

ORDINANCE NO: 167

AN ORDINANCE OF THE TOWN OF CINCO BAYOU, FLORIDA, RELATING TO THE AMENDMENT OF THE TOWN'S CODE OF ORDINANCES, CHAPTER 15, PARKS AND RECREATION; REVISING ARTICLE II IN ITS ENTIRETY TO PROVIDE STANDARDS OF BEHAVIOR AND RULES FOR THE OPERATION OF PUBLIC PARKS; PROVIDING AUTHORITY; PROVIDING A PURPOSE; PROVIDING DEFINITIONS; PROVIDING FOR THE REGULATION OF PARK PROPERTY; PROVIDING FOR THE REGULATION OF SANITATION; PROVIDING FOR THE REGULATION OF OPERATION OF VEHICLES AND TRAFFIC; PROVIDING FOR THE REGULATION OF RECREATIONAL ACTIVITIES; PROVIDING FOR THE REGULATION OF BEHAVIOR IN THE PARKS; PROVIDING FOR THE REGULATION OF MERCHANDISING, ADVERTISING AND SIGNS; PROVIDING A PARK OPERATING POLICY; PROVIDING FOR THE REGULATION OF ALCOHOLIC BEVERAGES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES AND RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CINCO BAYOU, FLORIDA, AS FOLLOWS:

SECTION 1. That Chapter 15, Article II of the Code of Ordinances of The Town of Cinco Bayou, Florida is hereby amended in its entirety to read as follows:

ARTICLE II

STANDARDS OF BEHAVIOR AND OPERATION OF PUBLIC PARKS

SECTION 15-26 Authority.

The authority for enactment of this article is Section 166.021, Florida Statutes.

SECTION 15-27 Purpose.

The purpose of this article is to establish procedures by which Town parks are operated, and standards of behavior within the Town parks, and will serve to enhance public administration and the health, safety and welfare of the Town and its citizens.

SECTION 15-28 Definitions

For the purpose of this article the following terms, phrases, words, abbreviations and their derivations shall have the following meaning herein given. When not inconsistent with the context words used in the present

tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. Words not defined shall be given their common and ordinary meaning.

(a) *Camping* shall mean sleeping or resting in an attitude of sleep in the nighttime, or purporting to reside, even temporarily, in any such area, or sitting or standing about during times when the Town's Parks, as defined herein, are closed.

(b) *Park* is a park, reservation, playground, beach, boat ramp, recreation center or any other area in the Town, owned or used by the Town and devoted to active or passive recreation.

(c) *Vehicle* is 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. Exception is made for baby carriages, wheelchairs, and vehicles in the service of the Town parks.

(d) *Alcoholic beverages* are distilled spirits, wines, malt beverages, and all beverages containing one-half of one percent or more alcohol by volume.

(e) *Beer* means all brewed beverages containing malt.

(f) *Wine* means all beverages made from fresh fruits, berries, or grapes, either by natural fermentation or by natural fermentation with brandy added, in the manner required by the laws and regulations of the United States, and includes all sparkling wines, champagnes, combination of the aforesaid beverages, vermouths, and like products.

SECTION 15-29 Park property

No person in a park shall:

(a) Buildings and other property:

(1) *Disfiguration and removal.* Willfully mark, deface, disfigure, injure, tamper with, or displace or remove, any buildings, bridges, tables, benches, fireplaces, railings, paving or paving materials, water lines or other public utilities or parts or appurtenances thereof, signs, notices or placards whether temporary or permanent, monuments, stakes, posts, or other boundary markers, fences, gates, or other structures or equipment, facilities or park property or appurtenances whatsoever,

either real or personal.

(2) *Removal of natural resources.* Dig, or remove any beach sand, whether submerged or not, or any soil, shell, rock, stones, trees, shrubs or plants, duntimber or other wood or materials, or make any excavation by tool, equipment, blasting, or other means or agency.

(3) *Erection of structures.* Construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon or across such lands, except on special written permit issued hereunder.

