

ORDINANCE NO. 96 31

AN ORDINANCE REPEALING ARTICLE III OF CHAPTER 78 (SECTIONS 78-76 THROUGH 78-148), ENTITLED "PARK USE", CODE OF ORDINANCES OF BREVARD COUNTY, AND SUPPLEMENTING THE BREVARD COUNTY CODE, CHAPTER 78, BY CREATING AN ARTICLE ENTITLED "USE OF PARKS"; PROVIDING DEFINITIONS; EXPRESSING THE GENERAL INTENT; SETTING FORTH RULES REGULATING THE USE OF PARKS AND RECREATIONAL FACILITIES OWNED AND OPERATED BY BREVARD COUNTY; PROVIDING A PROCEDURE FOR THE ISSUANCE OF PERMITS; PROVIDING FOR FEES; PROVIDING FOR PENALTIES AND METHODS FOR ADMINISTRATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, it is the intent of the Board of County Commissioners of Brevard County, Florida, to establish a system of regulations and rules governing the activities within the parks and recreational facilities,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA:

DIVISION 1. GENERALLY

Section 1. Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alcoholic beverages includes any beer, wine, fortified wine, liquor or alcoholic beverage defined in F.S. ch. 561.

Closing hours means that time period during which a park or recreational facility is closed to the general public.

Commercial activity includes the sale of any item, tangible or intangible, including but not limited to food and beverages; the charging of admission; the charging of fees for any service, entertainment or amusement, including, but not limited to carnival rides.

Department means the Parks and Recreation Department of the County.

Department director means the person appointed by the Board of County Commissioners to coordinate all park and recreation programs and facilities.

Designated area means that geographical area which has been established by the department for a specific activity or activities within a park or recreation area.

Governmental unit includes any governmental body that exercises law enforcement jurisdiction over a park or recreational facility.

Gun includes any instrument capable of firing a projectile or bullet at a high velocity, including but not limited to, any air gun, sling or slingshot.

Motor vehicle includes any vehicle that is self-propelled.

Park includes a park, reservation, playground, beach, recreation center, refuge, sanctuary or other area owned, leased, operated or maintained by Brevard County and devoted to active or passive recreation.

Permit means a written document issued by the department granting permission for a specific activity.

Recreational facility includes a facility for recreational purposes on property owned, leased, operated or maintained by Brevard County.

Security violation includes any activity that results in an arrest by a certified law enforcement officer, resulting in the imposition, by a court of law, of a fine, imprisonment, probation and/or other criminal penalty. This term includes only those arrests which occurred during a permitted event and on the property of the park or recreational facility where such event is held.

Vehicle includes any wheeled conveyance, whether motor powered, animal drawn or self-propelled. The term shall include any trailer in tow of any size, kind or description.

Section 2.a. Intent. It is the general purpose and intent of this article to establish uniform procedures for the administration of park and recreational facilities in the county; to establish a system of regulations and rules governing the activities within the parks and recreational facilities; to declare certain activities as violations; to provide for penalties for violation of the regulations; to allow expulsion from a park or recreational facility for violation of certain provisions and to provide a procedure for establishing permits for activities within designated areas and to set methods for the administration of parks and recreational facilities.

Section 2.b. Area Embraced. This ordinance shall be effective in all parks and recreational facilities, as defined in the ordinance, whether located in a municipality or unincorporated area of Brevard County. Within any municipality, law enforcement officers of that municipality are authorized to enforce this ordinance.

Section 3. Areas designated for specific activities. The Department director shall have the power to designate areas and facilities in park and recreational facilities for specific activities, and to prohibit other activities within the designated area. The Department director shall be the official custodian of a list of all areas which have been designated for specific activities. Such list shall contain a description of the property which is designated for a specific activity and the nature of the activities which are permitted. The head of the department is authorized to post designated areas when in his discretion such posting is appropriate.

Section 4. Emergency exclusion of public. In an emergency, when the Department director or designee shall determine that the public interest, public health, public morals and public safety require such action, any park or recreational area or any part thereof may be closed and all persons may be excluded from such area.

