

ALACHUA COUNTY
BOARD OF COUNTY COMMISSIONERS

ORDINANCE NO. 2023 -__

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA; AMENDING ALACHUA COUNTY CODE OF ORDINANCES, TITLE 7, CHAPTER 76 ENTITLED "COUNTY PARK REGULATIONS" TO RESTRICT SMOKING IN A COUNTY PARK; AMENDING, ALACHUA COUNTY CODE, SECTION 24.16 TO ADD A PENALTY; PROVIDING FOR MODIFICATION; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE ORDINANCE TO BE LIBERALLY CONSTRUCTED; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, smoking and the use of tobacco products has devastating health and economic consequences; and

WHEREAS, there are efforts to reduce the use by youth of cigarettes, cigars, smokeless tobacco, electric vaping and other tobacco products; and

WHEREAS, certain Florida laws preempt local government's ability to regulate smoking; and

WHEREAS, effective July 1, 2022, Laws of Florida Chapter 2022-213 (CS/HB 105) was approved by the Governor of the State of Florida, allowing counties and municipalities to restrict smoking within the boundaries of any public beaches and public parks that they own; and

WHEREAS, the Board of County Commissioners (the "Board") has adopted Alachua County Park Rules for the County's parks and park properties; and

WHEREAS, the Board finds that this Ordinance to amend the Alachua County Park Rules to restrict smoking in Alachua County Parks is in the best interest of public health, safety and welfare.

NOW, THEREFORE, BE IT DULY ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. Recitals. The above going recitals are correct and incorporated herein.

SECTION 2. Amendment. Alachua County Code, Title 7, Chapter 76, entitled "County Park Regulations" is amended as follows:

Sec. 76.1. - Title.

This chapter shall be known and may be cited as "Alachua County Park Rules".

Sec. 76.2. - Definitions.

Whenever used in this chapter, the following terms and phrases shall have the following meanings unless the context clearly indicates otherwise:

Park shall mean real property, owned and operated by the Board of County Commissioners, that is designated by the Board as a park.

Park property shall include, but is not limited to, all buildings and facilities, equipment, picnic pavilions, pools, ballfields, fences, signs, and related items, natural features of the park, including plants, animals, and geographical formations. Also considered as park property are any historic artifacts found within the park's boundary.

Department shall mean the Alachua County Parks and Open Spaces Department, or another department or office of the County that is directed by the County Manager to be responsible for administration or enforcement of this chapter.

Smoking shall mean inhaling, exhaling, burning, carrying, or possessing any lighted tobacco product, including cigarettes, cigars, pipe tobacco, and any other lighted tobacco product and excludes unfiltered cigars.

Special Authorization shall mean written permission, which includes but is not limited to a license agreement, a rental agreement, a permit, or other written authorization, given to an individual, group or entity from the County Manager or the Department.

Tobacco product shall be as defined in Section 569.002, Florida Statutes, as may be amended.

Sec. 76.3. - Prohibited activities.

It shall be unlawful for any person to do any of the following in any park or designated area within a park, unless the person has been given prior Special Authorization. The Alachua County Parks Rules do not apply to actions taken by the County. Any person violating this section may be ordered by the Department or law enforcement to leave the park and may be subject to penalties set under section 76.7 below.÷

(a) *Alteration of park property.* The alteration, possession, molesting, harming, destruction or removal of park property is prohibited unless authorized by the Department. Writing on, drawing on, painting on, or otherwise damaging or defacing park property is prohibited.

(b) *Activities other than recreational.*

(1) It is prohibited for any person or entity to solicit, advertise, offer for sale, or engage in the sale of any good or service within any park or park property unless authorized by the Department.

(2) Unless permission is granted through Special Authorization, use of parks or park property for other than park-related activities is prohibited.

(c) *Wildlife.*

(1) No person shall feed or pet any wild animals.

