

**ORDINANCE NO. 04 - 19**

**AN ORDINANCE TO ESTABLISH RULES FOR THE USE OF CITY OWNED PARKS; PROVIDING A PURPOSE; PROVIDING DEFINITIONS; PROVIDING FOR RULES AND REGULATIONS; PROVIDING FOR PENALTIES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR INCORPORATION IN THE CODE OF ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the City of Marco Island has been granted broad home rule powers under Article VIII, Section 2 (b), of the Florida State Constitution, and Section 166.021, Florida Statutes; and

WHEREAS, the City of Marco Island owns and administers parks and other recreational facilities; and

WHEREAS, the City Council recognizes the need to establish rules for the general public's use of the parks and recreational facilities owned by the City of Marco Island; and

WHEREAS, the City Parks and Recreation Advisory Committee has reviewed and recommended approval of this Ordinance to the City Council; and

WHEREAS, pursuant to the City Charter and Florida law, the City Council has the power to adopt ordinances as may be required for the good government of the City; and

WHEREAS, it has been determined that the adoption of this Ordinance is in the best interest of the City and its residents.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA, AS FOLLOWS:

**SECTION 1. Title and Purpose.**

- (a) Short Title. This ordinance shall be known as and may be cited as the "Parks and Recreation Rules Ordinance."
- (b) Purpose. This Ordinance is enacted under the home rule power of the City for the purpose of providing necessary regulations, conditions, and requirements which shall be uniformly applied to the general public's use of City owned parks.

**SECTION 2. Definitions.**

As used in this Ordinance, the following terms shall have the meanings indicated:

- (a) *City* – The City of Marco Island.
- (b) *City Council* – The City Council for the City of Marco Island.

- (c) *City Manager* – The City Manager for the City for Marco Island or designee.
- (d) *County* – Collier County.
- (e) *Director* – The Parks and Recreation Director for the City of Marco Island or designee.
- (f) *Department* – The City of Marco Island Parks and Recreation Department.
- (g) *Facility Use Policy* – Policy adopted by the City Council, by resolution, for the reservation and use of City owned Parks.
- (h) *Park* – Any land or water site owned, operated, or controlled by the City that is used by the general public for recreational purposes.
- (i) *Person* – An individual, corporation, governmental agency, business, estate, trust, partnership, firm, joint venture, syndicate, fiduciary, society, organization, association, two or more persons having a joint or common interest, or any other entity, and its designated agents, successors or assigns.
- (j) *State* – State of Florida.

### **SECTION 3. Establishment of Rules and Regulations.**

The following rules and regulations are established for the public's use of parks:

#### **(a) Preservation of Property and Natural Resources.**

It shall be unlawful for any person to:

- (1) Willfully injure, deface, destroy, disturb, remove or misuse any part of the park or any building, sign, equipment, plant, plant material, animals, or other property.
- (2) Operate any motorized or electrical tools or equipment unless authorized by the Director, with the exception of motorized wheelchairs and other motorized equipment used by individuals with physical disabilities as defined by State and Federal law.

#### **(b) Disposal of Rubbish, Garbage, Sewage, and Noxious Materials.**

It shall be unlawful for any person to:

- (1) Leave behind or dump any material of any kind in a park except the refuse generated during use of the park, and any such refuse shall be deposited in receptacles provided for such purposes.

- (2) Place or permit to be placed waste of any kind in any river, brook, stream, lake, pond, canal, ditch, or drain.
- (3) Dispose of household or commercial trash in any park receptacle.

**(c) Weapons and Explosives.**

It shall be unlawful for any person to:

- (1) Discharge, carry, or possess a firearm, except law enforcement officers during the lawful performance of their duties.
- (2) Use, carry, or possess any fireworks or other explosive substance, except duly authorized employees or agents of the Department.
- (3) Possess any other dangerous weapons or instruments.

**(d) Harassment of Others.**

It shall be unlawful for any person to:

- (1) Commit any assault, battery, or engage in fighting.
- (2) Follow a person about the park with the intent to harass, annoy, or alarm such other person.
- (3) Engage in a course of conduct or repeatedly commit acts which alarm or annoy another person and which serve no legitimate purpose.
- (4) Threaten or menace any other person with any instrument or by using any animal to do the same with the intent to harass, annoy, or alarm such other person.

**(e) Disorderly Conduct.**

It shall be unlawful for any person to:

- (1) With intent, cause public inconvenience, annoyance, or alarm, or recklessly creating a risk thereof, engage in fighting or in violent, tumultuous, or threatening behavior.
- (2) With intent, cause public inconvenience, annoyance, or harm, or recklessly creating a risk thereof, make unreasonable noise.
- (3) With intent, cause public inconvenience, annoyance, or alarm, or recklessly creating a risk thereof, use abusive or obscene language or make obscene gestures in a public place.

