

STATE OF INDIANA

BEFORE THE BOARD OF FLOYD COUNTY COMMISSIONERS

ORDINANCE NO. FCO-2021- 1

**AN ORDINANCE ESTABLISHING RULES AND REGULATIONS FOR PUBLIC PARKS OPERATED BY THE FLOYD COUNTY DEPARTMENT OF PARKS AND RECREATION ON LANDS OWNED BY FLOYD COUNTY**

WHEREAS, the Floyd County Department of Parks and Recreation (hereinafter referred to as the "Department") operates certain public parks on lands owned by Floyd County, Indiana, and/or the Board of Commissioners of Floyd County, Indiana (the "Board", and collectively with Floyd County, Indiana, the "County"), including without limitation, Kevin Hammersmith Memorial Park (the "Park"), consisting of 35.157-acres located at the commonly known address of 4400 Lewis Endres Parkway, New Albany, Floyd County, Indiana [Parcel No. 22-05-08-500-435.000-007] (the "Park Property"); and,

WHEREAS, on August 21, 2013, the County executed a real estate contract to sell a 10.251-acre tract within Kevin Hammersmith Memorial Park to New Albany Little League, Inc. (the "NALL Property"), Section 3(b) of which requires NALL to comply with all County ordinances; and,

WHEREAS, Ind. Code § 36-10-3-10(a)(2) provides that the Department's board shall establish rules governing the use of park and recreation facilities by the public; and,

WHEREAS, on November 4, 2019, the Department and the County executed an Interlocal Cooperation Agreement that has been recorded as Instrument No. 201921879 in the office of the Floyd County Recorder, which describes in part its purpose at Section 2(b) as to "[d]elegate power to the Department to establish rules and regulations for the use of the Park, the Park Property, and the NALL Property, subject only to the terms of the Contract and ratification by ordinance(s) to be adopted by the County"; and,

WHEREAS, this Board previously adopted Ordinance No. FCO 2003-08 establishing rules and regulations governing the use of park and recreation facilities on lands owned by the County, which rules and regulations the Department now recommends be repealed and replaced as set forth in this Ordinance; and,

WHEREAS, this Board now adopts this Ordinance for such purpose.

**NOW THEREFORE, BE IT ORDAINED** by the Board of Commissioners of Floyd County, Indiana, as follows:

**SECTION 1:** This Ordinance repeals and replaces Ordinance No. FCO-2003-08 in its entirety.

**SECTION 2:** The Department has previously adopted rules and regulations for the use of all public parks on lands owned or operated by the Department, which by this Ordinance this Board now ratifies and adopts for public parks operated by the Department on lands owned by the County as follows:

**1. USE OF GROUNDS AND FACILITIES**

Each person, firm, or corporation using the public parks and grounds shall clean and remove all debris, extinguish all fires when such fires are permitted, and leave the premises in good order and the facilities in a neat and sanitary condition.

**2. CERTAIN ACTS PROHIBITED**

It shall be unlawful for any person, firm or corporation using such parks to either perform or permit to be performed any of the following acts within parks premises:

- (A) To commit assault, battery, or engage in any fighting or non-consensual physical contact with any other persons.
- (B) To prevent any person from using any park or any of its facilities or to interfere with the use in compliance with this Ordinance and the rules and regulations adopted herein.
- (C) To possess, carry, or discharge firearms (unless otherwise allowed by applicable Indiana law), fireworks, BB guns, air guns, bows and arrows, crossbows, slingshots, blowguns, rockets, paint ball guns, or martial arts weapons unless authorized in writing by the Superintendent of Parks or the Floyd County Sheriff or a duly sworn Floyd County Deputy Sheriff.
- (D) To hit golf balls.
- (E) To damage, cut, break, injure, deface, or disturb any tree, plant, shrub, rock, building, monument, fence, bench, playground or other park equipment, or other structure, apparatus, or property; or, to pluck, pull up, cut, take, or remove any shrub, bush, plant, or flower; or, to mark, write upon, paint, or otherwise deface in any manner any park building, monument, fence, playground/park equipment or other structure.

