

**ORDINANCE NO. 17-07**

**AN ORDINANCE AMENDING LEE COUNTY ORDINANCE 06-26, AS AMENDED BY ORDINANCE 10-41 and 11-02, KNOWN AS THE LEE COUNTY PARKS AND RECREATION ORDINANCE TO AMEND SECTION 10.9 PERTAINING TO INTOXICATING BEVERAGES AND ILLEGAL SUBSTANCES TO ALLOW SALE SERVICE AND CONSUMPTION OF ALCOHOLIC BEVERAGES ON COUNTY PARK PROPERTY UNDER CERTAIN LIMITED CIRCUMSTANCES; PROVIDING FOR CONFLICTS, INCLUSION IN THE CODE, SEVERABILITY; PERTAINING TO MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; AND AN EFFECTIVE DATE.**

**WHEREAS**, the recreational use of the public parks is a treasured asset of this county which is afforded to the public at large, including residents of and visitors to the County; and

**WHEREAS**, it is in the interest of the public health, safety and welfare that certain controls and regulations be placed on persons using public park resources to ensure maximum enjoyment of the resources by the general public while affording protection and preservation of natural and manmade resources and reducing the risk of injury to park patrons; and

**WHEREAS**, the provisions of Ordinances 06-26 and 11-02 pertaining to intoxicating beverages and illegal substances must be amended to afford the County latitude to allow the sale, service and consumption of alcoholic beverages on County park property under certain limited circumstances.

NOW THEREFORE, be it ordained by the Board of County Commissioners of Lee County, Florida, that an amendment to Lee County Ordinances 06-26 and 11-02, as amended, is hereby adopted as follows:

**SECTION ONE: AMENDMENT OF SECTION 10.9.**

Lee County Parks and Recreation Ordinance 06-26, Section 10.9 pertaining to intoxicating beverages and illegal substances is hereby amended as follows, with deleted text identified by strike through and additional text identified by underlining.

**10.9. INTOXICATING BEVERAGES/ILLEGAL SUBSTANCES.**

**(A) GENERAL PROHIBITION.** Except as herein provided, no person may

- (1) Possess, consume, use, sell or distribute alcoholic or intoxicating beverages, or illegal substances in any park.
- (2) Enter or remain in any park under the influence of alcohol, other intoxicants, or illegal substances.

**(B) EXCEPTION.** The sale, service and consumption of alcoholic beverages may be permitted on county park property only in accord with the following:

(1) *BOCC approval.*

- (a) The Board may permit the sale, service and consumption of alcoholic beverages on county park property pursuant to a written agreement, contract, lease or license, specifically permitting the activity. The agreement, contract, lease, or license must be formally approved by the Board, signed by the chairman, and may include conditions on the sale of alcoholic beverages intended to protect the public health, safety and welfare.
- (b) Board approval does not eliminate the need for the entity to obtain the necessary state and local permits allowing the sale, service and consumption of alcoholic beverages.
- (c) The Board's approval will be obtained by scheduling consideration of the contract or agreement during a regularly scheduled Tuesday Board meeting.

(2) *County Manager approval.* The County Manager may permit the sale, service and consumption of alcoholic beverages on county park property for a specific event, if

- (a) The event coordinator/entity obtains a permit to sell, serve and consume alcohol on County property in accordance with LCO ~~95-09~~14-15;
- (b) The event coordinator/entity obtains a permit to use county property in accordance Administrative Code 8-1; and
- (c) The event coordinator/entity obtains a special event permit in accordance with LCO ~~94-26~~14-15, if required.

- (3) No more than two event permits allowing the sale, service or consumption of alcoholic beverages may be issued ~~by the County Manager to a~~ for a single park location in any calendar year, unless otherwise specifically approved in writing by the Director prior to the event.
- (4) *Compliance with applicable regulations.* Any sale, service or consumption of alcoholic beverages on county property must be conducted in accord with all applicable state, federal and local regulations. The Board or the County Manager may place conditions on the approval to sell, serve and consume alcoholic beverages in a county park designed to protect the public health, safety and welfare.
- (5) Approval to sell, serve or consume alcoholic beverages on county park property is a privilege and not a right. Therefore, the Board and County Manager have the right and full discretion to deny a request for permission to sell, serve or consume alcoholic beverages on county property for any reason or no reason at all.
- (6) Decisions by the Board and County Manager under section 10.9 regarding a request to sell, serve or consume alcoholic beverages on county park property are not subject to appeal.

## **SECTION TWO: CONFLICTS OF LAW**

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

## **SECTION THREE: SEVERABILITY**

It is the Board of County Commissioner's intent that if any section, subsection, clause or provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such portion will become a separate provision and will not affect the remaining provisions of this ordinance. The Board of County Commissioners further declares its intent that this ordinance would have been adopted if such unconstitutional provision was not included.

## **SECTION FOUR: CODIFICATION AND SCRIVENER'S ERRORS**

The Board of County Commissioners intend that this ordinance will be made part of the Lee County Code; and that sections of this ordinance can be renumbered or relettered and that the word "ordinance" can be changed to "section", "article" or some other appropriate word or phrase to accomplish codification, and regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of

the County Administrator, County Manager or his designee, without the need for a public hearing.

**SECTION FIVE: MODIFICATION**

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

**SECTION SIX: EFFECTIVE DATE**

This ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State.

Commissioner Hamman made a motion to adopt the foregoing ordinance, seconded by Commissioner Pendergrass. The vote was as follows:

John E. Manning	Aye
Cecil L Pendergrass	Aye
Larry Kiker	Aye
Brian Hamman	Aye
Frank Mann	Absent

DULY PASSED AND ADOPTED this 15<sup>th</sup> day of August, 2017.

ATTEST:  
LINDA DOGGETT, CLERK

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

BY: Melissa Butler  
Deputy Clerk

BY: John Manning  
John Manning, Chair

APPROVED AS TO FORM FOR THE  
RELIANCE OF LEE COUNTY ONLY:

Ardelea R. Jones  
County Attorney's Office





## FLORIDA DEPARTMENT *of* STATE

**RICK SCOTT**  
Governor

**KEN DETZNER**  
Secretary of State

August 18, 2017

Honorable Linda Doggett  
Clerk of the Circuit Courts  
Lee County  
Post Office Box 2469  
Fort Myers, Florida 33902-2469

Attention: Melissa Butler

Dear Ms. Doggett:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Ordinance No. 17-07, which was filed in this office on August 18, 2017.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb

**RECEIVED**

*By mbutler at 2:47 pm, Aug 18, 2017*