- (4) Commit, perform, or engage in any lewd, lascivious, obscene or indecent act or behavior.

**(f) Advertising, Signs, and Commercial Enterprises.**

It shall be unlawful for any person to:

- (1) Distribute or place any commercial or political sign, advertisement, circular, notice, statement, banner, emblem, or design within the park, unless otherwise authorized by a special permit, as issued by the City Code Enforcement Coordinator, or as otherwise authorized by the ordinances governing election polling places within City parks.
- (2) Attach posters or directional signs to trees.
- (3) Beg, hawk, peddle, or solicit within the park, unless authorized through the Facility Use Policy.
- (4) Sell or offer for sale any article, thing, privilege, or service unless, authorized by the City Manager. If permitted by the City Manager, such sale or offer of any article, thing, privilege, or service must be in accordance with all applicable City, County, and State laws, codes, ordinances, rules, or regulations.

**(g) Compliance with Orders of City Manager and Director; Setting of Regulations.**

- (1) No person shall fail or refuse to comply with any reasonable order relating to the regulation, direction, or control of traffic or to any other order lawfully given by the City Manager and/or Director, or to willfully resist, obstruct, or abuse any police officer or other City, County, State, or Federal official in the execution of their duties.
- (2) The City Manager may set such other regulations from time to time, which will help in promoting the health, safety, and general welfare of persons and the orderly administration of a park pursuant to policies established by the City Council.

**(h) Tents and Camping.**

No person shall establish or maintain any tent or other temporary lodging or sleeping place within a park, unless authorized through the Facility Use Policy.

**(i) Fires.**

It shall be unlawful for any person to:

- (1) Start a fire in the park except small fires for culinary purposes in permanent park grills located in the places or areas approved by the Director. The Director may, at his/her discretion, prohibit or permit fires at any location or for any purpose when necessary for the protection of park property or the health, safety, or welfare of the public or through the Facility Use Policy.
- (2) Leave the immediate vicinity of the culinary fires in permanent park grills before they are extinguished.

**(j) Hunting and Fishing.**

It shall be unlawful for any person to:

- (1) Hunt, pursue with dogs, trap, or in any way molest any wild bird or animal found within the confines of a park.
- (2) Fish in park waters in violation of the rules and regulations of the City, County, or State.

**(k) Dogs and Other Pets.**

- (1) Dogs, snakes, lizards, rodents and raptors kept as pets, and any exotic pets are prohibited from all parks unless they are part of a presentation sponsored by the City or permitted through the Facility Use Policy.

**(l) Swimming.**

Swimming and wading is prohibited in all lakes, ponds, streams, and canals.

**(m) Certain Toys Prohibited.**

- (1) Motorized models that are fuel or electric powered including: planes, cars, rockets, or boats are not permitted within a park with the following exceptions:
  - (i) Electric powered, radio-controlled toy vehicles;
  - (ii) Electric powered planes at Winterberry Park except during athletic events;
  - (iii) Electronically controlled, wind powered sail boats at the Mackle Park Lake;
- (2) Motorized scooters, motorized skateboards, and motorized bicycles are not permitted on park roads, walks, trails, or athletic courts.
- (3) Skateboards and rollerblades are not permitted on park athletic courts.

**(n) Metal Detectors.**

No person shall use any metal detector within a park.

**(o) Alcoholic Beverages and Illegal Substances.**

It shall be unlawful for any person to:

- (1) Offer for sale any beer, wine, liquor, or other intoxicating beverage, unless authorized through the Facility Use Policy.
- (2) Be under the disturbing influence of any beer, wine, liquor, or other intoxicating beverage or any illegal substance, drug, stimulant, depressant, or hallucinating agent.
- (3) Possess, consume, or use any beer, wine, liquor, or other intoxicating beverage unless authorized through the Facility Use Policy.
- (4) Possess, consume, or use any illegal substance, drug, stimulant, depressant, or hallucinating agent.

**(p) Hours of Closing.**

- (1) Hours of closing are regulated according to the signs posted at the entrances of each park as established by the City Manager.
- (2) No person shall be permitted to enter, remain, stop, or park within the confines of any park outside the posted hours, except in emergencies or unless permitted by the Director through the Facility Use Policy. In case of an emergency or when, in the judgment of the Director, the public interest demands it, any portion of the park may be closed to the public or designated persons.