(b) *Trees, shrubbery, lawns*

(1) *Injury and removal.* Damage, cut, carve, transplant or remove any tree or plant or injure the bark, or pick the flowers or seeds, of any tree or plant. Nor shall any person attach any rope, wire, or other contrivance to any tree or plant. A person shall not dig in or otherwise disturb grass areas, or in any other way injure or impair the natural beauty or usefulness of any area.

(2) *Climbing trees, etc.* Climb any tree or wall, stand or sit upon monuments, vases, fountains, railing, fences or gates, or upon any other property not designated or customarily used for such purposes.

(3) *Hitching of animals.* Tie or hitch a horse or other animal to any tree or plant.

(c) *Wild animals, birds, etc.* Hunt, molest, harm, frighten, kill, trap, chase, tease, shoot or throw missiles at any animal, reptile or bird; nor shall he remove or have in his possession the young of any wild animal, or the eggs or nest, or young of any reptile or bird. Exception to the foregoing is made in that snakes known to be deadly poisonous, such as rattle snakes, moccasins, or coral snakes may be killed on sight.

SECTION 15-30 Sanitation

No person in a park shall:

(a) *Pollution of waters.* Throw, discharge, or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream, canal, bayou, bay, pass, lagoon, or other body of water in or adjacent to any park or any tributary, stream, storm sewer, or drain flowing into such waters, any substance, matter or thing, liquid or solid, which will or may result in the pollution of said waters.

- (b) *Refuse and trash.* Have brought in or shall dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, or refuse, or other trash. No such refuse or trash shall be placed in any waters in or contiguous to any park, or left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided; where receptacles are not so provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence, and property disposed of elsewhere.

SECTION 15-31 Operation of vehicles and traffic

No person in a park shall:

- (a) *Operation of motor vehicles restriction.* Operate any motor vehicle in, on or over the beaches, public parks or public recreational lands in the Town except where designated or posted for motor vehicle traffic or parking, unless the same shall have been issued a permit by the Town Manager/Clerk or his designee. Any permit issued shall be specifically limited to the minimum access necessary to meet the service requirements of the applicant. This provision shall not apply to public safety or emergency vehicles being operated in the line of duty.
- (b) *State motor vehicle laws apply.* Fail to comply with all applicable provisions of the state motor vehicles traffic laws in regard to equipment and operation of vehicles together with such regulations as are contained in this or other ordinances.
- (c) *Enforcement of traffic regulations.* Fail to obey all traffic officers, park employees and other Town employees, such persons being hereby authorized and instructed to direct traffic whenever and wherever needed in the parks and on the highways, streets, or roads immediately adjacent thereto in accordance with the provisions of these regulations.
- (d) *Obey traffic signs.* Fail to observe carefully all traffic signs indicating speed, direction, caution stopping, or parking, and all others posted for proper control and to safeguard life and property.
- (e) *Speed of vehicles.* Ride or drive a vehicle at a rate of speed exceeding ten (10) miles an hour, except upon such roads as the Town may designate, by posted signs, for faster travel.
- (f) *Operation confined to roads.* Drive any vehicle on any area except the paved park roads or parking areas, or such other areas as may on occasion be specifically

designated as temporary parking areas by the Town.

(g) *Parking.*

- (1) *Designated areas.* Park a vehicle in other than an established or designated parking area within any Park or on the highways, streets or roads within one hundred feet of the entrance of any such Park, and such use shall be in accordance with the posted directions there at and with the instructions of any Town designated attendant who may be present.
- (2) *Full-parking.* Full-park on the road or driveway at any time. In order to enjoy some special natural scenic feature, vehicles may be parked with the two (2) left wheels near the right edge of the paving for not more than ten (10) minutes. No stopping or parking is permitted even briefly on the left-hand side of any road or driveway.
- (3) *Double-parking.* Double-park any vehicle on any road or parkway unless directed by a Town official.

