

**ORDINANCE NO. 461**

**AN ORDINANCE OF THE CITY OF KYLE, TEXAS, AMENDING ORDINANCE 330-3 IN THEIR ENTIRETY; PROVIDING FOR THE ESTABLISHMENT OF A PARK AND RECREATION BOARD; GENERAL PARK AND CITY FACILITY USE REGULATIONS; STANDARDS FOR PARKS AND RECREATION DEPARTMENT PROGRAMS FOR CHILDREN; AND PROVIDING REQUIREMENTS FOR USE PERMITS; ESTABLISHING A PENALTY FOR VIOLATIONS; PROVIDING AN OPEN MEETINGS AND SEVERABILITY CLAUSE; AND PROVIDING FOR OTHER RELATED MATTERS.**

**Whereas**, the City of Kyle owns, operates and maintains various parks and park facilities for the use and enjoyment of its citizens and the general public; and

**Whereas**, regulating the use of the city parks and city facilities protects the value of the public property and creates a valuable community resource for all citizens to share and utilize; and,

**Whereas**, providing for permitting and conditioning use of parks and city facilities will best assure compatible uses preserve the integrity of the city parks and city facilities;

**Whereas**, the City Manager, Parks Director and the Park and Recreation Board has developed and reviewed this ordinance and have recommended it's approval by the City Council;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KYLE, TEXAS, THAT:**

**PARKS AND RECREATION**

- Art. I. Parks and Recreation Board, Sections 1-5
- Art. II. Commercial Enterprises in Parks, Sections 6-9
- Art. III. Parks, Facilities and Pool; General Use, Sections 10-19
- Art. IV Standards of Care For Parks and Recreation Department Programs for Children, Section 23.01-23.12
- Art. V. Reserving Park Facilities, Sections 24-32
- Art. VI. General Provisions

**ARTICLE I. PARKS AND RECREATION BOARD**

**Section 1. Establishment of Board.**

There is hereby established a Parks and Recreation Board (hereinafter referred to as the "Board") for

the City of Kyle. Except as specifically provided otherwise in this ordinance the authority and powers of the Board shall be advisory only. The Board shall consist of seven (7) members serving without pay who shall be appointed by the Mayor with consent of the City Council. The term of office for members of the Board shall be for three (3) years or until their successors have been appointed and qualified, except that the members initially appointed to create the Board shall be appointed for such terms that the term of one member shall expire annually thereafter. A sitting member of the City Council may be appointed as one of the members of the Board, with said member serving as policy liaison between City Council and the Board. Vacancies on the Board occurring otherwise than by expiration of them shall be filled by the city Council for the remainder of that term.

## **Section 2. Board Officers.**

Immediately after the members of the Board are first appointed, the Board shall meet and elect one member as chairperson, one as vice-chairperson, and the one as secretary. At such time that the term of the chairperson expires, the remaining members, along with the newly appointed or reappointed member, shall at the next regular meeting elect a new chairperson and vice-chairperson, with the newly appointed or reappointed member assuming whichever office is vacant after such election unless they are elected chairperson.

## **Section 3. Duties and Responsibilities.**

(a) The Board shall be responsible for providing the Parks and Recreation Director with advice and recommendations on all policies, rules, and regulations relating to public parks and recreation programs. The Director shall have the power to develop and propose to the City Council rules and regulations for the proper conduct of public recreation for the city. Such rules and regulations shall become in effect upon adoption of the City Council as provided by law. The Board may act as a public forum for citizens to address concerns over city parks and recreation activities. The Board shall provide advisory oversight of public playgrounds, athletic fields, recreation centers and other facilities and activities on property owned or controlled by the city and designated as a public park, or on other properties with the consent of the owners and authorities thereof. It shall have the responsibility to recommend any form of recreation activity that will employ the leisure time of the people in a constructive and wholesome manner. The Board shall assist the City Council as needed or requested. Under certain circumstances and when deemed appropriate by the City Manager and /or Parks and Recreation Director, the Board may review requests for permits and make a recommendation relative to said requests for use and/or reservation of city parks or city park facilities.

(b) Master Plan. The Board is to recommend a comprehensive plan that shall address the city's park and recreation needs as a whole and each park within the system individually and present said plan to the City Council for approval. In the development of the Master Plan, the Board shall employ all reasonable means to solicit input from the general public, including but not limited to the formation of a citizen advisory committee appointed by the Mayor and Council. Once approved by the City Council, the master plan may not be altered without the formal consent of the Council. The

Board, through the Parks and Recreation Director, is to present annual reports on the status of each park, and the master plan as a whole, on an annual basis.

#### **Section 4. Gifts and Donations.**

The Board is authorized to solicit gifts and bequests of money or other personal property, or donations to be applied, principle or income, for either temporary or permanent use for playgrounds or other recreational purposes. All such gifts and bequests shall be made and received directly by the city and placed in a special account or fund established for such purposes.

#### **Section 5. Cooperation with Other Agencies.**

The Board, working through the Parks and Recreation Director, is authorized to work jointly with the other city departments and, upon approval of an agreement by the City Council, with other 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. The Board is authorized to work and cooperate with local little league, soccer, softball and similar organizations with respect to the establishment and scheduling of leagues and activities.

### **ARTICLE II. COMMERCIAL ENTERPRISES IN PARKS.**

#### **Section 6. Sale of Goods Prohibited.**

It shall be unlawful for any person to peddle, sell, or offer for sale any goods, wares, or merchandise in any city park or take thereon or therein any peddler's cart or wagon, or any basket, tray, box or other receptacle or vehicle containing a stock of goods, ware, or merchandise to be sold or offered for sale, except as provided in section 8 hereof.