**(q) Traffic Regulations.**

- (1) Motor Vehicles.
  - (a) Only licensed motor vehicles, including automobiles, motorcycles, trail bikes, mini-bikes, motor scooters, or mopeds may be operated and only on those roadways provided for the use of motor vehicles.
  - (b) Operators of said motor vehicles shall obey all applicable City, County, and State laws, codes, ordinances, rules, or regulations governing the use of such vehicles.
  - (c) No person shall operate a motor vehicle on walks or paths established as footpaths, exercise trails, nature trails, or bicycle

paths, unless permitted by the Director through the Facility Use Policy.

- (d) All-terrain vehicles (ATV), unlicensed trail bikes, and recreation vehicles shall be prohibited in parks.
- (e) No person shall drive upon or along any park road or drive which has been closed and posted with appropriate signs or barricades. The City Manager and Director shall have authority to order roads or drives closed.
- (f) No person shall drive at a speed in excess of that posted for the area as established by the City Manager.
- (g) No person shall operate a vehicle along or over any road or drive within a park in a reckless manner or without due regard for the safety and the rights of pedestrians, drivers, or occupants of another vehicle.

(2) **Parking.**

- (a) No person shall park any motor vehicle upon any roadway in the park or at any location where posted signs or symbols painted on the pavement prohibit parking.
- (b) No person shall park any motor vehicle upon any lawn or grassy area unless specifically authorized by the Director through the Facility Use Policy.

**(r) Facility Use Policy Fee Structure.**

- (1) The City Council may adopt policies for the private use of park facilities and fees associated with such use by resolution.
- (2) Any person or group wishing to reserve a City park or sponsor or engage in any special activity at a City park, must apply to the Department for use of a park prior to use in accordance with the policy adopted by the City Council.
- (3) When a refund is requested, the Department will strictly follow the policy adopted by the City Council.

**(s) Plants and Trees.**

- (1) No person shall cut, break, disturb, or remove any plant or tree from a park.

- (2) No person shall attach a rope, wire, cable, or other material to any plant or tree in a park.
- (3) Memorial plaques may be installed provided permission is granted by the Director and the plaque size is consistent with administrative standards.
- (4) Memorial plants or trees shall not be decorated with any ornamentation of any kind unless authorized through the Facility Use Policy for a special event.

**SECTION 4. Penalties for Offenses/Enforcement.**

- (a) It shall be unlawful for any person to violate or fail to comply with any section of this Ordinance. The violation or failure to comply with any provision of this Code shall constitute an offense against the City, said offense being a misdemeanor of the second degree and punishable in accordance with Florida Statutes. Any person who violates any provision of this Ordinance may be punished by a fine not exceeding Five Hundred Dollars (\$500) or imprisonment not exceeding sixty (60) days, or by both such a fine and imprisonment. Each day any violation of this Ordinance continues shall constitute a separate offense.
- (b) Additionally or alternatively to any other method of enforcement specified here, the City may enforce the provisions of this Ordinance by the following:
  - (i) the procedures relating to the Code Enforcement Board of the City;
  - (ii) the supplemental municipal code or ordinance enforcement procedures permitted by Florida law, including the issuance of citations.
- (c) Additionally or alternatively to any other method of enforcement specified here, any person violating any provision of this Ordinance shall be subject to expulsion from the park.
- (d) Nothing in this Ordinance shall prevent or restrict the City from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any violation or non-compliance.
- (e) All remedies and penalties provided for in this Ordinance shall be cumulative and independently available to the City. The City is authorized to pursue any and all remedies set forth in this Ordinance or as may be permitted under applicable law.

**SECTION 5. Incorporation, Conflict and Severability.**

- (a) It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Marco Island, Florida, and that the sections of this ordinance may

be renumbered or relettered and that the word "ordinance" may be changed to "section," "article," or other appropriate word.

- (b) Florida Statutes, all Collier County Ordinances or parts of ordinances and all Collier County Resolutions or parts of resolutions made applicable by the City Charter in conflict herewith are hereby repealed to the extent of such conflict.
- (c) If any word, phrase, clause, subsection, or section of this Ordinance is for any reason held unconstitutional or invalid by a court of competent jurisdiction, the invalidity thereof shall not affect the validity of any remaining portions of the Ordinance.

**SECTION 6. EFFECTIVE DATE.**

This ordinance shall take effect immediately upon adoption by the Marco Island City Council.

Passed in open and regular session of the City Council of the City of Marco Island, Florida, this 4th day of October, 2004.

Attest:



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Laura Litzan  
City Clerk

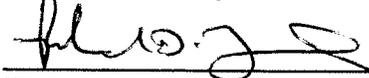
CITY OF MARCO ISLAND, FLORIDA

By: 

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Terri DiSciullo  
Council Chairwoman

Approved as to form and  
legal sufficiency:



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Richard D. Yovanovich, City Attorney