(h) *Bicycles.*

- (1) *Confined to roads.* Ride a bicycle on other than a paved vehicular road or path designated for that purpose. A bicyclist shall be permitted to wheel or push a bicycle by hand over any grassy area or wooded trail or on any paved area reserved for pedestrian use.
- (2) *Operation.* Ride a bicycle other than on the right-hand side of the road paving as close as conditions permit, and bicycles shall be kept in single file when two (2) or more are operating as a group. Bicyclists shall at all times operate their machines with reasonable regard to the safety of others, signal all turns, pass to the right of any vehicle they are overtaking, and pass to the right of any vehicles they may be meeting.
- (3) *Designated racks.* Leave a bicycle in a place other than a bicycle rack when such is provided and there is a space available.
- (4) *Immobile.* Leave a bicycle lying on the ground or paving, or set against trees, or in any place or position where other persons may trip over or be injured by them.

SECTION 15-32 Recreational activities

No person in a park shall:

(a) *Bathing and swimming.*

- (1) *Designated areas.* Swim, bathe, or wade in any waters or waterways in or adjacent to any park, except in such waters and at such places as are provided therefor, and in compliance with such regulations as are herein set forth or may hereafter be adopted. Nor shall any person frequent any waters or places customarily designated for the purpose of swimming or bathing, or congregate thereat when such activity is prohibited by the Town upon a finding that such use of the water would be dangerous or otherwise inadvisable.
- (2) *Certain hours.* Frequent any waters or places designated for the purpose of swimming or bathing, or congregate thereat, except between the hours of 8:00 a.m. and 8:00 p.m., or as otherwise posted.
- (3) *Structure on beach.* Erect, maintain, use or occupy on or in any beach or bathing area any tent, shelter or structure of any kind unless there shall be an unobstructed view into said tent, shelter or structure from at least two (2) sides; nor shall any guy wire, rope or extension or exterior brace or support be connected or fastened from any such structure to any other structure, stake, rock or other object outside thereof.

(b) *Boating.*

- (1) *Designated areas.* Bring into or operate any boat, raft, or other water craft, whether motor-powered or not, upon any waters, except at places designated for boating by the Town. Such activity shall be in accordance with applicable regulations as are now or may hereafter be adopted.
- (2) *Prohibition during closing hours.* Launch, dock, or operate any boat of any kind on any waters between the closing hour of the park at night and opening hour the following morning, nor shall any person be on, or remain on or in, any boat during the said closed hours of the park.
- (3) *Prohibition of repair or maintenance.* Perform boat or engine repair or maintenance except in emergency situations.

(c) *Picnic areas and use.*

- (1) *Regulated.* Picnic or lunch in a place other than those designated for that purpose.
- (2) *Availability.* Violate the regulation that use of the individual gazebos or pavilions, together with tables and benches follows generally the rule of "First come, first served."
- (3) *Nonexclusive.* Use any portion of the picnic areas or of any of the buildings or structures therein for the purpose of holding picnics to the exclusion of other persons, nor shall any person use such area and facilities for an unreasonable time if the facilities are crowded.
- (4) *Duty of picnicker.* Leave a picnic area before the fire is completely extinguished and before all trash in the nature of boxes, papers, cans, bottles, garbage and other refuse is placed in the disposal receptacles where provided. If no such trash receptacles are available, then refuse and trash shall be carried away from the park area by the picnicker to be properly disposed of elsewhere.

(d) *Camping.* No person shall set up tents, shacks, or any other temporary shelter for the purpose of overnight camping, nor shall any person leave in a park after closing hours any movable structure or special vehicle to be used or that could be used for such purpose, such as house-trailer, camp-trailer, camp-wagon or the like.

(e) *Games.* 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. The playing of rough or comparatively dangerous games such as football, baseball and soccer is prohibited. Rollerskating shall be confined to those areas specifically designated for such pastime.

SECTION 15-33 Behavior

No person in a park shall:

- (a) *Fireworks and explosives.* Have brought, or have in his possession, or set off or otherwise cause to explode or discharge or burn, any firecrackers, torpedo, rocket, or other fireworks or explosives of inflammable materials, or discharge them or throw them into any such area from land or highway adjacent thereto. This prohibition includes any substance, compound, mixture, or article that in conjunction with any other substance or

compound would be dangerous from any of the foregoing standpoints.