Section 5. Right of Entry. The department and its employees or any law enforcement officers shall have the right at all times to enter the premises of any building, structure or enclosure of any park or recreational facility including such grounds, buildings, structures or enclosures as may be leased, or set aside for the private or exclusive use of any individual or group.

Section 6. Park rangers. The Department director shall appoint park rangers or other authorized personnel who shall be responsible for the enforcement of park rules and regulations and shall have the power to eject and expel any person for violation of any park rule or regulation and report the violation of any regulation to the proper law enforcement officers.

Section 7. Permits.

- (a) The department shall issue a permit when:
- (1) The desired park (or requested portion thereof) or recreational facility has not been reserved for other use at the time requested.
 - (2) The applicant has provided a fee as established by resolution of the Board for the activity.
 - (3) The applicant has acquired public liability insurance where required below.
 - (4) The applicant has provided a plan and payment for security where required below.
 - (5) The proposed activity or activities will occur in an area designated for such activity or activities.
 - (6) The applicant has agreed to indemnify and hold the County harmless as established by resolution of the Board.
 - (7) If the proposed activities include commercial activity and are open to the public, the applicant must show proof that the applicant or applicant's organization is a non-profit organization which has qualified for recognized tax exempt status pursuant to Section 501(c) of the Internal Revenue Code.

The department shall deny a permit application if any of the above conditions are not met.

- (b) When the proposed activity entails the distribution of any literature, handbill, program or other printed matter, the department shall require the posting of monies or a bond pursuant to a schedule established by Board resolution to cover cleaning costs arising from the distribution of the printed matter.
- (c) Security.
- (1) The applicant shall provide and pay for a security plan for the proposed event if such event involves commercial activity, is open to public and may reasonably be expected to draw fifty (50) persons or more to the park or recreational facility. Such plan shall provide for at least one security personnel, under contract with the permit applicant, on duty at all times for the initial 250 attendees and thereafter one security personnel for every 500 additional persons attending the proposed event, with no security personnel working more than one eight-hour shift in any 24-hour period. As an alternative to providing a security plan, the applicant may pay the cost for providing security, in accordance with the above stated guidelines, under any interlocal agreement that the County may have with any law enforcement agency.
 - (2) Security personnel shall include certified law enforcement officers or any bona fide private security company licensed to do business in the State of Florida.
 - (3) Where the proposed activity is to be conducted for the sole purpose of public issue speech and does not involve any commercial activity, the applicant shall not be required to pay the expenses associated with security, unless the same event has experienced two or more security violations at a single event, during the two (2) calendar years immediately preceding the application in Brevard County or any other jurisdiction.

- (d) All permits shall be signed by the Department director or his duly authorized representative.
- (e) If any proposed activity may constitute a hazard to any person or property, the department, as a condition to the issuance of a permit, shall require public liability insurance in an amount necessary to protect such person or property. The amount and requirements of such insurance shall be established pursuant to a resolution adopted by the Board of County Commissioners.
- (f) The department shall notify the applicant within five (5) days, excluding weekends and holidays, to communicate whether an applicant's permit is granted or denied and, if denied, the reason for such denial.
- (g) The applicant may appeal the refusal of a permit to the Board of County Commissioners. The appeal shall be made by the applicant within five (5) days after notification of such refusal by filing a written notice with the County Manager who may review and reverse without further review the departmental decision within five (5) days after submittal to the County Manager. If the departmental decision is upheld, the appeal shall be referred to the Board of County Commissioners. The Board of County Commissioners shall consider the appeal at its next regularly scheduled meeting or within thirty (30) days of a timely filed notice of appeal, whichever is sooner. If the Board does not meet within thirty (30) days, the permit shall be issued by the Department. The Board shall direct the Department to issue the permit unless the Department demonstrates that the herein permit requirements have not been met. In the event the Board affirms the denial of the permit, the applicant may immediately request review by a Court of competent jurisdiction subject to the rules and laws governing application to such Court. The denial of a permit because the applied-for park or recreational facility has been previously reserved is not a basis for appeal.
- (h) The department or its duly authorized representative shall have the authority to revoke a permit upon finding a violation of any rule or regulation.

