accept with any book the prejudgment of a label characterizing the book or author as subversive or dangerous.
- (F) It is the responsibility of publishers and librarians, as guardians of the people's freedom to read, to contest encroachments upon that freedom by individuals or groups seeking to impose their own standards or tastes upon the community at large.

- (G) It is the responsibility of publishers and librarians to give full meaning to the freedom to read by providing books that enrich the quality and diversity of thought and expression. By the exercise of this affirmative responsibility, bookmen can demonstrate that the answer to a bad book is a good one, the answer to a bad idea is a good one.

(2) Library bill of rights.

- (A) Books and other library resources should be provided for the interest, information and enlightenment of all people of the community the library serves. Materials should not be excluded because of the origin, background or views of those contributing to their creation.
- (B) Libraries should provide materials and information presenting all points of view on current and historical issues. Materials should not be proscribed or removed because of partisan or doctrinal disapproval.
- (C) Libraries should challenge censorship in the fulfillment of their responsibility to provide information and enlightenment.
- (D) Libraries should cooperate with all persons and groups concerned with resisting abridgement of free expression and free access to ideas.
- (E) A person's right to use a library should not be denied or abridged because of origin, age, background or views.
- (F) Libraries which make exhibit spaces and meeting rooms available to the public they serve should make such facilities available on an equitable basis, regardless of the beliefs or affiliations of individuals or groups requesting their use.

Sec. 1.04.005 Library cards, user fees, fines, noncompliance with library rules and destruction of library property

(a) Library cards. No person shall be allowed to check out any library materials unless that person has been issued a valid library card.

(b) User fees.

(1) No library user fee for the issuance of a library card shall be charged to a resident of the city or to a nonresident who owns real property within the city according to the tax rolls, providing the person also has no delinquent property taxes due at the time the card is issued.

(2) All other nonresidents shall be charged an annual nonrefundable fee of two dollars (\$2.00) per person or five dollars (\$5.00) per family for the issuance of a library card.

(c) Fines. Fines shall be collected for failure to return, at the date due, any library materials and equipment which have been loaned to holders of library cards. The fine is hereby set at ten cents (\$0.10) per day per book or library item. The maximum fine for paperback books, magazines and other periodicals shall be two dollars (\$2.00). The maximum fine for all other printed material,

tapes, equipment or library materials shall be five dollars (\$5.00). A grace period of one (1) week shall be allowed, and fines may be waived by the librarian if the books are returned within said grace period.

(d) Noncompliance with library rules.

- (1) Any person who shall take from the library any book, pamphlet, periodical, paper, or other property, except in accordance with the rules of the library, shall be deemed guilty of a class C misdemeanor and, upon conviction thereof, shall be punished by a fine in accordance with the general penalty provision found in section 1.01.009.
- (2) A person commits an offense if he intentionally or knowingly fails to return library materials to the public library which were loaned to the actor or borrowed in the actor's name. The actor's intent and knowledge shall be presumed if:
 - (A) Pursuant to agreement, the library materials were to be returned on a date specified;
 - (B) Actual notice is given or notice in writing is sent by depositing in the United States mail stating that the library materials were not returned on the date specified, and said notice when mailed to be sent to the address shown on the records of the library;
 - (C) The library material is not returned to the owner within ten (10) days of receipt of such notice;
 - (D) If notice is sent by mail in accordance with subsection (d)(2)(B) above, it is presumed that the notice was received no later than five (5) days after it was sent;
 - (E) In prosecution under this section, it is no defense that the actor, though the actual borrower, no longer possesses the library materials.

(e) Destruction of library property. Any person who shall willfully cut, mutilate, mark, tear, write upon, deface, or otherwise destroy or injure, in whole or in part, any book, pamphlet, periodical, map, document, picture, or written, engraved, or printed paper belonging to the library, or damage in any manner any library equipment, or shall suffer such injury to be inflicted while such property is in his custody shall be deemed guilty of a class C misdemeanor and, upon conviction, shall be punished by a fine as provided for in subsection (d)(1) of this section.

Sec. 1.04.006 Library board

- (a) Provisions for the creation of a library board are included, but will require separate action by the city council, if and/or when the council deems it necessary to establish said board.
- (b) The board shall consist of seven members. The mayor and councilmembers shall each appoint one member. The appointed board members shall appoint, for a two-year period, one member from the community at large.
- (c) Terms of appointment. The terms of the appointed members shall expire simultaneously with the expiration of the terms of the members of the city council who appointed the board

member. Each member shall continue to serve until his replacement is appointed. Vacancies shall be filled for an unexpired term in the manner in which original appointments are required to be made. No appointed board member shall serve more than three consecutive terms.