- (2) Unless authorized by the Department, no person shall capture, collect, or in any way harm or harass any animal life except fish commonly referred to as "edible" or "game" species.
- (d) *Hunting*. Hunting, tracking, or the pursuit of wildlife is prohibited in all park property. No person shall use, carry or possess in any park or park property, bows and arrows, gigs, slingshots, or trapping devices. Any device, set forth herein, that is employed to kill, immobilize or capture any wildlife, or any device otherwise used in violation of this chapter is declared a nuisance and may be seized and confiscated by park personnel or law enforcement officers.
- (e) *Alcoholic beverages*. The possession and/or consumption of alcoholic beverages within any park or park property is prohibited, unless such possession and consumption takes place at and during an event which has been granted Special Authorization which allows for the possession and consumption. In such event, the alcohol possession and consumption shall be governed by the rules established by the County Manager. The County Manager has the right to limit the type of alcoholic beverage to be consumed when adopting such rules and when granting Special Authorization.
- (f) *Fireworks and explosives*. Possessing, exploding, discharging, or burning within any park property, park area or on roadways adjacent thereto, of any fire crackers, rockets, or other fireworks or explosives or any other substance that, in combination with any other substance, becomes an explosive, are prohibited unless authorized by the Department. It is prohibited to set or stoke a fire in any park and park property, except for a fire set in designated County-owned grills or permitted grills, and said fire shall not be allowed if it poses a hazard to County property or the general public. In an emergency, the discharge of distress signals and flares are permitted.
- (g) *Gambling*. Gambling in any form is prohibited in any park or park property.
- (h) *Polluting water prohibited*. The throwing, discharging, or otherwise placing or causing to be placed in the waters of any fountain, pond, lake, stream, or other body of water in or adjacent to any park or any tributary streams, storm sewer or any drain flowing into such waters, of any substance, matter, or thing, liquid or solid that will or may pollute the waters of the park is prohibited.
- (i) *Refuse and trash*. The taking into, dumping, or depositing on land or in waters of any park or roadway adjacent to any park of refuse or trash in any form is prohibited. All refuse and trash shall be disposed of properly by placing it in the designated containers. If such container is not available, persons responsible for the refuse or trash shall remove it from the park for proper disposal elsewhere.
- (j) *Illegal drugs; Smoking*. The possession or consumption of illegal drugs within any park and park property is prohibited. Smoking within the boundaries of a Park is prohibited. The Department will post notice of this prohibition at the Parks.

Sec. 76.4. - General park requirements.

- (a) *Closing of parks*.
- (1) It shall be unlawful for any person to be or remain in any park during the hours the park is closed to public use, unless such person has Special Authorization from the Department authorizing that person to remain in the park.
- (2) The Department may close any park or section thereof to the public at any time and for any interval of time, either temporarily or at regular and stated intervals, and entirely or merely to certain uses. Further, the Department is authorized to limit, in whole or in part,

