

LEE COUNTY ORDINANCE NO. 18-27

AN ORDINANCE AMENDING LEE COUNTY ORDINANCE NO. 18-12 KNOWN AS THE PARKS AND RECREATION ORDINANCE REGULATING SECTION X: CONDUCT INCLUDING EXHIBIT B; SECTION XI: TRAFFIC VIOLATIONS; PROVIDING FOR CONFLICTS OF LAW; SEVERABILITY; CODIFICATION AND SCRIVENER'S ERRORS; PROVIDING FOR 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 Board of County Commissioners (Board) adopted the Parks and Recreation Ordinance No. 18-12 on March 20, 2018;

WHEREAS, the Board now desires to amend Lee County Ordinance No. 18-12.

NOW, THEREFORE, be it ordained by the Board of County Commissioners of Lee County, Florida that:

SECTION ONE: PURPOSE

This ordinance amends Lee County Ordinance No. 18-12 as set for herein. The amendments and revisions set forth in the following Sections are hereby adopted, with the underlined identifying added text and the strike-through type being the language deleted.

SECTION TWO: AMENDING SECTION X: CONDUCT

SECTION X: CONDUCT

10.1 SLEEPING Except for authorized campers in designated camping areas, no person shall sleep overnight in any area of a County park, including beaches, lawns, fields and wooded areas. No person shall sleep on park benches or picnic tables at any time.

~~**10.2 PANHANDLING** No person shall solicit alms or panhandle contributions for any purpose, whether public or private, without first obtaining a permit under Section 4.3 herein.~~

10.32 SMOKING Pursuant to Florida Statutes 386, "Florida Clean Indoor Air Act", as amended from time to time, no person shall smoke within the confines of any school property or indoor park facility. No e-cigarette or vaping use is permitted on school property or indoor park facility.

10.43 GAMES OF CHANCE No person shall gamble, or participate in or abet any game of chance except as authorized by the Director or designee.

10.54 SIGNS No person shall carry on or engage in any activity which is expressly prohibited by a posted sign except as permitted by law.

10.65 CONGREGATE No person or group of persons shall congregate in the vicinity of a public restroom, facility entrance or near an area designated for vehicle parking or other public use area so as to interfere with its use or accessibility by other persons.

10.76 NUDITY IN PARKS OR BEACHES In every area on park property, including beaches and outdoor shower facilities, all persons must be covered

with clothing or a bathing suit so as to prevent nudity. Persons are permitted to dress and undress in bathing houses, restrooms or structures as may be provided and maintained by the park for that purpose.

Nudity is defined as the showing of the human male or female genitals, or pubic area with less than a fully opaque covering; or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the areola or the depiction of covered male genitals in a discernibly turgid state. A mother's breastfeeding of her baby does not under any circumstance constitute "nudity".

10.87 (Reserved)

10.98 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 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 14-15; and
- 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 14-15, if required.

3. No more than two event permits allowing the sale, service or consumption of alcoholic beverages may be issued for a single park location in any calendar year, unless otherwise specifically approved in writing by the Director or designee 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.

10.409 OBSTRUCTION OF WALKWAYS/BENCHES/PUBLIC

AREAS No person shall obstruct walkways so as to interfere with its use by other persons.

10.4410 CLIMBING UPON PARK PROPERTY No person shall climb any tree or walk, or stand or sit upon monuments, vases, fountains, railings, fences or upon any other property not designated or customarily used for such purposes.

10.4211 DEFACING OF BUILDINGS AND OTHER PARK

PROPERTY No person shall willfully mark, soil, deface, or injure in any way, or displace, remove or tamper with, any park building, bridge, public restroom and washroom facility, table, bench, fireplace or other cooking facility, railing, paving or paving material, water line or other public utility or parts or appurtenances thereof or equipment thereon, park sign, notice or placard, whether temporary or permanent, monument, stake, post, or other boundary marker, or other structure or equipment, facility or park property or appurtenance whatsoever, either real or personal.

10.4312 METAL DETECTORS No person shall use a metal detector (to locate coins, jewelry or other lost objects) on an athletic field or in an environmentally sensitive area or in an area that may pose a safety hazard unless authorized by the Director or designee.

10.4413 ENCROACHMENT No encroachment on parks' property will be permitted unless prior approval is obtained from the Director or designee.

10.4514 PIER DIVING AND/OR JUMPING In order to preserve the safety and welfare of the public, no person shall dive or jump from a Lee County park pier or other structure unless specifically designed for that purpose.

SECTION THREE: AMENDING SECTION XI: TRAFFIC VIOLATIONS

SECTION XI: TRAFFIC VIOLATIONS

Sections 11.1 **PARKING** through 11.2 **NIGHT PARKING** remain unchanged.