(d) Chairman. The chairman of the board shall be elected by a majority of the members of the board. The first chairman shall be elected at the beginning of the first meeting held after the members are appointed, and each successive chairman shall be elected at the first meeting held after new appointments to the board are made after each council election in May.

(e) Duties and powers.

(1) The board shall act as an advisor to the library department, city administrator and city council on the policies and operations of the library.

(2) It shall follow the rules and regulations prescribed by the city council for the conduct of its business.

(3) It shall act only in an advisory capacity in all matters pertaining to the library.

(4) It shall encourage the development of adequate library facilities for the residents of the city.

(5) The board shall have no power to obligate the city in any manner whatsoever; its finances shall be handled in the same manner as any division of the city government.

(Ordinance 93-4 adopted 4/9/93)

ARTICLE 1.05 PARKS AND RECREATION

Sec. 1.05.001 Department created

There shall be created a city department to be known as the parks and recreation department. Said department shall be under the supervision of the utilities superintendent. The duties of the parks and recreation department shall be assigned by the mayor and city council. The area known as the Moulton Community Park will be the area designated on the official city plat of the park.

Sec. 1.05.002 Use of park facilities

The city secretary is hereby authorized to establish operations for the use of city park facilities where buildings and structures are involved (i.e., pavilion, barbeque pavilion, ball field or any area within the park). Application must be made at city hall for the use of said facilities. Charges, as per schedule, for the use of various park facilities will vary according to use.

Sec. 1.05.003 Unlawful acts within limits of community park

(a) Unlawful acts within the limits of the community park are as follows:

- (1) To hitch, fasten, lead, drive or let loose any animal, reptile, or fowl of any kind, provided that this shall not apply to dogs when led by a cord or chain, not more than six (6) feet long, except in designated areas.

- (2) To ride or drive any horse or other animal, except in designated areas.
- (3) To ride, drive or go at a rate of speed faster than 15 miles per hour as posted on standard traffic signs, upon any bicycle, motorcycle, automobile, or any other vehicle whatsoever, upon any drive or street in any park of the city, or to ride or drive any such motorcycle, automobile or other motorized vehicle upon any walk in such park, except in designated areas.
- (4) To carry or discharge any firearm, firecrackers, rockets, torpedoes or any other fireworks, air guns, BB guns, bow and arrows, slingshots, or hit golf balls except in designated areas.
- (5) To 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 up, cut, take or remove any shrub, bush, plant or flower; or to mark or write upon, paint, or deface any building, monument, fence, bench or other structure.
- (6) To cut or remove any wood, turf, grass, soil, rock, sand, gravel or fertilizer.
- (7) To make or kindle a fire, except in picnic stoves, braziers, fire pits or designated areas provided for that purpose.
- (8) To wash dishes or to empty salt water or other waste liquids elsewhere than in sinks provided for such purposes.
- (9) To leave garbage, cans, bottles, papers or other refuse elsewhere than in receptacles provided therefor.
- (10) To participate or engage in any activity on any public park area when such activity will create a danger to the public or may be considered a public nuisance.
- (11) To play or bet at or against any game which is played, conducted, dealt or carried on with cards, dice, or other device, for money, chips, shells, credit or any other representative of value, or to maintain or exhibit any gambling table or other instrument of gambling or gaming.
- (12) To sell alcoholic beverages in the city park unless a proper license is obtained through the state.
- (13) To possess a drink (soft and/or alcoholic) in a glass container in, at, or on the grounds of the community park.
- (14) To use or speak any threatening, abusive, insulting or indecent language in any of the public parks, and no person shall commit, in any such park, any obscene, lewd or indecent act or create any nuisance.
- (15) To disturb in any manner any picnic, meeting, service, concert, exercise or exhibition.