#### **Section 7. Renting Vehicles or Animals, Maintaining Amusement Devices.**

It shall be unlawful for any person to rent or offer to rent to another in any city park any amusement device including, but not limited to bicycles, motorcycles, scooters, vehicles, or animals except as provided in section 8 hereof.

#### **Section 8. License to Conduct Business.**

The Board may review and make recommendation to the Director on any requested license, privilege, or concession for any of the acts mentioned in sections 6 and 7. The Board may condition its recommendation on such terms as to not unlawfully surrender the city's right of supervision, regulation and control, and consistent with park purposes, and as do not unreasonably interfere with the rights of the public to the enjoyment of the park. The Board may develop and submit to the City Council proposed rules and regulations for the temporary use of parkland for periods not to exceed ten (10) days, for uses referred to in section 6 and 7. Such rules and regulations shall include the

process and procedures for permit application and issuance, uses proposed to be prohibited, and proposed permit fees, if any.

### **Section 9. Advertising.**

It shall be unlawful within any city park for any person to announce, advertise or call the public's attention in anyway to any article or service for sale or hire, unless such person or entity shall have a temporary license, permit or authorization issued pursuant to this Ordinance.

## **Article III. Parks, Facilities and Pool; General Use**

### **Section 10. Definitions.**

In this Ordinance:

- (1) Activity assistant - means a department employee who assists and activity leader with the care or supervision of participants.
- (2) Activity leader - means a department employee responsible for the direct care or supervision of participants. It does not include a person whose primary duties include administration, clerical support, food preparation, or facility maintenance.
- (3) City Hall Community Center – means the historic Kyle City Hall building located at 101 S. Burleson in Kyle.
- (4) City Square Gazebo – means the City Square located at 101 S. Burleson in Kyle upon which the Gazebo is located.
- (5) Department - means the City of Kyle Parks and Recreation Department.
- (6) Director - means the City of Kyle Parks & Recreation Director.
- (7) Facility - means a building or improvement operated or used by the department in conducting recreational programs.
- (8) Park – means a public park dedicated to and accepted by the City of Kyle for maintenance and ownership as a public park, including portions of city public parks with recreational facilities located thereon.
- (9) Park Attendant- means the Park and Recreation Director or his designate, a park patrol officer or an officer of the Kyle Police Department.
- (10) Participant - means child under the age of 18 that is enrolled in a recreational program.

(11) Recreational program - means a children's program or activity offered and supervised by the department and requiring enrollment or registration in order to participate.

(12) Volunteer - means a person assisting without remuneration in the care or supervision of participants.

**Section 11. Closing Hours for City Parks and Park Facilities.**

(a) Hours for the public restrooms at any city park or city facility will be set by the Director. Persons, groups or organizations receiving a park use permit may request extended hours for access to the restrooms, as long as the request was first put in the application. The restrooms at the concession stand, near lighted ball fields, are not considered public restrooms. The restrooms are to be locked except during such events that a park use permit has been issued to use and open the concession stand. To use and open the concession stand/restrooms must be on the application for park use permits.

(b) The hours of operation for City Parks, the City Square and City Hall Community Center shall be as follows, unless otherwise modified in the park use permit:

Sunday – Thursday

8:00 a.m. – 10:30 p.m.

Friday – Saturday

8:00 a.m. – 12:30 a.m.

(c) The following exception shall apply, unless otherwise specifically modified in the use permit:

1. Events with loudspeakers, live music, or any activity which involves amplification equipment/devices of any kind shall not commence prior to 5:30 p.m. Monday – Friday, and shall terminate by 10:30 p.m. Monday – Thursday.
2. No activity which may disrupt normal City business/operations or neighboring residential properties shall commence prior to 5:30 p.m., Monday – Friday.

(d) The premises must be vacated and secured no later than 12:30 a.m. on Friday and Saturday; and by 10:30 p.m. Monday-Thursday.

(e) Exceptions to the provisions of this section may be considered by the City Manager, upon recommendation by the Parks and Recreation Director, on a case-by-case basis.

**Section 12. Noise Regulations.** All events which will include loudspeakers, live music, or amplification equipment/devices of any kind must comply with the City noise ordinance. The City reserves the right to ask disruptive music be turned down.

**Section 13. Street Closures.** Any non-city event which will require street closures, barricades, or diversion of traffic for any reason must be approved by City Council at least 30 days in advance.

**Section 14. Prohibited Activities.** The following activities are prohibited:

(a) **Animals in Parks.** It shall be unlawful for any person exercising ownership, care, custody, or control of a pet or animal to allow such pet or animal, which animal has not been licensed as required by law, upon any public property, playground, or park area located within the city. City leash laws apply within the confines of all city parks. Pets and/or animals are not permitted within the playscape areas, or any play areas that are designed for children. It shall also be unlawful for any person exercising ownership, care, custody or control of a pet or animal to allow such animal knowingly, intentional or negligently to deposit feces on any City property, unless said person removes the feces once deposited. Failure to carry feces removal supplies will be a violation of this section.