- (F) To cut or remove any trees, wood, turf, grass, soil, rock, or gravel without written permission from the Superintendent of Parks.
  - (G) To swim, bathe, wade in, or pollute the water of any fountain, pond, lake, or stream.
  - (H) To throw, discharge, or otherwise place or cause 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, stream, storm sewer, or drain flowing in such waters, any substance, or matter or thing, either liquid or solid, which will or may result in the pollution of such waters.
  - (I) To make or kindle any fire, except in picnic grills provided by the Department or within areas specifically designated for that purpose.
  - (J) To place, abandon or leave garbage, cans, bottles, papers, or other refuse in any public park except in a proper waste receptacle. Nor is the dumping of any personal items, trash, grass clippings, leaves, limbs or other refuse for the purpose of disposal allowed in any park.
  - (K) To participate or engage in any activity in any park area when such activity will create a danger to the public, public nuisance, or cause damage to park property.
  - (L) To camp, sleep, or stay overnight in any park without prior written permission by the Superintendent of Parks.
  - (M) To possess or consume any alcoholic beverages.
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- (N) To disturb in any manner any picnic, meeting, service, concert, exercise class, or other class or exhibition.
  - (O) For any person over the age of six (6) years to use the restrooms and washrooms designated for use by the opposite sex unless such assistance is medically necessary.
  - (P) To stand, skate, sit, or walk on areas of water covered with ice.
  - (Q) Use of mechanical loud speakers or amplified music, sound, or voices except when authorized in writing by the Superintendent of Parks, or when done in connection with the use of any amphitheater provided music or sound, and provided such sounds are within the levels prescribed by applicable State or local laws, ordinances, or regulations as measured at the park property boundary.
  - (R) To smoke cigarettes, cigars, or electronic cigarettes, or consume other tobacco products on or around playgrounds or near any youth activity or event.

- (S) To use any metal detector on any park property without the prior written consent of the Superintendent of Parks.

**Statutory Reference:** Battery statutes, *see* IC 35-42-2-1, 35-42-2-3, and 35-45-1-3

### **3. PICNIC AREAS AND USE**

No person in a park shall use any portion of the picnic areas or any of the buildings or structures therein for the purpose of holding picnics to the exclusion of other persons except by reservation permit obtained from the Department of Parks and Recreation, nor shall any person use such areas and facilities for an unreasonable time if the facilities are crowded. Loitering will not be permitted.

### **4. SPECIAL ACTIVITIES**

It shall be unlawful to:

- (A) To use or operate remote controlled drone, airplane, boat, helicopter, parasail, hang glider, or hot air balloon, unless otherwise designated by the Superintendent of Parks.
- (B) To take off or land a drone on any park property without prior written permission of the Superintendent of Parks and/or a permit issued by the Department.
- (C) To conduct or participate in any tournament, camp, lessons, or organized sporting event which has not been specifically authorized by the Superintendent of Parks.

### **5. OPERATIONS OF MOTOR VEHICLES AND BOATS**

It shall be unlawful to:

- (A) To ride, drive, or to go at a rate of speed greater than the posted speed limit upon any bicycle, motorcycle, in-line skates, automobile, or other vehicle whatsoever, upon any parking lot or area, drive, or street in any park; provided, however, bicycles and in-line skating are allowed on designated park trails.
- (B) To ride, drive, or park any motorcycle, automobile, motorized scooter, or other motorized vehicle upon, over, or across any park curb, sidewalk, grass, lawn, hiking or jogging trail, or park land, except authorized Floyd County vehicles, and in designated areas specifically permitting such use, or unless authorized in writing by the Superintendent of Parks.

- (C) To use or operate any motorboat on any creek, pond, lake, or other body of water within any park. The use of rowboats, canoes, kayaks, and boats with electric trolling motors, however, is permitted
- (D) To operate any vehicle in a park facility parking lot between the hours of 11:00 p.m. and 6:00 a.m. without prior written permission from the Superintendent of Parks
- (E) To park or operate any truck-trailer, trailer, semi-trailer, or pole-trailer in a park facility or parking lot at any time, unless while on official park business.
- (F) To leave or abandon a vehicle in any park after normal hours (11:00 p.m. to 6:00 a.m.). This will result in the removal of the vehicle by a towing company at the owner's expense.