- (b) *Domestic animals.* Have been responsible for the entry of a dog or other domestic animal into areas other than automobile parking concourses and walks immediately adjacent thereto, and in such other areas as may be clearly marked by signs bearing the words "Domestic Animals Permitted in This Area." Any person bringing a domestic animal into a Park shall be responsible for the collection and proper disposal of any feces defecated by such animal while in the Park. Nothing herein shall be construed as permitting the running of dogs at large. All dogs in those areas where such animals are permitted shall be restrained at all times on adequate leashes not greater than four (4) feet in length. This section shall not apply to any dog trained to aid disabled or handicapped persons, when any such dog is actually being used to assist any such person.
- (c) *Fires.* Build or attempt to build a fire or ignite or light any gas substance or other material, except in such areas designated for fires. No person shall drop, throw, or otherwise scatter lighted matches, burning cigarettes or cigars, tobacco paper or other inflammable material, within any park area or on any highway, road or street abutting or contiguous thereto.
- (d) *Closed areas.* Enter an area posted as "Closed to the Public," nor shall any person use, or abet the use of any area in violation of posted notices.
- (e) *Loitering and boisterousness.* Sleep or protractedly lounge on the seats, or benches, or other areas, or engage in loud, boisterous, threatening, abusive, insulting or indecent language, or engage in any disorderly conduct or behavior tending to a breach of the public peace.
- (f) *Interference with permittees.* Disturb or interfere unreasonably with any person or party occupying any area, or participating in any activity, under the authority of a permit.
- (g) *Possession or use of glass or ceramic containers prohibited.* No person shall possess or use any glass or ceramic container at, in or on the beaches, parks or public recreational lands in the Town.

SECTION 15-34 Merchandising, advertising and signs

No person in a park shall:

- (a) *Vending and peddling.* Solicit for any purpose, expose

or offer for sale any article or thing, nor shall he station or place any stand, cart, or vehicle for the transportation, sale or display of any such article or thing. Exception is here made as to any regularly licensed concessionaire action by and under the authority and regulation of the Town.

- (b) *Signs.* Paste, glue, tack or otherwise post any sign, placard, advertisement, or inscription whatsoever, nor shall any person erect or cause to be erected any sign whatsoever in a park or on any public lands or highways or roads adjacent to a park.

SECTION 15-35 Park operating policy

- (a) *Hours.* Except for unusual and unforeseen emergencies, parks shall be open to the public every day of the year from 8:00 a.m. to 8:00 p.m. or as otherwise established by resolution of the Town Council. The opening and closing hours for each individual park shall be posted therein for public information.
- (b) *Closed areas.* Any section or part of any park may be declared closed to the public by the Town Manager/Clerk at any time and for any interval of time, either temporarily or at regular and stated intervals (daily or otherwise) and either entirely or merely to certain uses, as the Town Manager/Clerk, or his designee, shall find reasonably necessary.
- (c) *Permit.* A permit shall be obtained from the Town before participating in a group activity composed of twenty (20) or more persons, not including the activity of loading or unloading boats or recreational vehicles, pursuant to the following:
 - (1) *Application.* A person seeking issuance of a permit hereunder shall file an application with the Town. The application shall state:
 - a) The name and address of the applicant;
 - b) The name and address of the person, persons, corporation or association sponsoring the activity, if any;
 - c) The day and hours for which the permit is desired;
 - d) The park or portion thereof for which such permit is desired;
 - e) An estimate of the anticipated attendance;