(b) **Bicycles, Skateboards, Roller-skates and all other modes of transportation, motorized and non-motorized.** It shall be unlawful for any person to operate a bicycle, skateboard, roller skates or any other mode of transportation, motorized or non-motorized in any city park upon any surface other than a vehicular road or path designed for that purpose. It shall also be unlawful to operate any mode of transportation described in this ordinance with any wheels or tires off the surface. Bicyclists and skaters shall, at all times in any city park, operate their machines with reasonable regard for the safety of others, signal all turns, pass to the right of any vehicle they are overtaking and pass to the right of any vehicle they may be meeting. A bicyclist shall be permitted to wheel or push a bicycle by and over any grass area or wooded trail or in any pathway reserved for pedestrian use. If an operator's license is required to operate the vehicle on public streets, it shall be required to have same license to operate vehicle on park roads. All wheeled modes of transportation must keep all wheels on park road or specifically designed and marked paths for that purpose.

(c) **Camping.** It shall be unlawful for any person to camp in any city park or playground, or set up any tent, shack, or other shelter, or lay out any bedroll or other sleeping equipment therein without first obtaining a permit pursuant to this ordinance.

(d) **Fires.** It shall be unlawful for any person to build or attempt to build a fire except in authorized BBQ grills specially designed for outdoors. No person shall drop, throw or otherwise scatter lighted matches, burning cigarettes, cigars, tobacco paper or other inflammable materials within any city park.

(e) **Hunting.** It shall be unlawful in any city park for any person to hunt, trap or pursue wild life at any time. No person shall use, carry or possess any kind of trapping device in any city park. Animal Control Officers and their designees shall be excluded from this section when in the performance of their duties.

(f) **Littering.**

(1) It shall be unlawful in any city park or city facility for any person to place or deposit any garbage, trash, discarded vegetation of any kind, or any other refuse except in

receptacles designated for such purpose by the city. It shall be unlawful to place or deposit any garbage, trash, discarded vegetation of any kind or any other refuse in any city park except that which was generated within the city park grounds. City trash receptacles shall never be used to discard trash, garbage, vegetation or other refuse which is brought to the park for the purpose of disposal.

(2) It shall be unlawful in any city park or city facility to fail to deposit any rubbish, refuse, garbage, or other material in receptacles provided in any public park or recreation area; where receptacles are not provided, persons shall carry rubbish or waste away from the park, and properly dispose of it elsewhere.

(3) It shall be unlawful to throw, discharge, or otherwise place or cause to be placed in the waters of any swimming pool, fountain, or body of water in or adjacent to any public park or recreation area, any substance, matter or thing, liquid or solid, which will or may result in the pollution of the water.

(g) Golfing. It shall be unlawful to participate in any golfing activity within city parks including hitting and/or discarding golf balls.

(h) Glass Containers. It shall be unlawful for any person to bring any glass beverage container into any city park within the city, or to possess any glass beverage container in any such park.

(i) Signs. It shall be unlawful for any person to paste, glue, tack or otherwise post any signs, placard, advertisement or inscription whatsoever nor shall any person erect or cause to be erected any sign whatsoever on any public land or highway or roads adjacent to any park or within any park without permission from the City Manager or his designate. This provision shall not apply to traffic control devices and/or signs authorized by the city council.

(j) Swimming, Boating and Floating. It shall be unlawful for any person to swim in or boat or float on any body of water at any city park except in the swimming pool and during designated hours.

(k) Traffic.

(1) It shall be unlawful for any person to drive or operate any type of motor vehicle in any city park at a speed greater than indicated by appropriate traffic signs.

(2) It shall be unlawful for any person to operate a motor vehicle, recreational vehicle or motorcycle in any city park except on the roadway in such parks.

(3) It shall be unlawful for any person to park any motor vehicle in any city park other than on the side of the roadway or in areas designated for parking.

- (4) This section shall not apply to the following persons if in the park or facility in their performance of their duties; peace officers, physicians responding to an emergency, ambulance operators and attendants, employees of the city and fire suppression personnel.
- (l) Use of tent stakes or any items being inserted into the ground, will be prohibited without express written permission from Parks Director or authorized Park personnel.

### **Section 15. Prohibiting Disruptive Conduct.**

(a) It shall be unlawful for any person to willfully interfere with, disrupt, or prevent the orderly conduct of persons utilizing the park facilities.

(b) It shall be unlawful for any person to refuse to leave the Park area after being advised by a city police officer or employee that his conduct is disruptive to others and being directed by such city officer or employee to leave the Park area.

(c) It shall be unlawful to conduct meetings or events which are detrimental to public health, safety and welfare or which create a nuisance within the parks. Examples of these activities are events which incite violence, riots, damage to persons or property and otherwise disturb the peace.

### **Section 16. Alcoholic Beverages.**

(a) It shall be unlawful for any person to possess, use or consume any alcoholic beverage, as defined in the Texas Alcoholic Beverage Code, as amended, on, or upon any public property within fifty (50) feet of, any softball or baseball field, soccer or football field, or tennis court, owned or operated by the city, which such field is being used for softball, baseball, soccer, football, or tennis purposes.

(b) It shall be unlawful for any person to possess, use, or consume any alcoholic beverage, as defined in the Texas Alcoholic Beverage Code, as amended, within the enclosed area of any swimming pool or upon public property within fifty (50) feet of the enclosed area of any swimming pool, that is being used for recreational purposes.

(c) Planned recreation or rallies as herein defined, that contemplate the possession, use, or consumption of any alcoholic beverage, as defined in the Texas Alcoholic Beverage Code, as amended, may be held within a designated area of a City Park, City Hall, Community Center, or City Square Gazebo, upon the submission to and approval by the Parks Director. Such application shall be made at least thirty (30) days preceding the event, which is the subject of the application. The application shall be submitted upon forms furnished by the city. The Director shall provide written notification of any event approved under this section to the Chief of Police at least 14 days prior to the scheduled event.