- (16) To distribute, post, place, or erect any advertising handbill, circular, bill, notice, paper or other advertising device without prior permission.
- (17) To sell or offer for sale any food, drinks, confections, merchandise or services, unless such person has a written agreement or a permit issued by the city.
- (18) 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 city.
- (19) To remain, stay or loiter in any public park between the hours of 11 p.m. or 7 a.m. or remain, stay or loiter in any park in other than open hours as posted.
- (20) For any person over the age of six (6) years to use the restrooms and washrooms designated for the opposite sex.
- (b) It shall be unlawful for any person to hunt or kill any animal or bird of any kind whatsoever within the limits of any park within the city.
- (c) Baseball played on municipally owned property shall not be played after 11 p.m. except with special permission of the city.
- (d) All baseball fields located on municipally owned property will be vacated by 11 :30 p.m. and the lights cut off by such time.
- (e) The mayor is authorized to issue a special permit at his discretion for. after-hours use of such park if deemed in the public interest.
- (t) Use of commercial vehicles. etc. All vehicles used for the purpose of transporting freight and merchandise, or brick, stone, or gravel, and all those commonly known as floats, moving wagons, express or delivery wagons are prohibited from entering upon or being driven through any of the public park of the city, except by special permission of the city.
- (g) Parking vehicles. No vehicle shall be driven over or across the curbs, sidewalks, grass or lawn within any park area unless signs permit. Parking is to be done in areas set aside for this purpose only. In areas having no parking set aside, all parking will take place outside of the boundary or curb line, where existing. Where parking stalls have been designated all vehicles shall be parked on such lots within and between the lines designating a single vehicle parking space and not otherwise. Where parking lots or areas within public parks of the city have been designated for head-in parking to front on a visible parking line without delineated single vehicle spaces, the front of the vehicle shall be placed on the parking line and as near as practicable to the side of the last parked vehicle in line. No vehicle shall be parked or left behind any other vehicle in the parking line or back of such parking line in any manner so as to obstruct, block or hinder ingress or egress from the line. Officers of the police department shall issue to violators of this subsection traffic tickets. Where a vehicle is parked or left in violation of this subsection in such a manner as to obstruct or block traffic and the owner or operator of the vehicle cannot be found, police officers may move the vehicle so that traffic will not be impeded. No variation to the requirements of this subsection shall be allowed except by special permit issued by the director of parks and recreation.

Sec. 1.05.004 Fees for parks and recreational facilities use

(a) A fee of \$125.00 will be required for all two-day tournaments, payable at city hall. Fifty dollars (\$50) of this fee is returnable providing the area is cleaned and any damage repaired. Electric meters will be read before and after ball tournaments and a usage rate of \$6.00 per hour will apply. The \$6.00 per hour rate will also apply when lights are needed.

(b) A fee of \$50.00 is required to reserve the picnic pavilion and barbeque pavilion. Twenty-. five dollars (\$25) of this fee will be refunded if the area is cleaned up.

Sec. 1.05.005 Enforcement of article

The utilities superintendent, park attendants, and police department shall, in connection with their duties, enforce the provisions of this article.

Sec. 1.05.006 Ejections

The utilities superintendent, park attendants, and any member of the police department shall have the authority to eject from the park any person violating any provision of this article.

Sec. 1.05.007 Penalty for violation of article

Any person violating any provision of this article shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine as provided in section 1.01.009 for each violation, and each violation shall constitute a separate and distinct offense.

(Ordinance 4-88A adopted 4/14/88)

Sec. 1.05.008 General public use of park facilities

(a) The city park and its facilities are open to all. The park facilities may be booked and utilized for picnics, parties, meetings, lectures, etc., on a "first come first serve" basis, with the stipulation that no monetary benefit is derived by use of park facilities.

(b) Local area civic and or nonprofit organizations may reserve the use of park facilities on a nonfee basis, if the function held is of a public nature and is open to the general public at large. Local area civic and or nonprofit organizations are required to clean the pavilion area after use or a \$25.00 cleanup fee will be charged. Council reserves the right of determining a nonfee event or function.

Sec. 1.05.009 Special use of park facilities

(a) Any organization wishing to have an event within the city park, which limits the public use of the park, must make a request to do so at least one working day in advance to city hall. The mayor or city administrator will review any such request and determine if the event may be held as requested. Private individuals must request, before council, permission to hold special events, which limits the public use of the park.

(b) General guidelines:

(1) Only civic and nonprofit organizations will be allowed to hold such events.

- (2) The city will set a designated area in which the activities to be held are confined.
 - (3) The hosting organization will be responsible for cleaning an area used in conjunction with the activity. If the area is not cleaned and returned to its original condition, the city will bill the hosting organization for cleanup and/or damages.
 - (4) The hosting organization's senior officer must sign a liability release to indemnify and hold harmless the city from any claims arising from the activity, civil or criminal.
- (c) The city grants the exclusive use of the city park, excluding the park RV spaces, to the Chamber of Commerce the last full weekend of July each year, for such time period that the chamber conducts the "Moulton Town and Country Jamboree."

(Ordinance 3-00 adopted)