



## THE CITY OF KEY WEST

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### AMENDED EXECUTIVE SUMMARY

To: The City Commission for the City of Key West  
From: Ronald Ramsingh, Assistant City Attorney  
Date: February 2, 2012  
RE: Park Rules for all city parks

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Mr. Mayor and Commissioners:

Background:

I was asked to draft a proposed ordinance revision by Commissioner Johnston to institute new rules as it pertains to all city parks. The proposed new section, 26-101 provides that a list of rules shall be adopted by ordinance and posted at the entrance of all city parks to put the public on notice of these new and existing rules. The new rules consist of the requirement to rack bicycles properly at designated bike racks, to require that users of park benches and tables use them for their intended purposes, that is to say to sit and use the tables and not lay down and occupy the entire bench; thereby preventing other visitors to the parks use of the benches and tables. This rule certainly does not prevent visitors from lying out on the grass if that is their intended use. Another new rule is to prevent any animal, leashed or unleashed onto any *playing surface* within city parks. A complaint from frequent users of the fields is that irresponsible owners of animals (primarily dogs) allow them to defecate on playing fields and courts without proper disposal. In addition, animals that dig holes on these fields create conditions where unsuspecting users of the fields can injure themselves while engaged in athletic activities. Dogs that are leashed

will still be allowed in city parks consistent with the city's existing ordinances. Finally, the last new rule concerns tobacco smoke in public parks. Cities such as New York, St. Louis, Vancouver, numerous cities in California and others have bans in place citing concerns of second hand smoke in areas where unsuspecting people; and especially children, congregate and recreate. The consensus thus far is that there is not a constitutionally protected right to smoke on a federal level, though there are pending challenges in various state and federal courts (NY and OH) to challenge this relatively new area of regulation. Florida, however prevents localities from enacting ordinances regarding tobacco use through preemption under FL Statute §386.09. The recommendation here will be to discourage visitors to city parks from smoking, but not specifically ban it.

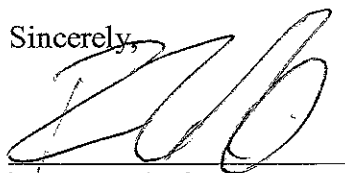
Violations of any of the rules is punishable by Sec 1-15, which essentially makes violations second degree misdemeanors with potential exposure of a fine up to \$500.00 and/or jail up to 60 days; which is prescribed by state law.

Options:

1. To pass the proposed ordinance revision, thereby instituting the aforementioned new rules for all city parks that will be posted at the entrances of all parks along with existing rules.
2. To defeat the proposed revision and the existing rules will continue to be enforced.

Please do not hesitate to contact me with any questions or concerns.

Sincerely,



Ron Ramsingh  
Assistant City Attorney  
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