(d) For the purposes of this section, the term “planned recreation or rallies” shall be defined as any gathering of a group of people for a function which is not a supervised or implemented activity of the City so as to include family reunions or wedding receptions. For the purpose of this section, the designated area at any City Park, City Hall Community Center and City Square Gazebo shall be indicated on the permit.

(e) Nothing in this section shall be construed so as to prohibit the possession, use, or consumption of any alcoholic beverage, as defined in the Texas Alcoholic Beverage Code, as amended, in an area of a park appropriate for family picnics and that is not an area designated for another use, by a group while participating in a picnic or seated meal and consistent with requirements set forth in subsections: a, b, c, and d of this section.

**Section 17. Sports and Sports Equipment Lost.** Any recreational items misplaced on city park grounds will become property of the City of Kyle after one week if not claimed at the City Administrative Office.

**Section 18. Violators Required to Leave Park.** If any person violates or fails to comply with any provision of this Ordinance, after having been advised by an authorized enforcement agent of the City to cease such violation or failure, the City may require that person to leave any public park, public recreation area, or public swimming pool.

**Section 19. Authority of Park Attendant to Enforce Regulations.** The park attendant, as well as any City of Kyle Police Department Officer, is authorized to issue warnings and citations to any person or persons violating any rules or regulations applicable to the parks, swimming pools, or other city owned facilities. The park attendant is also designated as a park patrol officer.

**Section 20. Pool Rules.**

- Children under 12 years of age must be accompanied and supervised by a parent or competent person at least 18 years of age.
- Swimmers must wear proper attire; i.e. swimming suits or trunks. Diapers are not permitted in the pool. A clean tee shirt may be worn over proper swim attire.
- No running, fast walking, horseplay, or rough play allowed in the pool complex. No pushing, throwing, dunking, splashing, riding on shoulders, chicken fighting or any games or actions that may endanger swimmers or sunbathers.
- Admission to the pool may be denied for any of these reasons:
  - When an individual is apparently unable to care for themselves,
  - Intoxication,
  - Evidence of contagious disease,
  - Open sores, wounds or runny nose,
  - Excessively brief or revealing swim suits,
  - Any condition or evidence, which in the opinion of the manager will jeopardize the health and safety of the pool patrons or general public.

- Pool managers may eject persons from pool area for cause. In serious cases of misconduct, the PARD Director or City of Kyle Police should be called. In cases involving small children, the parents will be informed. No refunds of entry fee.
- Enforcement of rules:
  - First offense- rule is explained and warning issued,
  - Second offense- rule is explained and 1 hour “time out” enforced,
  - Third offense- person must leave for the day. No refund of entry fee.
- No loitering around cashiers or lifeguards on duty, or lifeguard stands. No one, except 1 lifeguard, allowed on or near lifeguard stand.
- The slides may be used only if user meets the height and weight requirements. Position to be maintained while going down slide is lying flat on back, feet first, arms crossed over chest and feet crossed. Sunglasses must be removed before using the slides. Parents may not ride on slide with child on lap. Only one person at a time on slide, steps or platform. Sliders should immediately swim to nearest ladder or away from slide area. No swimmers allowed in area of pool near slides.
- State Health Code requires that all guests must shower before entering the pool.
- Swimmers are not to hang or pull on lifelines, ropes, nets or rims. Mistreatment or abuse of pool property or other patron’s personal property will not be tolerated. No swinging on ladders, playing on or near the ladders and no jumping off of ladders.
- No flips, somersaults, twists or belly flops allowed. Jump into pool facing forward and feet first only.
- Abusive or profane language will not be tolerated.
- Facemasks and goggles are permitted provided they are properly used and have non-breakable lens. Facemasks and goggles are not permitted on the slides.
- No glass containers allowed in pool complex.
- No outside drinks or food permitted. No ice chests allowed in pool complex. The only exception is private parties or special use events.
- Smoking or tobacco use of any type is not allowed in pool complex
- No alcohol, in any form, is allowed in pool complex.
- The City of Kyle is not responsible for personal belongings. Please do not bring valuables to pool complex. Locks left on pool lockers at end of day will be removed.
- The lifeguard(s) on duty is ALWAYS in charge.
- Children 5 years and younger must be within arm’s reach of an adult while in water.
- No animals will be allowed in the pool complex.
- The pool will be closed for thunderstorms at first sign of lightning or thunder. The pool will re-open 30 minutes after last thunder is heard.
- Flotation devices will be permitted at the manager’s discretion. Inflatable beach balls, sponge balls, squirt guns, noodles or other pool toys are allowed in the pool during non-crowded conditions and at the manager’s discretion.
- Any and all injuries occurring within the pool complex must be reported to the manager on duty immediately. Accident/Incident reports must be filled out and turned in to the PARD Director daily.
- All infants and toddlers not potty trained will be required to wear swim diapers.

- Upon entry, every person will give their name, city of residence and phone number, even non swimmers and sunbathers.
- 10 minute safety breaks each hour. At 10 minutes before the hour, each hour, all swimmers must get out of pool. This break is for the water quality to be checked, lifeguards to take a break and swimmers to take a break. The only one's allowed in pool during this break is adults in the swim lanes, swimming laps only.