- 1 a park or park property during the open hours of operation notwithstanding the fact that
2 public access may be limited.
- 3 (3) The Department may designate carrying capacities for any park or section thereof and is
4 authorized to close any park or section thereof when carrying capacity is reached.
- 5 (b) *Park entrance rules.*
- 6 (1) Persons shall enter and leave park property only through the designated entrance points,
7 except in cases of emergency.
- 8 (2) Persons may enter park property only after paying the appropriate fee in effect at the time,
9 if any, except those entering on park business.
- 10 (3) Where applicable, a full stop shall be made at the entrance station when entering a park.
- 11 (c) *Reservations.* The Department may give Special Authorizations, take reservations and/or
12 establish reservation procedures for any park or section thereof, or facility within the park,
13 as it deems appropriate.
- 14 (d) *Organized groups.* An organized group may use a park during normal park operating hours
15 as long as the size or activity of the group does not interfere with or preclude the use of the
16 park by the general public in any way, unless authorized by the Department.
- 17 (e) *Fishing tournaments.*
- 18 (1) A group may use a county boat ramp for the purpose of holding a fishing tournament if
19 it has received Special Authorization from the Department.
- 20 (2) The Department may limit the number of tournaments or the number of boats participating
21 in a tournament to prevent overcrowding of the facilities.
- 22 (f) *Drunkenness, drugs, and public nuisance.* Persons in any park who are intoxicated, illegally
23 under the influence of drugs, or who conduct themselves in a disorderly, offensive,
24 obnoxious, obscene, or profane manner are considered public nuisances and are subject to
25 arrest and ejection from the park.
- 26 **Sec. 76.5. - Recreational activities.**
- 27 (a) *Swimming.*
- 28 (1) Swimming shall be allowed only in areas designated for swimming.
- 29 (2) All persons shall comply with hours posted by the Department during which use of
30 swimming areas is permitted.
- 31 (3) Swimming areas may be closed to the public and use thereof prohibited at any time the
32 Department determines that such activities are dangerous or otherwise inadvisable.
- 33 (4) The washing of persons or objects, with or without soaps or other cleansers, is prohibited
34 in swimming areas and on the beaches thereof.
- 35 (5) The Department is authorized to promulgate additional rules and regulations for the
36 purpose of regulating the use of swimming areas and pools.
- 37 (b) *Boating.* All watercraft shall be launched or removed from the water only at places designed
38 by the Department for such purposes.
- 39 (c) *Picnicking.*
- 40 (1) Picnicking is allowed only in areas designated by the Department for such purpose.

(2) Use of picnic area facilities, including picnic shelters, individual grills, tables, and benches generally shall follow the rule of first-come, first-served. However, this practice shall not preclude the Department from providing Special Authorization for the use of picnic areas to particular persons or groups.

(3) To maintain cleanliness and to reduce fire hazards, each picnic party shall completely extinguish any fire and place all refuse, waste, and trash in disposal containers where provided. If there are no such containers immediately available, then refuse shall be carried away and disposed of by the users of the picnic facility.

(d) *Games.* Use of all playing areas, courts, and fields, for their intended purposes generally follows the rule of first come, first-served. However, this practice shall not preclude the Department from assigning or reserving these facilities for the use of particular persons or groups. Users shall comply with the posted rules and regulations that pertain to each area.

(e) *Horseback riding.* Horseback riding is allowed only in specifically designated areas where provisions have been made through the establishment of bridle trails and other necessary facilities. Where so provided for and permitted, horses shall be thoroughly broken and properly restrained and ridden with due care. Horses shall not be allowed to graze or go unattended nor shall they be hitched to any tree, plant, or rock. Users shall comply with the posted rules and regulations that pertain to the area.

(f) *Camping.*

(1) Camping is allowed only in designated areas upon the payment of required fees, if any, and issuance of the proper permit.

(2) All campers being issued a permit must adhere and comply with the established rules and regulations for campers.

(3) Campers under 18 years of age must be accompanied by an adult.

(g) *Fishing.*

(1) Fishing is allowed in park waters by any legal method except where prohibited by the Department.

(2) Fishing during normal park hours in, around, or near park areas that are designated for swimming or other water-related recreational activities is prohibited unless the Department determines that the circumstances are such that a safety hazard or use conflict is not likely to occur. No litter, including unwanted marine life shall be left on the beaches. No debris or other wastes shall be thrown in park waters.

Sec. 76.6. - Vehicles and traffic.

(a) *State law.* All applicable provisions of Florida Statutes and Florida Administrative Code regulating the equipment and operation of any vehicles on Florida roadways will be enforced in all parks.

(b) *Traffic control.* Authorized law enforcement officers and park personnel will direct traffic as needed in parks and on roadways adjacent thereto in accordance with state law and applicable instruction based on existing conditions. All persons shall comply with lawful orders, signals and directions of such officers and personnel. All persons shall observe and comply with posted traffic signs.