## **6. ANIMALS WITHIN THE PARK AREA**

It shall be unlawful to:

- (A) To hitch, fasten, lead, ride, drive, or let free any animal, reptile, or fowl of any kind, provided that this shall not apply to domestic animals as defined by the Floyd County Animal Control Code. All permitted animals shall be led by a static leash, cord, or chain not more than ten (10) feet long or a retractable cord not more than fifteen (15) feet long.
- (B) To ride or drive any horse or animal except on or immediately along the side of existing roadways.
- (C) To allow a domestic animal to defecate in any park without immediately removing and disposing of such feces into a proper waste receptacle.
- (D) To hunt, abandon, replace, remove, or injure any animal, domestic or wild, including but not limited to dogs, cats, cows, horses, birds, mammals, reptiles, fowls, or livestock.

## **7. PEDDLING OR SOLICITING**

It shall be unlawful for any person other than employees or officials of the Department or individuals acting on behalf of the Floyd County Parks Board to:

- (A) To sell or offer for sale any food, drinks, confections, merchandise, or services except pursuant to a written agreement that includes requirements for a certificate of liability insurance naming the Department as an additional insured, a permit

issued by the Floyd County Health Department (if needed), and prior written permission from the Superintendent of Parks.

- (B) To practice, carry on, conduct, or solicit for any trade, occupation, business, or profession, or to circulate any petition.

## **8. FISHING**

- (A) All persons fishing in the areas under the control of the Department must conform to all State of Indiana laws, rules, and regulations, including without limitation, those enacted or enforced by the Indiana Department of Natural Resources (Division of Fishing and Wildlife) (“DNR”). The legal size of a large mouth bass will be determined by DNR.
- (B) Minnows shall not be used as bait.
- (C) Dumping of fish taken from another source is not allowed.
- (D) Fishing after normal park hours is allowed with a proper night fishing permit obtained from the Department.
- (E) Seining of minnows or fish from creeks, ponds, or lakes in any park is not allowed.

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## **9. HOURS OF CLOSING**

It shall be unlawful to remain, stay, or loiter in any park between the hours of 11:00 p.m. and 6:00 a.m. of the following day unless with the prior written authorization of the Superintendent of Parks.

## **10. EXCEPTIONS TO THE REGULATIONS**

These provisions shall not apply to any properly authorized government official acting in pursuit of their official duty.

## **11. SEVERABILITY**

If any provision or section of this Ordinance, or the enforcement of any such provision or section, is held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect or render invalid or unenforceable any other provision. (*See*, Ordinance G-87-193, passed July 6, 1987).

**12. PENALTY**

Whoever violates any provisions of this Ordinance shall be subject to the imposition of fines or civil penalties not exceeding Two Thousand Five Hundred Dollars (\$2,500.00) for a first violation of this Ordinance, or Seven Thousand Five Hundred Dollars (\$7,500.00) for subsequent violations of this Ordinance. (See, IC 36-1-3-8(a)(10)(B)). Each day that a violation exists shall constitute a separate offense. All fines and civil penalties collected shall be returned to and deposited in the Floyd County Parks and Recreation Non-Reverting Program Fund (See, Ordinance No. FCO12-XVI approved on December 18, 2012).

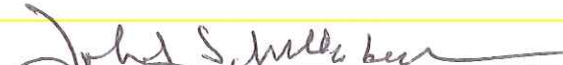
**SECTION 3:** This Ordinance shall be in full force and effect following its adoption and publication of notice of adoption as required by law.

SO ORDAINED by majority vote of the Board of Commissioners of Floyd County, Indiana, at a properly noticed and convened public meeting held this 19 day of January, 2021.


**BOARD OF COMMISSIONERS  
OF FLOYD COUNTY, INDIANA**

*Voting For:*

*Voting Against:*

  
\_\_\_\_\_  
John Schellenberger, Commissioner

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John Schellenberger, Commissioner

  
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Shawn Carruthers, Commissioner

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Shawn Carruthers, Commissioner

  
\_\_\_\_\_  
Tim Kamer, Commissioner

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Tim Kamer, Commissioner

*Attested by:*

  
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Jacqueline Wenning, Floyd County Auditor