

CITY OF LUMBERTON, TEXAS
ORDINANCE NO. 21-1254

AN ORDINANCE OF THE CITY OF LUMBERTON, TEXAS AMENDING CHAPTER 35 (PARKS AND RECREATION) OF THE CITY'S CODE OF ORDINANCES; PROHIBITING OPERATION OF OFF-HIGHWAY VEHICLES IN A CITY PARK; PROHIBITING USE OF METAL DETECTORS IN A CITY PARK; A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR CODIFICATION; FINDING AND DETERMINING THAT THE MEETING AT WHICH THE ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Lumberton, Texas is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the city's charter under Chapter 1.15-Parks, Playgrounds, Etc., grants the city exclusive control of all City parks and playgrounds; and

WHEREAS, the council has determined amendments to Chapter 35 are necessary to prohibit additional activities to protect the public health, safety and welfare of its citizens.

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

Section 1. Findings of Fact. The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact.

Section 2. Code Amendment. That the City of Lumberton Code of Ordinances, Chapter 35, Parks and Recreation, is hereby amended to read as follows:

City of Lumberton

Chapter 35 - PARKS AND RECREATION

(h) *Regulations concerning use of city parks.* It shall be unlawful for any person using any city park to either perform or permit to be performed any of the following acts:

- (1) It is prohibited to willfully mark, deface, disfigure, injure, move or remove any signs, tamper with any building, fence, benches, tables, gateway, walls, or other structure within any city park.

- (2) It is prohibited to climb or get upon any tree, fence, gateway, or railing within any city park, or to use any structure within any park for other than the purpose for which it is intended, and in accordance with the regulations applying thereto.
- (3) It is prohibited to lie down upon, or to sleep upon, or overturn or damage any seat, bench, bridge, railing, or floor within any park.
- (4) It is prohibited to drop, throw, scatter, or leave upon any part of any city park any type of litter, except into the receptacles provided for such purpose.
- (5) Drive or park any vehicles or motorcycles except on street, driveway, or parking lot of any city park; or to park or leave any such vehicle in any place other than one established for public parking.
- (6) It is prohibited to drive or propel any motor vehicle at a greater speed than that posted in park areas, or to drive or propel any vehicle except in established driveways and in the direction indicated by signs, or to park any vehicle except in areas provided.
- (7) It is prohibited to have or operate any all-terrain vehicle, recreational off-road-highway vehicle, off-highway vehicle or unlicensed vehicle in any city park at any time as further defined in Chapter 48, Article III of the City's Code of Ordinances, unless at an approved event that has been endorsed by the City of Lumberton.
- (8) Any vehicle left in any city park after hours is presumed to be abandoned and subject to being towed at the owners' expense.
- (9) No boisterous, indecent, or vulgar language will be tolerated, nor any public nuisance shall be permitted.
- (10) No individuals or groups will be permitted to purchase or sell any food, drinks, or novelties without proper permitting by the city.
- (11) It is prohibited for any person to use any metal detector in any city park, including vehicle parking areas or interior roadways, without first obtaining proper authorization from the City. Requirements for authorization include but may not be limited to: (1) assurances of financial responsibility or appropriate insurance, and (2) signing an indemnification agreement with the City assuming responsibility for all damages and claims arising out of the activity. The authorization shall specify where and under what conditions the activity may be conducted to prevent the activity from adversely impacting the use of the City park and recreational property by the general public. This prohibition shall not apply to a City or other government official or employee acting within the scope of official duties.

Section 3. This ordinance shall be cumulative of all provisions of ordinances of the City of Lumberton, except where the provisions of this ordinance are in direct conflict therewith, in which case the prior ordinance or parts thereof are hereby repealed to the extent of the conflict.

Section 4. All rights and remedies of the City of Lumberton are expressly saved as to any and all violations of the provisions of any ordinances affecting the regulations for driveways and culverts which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

Section 5. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared void, ineffective, or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such voidness, ineffectiveness, or

unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation herein of any such void, ineffective, or unconstitutional phrase, clause, sentence, paragraph or section.

Section 6. It is the intention for the City Council that this ordinance shall become a part of the Lumberton City Code of Ordinances and it may be renumbered and codified therein accordingly.

Section 7. It is hereby found and determined that the meeting at which this ordinance was passed was open to the public, as required by Chapter 551.001, *et seq.*, of the Texas Government Code, and that advance public notice of the time, place and purpose of said meeting was given.

Section 8. This ordinance shall go into effect immediately after approval.

CERTIFICATE

I hereby certify that the foregoing was presented to the City Council for the City of Lumberton, Texas during a meeting on the 14th day of June, 2021 for a first reading and again on the 28th day of June, 2021 for a second reading. A quorum of the City Council being then present at both readings, it was then duly moved and seconded that the resolution be adopted, and such resolution was then adopted.

PASSED, APPROVED AND ADOPTED BY THE CITY COUNCIL FOR THE CITY OF LUMBERTON, TEXAS, on the 28th day of June, 2021.

By: _____
Don Surratt, Mayor
City of Lumberton, Texas

ATTEST:

Susan Collins, City Secretary