(c) *Speed of vehicles in parks.* Persons shall drive vehicles at a speed that is reasonable and prudent having due regard for the surface, width and condition of paving and the traffic thereon, particularly when near children or bicyclists. Speed of vehicles in parks shall not exceed 15 miles per hour.

(d) *Restriction to roads.* Vehicles shall be driven only on designated roadways, parking areas, or other such areas as may be designated by the Department or park personnel.

(e) *Parking.* All vehicles shall be parked only in established parking areas or in such other areas and at such times as the Department or park personnel may designate.

Sec. 76.7. - Enforcement, penalty.

The provisions of this chapter shall be enforced by the county manager or his or her designated representative and by the Alachua County Sheriff's Office and any other local, state or federal law enforcement officer acting within his or her jurisdiction. The parent(s) or guardian(s) of a minor who violates any part of this chapter are responsible for the actions and violation by the minor. Anyone in violation of any part of this chapter shall be punished as provided in section 10.08 of the Alachua County Code. In addition, the County may seek other remedies such as, but not limited to, trespassing warning, injunctive relief, ejectment, or debarment from future use of parks and park properties.

SECTION 3. Amendment. Exhibit A entitled "Schedule of Codes And Ordinances With Brief Description Of Subject Matter of Violations and Penalties for Uncontested Violations", referenced in Alachua County Code of Ordinances, Title 2, Chapter 24, Article II, Section 24.16, is amended to add the following. All other contents of the schedule of codes and ordinances, not included herein, shall remain unchanged by this ordinance.

EXHIBIT A. SCHEDULE OF CODES AND ORDINANCES WITH BRIEF DESCRIPTION
OF SUBJECT MATTER OF VIOLATIONS AND PENALTIES FOR UNCONTESTED
VIOLATIONS

* * *

Code Administration

Code or Ordinance	Section	Section this Volume	Description	Class	Penalty
<u>2023-</u>	<u>2</u>	<u>74</u>	<u>Park Regulations</u>	<u>II</u>	<u>\$75.00</u>

SECTION 4. Modification. It is the intent of the Board of County Commissioners that the provisions of this ordinance may be modified as a result of considerations that may arise during public hearings. Such modifications shall be incorporated into the final version of the ordinance adopted by the Board and filed by the Clerk to the Board.

SECTION 5. Inclusion in the Code. It is the intent of the Board of County Commissioners of Alachua County, Florida, and it is hereby provided that the provisions of this ordinance shall become and

1 be made a part of the Code of Ordinances of Alachua County, Florida; that the section of this ordinance
2 may be renumbered or re-lettered to accomplish such intent and that the word “ordinance” may be changed
3 to “section”, “article”, or other appropriate designation.

4 SECTION 6. Ordinance to be Liberally Construed. This ordinance shall be liberally construed
5 in order to effectively carry out the purposes hereof which are deemed not to adversely affect public health,
6 safety, or welfare.

7 SECTION 7. Severability. If any word, phrase, clause, paragraph, section or provision of this
8 ordinance or the application hereof to any person or circumstance is held invalid or unconstitutional, such
9 finding shall not affect the other provisions or applications of the ordinance which can be given effect
10 without the invalid or unconstitutional provisions or application, and to this end the provisions of this
11 ordinance are declared severable.

12 SECTION 8. Effective Date. A certified copy of this ordinance shall be filed with the
13 Department of State by the Clerk of the Board within ten days after enactment by the Board and shall take
14 effect upon filing with the Department of State.

15 **DULY ADOPTED** in regular session, this ____ day of _____, 2023.

16
17 **BOARD OF COUNTY COMMISSIONERS OF**
18 **ALACHUA COUNTY, FLORIDA**

19 ATTEST:

20
21
22
23 _____
24 J.K. “Jess” Irby, Esq.
25 Clerk

20 BY: _____
21 Anna Prizzia, Chair
22 Board of County Commissioners

23
24 APPROVED AS TO FORM

26
27
28 (SEAL)

County Attorney