

ORDINANCE NO. 0-2010-120

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS, CHAPTER 8, "PARKS", ARTICLE I, "IN GENERAL", SECTION 8-5. "PARKS CLOSED DURING CERTAIN HOURS", TO CHANGE THE HOURS OF OPERATION OF THE TYLER ROSE GARDEN TO BE CLOSED FROM SUNSET TO SUNRISE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, it is the intent of the City Council to protect the public health, safety and welfare; and

WHEREAS, municipalities may, under their police powers, enact reasonable regulations not in conflict with State law that promote the health, safety and welfare of citizens; and

WHEREAS, the City of Tyler is a home-rule municipality acting under its Charter adopted by the electorate pursuant to Article 11, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, Texas Local Government Code Section 51.001(1) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is for the good government, peace, or order of the municipality; and

WHEREAS, Texas Local Government Code Section 51.001(2) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality; and

WHEREAS, in response to increasing incidents requiring police intervention occurring at Children's Park after dark, the Parks and Recreation Department is concerned about protecting the safety and welfare of citizens and preserving the peace and order of this site; and

WHEREAS, City Code Section 8-1.b. states that the Tyler Parks Board shall make recommendations to the City Manager and City Council with reference to the operation and maintenance of public parks in the City; and

WHEREAS, Tyler City Code Section 8-6 provides that the Tyler Parks Board shall formulate and recommend to the City Council rules and regulations for the management of individual public parks and recreation areas and the protection of the public health, safety, and welfare; and

WHEREAS, on October 25, 2010, the Tyler Parks Board considered this ordinance and voted to recommend approval; and

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

PART 1: That Tyler City Code Chapter 8, "Parks", Article I, "In General", Section 8-5, "Parks closed during certain hours", subsection a., is hereby amended to read as follows:

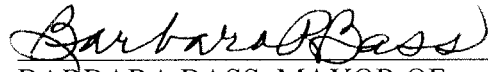
Section 8-5. Parks closed during certain hours.

a. All public parks owned and operated by the City, except Bergfeld Park, Hillside Park, Children's Park and the Tyler Rose Garden, shall be closed to the public between the hours of 12:01 a.m. and 6:00 a.m., and it is unlawful to enter a park or remain upon a park during hours when a park is closed. (Bergfeld Park shall be closed from sunset to sunrise, with the exception of the lighted tennis court area wherein tennis may be played until 10:00 p.m.) (Hillside Park and the Tyler Rose Garden shall be closed from sunset to sunrise) (Children's Park shall be closed from 10:00 p.m. until 6:00 a.m.) (Ord. No. 0-2006-39, 4/12/06) (0-2010-120, 11/10/10)

PART 2: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3: That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this ordinance has a penalty for violation, it shall become effective upon its publication in the newspaper as provided by Section 85 of the Charter of the City of Tyler, Texas, which date is expected to be November 12, 2010.

PASSED AND APPROVED this 10th day of November, A. D., 2010.



BARBARA BASS, MAYOR OF
THE CITY OF TYLER, TEXAS

ATTEST:

APPROVED:



CASSANDRA BRAGER, CITY CLERK



GARY C. LANDERS, CITY ATTORNEY