**Section 21-22. Reserved.**

**ARTICLE IV. STANDARDS OF CARE FOR PARKS AND RECREATION  
DEPARTMENT PROGRAMS FOR CHILDREN**

**Section 23: Standards of Care For Parks and Recreation Department Programs for Youth.**

- 23.01 Authority
- 23.02 Programs, administration
- 23.03 Enforcement
- 23.04 Staffing ratios
- 23.05 Staff qualifications
- 23.06 Training
- 23.07 Personnel restriction
- 23.08 Facility operation; physical environment
- 23.09 Physical health standards
- 23.10 Medication standards
- 23.11 Distribution of standards
- 23.12 Applicability

**Appendix II: Criminal Offenses Texas Penal Code**

**Section 23.01- Authority.**

The Council adopts these general administrative standards for the City of Kyle Parks and Recreation Department's youth recreational programs. These general administrative standards, or the failure in any instance or circumstance to comply with the same, shall not create any right, cause of action, or claim for damages on the part of any person.

**Section 23.02 Program; Administration.**

- (1) The department shall operate recreational programs in compliance with this section and the department's rules adopted under this section.
- (2) The Director or designee shall administer the programs.

### Section 23.03 Enforcement.

(1) The Director or designee may adopt Standard Operating Procedures relating to the operation of the programs. If approved in writing by the City Manager, a rule adopted under this section may be more restrictive than the minimum standards adopted by the section. These Standard Operating Procedures may be subject to review of the City Council.

(2) The Director or designee shall monitor the programs for performance. Compliance with the standards adopted in this section and the rules will be a factor in determining and rating the performance of the programs.

### Section 23.04 Staffing Ratios.

(1) The targeted staff-to-participant ratios for recreational programs are:

(a) PROGRAMS:

Age	Number of Participants	Number of Staff
0-5	1-10	1
6-9	1-15	1
10-15	1-17	1

Programs for Participants with Disabilities:

Age	Number of Participants	Number of Staff
0-5	1-4	1
6-9	1-8	1
10-15	1-10	1

(b) GROUP SWIMMING:

Age	Number of Participants	Number of Staff
<i>Swimming Pools:</i>		
0-5	1-10	1
6-9	1-15	1
10-15	1-17	1
<i>Wading Pools:</i>		
0-5	1-10	1
6-9	1-15	1
10-15	1-17	1

Programs for Participants with Disabilities:

Age	Number of Participants	Number of Staff
<i>Swimming Pools:</i>		

0-5	1-2	1
6-9	1-5	1
10-15	1-8	1
<i>Wading Pools:</i>		
0-5	1-3	1
6-9	1-7	1
10-15	1-10	1

- (2) Swimming activities sponsored by the Parks & Recreation Department and taking place other than at City parks must be guarded by a certified lifeguard at a 1 to 30 ratio.
- (3) There shall be at least one program staff for each class or group enrolled in a recreational program.
- (4) A volunteer who is at least 18 years old may be included in the staff-to-participant ratios.

#### **Section 23.05 Staff Qualifications.**

- (1) Except for Camp Counselors, program staff must be at least 18 years old, unless approved by the director. Camp counselors supervising youth 10 years and under must be at least 18 years old. Camp Counselors supervising youth 11 years and older must be at least 21 years old.
- (2) All junior program staff must be at least 16 years old and should not be in charge of or left alone with a group of participants. Junior program staff may be included in the staff-to-participant ratio when working with program staff.
- (3) All program staff should possess certification, or be pursuing certification, from a nationally recognized organization in the following areas:
- Community Water Safety, if applicable.
  - Community CPR or equivalent; and
  - First Aid

#### **Section 23.06 Training.**

- (1) The Director or designee shall establish training requirements for all program staff and volunteers who provide direct care or supervision to participants.
- (2) Each program staff member who supervises children in swimming or other water activities occurring in more than two feet of water must be able to swim and shall be trained in community water safety. A person who is not counted in the minimum staff-to-participant ratio is not required to meet these requirements.

#### **Section 23.07 Personnel Restriction.**

- (1) A person may not be employed or serve as a volunteer in a recreational program if the person is known to have been arrested for, charged with, or convicted of:
- a. An offense in Appendix I attached to and adopted as part of this ordinance; or
  - b. An offense classified as a felony under the Texas Controlled Substances Act, Health and Safety Code Chapter 481;

Provided that a person has been arrested and found not guilty on the charge, or if the charge has been dismissed, such person shall not be automatically disqualified.

- (2) The Director or designee is authorized to obtain a criminal history record of any employee or volunteer working or seeking to work in a recreational program.

### **Section 23.08 Facility Operation; Physical Environment.**

- (1) The department should not operate a recreational program at a facility unless the following requirements are met:
- a. The facility and equipment used in the program do not present any known fire, health or safety hazards and are kept free of accumulations of objectionable refuse and debris.
  - b. The facility has undergone an annual safety inspection.
  - c. The facility should generally be kept reasonably free of insects, rodents, and stray animals.
  - d. If the facility is a building, the facility should be provided with clearly marked exits for use in emergency.
  - e. A disaster and evacuation procedure should be posted at the facility.
  - f. The facility should be used and maintained in accordance with any requirements established by city ordinances and written administrative directives approved by the City Manager, and written orders issued by the Fire Marshall of the appropriate jurisdiction related to fire prevention. Fire drills should be conducted annually at each facility that is a building in which scheduled recreational programs are provided.
  - g. First aid kits and infection control kits should be available at the facility and taken to other locations at which the participants are engaged in program activities.
  - h. First aid guidelines should be on file, and available at the facility, and include:

- i. CPR/Rescue Breathing Sequence Guidelines;
    - ii. First aid review; and
    - iii. Medical emergency procedures.
  - i. The facility must have a sufficient number of restrooms maintained in good repair and equipped for independent use by children, and designed to permit staff supervision as needed.
- (2) Campgrounds and primitively maintained facilities shall comply with the requirements of subsection (1) to the extent reasonably possible.

