REQUEST FOR BOARD ACTION

ITEM NO. 13.

DATE OF REQUEST: February 23, 2009

REQUESTED BY: Dee Turner, Director, Parks and Recreation

SHORT TITLE: Resolution to Repeal the Existing Park Ordinances and Adopt the Presented Park Ordinances

BACKGROUND: Currently there are two park ordinances in the Pender County Code of Ordinances under Article III. Parks (attachment A).

These two ordinances apply only to Pender Memorial Park and their substance is addressed in the draft of park ordinances (attachment B). Therefore, the two existing park ordinances need to be repealed.

With the current park development and potential future park development, it is necessary to create a set of rules/ordinances to be followed while using **all** parks in Pender County. These ordinances will help establish a safe and enjoyable environment for the patrons of the parks. It also gives park personnel and law enforcement the authority to enforce the necessary rules for the protection of the park patrons, park property, etc.

The attached ordinances were developed by reviewing other county and city/town's park ordinances from throughout the state which were used as guidelines. This draft has been reviewed at one point or more in time by the following; Parks and Recreation Staff, Parks and Recreation Advisory Board, Sheriff Carson Smith, County Manager Rick Benton, Interim County Manager Al Green, County Attorney Trey Thurman and Detective/Sergeant Scott Lawson. The ordinances were first introduced at the February 16 agenda, and are ready for adoption subject to any suggested amendments.

SPECIFIC ACTION REQUESTED: To repeal the existing park ordinances and adopt a resolution approving and enacting the presented park ordinances.

COUNTY MANAGER'S RECOMMENDATION

Respectfully recommend approval.

RB
Initial

RESOLUTION

NOW, THEREFORE BE IT RESOLVED by the Pender County Board of Commissioners that:

the Pender County Park Ordinance is hereby adopted and shall take effect upon adoption. Simultaneous to this adoption , Article III, Section 11-51 and 11-51 are repealed and shall no longer have the force and effect of law but any actions under such ordinances taken prior to repeal remain valid. This adoption shall not repeal or alter the ordinance prohibiting registered sexual offenders from public parks. The Chairman of the Board and all County Officers and employees are empowered to execute any documents necessary to effectuate the Ordinance and this Resolution.

AMENDMENTS:

MOVED_____ SECONDED_____

APPROVED_____ DENIED_____UNANIMOUS

YEA VOTES: Tate___ Brown ___ Blanchard ___ Rivenbark ___ Williams ___

_____ 3/2/09
Jimmy T. Tate, Chairman Date

_____ 3/2/09
ATTEST Date

Sec. 11-29. Damage, destruction of property.

It shall be unlawful for any person to willfully, intentionally or wantonly damage, deface, mutilate, or otherwise destroy any book, or portion thereof; any pamphlet, or portion thereof; or any other library item, or portion thereof, housed in any library of the county.
(Ord. of 10-21-85, § III)

Sec. 11-30. Effect of failure to return materials.

It shall be conclusively presumed that the failure to return any book, pamphlet, or other library item, immediately after receipt of notice by certified mail that the time for return has elapsed shall constitute willful and intentional failure to return on the part of the person having the duty to return such item as shown in the records of any library in the county.
(Ord. of 10-21-85, § IV)

Sec. 11-31. Notice of article provisions.

A copy of this article, as a condition precedent to its validity, shall be posted in at least one (1) place in all public libraries in the county and shall appear on the face of all notices mailed to persons failing to return items within the requisite period of time as herein provided.
(Ord. of 10-21-85, § V)

Secs. 11-32—11-50. Reserved.

ARTICLE III. PARKS

Sec. 11-51. Availability for use.

Pender Memorial Park shall be made available for use by all persons in the county subject to the rules and regulations of the park.
(Ord. of 6-7-76, § I)

Sec. 11-52. Protection of park.