11.3 UNAUTHORIZED PARKING No person shall double-park any vehicle on any road or parkway unless so authorized by County staff and/or law enforcement. No person shall park any vehicle in any place other than that provided for by the Department nor shall any person park in any area posted with a NO PARKING sign. If a vehicle is found to be parked in violation of this Section, the Director is authorized to cause the vehicle to be towed. The County shall not be responsible for the payment of any fees necessary for the release of the vehicle. Any cost incurred by the County in the towing and storage of the vehicle shall be paid by the vehicle owner.

Sections 11.4 ACCESSIBLE PARKING through 11.12 MOUNTAIN

BIKING remain unchanged.

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SECTION FOUR: AMENDING EXHIBIT B

EXHIBIT "B"

**SCHEDULE OF FINES
FOR VIOLATION OF LEE COUNTY ORDINANCE 18-12**

| <u>Section #</u> | <u>Offense</u> | <u>1st Offense</u> | <u>2nd Offense</u> | <u>3rd or more Offenses</u> |
|------------------|---------------------------------------|--|--|--|
| 2.3 | Refusing to Accept/ Sign Citation | 2 nd degree misdemeanor, up to \$500.00 fine and/or 60 days in jail | 2 nd degree misdemeanor, up to \$500.00 fine and/or 60 days in jail | 2 nd degree misdemeanor, up to \$500.00 fine and/or 60 days in jail |
| 2.4 | Opposing/Resisting Ranger | Up to \$500.00 fine | Up to \$500.00 fine | Up to \$500.00 fine |
| 4.1 | Hours | \$100.00 | \$200.00 | \$400.00 |
| 4.2 | Within Closed Areas | \$100.00 | \$300.00 | \$500.00 |
| 4.3 | Permit | \$100.00 | \$250.00 | \$500.00 |
| 4.4 | Failure to Produce Exhibit Permits | \$100.00 | \$300.00 | \$500.00 |
| 4.5 | Interference with Permit | \$100.00 | \$300.00 | \$500.00 |
| 4.6 | Unauthorized Use | \$100.00 | \$300.00 | \$500.00 |
| 4.8 | Reservations | \$100.00 | \$300.00 | \$500.00 |
| 4.9 | Concession, Vending, Peddling | \$300.00 | \$400.00 | \$500.00 |
| 4.10 | Advertising/Commercial Signs | \$150.00 | \$300.00 | \$500.00 |
| 5.1 | Removal of Natural Objects | \$300.00 and/or Mandatory Court Appearance/ Restitution | \$400.00 and/or Mandatory Court Appearance/ Restitution | \$500.00 and/or Mandatory Court Appearance/ Restitution |
| 5.2 | Protection of Vegetation | \$300.00 and/or Mandatory Court Appearance/ Restitution | \$400.00 and/or Mandatory Court Appearance/ Restitution | \$500.00 and/or Mandatory Court Appearance/ Restitution |

| <u>Section #</u> | <u>Offense</u> | <u>1st Offense</u> | <u>2nd Offense</u> | <u>3rd or more Offenses</u> |
|------------------|---|---|---|---|
| 5.3 | Fire Control | \$300.00 and/or Mandatory Court Appearance/ Restitution | \$400.00 and/or Mandatory Court Appearance/ Restitution | \$500.00 and/or Mandatory Court Appearance/ Restitution |
| 5.4 | Wildlife Protection | \$300.00 and/or Mandatory Court Appearance | \$400.00 and/or Mandatory Court Appearance | \$500.00 and/or Mandatory Court Appearance |
| 5.5 | Introduction of Species | \$300.00 | \$400.00 | \$500.00 |
| 5.6 | Littering/Dumping | \$300.00 and/or Mandatory Court Appearance/ Restitution | \$400.00 and/or Mandatory Court Appearance/ Restitution | \$500.00 and/or Mandatory Court Appearance/ Restitution |
| 6.1 | Fireworks/Explosives | \$100.00 | \$200.00 | \$500.00 |
| 6.2 | Bathe/Swim in Unauthorized Area | \$75.00 | \$150.00 | \$300.00 |
| 6.3 | Surf/Ski | \$75.00 | \$150.00 | \$300.00 |
| 6.4 | Glass Containers | \$75.00 | \$150.00 | \$300.00 |
| 7.2 | Fishing Prohibitions | \$75.00 | \$150.00 | \$300.00 |
| 7.3 | Commercial Fishing | \$150.00 | \$300.00 | \$500.00 |
| 8.2 | Vessel Operation in Swimming Area | \$350.00 | \$400.00 | \$500.00 |
| 8.3 | Vessel Outside Swim Area | \$150.00 | \$300.00 | \$500.00 |
| 8.4 | Lakes Park Vessels | \$75.00 | \$150.00 | \$300.00 |
| 8.5 | Vessel Launch/Retrieval | \$75.00 | \$150.00 | \$300.00 |
| 8.6 | Public Docks | \$75.00 | \$150.00 | \$300.00 |
| 8.7 | Vessel Operation During Closed Hours | \$75.00 | \$150.00 | \$300.00 |
| 8.8 | Power Up on Launch Area | \$150.00 | \$300.00 | \$500.00 |