### **Section 23.9 Physical Health Standards.**

- (1) A child who is ill or injured shall be supervised until the parent or other authorized adult removes the child from the facility.
- (2) A child whose illness or medical condition requires a degree of supervision by staff that would compromise the health or safety of the other participants must be kept separate from the other participants until the child is removed from the facility.
- (3) A child whose illness or medical condition prevents the child from comfortably participating in program activities or places other participants at risk may not be admitted or readmitted to the facility for the duration of the illness or condition.
- (4) In the case of an acute illness or injury to a child, staff shall call for an emergency vehicle to transport the child.

### **Section 23.10 Medication Standards.**

- (1) A staff member may not administer medication to a participant without a written parental medication authorization. Staff may not knowingly administer medication that is not in its original container or that is past the expiration date on the container.
- (2) A staff member may not administer injections. A staff member may not administer an amount of medication that is inconsistent with the prescribed dosage and parental direction.
- (3) A staff member may not accept more than a one-week supply of medication for a participant and the member shall return the unused medication to the parent on the last program day of the week.
- (4) Medication must be kept in a secured location that is not accessible by participants.
- (5) A staff member shall maintain a medication log that includes the name of the child to whom the medication is administered the time the medication is dispensed, and the name of the person

dispensing the medication.

**Section 23.11 Distribution of these Standards.**

- (1) The department shall post and make available copies of these standards and the rules adopted pursuant to this section.
- (2) The department shall notify the parents of each prospective participant that the recreational programs are not licensed by the state. The programs may not be advertised as child-care facilities.

**Section 23.12 Applicability.**

If this Section 23 conflicts with another section, this section controls.

**ARTICLE V: RESERVING PARK FACILITIES**

**Section 24. Park and Facilities Use Permits.**

No person, group or organization shall be entitled to exclusive use of any City park, recreational facility, City Hall Community Center or City Square Gazebo, or any part thereof, owned or operated by the city unless such person, group or organization shall first obtain a permit for such exclusive use from the Director or his designate. Groups of 25 people or more wishing to use, or reserve, or conduct a special event in any public park or recreation area within the City, including but not limited to carnivals, fairs, picnics, or barbecues, must obtain a group use permit from the City in accordance with this Ordinance.

**Section 25. Standards for Issuance.**

- (a) Reservation/Application Procedures:
  - (1) A minimum of two (2) weeks notice shall be required to reserve sport field facilities or areas within a park for any function. Under special circumstances, the Director may waive this requirement, if warranted.
  - (2) Reservations shall be on a first come – first serve basis.
  - (3) Reservations shall be required in writing upon a form to be provided by the City.
  - (4) Phone reservations will not be accepted. Confirmation of existing reservations by phone is encouraged.
  - (5) Reservations shall be accepted no earlier than six (6) months prior to a specific date requested for the City Hall, Community Center or City Square Gazebo, save and

except annual events approved to be continuing annual events by the Board.

- (6) An inventory form shall be properly filled out prior to and after any event by the user, and verified by the designated City Staff.
- (7) Users shall obtain keys, if necessary, from City staff on the day of the event. Keys shall be returned to City staff the next day or placed in the mail box receptacle at the front door, after securing the premises. Events scheduled for the weekend shall be planned to ensure keys are exchanged during hours that City staff is working.

(b) Any person, group or organization applying for a use permit shall pay a deposit as established by this ordinance, unless waived by the Director or his designate, after review of the written request for waiver. The Director may waive fees for non-profit community based or sponsored events open to the general public. No person, group or organization shall be entitled to the issuance of a permit. The Director may refer matters to the Board for review and recommendation if the Director feels the proposed use is not appropriate. The Director and /or the Board shall deny the permit if it affirmatively finds any of the following:

- (1) The park or facility is to be used for any unlawful purpose; or
- (2) The time, place or manner of use of the park or facility is likely to cause substantial disturbance to persons occupying property adjoining the facility; or
- (3) The time, place or manner of use of the facility is likely to result in damage to city property; or
- (4) If the application for the permit is made such that there is not sufficient time to make the above determinations; or
- (5) The proposed activity or use will reasonably interfere with or detract from the general public's enjoyment of the park or recreation area; or
- (6) The proposed activity and use will reasonably interfere with or detract from the promotion of public health, welfare, safety and recreation; or
- (7) The proposed activity will entail extraordinary or burdensome expense or personnel needs of the City; or
- (8) The facilities desired have been reserved for other use on the date and hour requested in the application; or
- (9) The failure to clean a facility to the satisfaction of the Board and/or Parks Recreation Director after a prior use of such facility regardless of whether such prior use was under a permit provided for herein, or not.

**Section 26. Contents of Park or Facility Use Permits.**

The use permit shall contain the following information:

- (1) The name, address and telephone number of the person, group or organization issued such permit; and
- (2) The date(s) and time(s) for which such permit is effective; and
- (3) The facility or part of the facility which the permittee is authorized to use; and
- (4) The activity for which the permit is issued; and
- (5) Such other conditions as the City Manager and/or the Director or their designate may deem appropriate to minimize disturbance to surrounding property, avoid traffic congestion, and to avoid destruction of city property.

The items mentioned above are not the only items which the Board may include in such permit but are the items which must be contained in such permit.