Any person using Pender Memorial Park shall leave the park in a clean condition clear of all trash and debris. No person shall make any alteration in the park structure or seating without first obtaining permission from the county administration.
(Ord. of 6-7-76, § V)

Secs. 11-53—11-90. Reserved.

ATTACHMENT B

PENDER COUNTY
PARK ORDINANCES ADMENDMENT
(DRAFT)

Article III. PARKS

Sec. 11-51. Applicability

These ordinances shall apply to all parks owned, operated or maintained by Pender County.

Sec. 11-52. Hours of Operation.

All parks shall be open to the public during posted hours. It shall be unlawful for any person or vehicle to enter or be within a park beyond posted hours of operation unless approved by a permit issued by the Director of Parks and Recreation or their designee, or unless such person is participating in authorized and scheduled programs, classes, special events or meetings.

Sec. 11-53. Closing when necessary.

Any section or part of any park, recreation area or facility may be temporarily closed to the public by the Director of Parks and Recreation or their designee at any time for maintenance and/or other purposes.

Sec. 11-54. Reservations.

Unless an area is specifically reserved for a person or group by the Director of Parks and Recreation or their designee, areas such as picnic shelters or ball fields shall be used or occupied on a "first come, first served" basis. No person shall refuse to vacate a reserved area, such as a picnic shelter or a ball field, which has been properly reserved by another person. No person shall continue to occupy a reserved area beyond the time limitation of his/her reservation if there is another person with a valid reservation waiting to use the area.

Sec. 11-55. Vehicles in parks.

(a) It shall be unlawful for any person to operate any motor vehicle, minibike, motorcycle, ATV or other motorized vehicle on any area except the park roads or parking areas.
(b) It shall be unlawful for vehicles to be parked in other than the designated parking areas.
(c) It shall be unlawful to leave a vehicle parked overnight. In such instances, the vehicle may be towed at the owner's expense.
(d) Law enforcement, emergency services and Parks and Recreation employees whose duties require them to drive vehicles and/or equipment shall be exempt of the above restrictions.

Sec. 11-56. Speed Limit.

It shall be unlawful to drive at a rate of speed in excess of ten (10) miles per hour in any park.

Sec. 11-57. Destruction of property.

(a) It shall be unlawful for any person to remove, destroy, mutilate or deface any structure, monument, statue, planter, fountain, wall, fence, railing, vehicle, bench, picnic table, tree, plants or any other property in any park area.
(b) It shall be unlawful for any person to dig, cut, bruise, debark or mutilate or cause to be transplanted, cut, bruised, debarked, or mutilated any plant material within any park area.
(c) The prohibitions above shall not apply to any person acting under authorization or directive of the Director of Parks and Recreation or their designee.

Sec. 11-58. Disorderly conduct.

(a) It shall be unlawful for any person to use any profane, boisterous or insulting language or to engage in disorderly conduct in any park area.
(b) It shall be unlawful for any person to make or cause to be made any loud, disturbing or unnecessary noises in any park area except normal cheering and applauding during the progress of an activity or event sponsored, authorized or approved by the County or Director of Parks and Recreation.

Sec. 11-59. Inappropriate conduct.

(a) It shall be unlawful to commit any nuisance, or use threatening, abusing, insulting, obscene or indecent language or act in an indecent lascivious or improper manner or do any act which constitutes a breach of the public peace.
(b) It shall be unlawful to harass any visitor or behave in a reckless manner which would endanger any visitor or the visitor's property.

Sec. 11-60. Firearms and weapons.

It shall be unlawful for any person, except those exempted under N.C.G.S. 14-269(b) to carry, possess or discharge any type of firearm, explosive devise, air guns of any description (BB guns, paintball guns, pellet guns etc.), or bowie knife, dirk, dagger, sling shot, leaded cane, switchblade knife, blackjack, metallic knuckles, razor, shurkin, stun gun, bow and arrow or other deadly weapon as defined in Article 35 of Chapter 14 of the North Carolina General Statues within any park. This prohibition shall not apply to a weapon which is in a motor vehicle so long as the weapon is not brandished. This prohibition shall not apply to an authorized event, such as an archery demonstration/program.

