

RESOLUTION NO. 15-230

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AMENDING GENERAL PARK RULES IN CHAPTER 26, SECTION 26-101 (a), EXHIBIT A OF THE CODE OF ORDINANCES ENTITLED "ENVIRONMENT"; PROVIDING FOR A PROHIBITION OF STANDING OR SITTING ON RAILINGS; PROVIDING FOR A PROHIBITION OF STANDING OR SITTING ON PARK MONUMENTS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, pursuant to section 26-101(b), of the Code of Ordinances, the City Commission may amend Park Rules by Resolution;

WHEREAS, the City of Key West finds that diving, jumping or causing another to fall from a pier or quay presents a clear hazard to the safety of City park users;

WHEREAS, the City of Key West finds that individuals climbing, walking, sitting, or standing on any pier or quay railings, wall, or monuments presents an appreciable fall hazard to users of City parks;

WHEREAS, the City of Key West finds that trash, refuse, debris or fishing line that is not properly disposed of will find its way into the environment and potentially harm aquatic life;

WHEREAS, the City of Key West finds skateboarding or rollerblading on any pier or quay surface not intended for such use presents safety hazards to users of City Parks, and further such misuse will potentially result in property damage and unnecessary expense to the City;

WHEREAS, the City of Key West finds that cutting bait and cleaning fish on any surface of a pier or quay not designed for this purpose will result in sanitary concerns and the unsightly appearance of City parks; and

WHEREAS, City staff recommends an amendment to the general park rules, to protect the health, welfare and safety of residents and visitors of the City of Key West;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA AS FOLLOWS:

Section 1: That Chapter 26 of the Code of Ordinances, Section 26-101(a), attached as Exhibit A is hereby amended.

Section 2: The amended rules, above, shall supersede the rules previously set forth in "Exhibit "A" attached to Ordinance No. 12-04.

Section 3: City staff is directed to ensure that a list of all current park rules is posted by the entrance to each City park in a timely manner.

Section 4: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the Presiding Officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this


7th day of July, 2015.

Authenticated by the Presiding Officer and Clerk of the Commission

on 8th day of July, 2015.

Filed with the Clerk on July 8, 2015.

Mayor Craig Cates	<u>Absent</u>
Vice Mayor Mark Rossi	<u>Yes</u>
Commissioner Teri Johnston	<u>Yes</u>
Commissioner Clayton Lopez	<u>Yes</u>
Commissioner Billy Wardlow	<u>Yes</u>
Commissioner Jimmy Weekley	<u>Yes</u>
Commissioner Tony Yaniz	<u>Yes</u>



MARK ROSSI, VICE MAYOR

ATTEST:



CHERYL SMITH, CITY CLERK

EXHIBIT A

PARK RULES FOR ALL CITY PARKS
WITHIN THE CITY OF KEY WEST

1. PARK HOURS ~~6~~ 7:00 A.M. TO 11:00 P.M. (Sec.26-100)
2. NO ALCOHOLIC BEVERAGES ALLOWED IN ANY CITY OWNED RECREATIONAL FACILITIES (Sec.26-97)
3. NO UNLEASHED ANIMALS (Sec.10-4)
4. NO ANIMALS, ~~LEASED~~ LEASHED OR UNLEASHED, ON ANY PLAYING SURFACES (Sec.26-101)
5. ALL BICYCLES MUST BE PROPERLY SECURED TO DESIGNATED BICYCLE RACKS WHEN NOT IN ACTUAL USE. (Sec.26-101)
6. The City encourages individuals to refrain from smoking in City parks. Accordingly, each posted sign shall contain language which reads "Thank You For Not Smoking" (Sec.26-101)
7. NO CAMPING (Sec.62-4)
8. NO LYING ON TABLES AND/OR BENCHES (Sec.26-101)
9. Diving or jumping, or causing another person to

fall, dive or jump from any pier or quay is prohibited.

10. Climbing or walking, standing or sitting upon railings, walls, monuments, or upon any other public property that is not designed or designated for such purposes is prohibited.
11. Depositing trash, refuse, debris, or fishing line unless in a receptacle provided for such purpose is prohibited.
12. Skateboarding or rollerblading on any pier or quay surface that is not designed or designated for the purpose of foot or bicycle travel is prohibited.
13. Cutting bait or cleaning fish is discouraged on any surface of a pier or quay that is not designed or designated for such purpose.