**Section 27. Permission Required to use any Playing Fields.**

No person, group or organization shall be entitled to the exclusive use of, or shall play any game on, or otherwise make use of any playing field belonging to the city, unless written permission for using the field at the designated time is first obtained from the Director. Use of fields on an on-going basis must be formally approved by the Board. Fields not in used under the provisions of an issued permit are open to general use by the public.

In granting or refusing such permission the Board, or the Director, shall be guided by the following standards:

- (1) Whether the field has already been reserved or applied for by someone else for approximately the same time;
- (2) Whether the field is in proper condition for use;
- (3) Whether the person applying for the field is of sufficient age and responsibility to exercise reasonable care in its use;
- (4) Whether the proposed use and the hours requested are such that other users of the park or residents of the neighborhood will not be subjected to undue inconvenience.
- (5) Any other factor which may reasonably bear upon the matter.

**Section 28. Insurance and Bond.**

The city and its agents disclaim all liability resulting from exclusive use of park, facilities and/or equipment for events which are open to the public. Sponsors of these public events must provide proof of insurance indemnifying the city against any liability arising from such exclusive use. However, closed events, such as but not limited to, birthday parties, family reunions and weddings, will not require the liability insurance. The proof of insurance is required at time permit is issued. The Board, the Director or his designate may require any applicant for a park or facilities use permit to post a bond in sufficient amount to indemnify the city against all loss, expense of special police protection, or anticipated damages to the park or its facilities or the expense of cleaning up the park or facility after the proposed activity. The posting of such bond, when requested, shall be condition precedent to the issuance of the park use permit, but such bond shall not be for an amount in excess of the anticipated city expenditures with record to the activity for which the bond is required.

**Section 29. Revocation of Permit.**

A use permit may be revoked at any time by the Parks & Recreation Director or his designate for reasons which may include, but are not limited to, misrepresentation of information given at the time of permit application, failure to comply with conditions on the permit, violation of this ordinance or assignment of the permit to another party without the prior written permission of the Parks & Recreation Director or his designate.

**Section 30. Display of Permit.**

The use permit must be displayed in a manner that a city agent can view it without effort. It must be displayed during the entire event, from times and dates listed on permit. Failure to display permit may result in revocation of permit.

**Section 31. Appeal of Denial.**

(a) Any applicant denied a permit may appeal such denial to the Board by filing a request for review with the City Secretary in writing within three (3) days after written notice of such denial has been received. The City Secretary shall place such denial on the agenda for the next regular Board meeting.

(b) Any organization or individual shall retain the right to appeal or request a waiver to any of the provisions of this ordinance by filing a request with the City Secretary for consideration by the Board.

(c) Any decisions of the Board may be appealed to the City Council within three (3) days after written notice of a denial from the Board by filing a request for review with the City Secretary within three (3) days after written notice of denial has been received. The decision of the City Council shall be final.

(d) If the permit is denied with insufficient time for it to be considered by the City Council under the provisions of this section, then, in that event the appeal shall be heard by the City Council at the next regular or special meeting of the City Council for which notice may be given.

### **Section 32. Fees.**

The fees and charges set forth in Appendix I are hereby adopted and incorporated herein.

(a) The Board, with the concurrence of the City Council, reserves the right to lower or waive any or all of the fees, charges, or deposits listed in this Ordinance. The Director, at his sole discretion, may reduce or waive fees upon proper demonstration that the entity making the payment is a non-profit organizations and youth-oriented function.

(b) Deposits. A deposit established in Appendix I to protect the city against possible clean up, lost key, and repair expenses. The deposit is to be paid with cash, check or money order. Any refund of deposit will be repaid by the city with a city check within thirty (30) working days after the event. The key is to be returned to the City the day after the event. It shall be an offense under this ordinance for anyone to duplicated, retain or copy any such key. If the key is not returned, the entire deposit will be forfeited.

(c) All damages and clean-up charges, if any, will be deducted from the deposit prior to the City providing any refund as described under this subsection. Any and all damage or clean-up charges in excess of the deposit will be billed to the responsible person or organization for payment to the city. Should any person or organization responsible fail to pay for any additional damage or clean-up charges within fifteen (15) days of notification by the city, that person or organization shall be barred from using the facility as deemed appropriate. Appeals pursuant to this policy shall be made to the City Council. Council shall have final authority to waive or lower charges, to extend the deadline for payment, or to shorten or waive the penalty.

## **ARTICLE VI. GENERAL PROVISIONS**

### **Section 33. Separation Clause.**

Should any section, subsection, sentence, clause or phrase of this ordinance be held invalid or unenforceable such decision or decisions shall not be construed to affect the validity of the remaining portions of this ordinance.

### **Section 34. Repeal of Conflicting Ordinances.**

Ordinance 330-3 and 226 are here by amended in their entirety. All parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict only. In the event of a conflict or inconsistency between this ordinance and any other code or ordinance of the City, the terms and provisions of the most restrictive ordinance shall govern.

**Section 35. Violation and Penalties.**

It shall be unlawful for any person or persons to violate the provisions of this Ordinance. Any person who violates this Ordinance or part thereof shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$50.00 or more than \$500.00. Each day that such violation continues shall be deemed a separate offense.

**Section 36. Open Meetings.**

That it is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapt. 551, Loc. Gov't. Code.

**Section 37. Effective Date.**

This Ordinance shall be in full force and effect from and after the date of its final passage and adoption in accordance with the provisions of the Kyle City Charter.