Sec. 11-61. Pyrotechnics.

It shall be unlawful for any person to possess, display, use, set off or attempt to ignite any firecracker, fireworks, smoke bombs, rockets, black powder guns or other pyrotechnics, without

written permission from the Director of Parks and Recreation or their designee **and** permits from the local fire marshal. Permission will only be granted for community firework events.

Sec. 11-62. Alcoholic beverages and narcotic drugs.

(a) It shall be unlawful for any person to possess, consume or display beer, wine, malt or alcoholic beverage or any narcotic drugs in any park area
(b) It shall be unlawful for any person under the influence of the above listed beverages or any narcotic drugs to enter or remain within any park area.

Sec. 11-63. Smoking.

(a) It shall be unlawful for any person to smoke in any park area except in the designated smoking area.
(b) Smoking may be prohibited by the Director of Parks and Recreation or their designee in the entire park when it is deemed necessary or advisable due to fire and weather conditions.

Sec. 11-64. Pets/Horses/Animals.

(a) It is unlawful to bring pets/horses/animals in the park except for service animals.
(b) It shall be unlawful to dispose of or release waterfowl, deer, rabbits, or other pets/animals in the park.

Sec. 11-65. Mistreatment/Hunting of animals.

It shall be unlawful for any person to hunt, shoot, injure or molest any bird or animal, nor shall any person have any wild bird or animal in his possession within any park.

Sec. 11-66. Games/ Sports.

(a) It shall be unlawful for any person(s) to participate in games or athletic contests in any park area except in specifically designated areas.
(b) It shall be unlawful to strike or otherwise propel a regulation golf ball on any/all portions of park property/boundaries.

Sec. 11-67. Fires.

(a) It shall be unlawful for any person to kindle, build, maintain or use a fire other than in park provided or department approved grills designated for such purposes. Any fire shall be continuously under care and direction of a competent person over sixteen years of age from the time it is kindled until it is extinguished.
(b) No person within the confines of any park shall throw away or discard any lighted match, cigarette, cigar, or other burning object.

Sec. 11-68. Leaving refuse in park areas.

(a) Except in containers provided for that purpose, no person shall leave, deposit, dump, throw, cast, lay or place, or cause to be deposited, dumped, thrown, cast, laid, or

placed any ashes, trash, rubbish, soil, earth, paper, garbage, refuse, debris, plant clippings, limbs or leaves in or upon any park areas or in any watercourse, lake, pond or slough within any park areas.

(b) Dumpsters placed on park areas shall be used for park refuse only. It shall be unlawful for private citizens or businesses to use park dumpsters for their private refuse.

Sec. 11-69. Advertising.

It shall be unlawful for any person to post or erect any structure, sign, bulletin board, poster or advertising device of any kind at any place within any park without the written permission from the Director of Parks and Recreation or their designee and in conformance with all applicable zoning regulations.

Sec. 11-70. Charge of Admission.

It shall be unlawful for any person and/or organization to charge an admission fee to the park or a facility within the park without written permission from the Director of Parks and Recreation or their designee.

Sec. 11-71. Meetings and Exhibitions.

It shall be unlawful for any person to erect any structure, stand or platform, hold any meeting or exhibition, perform any ceremony, make any speech or address without written permission from the Director of Parks and Recreation or their designee.

Sec. 11-72. Selling, peddling, begging.

It shall be unlawful for any person to engage in soliciting, peddling, begging or selling of any kind in any park area. This section shall not apply to fundraising events conducted by private, non-profit entities or organizations. Any such fundraising activities must have prior written approval from the Director of Parks and Recreation or their designee.

Sec. 11-73. Camping.