| <u>Section #</u> | <u>Offense</u> | <u>1st Offense</u> | <u>2nd Offense</u> | <u>3rd or more Offenses</u> |
|------------------|---|--------------------|-------------------------------|--|
| 9.1 | Picnicking | \$75.00 | \$150.00 | \$300.00 |
| 9.2 | Unauthorized Camping | \$75.00 | 150.00 | 300.00 |
| 9.3 | Unauthorized Games/Activities | \$75.00 | \$150.00 | \$300.00 |
| 9.4 | Unauthorized Equestrian Riding | \$100.00 | \$200.00 | \$500.00 |
| 9.6 | Domesticated Animals | \$100.00 | \$200.00 | \$500.00 |
| | Leash length | \$75.00 | \$150.00 | \$300.00 |
| | No Collar with Current License | \$75.00 | \$150.00 | \$300.00 |
| | Puppies under 4 Months/Dog in Heat | \$75.00 | v300.00 | \$500.00 |
| | No Adult Supervision | \$50.00 | \$100.00 | \$200.00 |
| | Dangerous Dog in Park | \$200.00 | \$250.00 | \$500.00 |
| | Noisy, Disturbing, Intimidating Dog | \$75.00 | \$150.00 | \$300.00 |
| | Dogs Destroying Park Property or Harassing Wildlife | \$100.00 | \$200.00 | \$300.00 |
| | Dog Tied in Park | \$75.00 | \$150.00 | \$300.00 |
| | Unattended Dog | \$75.00 | \$150.00 | \$300.00 |
| | Failure to Clean Up after Dog | \$100.00 | \$200.00 | \$300.00 |
| | Failure to Remove Dog after Warning by Staff | \$100.00 | \$250.00 | \$500.00 |
| | Dog Within Prohibited Area | \$75.00 | \$150.00 | \$300.00 |
| 9.7 | Unauthorized Use of Mobility Device | \$75.00 | \$150.00 | \$300.00 |
| 9.9 | Parachute, Glider Aircraft, Kiteboard | \$75.00 | \$150.00 | \$300.00 |
| 10.1 | Sleeping | \$75.00 | \$150.00 | \$300.00 |

| <u>Section #</u> | <u>Offense</u> | <u>1st Offense</u> | <u>2nd Offense</u> | <u>3rd or more Offenses</u> |
|------------------|---|--|--|--|
| 10.2 | Panhandle | \$75.00 | \$150.00 | \$300.00 |
| 10.32 | Smoking | \$100.00 | \$300.00 | \$500.00 |
| 10.43 | Games of Chance | \$75.00 | \$150.00 | \$300.00 |
| 10.54 | Failure to Obey Park Sign | \$150.00 | \$300.00 | \$500.00 |
| 10.65 | Congregate | \$75.00 | \$150.00 | \$300.00 |
| 10.76 | Nudity in Parks/Beaches | \$150.00 | \$300.00 | \$500.00 |
| 10.98 | Intoxicating and/or Illegal Substance | \$100.00 | \$200.00 | \$500.00 |
| 10.409 | Obstructing Walkway/Benches/ Public Area | \$75.00 | \$150.00 | \$300.00 |
| 10.4410 | Climbing Upon Park Property | \$75.00 | \$150.00 | \$300.00 |
| 10.4211 | Defacing Building/Park Property | \$250.00 Mandatory Court Appearance/ Restitution | \$350.00 Mandatory Court Appearance/ Restitution | \$500.00 Mandatory Court Appearance/ Restitution |
| 10.4312 | Metal Detecting | \$75.00 | \$150.00 | \$300.00 |
| 10.4413 | Encroachment | \$150.00 | \$300.00 | \$500.00 |
| 10.4514 | Pier Diving/Jumping | \$100.00 | \$200.00 | \$300.00 |
| 11.1 | Parking | \$18.00 | \$18.00 | \$18.00 |
| 11.2 | Night Parking | As designated by Ordinance 91-29, as amended from time to time | As designated by Ordinance 91-29, as amended from time to time | As designated by Ordinance No. 91-29, as amended from time to time |
| 11.3 | Unauthorized Parking | As designated by Ordinance No. 91-29, as amended from time to time | As designated by Ordinance No. 91-29, as amended from time to time; <u>towing and storage fees as applicable</u> | As designated by Ordinance No. 91-29, as amended from time to time; <u>towing and storage fees as applicable</u> |