Section 8. Fees. The department is authorized to lease the use of equipment and personal property and charge a fee for the use of facilities to individuals, private or public organizations. The Board of County Commissioners by resolution shall establish a schedule of such charges and fees for the use of equipment, personal property and facilities.

DIVISION 2. VIOLATIONS AND PENALTIES

Section 9. Penalty. It shall be unlawful to violate any section within this division. Any person who shall violate this division shall be punishable pursuant to Chapter 1, section 1-7, of the Code of Ordinances of Brevard County, Florida.

Section 10. Interference with personnel. Any person who interferes with, hinders or opposes any officer, agent or employee of the department in the discharge of his duties or with the enforcement of the park regulations and rules shall be punishable pursuant to Chapter 1, section 1-7.

Section 11. Trespass. No person shall enter or remain on park or recreational facilities without a permit during closing hours, if the closing hours are posted at the entrance of the park or recreational facility. No person shall enter or remain on park or recreational facilities after such person receives notice of the closing hours from a department employee, or a law enforcement officer. State law reference(s)—Trespass, F.S. § 810.08 et seq.

Section 12. Remaining on the property after request to leave. No person who has violated a rule shall remain in a park or recreational facility after a department employee, police officer, sheriff's

deputy or employee of a governmental unit requests such person to leave or vacate a park or recreational facility.

Section 13. Meetings. No person or legal entity shall conduct or participate in any meetings, assemblies, entertainments, tournaments, religious or social gatherings, demonstrations, parades, processions, which are open to the public, without regard to the subject whether religious, social, political, or otherwise, in any park or recreational facility, without a permit unless fewer than fifty (50) individuals may reasonably be expected to be in attendance.

Section 14. Aircraft and parachuting. No person shall take off in or land any aircraft, glider or parachute in or upon any park or recreational facility without contractual authority or a permit from the department.

Section 15. Sales, solicitation of sales. No person shall sell, keep, or offer for sale any tangible or intangible object, merchandise or thing, nor solicit for any trade, occupation, business or profession for any consideration within any park or recreational facility without a permit from the department.

Section 16. Posting signs. No person shall post or affix to any tree, shrub, plant, fence, building, structure, monument, wall, table, apparatus, bridge, post, bench, corral, gate or any other physical object any sign, poster or other printed or written matter in any park or recreational area.

Section 17. Alcoholic beverages. No person shall possess or consume alcoholic beverages in any park or recreational area except in designated area for such purpose.

Section 18. Noise. No person shall use any loudspeaker or other electrical amplifying equipment, nor shall any person play upon any electrically amplified musical instrument in any park or recreational area unless such activity is conducted as an incidental activity to a public meeting or assembly for which a permit is issued.

Section 19. Defacing, tampering with buildings and other property. No person in any park or recreational facility shall willfully mark, deface, disfigure, injure, tamper with, displace or remove any building, bridges, tables, benches, fireplaces, railings, paving or paving material, water lines or other public utilities or parts or appurtenances thereof, signs, notices, or placards whether temporary or permanent, monuments, stakes, posts or other structures or equipment or any part of any aforesaid facilities, park property or appurtenances whatsoever, either real or personal, in any park or recreational facility. Any violator of this section shall also be liable for actual damages caused to County property.

Section 20. Water activity. No person shall swim, ski, dive, surf, scuba, fish, or use boats in any area in any park or recreational area unless such area is specifically designated for such purpose.

Section 21. Equestrian activity. No person in any park or recreational area shall ride horseback except on roadways and bridle paths within designated area for such purposes. No person shall be permitted to ride horseback in any park or recreational area after dark and before daylight unless a permit is granted from the department. It shall be unlawful for any person to fail to maintain control of any horse which such person is riding or to ride a horse in a reckless manner.

Section 22. Fires. No person in any park or recreational area shall ignite, set or maintain any fire for cooking or any other purpose unless such fire is within a designated area for such purpose.

Section 23. Firearms, fireworks. No person in any park or recreational area shall carry, fire or discharge any gun, pistol or firearm or any rocket, torpedo or other fireworks of any description without a permit from the department except in a designated area for such purpose. State law reference(s)— Weapons and firearms, F.S. ch. 790; sale of fireworks, F.S. ch. 791.