(a) It shall be unlawful for any person to set up tents, shacks or any other temporary shelter for the purpose of overnight camping,

(b) It shall be unlawful for any person to leave in any park after closing hours any movable structure or special vehicle to be used or that could be used for such purpose, such as a camper/trailer, house trailer or the like.

Sec. 11-74. Aviation.

It shall be unlawful for any person to voluntarily bring, land or cause to descend or alight within or upon any park any airplane, flying machine, balloon, parachute or other apparatus for aviation. "Voluntarily" as used in this section shall mean anything other than a forced landing. Law enforcement, military and emergency services aircraft may land in the park boundaries if necessary in the course of their duties.

Sec. 11-75. Engine powered models or toys restricted.

It shall be unlawful for any person to start, fly or use any fuel powered engine, jet-type or electric powered model aircraft, boat, car, truck or rocket or like powered toy or model except in areas specifically designated for such use.

Sec. 11-76. Excavating.

It shall be unlawful for any person to make an excavation in any park area for any purpose, unless authorized or approved by the County or Director of Parks and Recreation or their designee.

Sec. 11-77. Rules and Regulations.

(a) A copy of the rules and regulations governing the use and maintenance of parks and recreational facilities may be obtained from the Parks and Recreation Department or viewed online.
(b) All park, municipal, county, state and federal ordinances apply.

Sec. 11-78. Establishment, enforcement of rules and regulations.

The Director of Parks and Recreation has the authority and responsibility to establish and enforce any rules and regulations governing the use and maintenance of parks and recreational facilities not inconsistent with this Ordinance. Such rules and regulations shall not be deemed part of this ordinance and violations shall not be punishable as a misdemeanor or by civil citation.

Sec. 11-79. Misuse of Facilities.

Flagrant misuse of parks and recreational facilities will result in forfeiture of future reservation privileges and/or being banned from parks and recreational facilities within the county.

Sec. 11-80. Enforcement/Penalties.

(a) These ordinances shall be enforced by park personnel or their designee and any authorized law enforcement officer within their jurisdiction. Violation of any of these ordinances shall, upon conviction, be guilty of a misdemeanor pursuant to G.S. 14-4 and shall be fined not more than fifty dollars ($50.00), or imprisonment not more than thirty (30) days.
(b) Violation of any of these ordinances also shall subject the offender to a civil penalty of one hundred dollars ($100.00) for each offense to be recovered by the County in a civil action in the nature of debts, as provided in G.S. 153A-123(c). Pender County shall make written demand for payment, delivered by certified mail, return receipt requested, upon the person or person's responsible or their agents and assigns, and shall set forth in detail the violation for which the penalty has been invoked. If payment is not received or equitable settlement reached within thirty (30) days after demand for payment is received, the County may refer the matter to the County Attorney for the

institution of a civil action in the nature of debt in the name of Pender County in the appropriate division of the General Court of Justice in Pender County, for recovery of the penalty, and any equitable remedy available to the County.

(c) In addition to the above listed criminal and civil penalties, offenders may be liable for paying restitution for repairs and/or replacement of any park property damaged as a result of violation(s) of these ordinances.

(d) Each day a violation continues, shall constitute a separate and distinct offense, punishable as set forth herein and described above.

(e) Repeat violations of any of these ordinances shall subject the offender to a civil penalty not to exceed five hundred dollars ($500) for each offense to be recovered by the County in a civil action in the nature of debts, as provided in G.S. 153A-123(c). Pender County shall make written demand for payment, delivered by certified mail, return receipt requested, upon the person or person's responsible or their agents and assigns, and shall set forth in detail the violation for which the penalty has been invoked. If payment is not received or equitable settlement reached within thirty (30) days after demand for payment is received, the County may refer the matter to the County Attorney for the institution of a civil action in the nature of debt in the name of Pender County in the appropriate division of the General Court of Justice in Pender County, for recovery of the penalty, and any equitable remedy available to the County.

These ordinances shall become effective upon adoption by the Pender County Board of County Commissioners.