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.

ORDINANCE NO. 12-04

AN ORDINANCE OF THE CITY OF KEY WEST,
FLORIDA, AMENDING CHAPTER 26 OF THE CODE OF
ORDINANCES ENTITLED "ENVIRONMENT" BY
CREATING SECTION 26-101 PARK RULES TO
PROVIDE FOR REGULATIONS CONCERNING ALL CITY
PARKS; PROVIDING FOR SEVERABILITY; PROVIDING
FOR REPEAL OF INCONSISTENT PROVISIONS;
PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Key West finds that permitting animals on playing fields within city parks creates a nuisance and health risk as evidenced by the existence of animal waste and holes which present a hazard to public health, safety and welfare of users of the athletic fields; and

WHEREAS, the City of Key West finds that having bicycles in city parks that are not properly racked at designated bicycle racks creates an appreciable tripping hazard to users of city parks and detract from the visual appeal of city parks; and

WHEREAS, the City Commission for the City of Key West finds that the existence of second hand tobacco smoke and cigarette or cigar butts in city parks adversely affects the health and welfare of other users of city parks as well as the environment; and

WHEREAS, the City Commission for the City of Key West finds that because of the shortage of city park benches and tables, said park benches and tables should be used for their intended

purpose so as to allow its use by others; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST,
FLORIDA:

Section 1: That Chapter 26 of the Code of Ordinances is
hereby amended as follows*:

Sec. 26-101. Park Rules.

- (a) Visitors to all city parks as defined in Sec. 26-96 shall abide by the Park Rules attached as Exhibit A.
- (b) The City Commission for the City of Key West can amend the Park Rules by Resolution.
- (c) A list of all current rules shall be posted at or near all entrances to all city parks.
- (d) Violations of this section are subject to the penalties contained in Sec. 1-15.

*(Coding: Added language is underlined; deleted language is ~~struck through~~.)

Section 2: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 3: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 4: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Read and passed on first reading at a regular meeting held this 7 day of February, 2012.

Read and passed on final reading at a regular meeting held this 22 day of February, 2012.

Authenticated by the presiding officer and Clerk of the
Commission on 23 day of February, 2012.

Filed with the Clerk February 23, 2012.


CRAIG CATES, MAYOR

ATTEST:

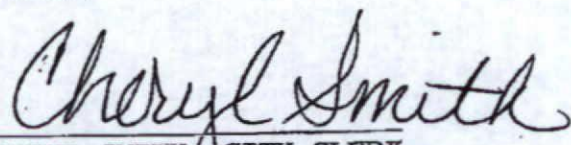

CHERYL SMITH, CITY CLERK

EXHIBIT A

PARK RULES FOR ALL CITY PARKS
WITHIN THE CITY OF KEY WEST

1. PARK HOURS 6:00 A.M. TO 11:00 P.M. (Sec.26-100)
2. NO ALCOHOLIC BEVERAGES ALLOWED IN ANY CITY OWNED RECREATIONAL FACILITIES (Sec.26-97)
3. NO UNLEASHED ANIMALS (Sec.10-4)
4. NO ANIMALS, LEASED OR UNLEASHED, ON ANY PLAYING SURFACES (Sec.26-101)
5. ALL BICYCLES MUST BE PROPERLY SECURED TO DESIGNATED BICYCLE RACKS WHEN NOT IN ACTUAL USE. (Sec.26-101)
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7. NO CAMPING (Sec.62-4)
8. NO LYING ON TABLES AND/OR BENCHES (Sec.26-101)



THE CITY OF KEY WEST

POST OFFICE BOX 1409
KEY WEST, FL 33041-1409
WWW.KEYWESTCITY.COM

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

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 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 leached

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.

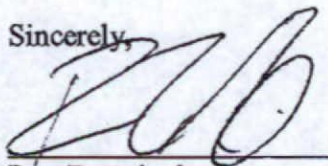
Violations of any of the rules is punishable by Sec 1-15, which essentially makes violations second degree misdemeanors with potential exposure of a fine up to \$500.00 and/or jail up to 60 days; which is prescribed by state law.

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
809-3775