Section 24. Hunting, molesting wildlife. No person in any park or recreational area shall hunt, catch, harm, kill, trap, chase, tease, shoot or throw missiles at any animal, reptile or bird except

poisonous snakes. No person in any park or recreational area shall remove or have in his possession the young of any wild animal or eggs or nest or young of any reptile or bird.

Section 25. Distribution of literature. No person in any park or recreational area shall distribute any handbill, circular, booklet, leaflet, flyer, card, pamphlet, sheet, written or printed matter except in designated areas.

Section 26. Pollution. No person in any park or recreational facility shall throw or place or cause to be thrown or placed, any dirt, filth, or foreign matter into the waters of any lake, pond, pool, river, inlet, tank or reservoir in any park or recreational facility.
State law reference(s)—Florida Litter Law, F.S. § 403.413.

Section 27. Deposits of rubbish. No person in any park or recreational facility shall throw, place, cast, deposit, dump or cause to be thrown, any ashes, refuse, offal, vegetables, garbage, dross, cinders, shells, straw, shavings, paper, scraps, dirt or like matter, filth or rubbish of any kind in any park, square, avenue, grounds or recreational area, except to place the same in cans or receptacles provided for such matter.
State law reference(s)—Florida Litter Law, F.S. § 403.413.

Section 28. Removal of natural resources. No person in any park or recreational facility shall remove any beach sand, whether submerged or not, any soil, rock, stones, plants, wood, or other materials, or make any excavation by tool, equipment, blasting or other means or agency.

Section 29. Protection of trees and vegetation. No person in any park or recreational area shall remove, damage, cut, carve, or transplant any tree, shrubbery, lawn, or plant or injure the bark or pick the flowers thereof. No person shall attach any rope, wire, or other contrivance to any tree or plant in any park or recreational facility.

Section 30. Sleeping, camping and lodging. No person shall sleep, camp, lodge or park a vehicle overnight in any park or recreational area except in such areas as are designated for such purposes.

Section 31. Traffic.

- (a) The state uniform traffic control laws, F.S. ch. 316, are incorporated by reference and made a part of this article and shall apply to the operation of all motor vehicles on streets and roads in county parks, unless modified herein. Traffic officers and employees of the department are hereby authorized to direct traffic whenever necessary.
- (b) No person shall operated, drive or park any motor vehicle or other vehicle upon any road, driveway, path, parking area or other area unless such road, driveway, path, parking area or other area has been designated by the department for such purpose. No person shall cause any vehicle for hire to stand upon any part of a park or recreational area for the purpose of soliciting passengers.
- (c) No person shall drive a vehicle at a rate of speed exceeding five (5) miles per hour in any county park unless the department has designated, by posted sign, a greater speed limit.
- (d) No person shall park any vehicle in other than the area which is designated for parking. No person shall leave any vehicle standing or parked at night without lights clearly visible at least 200 feet upon said vehicle, except in legally established parking areas or designated campsite areas.
- (e) No person shall enter or exit from any park or recreational facility in any vehicle except on entrance and exits established for such purpose by the department.

Section 32. Utilities. No person shall locate any utility upon any park or recreational facility without receiving a permit from the department.

DIVISION 3. PROHIBITED CONDUCT

Section 33. Expulsion for violation. Any person violating any of the provisions of this division in a park or recreational facility may be expelled or ejected from the park or recreational facility. No other penalty may be imposed.

Section 34. Reservations. Reservation policies shall be established by resolution adopted by the Board of County Commissioners.

Section 35. Organized activities. No person shall play or participate in any game or organized activity including but not limited to football, baseball, basketball, or any such game, in any park or recreational facility, except in areas designated for such use.

Section 36. Severability. If any section, paragraph, sentence, clause, phrase, or word of this ordinance is for any reason held by a court to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this ordinance.

Section 37. Effective Date. This ordinance shall become effective upon filing as provided by law. A certified copy of the ordinance shall be filed with the Office of the Secretary of State, State of Florida, within ten days of enactment.

DONE AND ADOPTED in Regular Session this 2nd day of July, 1996.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

BY:

Sandy Crawford, Clerk Mark Cook,
Chairman
(as approved by the Board on 7-2-96)