- f) Any other information which the Town Manager/Clerk shall find reasonably necessary to a fair determination as to whether a permit should be issued hereunder;
 - g) All applicants desiring to obtain a permit for exclusive use of any portion of a park, will be required to pay a non-refundable fee of forty dollars (\$40.00) at the time of issuance.
- (2) *Standards for issuance.* The Town shall issue a permit hereunder when the Town Manager/Clerk, or his designee, finds:
- a) That the proposed activity or use of the park will not unreasonably interfere with or detract from the general public enjoyment of the park;
 - b) That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation;
 - c) That the proposed activity or use is not reasonably anticipated to incite violence, crime or disorderly conduct;
 - d) That the proposed activity will not entail unusual, extraordinary or burdensome expense or police operation by the Town;
 - e) That the facilities desired have not been reserved for other use at the day and hour required in the application.
- (3) *Appeal.* If a permit is denied, within three (3) days after receipt of an application, the Town Manager/Clerk, or his designee, shall apprise an applicant, in writing, of the reasons for refusing a permit. Any aggrieved person shall have the right to appeal, in writing, within three (3) days to the Town Council, which shall consider the application under the standards set forth in subsection (2) hereof, and sustain or overrule the Town Manager's, or designee's, decision within fourteen (14) days. The decision of the Council shall be final.
- (4) *Effect of permit.* A permittee shall be bound by all park rules and regulations and all applicable ordinances fully, as though the same were inserted in said permits.

- (5) *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 person whatever by reason of the negligence of the person or persons to whom such permit shall have been issued.
- (6) *Revocation.* The Town Manager/Clerk shall have the authority to revoke a permit upon a finding of violation of any rule or ordinance, or upon good cause shown.

SECTION 15-36 Alcoholic beverage prohibitions and exceptions

- (1) No person in a park shall:
 - (a) Have brought or possessed alcoholic beverages, nor shall any person consume alcoholic beverages at any time.
 - (b) Have entered or be under the influence of alcoholic beverages.
- (2) Alcoholic beverage prohibition exception - Sea Way Boat Ramp
 - (a) Any person utilizing the Sea Way Boat Ramp is allowed to transport unopened alcoholic beverage containers through the boat ramp area to and from a boat or vehicle.
 - (b) Disposing of empty beer and wine containers properly, in trash receptacles provided by the Town, is permitted.

SECTION 15-37 Enforcement.

- (a) *Ejectment.* Town employees designated by the Town Manager/Clerk shall have the authority to eject from the park any person acting in violation of this Article.
- (b) *Seizure of property.* Town employees designated by the Town Manager/Clerk shall have the authority to seize and confiscate any property, thing or device in the park used in violation of this Article.

SECTION 15-38 Penalty.

Any person violating the provisions of this Article is guilty of an offense, and shall be punished by a fine not exceeding five hundred dollars (\$500.00), or imprisonment for a period not exceeding sixty (60) days, or by both such fine and imprisonment. Each day any violation of any provision of this Article continues shall constitute a separate offense.

Sections 15-39 through 15-50. Reserved.

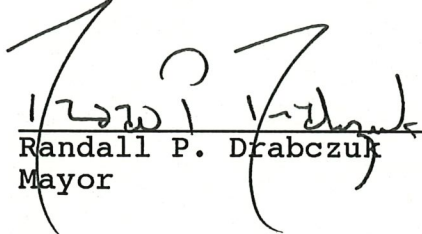
SECTION 2. SEVERABILITY. Each separate provision of this Ordinance is deemed independent of all other provisions herein so that, if any portion or provision of this Ordinance is declared invalid, all other provisions thereof shall remain valid and enforceable.

SECTION 3. REPEAL OF CONFLICTING ORDINANCES AND RESOLUTIONS. All ordinances and resolutions of the governing body in conflict herewith are hereby repealed.

SECTION 4. EFFECTIVE DATE. This Ordinance shall become effective upon its adoption by the Town Council and signature of the Mayor.

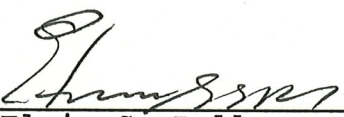
ADOPTED this 11th day of April, 1996.

BY:


Randall P. Drabczuk
Mayor

ATTEST:

BY:


Elvin C. Bell
Town Manager/Clerk