

Executive Summary



To: The City Commission for the City of Key West

From: Lisa Takach Borzy, Risk Manager

Date: May 5, 2015

RE: Park Rules Amendment

Action: That the City Commission adopt the proposed revisions to the Code of Ordinances thereby implementing new rules concerning all City park piers and quays, and further mandating that said revised rules be posted at the entrances in addition to existing rules as per City Ordinance.

Background:

The City is committed to making every reasonable effort to provide and maintain a safe and healthy environment for all citizens, visitors, and other members of the public through the use of reasonable park rules established by way of City Ordinance. Public parks located in the City of Key West contain a number of fishing piers and quays that are frequented by City Park visitors. The White Street Fishing Pier, the quay at Truman Waterfront, and the quay at Mallory Square are notable examples, and further are clear illustrations of the need for established and enforceable safety regulations.

White Street Fishing Pier, Truman Waterfront, and Mallory Square are all defined as Public Parks pursuant to Sec. 26-96 of the City Code of Ordinances. Ordinance No. 12-04 amended Chapter 26 of the Code of Ordinances entitled "Environment" by creating Section 26-101 Park Rules to provide regulations concerning all City Parks. Section 26-101 (a) references Exhibit A, wherein Park Rules are set forth. Section 26-101 (b) grants the City Commission authority to amend Park Rules by Resolution.

The proposed new public park rules include provisions which prohibit climbing, walking, standing, sitting on any pier or quay structure not so intended for such purposes, as well as prohibit diving, jumping or causing another to dive, jump or fall from any pier or quay. Said provisions are intended to help protect park visitors from placing themselves in the way of harm and precarious positions that may compromise their safety. The new rules further require park users to be responsible for the proper disposal of trash, refuse, debris or fishing line to protect the environment and aquatic life. Skateboarding and rollerblading are common recreations for many park visitors. Unfortunately, the temptation exists for visitors to use pier and quay surfaces as obstacles thereby creating the need for regulation to prevent injury to park users as well as damage to public property. Finally, cutting bait and cleaning fish are byproducts of fishing, both of which diminish the appearance of City property and create unsanitary conditions if done so on a surface of a pier or quay not intended for such activity. The proposed rule amendments govern these practices.

From a risk management perspective, in the event that the a claimant violates City ordinance, and in doing so, injury or loss results, then the City has the ability to defend a claim against it by asserting that the claimant was negligent per se, or negligent as a matter of law. Having underlying ordinances in place to support Park Rules is often an effective way to protect the City from negligence claims and minimize losses resulting therefrom.

Options:

1. To pass the proposed revision, thereby implementing the aforementioned rules for all City parks that will be posted at the entrances in addition to existing rules.
2. To defeat the proposed amendment, and only the existing rules will continue to be enforced.

Recommendation:

Pass the proposed revisions to City park rules.