**PASSED AND APPROVED** on First Reading this \_\_\_\_ day of \_\_\_\_\_, 2005.

**FINALLY PASSED AND APPROVED** on this the \_\_\_\_ day of \_\_\_\_\_, 2005.

ATTEST:

**CITY OF KYLE, TEXAS**

\_\_\_\_\_  
Minerva Falcon, City Secretary

\_\_\_\_\_  
James L. Adkins, Mayor

## APPENDIX I FEES

The following use fees are hereby established:

(a) Usage Fees are as follows:

1. City Hall Community Center (inside) -\$30 per hour with \$150 max. per day.
2. City Square (excludes Community Center and Gazebo):
  - (i) \$20 per hour with \$100 max. per day – without electricity.
  - (ii) \$25 per hour with \$125 max per day – with one breaker of electricity.
  - (iii) an additional \$5 per hour for each breaker of electricity needed.
3. City Gazebo – (with electricity) \$10 per hour with \$100 max per day.
4. Sport Field (Softball or Football):
  - (i) Without lights or Electricity - \$10 per hour with \$50 max per day.
  - (ii) With lights and electricity - \$25 per hour with \$125 max per day.
  - (iii) Tennis Court with lights - \$5 per hour with \$20 max per day.
5. Concession stand with Restrooms - \$10 per hour with \$50 max per day.
6. Covered Pavilion -
  - (i) Without Electricity - \$20 per hour with \$100 max per day.
  - (ii) With Electricity - \$25 per hour with \$125 max per day.
7. City Park area – fee will depend on amount of space needed for event. Proposals will need to be presented to the Park Board and City Council to establish the rate. Electricity will be charged at a rate of \$25 per hour per breaker with \$125 max per day per breaker.
8. Kyle Swimming Pool- Daily Use Fees-
  - (a) Kyle Residents:
    - (i) Ages 3 and under – Free,
    - (ii) Ages 4-12 - \$1.00
    - (iii) Ages 13-17 - \$1.50
    - (iv) Ages 18- 54 - \$2.00
    - (v) Ages 55 plus - \$ 1.00
  - (b) Non-Kyle Residents: Ages 4 plus - \$3.00
9. Kyle Swimming Pool- Season Pass
  - (a) Kyle Residents:
    - (i) Ages 3 and under – Free
    - (ii) Ages 4-12 - \$30.00
    - (iii) Ages 13 - 17 - \$35.00
    - (iv) Ages 18-54 - \$ 40.00
    - (v) Ages 55 plus - \$30.00
    - (vi) Family of five (5) - \$150 (additional family members purchase pass for

their age group)

(b) Non-Kyle Residents:

(i) Ages 3 and under – Free

(ii) Ages 4-12 - \$60.00

(iii) Ages 13-17 - \$ 70.00

(iv) Ages 18-54 - \$80.00

(v) Ages 55 plus - \$60.00

(vi) Family of Five (5) - \$300 (additional family members purchase pass for  
Their age group)

10. Kyle Swimming Pool- 2 hour minimum - \$350 and \$150 each extra hour (includes City Lifeguards).

(b) Deposits. A deposit equal to estimated total expense of use permit issued, plus \$100 will be charged.

**APPENDIX II**  
**CRIMINAL OFFENSES TEXAS PENAL CODE**

**Title 5. Offenses Against the Person**

**Chapter 19. Criminal Homicide**

- §19.02. Murder
- §19.03. Capital Murder
- §19.04. Manslaughter
- §19.05. Criminally Negligent Homicide

**Chapter 20. Kidnapping and Unlawful Restraint**

- §20.02. Unlawful Restraint
- §20.03. Kidnapping
- §20.04. Aggravated Kidnapping

**Chapter 21. Sexual Offenses**

- §21.06. Homosexual Conduct
- §21.07. Public Lewdness
- §21.11. Indecency With a Child

**Chapter 22. Assaultive Offenses**

- §22.01. Assault
- §22.011. Sexual Assault
- §22.02. Aggravated Sexual Assault
  
- §22.04. Injury to a Child, Elderly Individual, or Disabled Individual
  
- §22.041. Abandoning or Endangering a Child
- §22.05. Deadly Conduct
- §22.07. Terroristic Threat
- §22.08. Aiding Suicide
- §22.09. Tampering with Consumer Products
- §22.10. Leaving a Child in a Vehicle

**Title 6. Offenses Against the Family.**

- §25.01. Bigamy
- §25.02. Prohibited Sexual Conduct
- §25.03. Interference with Child Custody
- §25.031. Agreement to Abduct from Custody
- §25.04. Enticing a Child
- §25.06. Harboring a Runaway Child
- §25.07. Violation of Protective Order or Magistrate's Order
- §25.08. Sale or Purchase of Child
- §25.09. Advertising for Placement of Child

**Title 9. Offenses Against Public Order and Decency****Chapter 42. Disorderly Conduct and Related Offenses**

- §42.01. Disorderly Conduct
- §42.07. Harassment
- §42.072. Stalking

**Chapter 43. Public Indecency****Subchapter A. Prostitution**

- §43.02. Prostitution
- §43.03. Promotion of Prostitution
- §43.04. Aggravated Promotion of Prostitution
- §43.05. Compelling Prostitution

**Subchapter B. Obscenity**

- §43.22. Obscene Display or Distribution
- §43.23. Obscenity
  
- §43.24. Sale, Distribution, or Display of Harmful Material to Minor
  
- §43.25. Sexual Performance by a Child.
- §43.251. Employment Harmful to Children
- §43.26. Possession or Promotion of Child Pornography