| Section # | Offense | 1st Offense | 2nd Offense | 3rd or more Offenses |
|-------------|--|--|--|--|
| 11.4 | Accessible Parking Violation | As designated by Fla. Stat. 316.1955 and Ordinance 07-29, as amended from time to time | As designated by Fla. Stat. 316.1955 and Ordinance 07-29, as amended from time to time | As designated by Fla. Stat. 316.1955 and Ordinance 07-29, as amended from time to time |
| 11.5 | Unauthorized Motorized Vehicles | \$100.00 | \$250.00 | \$500.00 |
| 11.6 | State Motor Vehicle Laws | \$100.00 | \$250.00 | \$400.00 |
| 11.7 | Failure to Comply with Traffic Regulations | \$100.00 | \$250.00 | \$400.00 |
| 11.8 | Failure to Obey Traffic Signs | \$100.00 | \$250.00 | \$400.00 |
| 11.9 | Speed of Vehicles | \$100.00 | \$250.00 | \$400.00 |
| 11.10 | Repair/Wash Vehicles | \$75.00 | \$150.00 | \$300.00 |
| 11.11 | Bicycles | \$75.00 | \$150.00 | \$300.00 |
| 11.12 | Mountain Biking | \$75.00 | \$150.00 | \$300.00 |
| Exhibit "A" | Shark Fishing | \$500.00 Mandatory Court Appearance/ Restitution | \$500.00 Mandatory Court Appearance/ Restitution | \$500.00 Mandatory Court Appearance/ Restitution |

SECTION FIVE: CONFLICTS

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 shall apply.

SECTION SIX: SEVERABILITY

The provisions of this Ordinance are severable and it is the intention to confer the whole or any part of the powers herein provided for. If any of the provisions of this Ordinance shall be held unconstitutional by any court of competent jurisdiction, the

decision of such court shall not affect or impair any remaining provisions of this Ordinance. It is hereby declared to be the legislative intent that this Ordinance would have been adopted had such unconstitutional provision not been included therein.

SECTION SEVEN: INCLUSION IN CODE

It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Lee County Code and that sections of this Ordinance may be renumbered or relettered and the word "Ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions and regardless of whether such inclusion in the Code is accomplished. Sections of this Ordinance may be renumbered or relettered and the correction of typographical errors, which do not affect the intent, may be authorized by the County Manager or his or her designee, without need of Public Hearing, by filing a corrected or recodified copy of same with the Clerk of the Circuit Court.

SECTION EIGHT: EFFECTIVE DATE

This Ordinance shall become effective immediately upon receipt of official acknowledgment from the office of the Secretary of State of Florida that the Ordinance has been filed.

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THE FOREGOING ordinance was offered by Commissioner Manning who moved who moved its adoption. The motion was seconded by Commissioner Hamman and upon being put to a vote, the vote was as follows:

| | |
|-------------------|-----|
| John Manning | Aye |
| Cecil Pendergrass | Aye |
| Brian Hamman | Aye |
| Larry Kiker | Aye |
| Frank Mann | Aye |

DULY PASSED AND ADOPTED this 4th day of December, 2018.

ATTEST:
LINDA DOGGETT
CLERK OF THE COURT

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: Missy Flint
Deputy Clerk

By: Larry Kiker
Larry Kiker, Chair



APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

By: [Signature]
Office of the County Attorney

FLORIDA COUNTY ORDINANCE DATA RETRIEVAL SYSTEM
CODRS CODING FORM

COUNTY: Lee

COUNTY ORDINANCE #: 18-27

(e.g., 93-001)

PRIMARY KEYFIELD

DESCRIPTOR: Parks

SECONDARY KEYFIELD

DESCRIPTOR: _____

OTHER KEYFIELD

DESCRIPTOR: _____

ORDINANCE DESCRIPTION: Parks & Rec Ordinance

(25 Characters Maximum Including Spaces)

ORDINANCES AMENDED: (List below the ordinances that are amended by this legislation. If more than two, list the most recent two.)

AMENDMENT #1: 18-12

AMENDMENT #2: 11-09

ORDINANCES REPEALED: (List below the ordinances that are repealed by this legislation.)

REPEAL #1: _____ ; REPEAL #3: _____

REPEAL #2: _____ ; REPEAL #4: _____

(Others Repealed: List All That Apply): _____

(FOR OFFICE USE ONLY): COUNTY CODE NUMBER: _____

KEYFIELD 1 CODE: _____ KEYFIELD 2 CODE: _____

KEYFIELD 3 CODE: _____



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

December 4, 2018

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

Attention: Missy Flint

Dear Ms. Doggett:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Ordinance No. 18-27, which was filed in this office on December 4, 2018.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb