

FILED FOR RECORD  
R. B. SHORE

ORDINANCE 08-48

2008 APR 11 AM 8:05

CLERK OF THE COUNTY COURT  
MANATEE CO. FLORIDA

**AN ORDINANCE OF MANATEE COUNTY, FLORIDA, RELATING TO THE REGULATION OF PARKS AND BEACHES; AMENDING VARIOUS SECTIONS OF CHAPTER 2-24 OF THE MANATEE COUNTY CODE; PROVIDING FOR CODIFICATION AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

2008 APR -2 PM 2:38  
DEPARTMENT OF STATE  
TALLAHASSEE, FLORIDA

FILED

**Whereas**, Manatee County owns and operates recreational areas and facilities including parks, conservation lands, golf courses and beaches and;

**Whereas**, Manatee County has periodically adopted ordinances governing certain aspects of these recreational areas and facilities including, but not limited to Ordinance numbers: 78-6, 80-1, 91-69, 92-29, 96-48, 98-33, 02-26, 03-3, 03-48, 04-71, and 07-60 and;

**Whereas**, subsequent to the adoption of the most recent significant revisions to Chapter 2-24 of the County Code governing parks, staff and several individual County Commissioners identified various specific provisions of the Code which should be amended to better reflect current policy desires, and;

**Whereas**, the County Commission finds that the provisions contained in this ordinance are necessary for the health, safety and welfare of all persons who patronize the County's parks and recreational lands and facilities, and to preserve same for future generations, and;

**NOW THEREFORE BE IT ORDAINED** by the Board of County Commissioners of Manatee County:

**Section 1.** The definition of "Vehicle" within § 2-24-2 of the Manatee County Code is hereby amended to read:

*Vehicle* means 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, but shall not include any baby carriage, motorized or non-motorized wheelchair, or other device required to allow reasonable access to parks or park facilities for persons with disabilities.

**Section 2.** Section 2-24-3(1)(b) of the Manatee County Code is hereby amended to read:

(b) *Removal of natural resources.* No person shall dig, damage, remove, displace or destroy any beach sand, whether submerged or not, or any soil, rock, stone, tree, shrub or plant, or down-timber or other wood or material, or excavate by tool, equipment, blasting, or other means. Exception is made for the building of sand castles or other sand sculptures, except that the sand used for such activities must not be moved from the general vicinity of its source.

**Section 3.** Section 2-24-5(6)(e) of the Manatee County Code is hereby amended to read:

(e) *Unattended pets.* ~~Other than in designated RV lots, n~~No person may leave any pet unattended in, on or under a parked vehicle in any parking lot. Nothing herein shall preclude a person from using a service animal as provided for in Florida Statute § 413.08.

**Section 4.** Section 2-24-6 of the Manatee County Code is hereby amended to read:

**Sec. 2-24-6. Recreational activities.**

(1) *Bathing and swimming.*

(a) *Designated areas; abide by rules.* No person shall swim, or wade in any beach, water area of pool within any park except at places designated for such activities. Any person engaging in such activities shall comply with the rules established for these areas, including, but not limited to, hours of use and safety limitations for such uses.

(b) *Structure on beach.* No person shall erect, maintain, use or occupy on or in any beach or bathing area any tent, shelter or structure of any kind, except by special written permit granted by the Director. Exception is made for portable canopies or umbrellas designed for personal use.

(c) *Restroom facilities.* No person in the park shall dress or undress on any beach, or other public place, except in enclosed structures as may be provided for that purpose.

(d) *Instructions.* No person in the park shall fail to abide by the instructions of any lifeguard, attendant, park employee, ranger or law enforcement officer on duty concerning:

1. The playing of games, including flying of kites;
2. Fishing from the beaches or other waterfront areas;
3. Activities in swimming areas regarding personal safety, and the safety of other swimmers; and
4. Any other swimming/bathing activity.

(2) *Boating activities.*

(a) *Designated areas only.* No person shall bring into or operate in a park any boat, raft, jet ski, or other water craft, whether motor-powered or not, upon any waters, except at places designated for boating, docking and launching.

(b) *Public dock and boat ramp usage.* No person in the park shall use the public docks for dockage or other purpose without first making arrangements for such accommodation with the director, who shall assign space and collect reasonable use or rental charges in conformity with established regulations and rates. Public boat ramps must only be used for their intended and designed purpose, which is the launching and retrieving of boats or similar watercraft.

(c) *Operation of boats.* No person shall navigate, direct, or handle any watercraft in an unreasonable manner so as to be a danger to other persons, wildlife or property, or otherwise interfere with the use or enjoyment of the park by others. All watercraft must be operated in a safe manner and comply with all applicable safety regulations.

(3) *Fishing.*

(a) *Commerce prohibited.* No person shall engage in commercial fishing in park waters, or the buying or selling of fish caught therein.

(b) *General prohibition.* No person shall fish in any park waters, whether fresh or salt, and whether by the use of hook and line, net, or other device, except in waters designated by the director for that use and under such regulations and restrictions as have been or may be prescribed by the director and applicable state agencies.

(c) *Off-shore.* No person shall fish in any park area where swimming is permitted, nor shall any person SCUBA dive within marked swim areas.

(4) *Picnic areas and use.*

(a) *Regulated.* ~~No person shall picnic in any park other than those designated for that purpose.~~ Unless otherwise designated, all parks are open for picnicking use. However, use of gas or fire grills or cookers shall be limited to areas immediately adjacent to any park pavilion or to other areas designated as fire/cook safe areas. Designated public officials shall have authority to regulate activities in such areas when necessary to prevent congestion and to secure the maximum use for the comfort and convenience of all.

(b) *Availability.* Other than where such facilities have been reserved pursuant to established county procedures, the use of the individual fireplaces together with tables, and pavilions is on a "first come, first served" basis. Park patrons are required to comply with this standard and shall not intimidate, coerce or otherwise cause or seek the abandonment of such facilities by rightful "first come" users.

(c) *Glass containers.* No glass containers shall be allowed in any park.

(5) *Camping.* No overnight camping of any type shall be allowed at any park, beach or recreation area except in those areas developed and designated for such use, or by special written permit granted by the director.

(6) *Games.* No person in a park shall take part in or abet the playing of any games involving thrown or otherwise propelled objects such as balls, stones, arrows, javelins, or model airplanes except in areas set apart for such forms of recreation.

(7) *Horseback riding.* No person, other than authorized law enforcement or county staff, may ride a horse in a park, except on designated bridle trails.

**Section 5.** Section 2-24-7 of the Manatee County Code is hereby amended to read:

**Sec. 2-24-7. Behavior.**

(1) *Intoxicating beverages.*

(a) *Prohibition.* No person in the park shall sell, possess or consume alcoholic beverages, except where it is sold at specifically designated recreation areas where meals or lunches are also sold under county-granted concessions, or at approved special events where the permit authorizes such sale or consumption. The sale of alcoholic beverages by such concessionaire or special event permit holder, agent or sponsor, may be permitted under the strict regulation and control of the director. Sales of alcoholic beverages shall be made only in individual servings and shall be consumed only on the immediate premises of the concession. Persons who fail to comply with this provision will be required to leave the park premises immediately and may be cited for violation of this chapter.

(b) *Intoxication.* No person shall enter or remain in a park while under the influence of intoxicating liquor or illegal substances.

(2) *Fireworks and explosives.* In the absence of a duly issued permit under the Manatee County Fireworks Law, located at § 2-21-86 to § 2-21-91 of the code, and the permission of the director, no person shall possess or set off any fireworks or explosives in any park.

(3) *Pets prohibited.* Other than authorized staff or law enforcement personnel, no person shall bring or introduce into a park any off-leash dog, cat, snake or other animal other than in designated RV areas or those areas specifically designated for activities involving such animals. Notwithstanding the foregoing, a person may bring a dog into any park, so long as the dog remains on a leash and under the owner's control at all times, except for county beaches (including adjacent sidewalks, paths, trails, and RV and general parking areas), athletic fields, or any other area posted "no dogs allowed." Such owners are responsible for removal and disposal of any waste. Nothing herein shall preclude a person from using or training a service animal in a park as provided for in Florida Statute § 413.08. Any person in possession of such animal is responsible for controlling the animal and cleaning up and properly disposing of any waste. At no time shall such animals be left unattended.

(4) *Use of facilities.* No person over the age of six (6) years shall use a restroom, shower or similar area designated for the opposite sex. Use of such facilities designed and signed as accessible to persons with disabilities shall be avoided wherever possible by persons not requiring their use so they may be readily available to persons with disabilities.

(5) *Solicitations.* No person shall solicit park patrons or visitors for any purpose, whether public or private, without the express written permission of the director.

(6) *Fires.* Fires are prohibited in any county park, except in such grills, fireplaces, barbecue pits or other similarly-designed fire-safe facilities or areas.

(7) *Surf or ski.* Surfing or skiing in park waters is permitted outside of designated 'swim only' areas or any areas designated by sign or verbally by designated officials as 'no surfing or skiing.'

(8) *Signs to be obeyed.* No person shall engage in any activity expressly prohibited by a posted sign, nor damage, remove or obstruct any such sign.

(9) *Permits to be exhibited.* Persons issued any park-related permit must have such permit on hand during the permitted use, and shall produce same upon request by law enforcement or designated park officials.

(10) *Skating.* Skating of any type, including in line, boards or other, shall be ~~confined to those areas permitted on any park trail unless the trail is specifically designated as prohibiting for~~ such activities.

**Section 6.** Sections 2-24-10(3) and (5) of the Manatee County Code are hereby amended to

read:

(3) *Additional rules.* The director may ~~make additional~~ administratively adopt, amend or rescind rules or procedures regulating the use, operations or staffing of parks or facilities not inconsistent with this chapter if such rules or procedures are deemed by the director to be in the best interest of the public health, safety or welfare. Rules or procedures adopted pursuant to the authority granted in this subsection (3) as of the effective date of this subsection (3) shall supersede any prior rules adopted by resolution or otherwise. The county commission may, at its sole discretion, rescind any rule or procedure adopted by the director. If the commission elects to rescind any such rule or procedure, the director shall ensure the policy direction given by the commission is reflected in any subsequently issued rule or procedure on the same subject.

(5) *Permit.* A permit shall be obtained from the director before conducting any activity within a park for which a permit is required herein or in any other county policy. A permit must be obtained for all special events held on park property. The issuance of a permit under this chapter shall not excuse an applicant from the need to comply with any additional federal, state or municipal permitting or other regulatory requirements associated with the permitted activity. The following apply to the permitting process:

(a) *Application.* A person seeking issuance of a permit hereunder shall file an application with the director on a form promulgated by the director for such purpose. Such form shall require such information as is deemed necessary by the director. An appropriate permit application fee may be established pursuant to section 2-24-12 of this chapter.

(b) *Standards for issuance.* The director shall issue a permit hereunder within his/her discretion which shall not be based upon any considerations of the class of persons the applicant belongs to or his/her/its political views, nor otherwise be unreasonably withheld. Although a legal entity or organization may apply for a permit, the application shall be executed by a responsible natural person representing such entity or organization.

(c) *Capacity management.* The director shall establish standards of use for each park property eligible for an event permit. Such standards shall at a minimum set maximum capacities for attendance and parking, and shall take into account the impacts of such events upon abutting neighborhoods and input from law enforcement agencies.

(d) Security standards and requirements The director shall assess each application for a special event permit and, based upon the time, duration, location, nature, and estimated size of the event, along with expected weather conditions, review by public safety personnel, and other relevant factors, may impose and require permit applicant to pay for a security plan which may include regulated access points, traffic management plans, and the on-site presence of private security, off-duty law enforcement, emergency medical personnel, or other persons necessary to ensure a safe event and the prevention of damage to park property or facilities.

(e) Effect of permit. A permittee shall be bound by all park rules and regulations and all applicable ordinances and laws and same shall be deemed to be conditions of said permits.

(f) Liability of permittee. The person or persons to whom a permit is issued shall be liable for any loss, damage or injury sustained by any other person or entity whatever by reason of the negligence of the person or persons to whom such permit is issued. The director may, in his or her discretion, condition the granting of a special events permit upon demonstration of adequate insurance naming Manatee County as additional insured where the nature and risk of the event in question warrant such requirement.

(g) Revocation or declining to issue permit. A designee of the director so empowered shall have the authority to revoke a permit or to decline to issue future permits upon a finding of a violation of any law, ordinance or rule, a false application, failure to comply with capacity, security or use restrictions, or upon other good cause shown. The director shall have the authority to review an appeal of any revocation or subsequent denial action by the designee, and shall within 30 days of the appeal, issue a decision. The director is authorized to develop procedures and forms to facilitate an appeal process.

**Section 7.** Section 2-24-11 of the Manatee County Code is hereby amended to read:

**Sec. 2-24-11. Licensing of concessions and permitting of vending activities.**

(1) *License required.* Private vendors providing concession services in county parks may only do so by obtaining a franchise license agreement and paying a franchise license fee in accordance with the requirements of this section.

(2) *Determination of board.* Upon a determination by the board of county commissioners that the provision of any goods or services, including but not limited to instructional services, food, beverages, souvenirs, will be of use to park patrons or enhance and promote Manatee County as a unique community, or provide for the comfort in and enjoyment of the use of a particular park in question, the board may, at its discretion, provide for such services through its own employees or by entering into a franchise license agreement with a concessionaire selected in accordance with any applicable requirements of the Manatee County Procurement Code and state law.

(3) *Terms and conditions to be included in any concessionaire license.* ~~Any~~ The terms and conditions of franchise license agreements may be negotiated between the applicants and the director, but shall at a minimum include the following:

(a) The days and hours of operation as determined by the county to meet the needs of the park patrons.

- (b) A clear and specific description of the products that may be sold and controls and regulations with respect to the prices that may be charged as deemed necessary by the county.
- (c) Requirements with respect to the image, ambience, the condition of facilities and equipment made available by the county or furnished by the concessionaire, or quality of service required to reflect a favorable image of the county and provide for the health, safety and welfare of park patrons.
- (d) The fee required by the county to help defray the costs of operating and maintaining the county's parks.
- (e) Restrictions that strictly prohibit the transfer or assignment of any franchise license agreement except as may be approved within the sole discretion of the board of county commissioners.
- (f) The rights of the parties to terminate the agreement with adequate notice so the county can provide for the continuation of services.
- (g) The right of the county to terminate the agreement as may be required for public convenience and necessity.
- (h) Requirements for submission of proof of insurance in suitable amounts and naming Manatee County as additional insured to cover any claims related to the concession.
- (i) Such other terms and conditions as the board determines to be necessary, prudent and in the best interest of the county.

(4) *Franchise licenses not disposition of surplus property.* It is the policy and intent of the board of county commissioners that any such franchise license agreement shall not be considered the sale, conveyance, leasing or other disposition of property not needed for county purposes as provided in Section 125.38, Florida Statutes.

(5) *Revenues.* All revenues derived from any franchise license fees where license fees or other charges are assessed against the concessionaire as a part of any agreement shall be used solely and exclusively for the maintenance and operation of the county's parks. In order to implement this provision, the board of county commissioners may establish a separate fund or may include such revenues in the general fund; however, all revenues generated by the provision of concession services shall be considered each year and allocated as a part of the budget for the operation and maintenance of county parks.

(6) *Additional vending.* In addition to regularly licensed concessionaires, vending of food, beverages or any other article shall be limited to special events and activities in accordance with established procedures and according to the terms and limitations of the special event permit. ~~policies adopted by the board of county commissioners. The board may authorize the director to permit vending during special events or activities.~~ Special events or activities as used herein refers to fairs, festivals, league play or tournaments, and other activities or events of a unique, short-term or non-regular nature.

(7) *Access to concession facilities.* No concessionaire may install or operate any concession-related facility without the director's express prior approval, and installation or operation of such facility shall be conditioned on the concessionaire's providing the county with full access to such facility at any time.

(78) *Existing agreements and permits.* The purpose of this section is to clarify and codify existing policies and practices. Any otherwise valid agreement, concession or permit existing on the date of adoption of this section shall not be impaired or altered and is hereby ratified and confirmed through its expiration.

**Section 8.** Section 2-24-12 of the Manatee County Code is hereby amended to read:

**Sec. 2-24-12. Fees for uses.**

Upon recommendation by the director or on its own initiative, the county commission may from time to time establish, modify, revoke or suspend a schedule of fees related to the uses of county park or recreation facilities, programs or services. Such fees may be expressed as a flat fee, a percentage of income, or a fee range. To the extent a fee range is established, the director shall have the authority to set and adjust the specific fee within the set range as actual costs and market conditions dictate.

**Section 9.** Section 2-24-45 of the Manatee County Code is hereby amended to read:

**Sec. 2-24-45. Restricting the operation of aircraft on Lake Manatee.**

(1) The landing and takeoff of any size or type of aircraft, including, but not limited to, seaplanes, amphibians, helicopters, ultra-lights, balloons, and hang-gliders, on the surface of Lake Manatee is prohibited within five hundred (500) yards of the earthen dam and water treatment facility located on the west end of Lake Manatee. Beyond five hundred (500) yards of the subject earthen dam and water treatment facility, only aircraft designed and manufactured for the express purpose of landing and taking off from a water body may do so upon Lake Manatee.

(2) The landing and takeoff of any such aircraft on the surface of Lake Manatee between the end of the evening civil twilight and the beginning of morning civil twilight, as published in the American Air Almanac, is prohibited.

(3) The above prohibitions do not apply to emergency situations which legitimately threaten the safety of an aircraft, its occupants, or others.

(4) In addition to the provisions in article VII related to enforcement of this chapter, the provisions of this article V, and any related implementing resolutions, may be enforced by any federal, state, or local law enforcement agency with jurisdiction over aircraft operations for the territory which encompasses Lake Manatee.

(5) The operator and/or owner of any aircraft or other person violating this article V may be cited for a non-criminal infraction.

(6) Notwithstanding any other section of this chapter, each landing or takeoff on the lake shall be deemed a separate violation.

(7) This Article V, concerning activities upon certain bodies of water, does not provide the sole source of county regulation of such activities and are supplemental to any other applicable provisions of this code, including, but not limited to, the Manatee County Boating Ordinance.



**Section 10.** If any section, subsection, sentence, clause, provision or word of this Ordinance is held invalid, same shall be severable and the remainder of this Ordinance shall not be affected by such invalidity. The Manatee County Board of County Commissioners expressly indicates that it desires any remainder of the Ordinance to withstand any severed provision, as it would have adopted the Ordinance and its regulatory scheme even absent the invalid part.

**Section 11.** For purposes of codification of any section of the Manatee County Code herein amended, words **underlined** represent additions to original text, and words ~~stricken~~ are deletions from the original text.

**Section 12.** The Codifier shall codify the substantive provisions of this Ordinance as provided for herein and shall not codify those sections not designated for codification.

**Section 13.** This Ordinance shall take effect immediately upon filing with the Department of State.

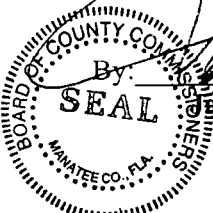
**PASSED AND DULY ADOPTED** in open session, with a quorum present and voting, this 25<sup>TH</sup> day of March, 2008.

BOARD OF COUNTY COMMISSIONERS  
OF MANATEE COUNTY, FLORIDA

ATTEST: **R.B. SHORE**  
Clerk of the Circuit Court

By: [Signature]  
Deputy Clerk

By: [Signature]  
**Gene von Hahmann—Chairman**



STATE OF FLORIDA, COUNTY OF MANATEE  
This is to certify that the foregoing is a true and correct copy of the documents on file in my office.  
Witness my hand and official seal this 31<sup>ST</sup> day of MARCH, 2008  
R.B. SHORE  
Clerk of Circuit Court  
By: [Signature] c.c.

