

Agenda Item Summary

1. ACTION REQUESTED/PURPOSE: Conduct a Public Hearing and consider the adoption of an Ordinance repealing and replacing Lee County Ordinance No. 90-56; as Amended by Ordinance 01-01 and 02-12, entitled, "Lee County Parks". The new Ordinance will be entitled "Lee County Parks and Recreation Ordinance".

2. WHAT ACTION ACCOMPLISHES: Board must formally adopt Ordinance at a scheduled, advertised Public Hearing.

3. MANAGEMENT RECOMMENDATION: Adopt Ordinance.

4. Departmental Category: 5:00 #2 **5. Meeting Date:** December 12, 2006

6. Agenda: <input type="checkbox"/> Consent <input type="checkbox"/> Administrative <input type="checkbox"/> Appeals <input checked="" type="checkbox"/> Public Hearing <input type="checkbox"/> Walk-On	7. Requirement/Purpose: (specify)		8. Request Initiated: Commissioner _____ Department <u>Park & Recreation/</u> Division <u>County Attorney</u> By: <u>Melody A. Bowers</u> Assistant County Attorney
	<input type="checkbox"/> Statute	_____	
	<input checked="" type="checkbox"/> Ordinance	_____	
	<input type="checkbox"/> Admin. Code	_____	
	<input type="checkbox"/> Other	_____	

9. Background: Lee County previously adopted Lee County Ordinance 90-56, as amended by Lee County Ordinance 01-01 and 02-12, which provided certain controls and regulations on the activities in and public usage of Lee County Park facilities. The proposed new Ordinance addresses the issue of shark fishing and updates the current Ordinance to reflect the mission and goals of Lee County Parks and Recreation Department.

ATTACHMENTS: Proposed Ordinance
Notice of Intent
Financial Impact Statement (FAIS)

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
				<i>Melody A. Bowers</i>	Analyst <i>CA</i>	Risk <i>11/16/06</i>	Grants <i>11/16/06</i>	Mgr <i>11-16-06</i>	<i>[Signature]</i>

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

RECEIVED BY
COUNTY ADMIN: *CB*
11-14-06
1:50 PM
COUNTY ADMIN
FORWARDED TO: *MC*
11-16-06
3PM

BA

LEE COUNTY ORDINANCE NO. _____

AN ORDINANCE REPEALING AND REPLACING LEE COUNTY ORDINANCE 90-56, AS AMENDED BY ORDINANCE NO. 01-01 AND AS AMENDED BY ORDINANCE 02-12; PROVIDING FOR CODE ENFORCEMENT IN PARKS AND PRESERVES BY PARK RANGERS, REGULATING CERTAIN ACTIVITIES IN AND USAGE OF COUNTY PUBLIC PARKS AND PARK LITTORAL WATERS WITHIN LEE COUNTY; RELATING TO AMENDMENTS OF DEFINITIONS; DEPARTMENT POLICIES AND PROCEDURES; USE OF COUNTY RECREATION CENTERS AND COMMUNITY BUILDINGS; PROTECTION OF VEGETATION AND AMENDMENTS RELATING TO FIRE CONTROL; INTRODUCTION OF SPECIES; WEAPONS; BATHING AND SWIMMING; NUDITY; FISHING; LYNN HALL PARK PIER RULES; GAMES/ACTIVITIES; HORSEBACK RIDING; FEES AND CHARGES; DOMESTICATED ANIMALS; ADVERTISING AND COMMERCIAL SIGNS; SMOKING; INTOXICATING BEVERAGES; PARKING; TRAFFIC CONTROL; BICYCLES; ROLLER BLADES, ROLLER SKATES, SCOOTERS, SKATEBOARDS AND SEGWAYS; VESSEL CONTROL; PUBLIC DOCKS; SANITATION; PARK RULES AND OPERATING POLICIES AND PENALTY RESTITUTION AND ENFORCEMENT; PROVIDING FOR PENALTIES AND A FEE SCHEDULE, CONFLICT, INCLUSION IN CODE, SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the recreational use of the public parks is a treasured asset of this County which is afforded to the public at large, including residents of and visitors to the County; and

WHEREAS, the manner, mode, type and degree of public uses of park resources sometimes conflict and must be reasonably reconciled to insure the maximum enjoyment of park resources by all persons; and

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WHEREAS, park resources, both natural and man-made, should be preserved for future generations of park visitors; and

WHEREAS, it is in the interest of the public health, safety and welfare that certain controls and regulations be placed on persons using public park resources to ensure maximum enjoyment of such resources by the general public, protect and preserve natural and man-made park resources, and reduce the risk of injury to those using the parks.

NOW, THEREFORE, be it ordained by the Board of County Commissioners of Lee County, Florida that in order to promote the public health, safety and welfare of the citizens of Lee County, Florida the following Ordinance is hereby enacted:

SECTION I:

REPEALER CLAUSE: It is the intent of this ordinance to repeal and declare null and void and of no further effect Lee County Ordinances 90-56, 01-01 and 02-12.

SECTION II:

This Ordinance will be known and cited as the "Lee County Parks and Recreation Ordinance."

2.1 PURPOSE

The purpose of this Ordinance is to efficiently utilize County parks for recreation purposes, preserve park resources, and provide for the protection and safety of lives and property on and within the parks and recreation facilities under the jurisdiction and control of the Board of County Commissioners of Lee County, Florida.

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2.2 APPLICATION

These rules and regulations shall apply to all persons on any part of the property comprising the parks.

2.3 ENFORCEMENT

(A) The Lee County Park Ranger Program is hereby established. It shall employ qualified persons who shall be invested with full and complete authority to enforce the provisions, requirements and regulations set forth herein and to discharge the duties of the office. Those persons designated as Park Rangers of Lee County shall have the authority to issue citations to enforce this Ordinance.

(B) Whenever a Park Ranger has probable cause to believe that a violation of this Ordinance has occurred, the Park Ranger may issue a citation or summons and complaint to the violator, stating the nature of the violation with sufficient particularity to give due notice of said charge or of the violation by using the citation criteria set forth in Chapter § 162.21 Florida Statutes.

(C) It is unlawful for any person to willfully refuse to sign and accept a citation issued by a Park Ranger. Violation of this section is a misdemeanor of the second degree, punishable as provided for in Florida Statutes.

2.4 OPPOSING A PARK RANGER

It shall be unlawful for any person to knowingly interfere with, oppose, resist, obstruct, hinder or in any manner prevent a Park Ranger, who is attempting to discharge or

is in the course of discharging an official duty or fail to obey the lawful order of a Park Ranger. Violation of this section is a misdemeanor of the second degree punishable as provided for in Florida Statutes.

SECTION III: DEFINITIONS

The following terms when used in this Chapter shall have the meanings ascribed to them in this section:

3.1 PARKS

The term all "parks" operated and maintained by the Lee County Department of Parks and Recreation are defined to mean, parks, wayside parks, parkways, preserves and open spaces, playgrounds, recreation facilities and fields, museums, auditoriums, stadiums, ranges and buildings, lakes, streams, canals, lagoons, waterways, pools, causeways, bridges, roadways, marinas, boat ramps, beaches, piers, and abutting lands and adjacent littoral waters, which are used for recreational purposes, or as parks, and the pertinent rights-of-way presently under or hereinafter acquired and placed under the jurisdiction, control and administration of the Board of County Commissioners of Lee County, Florida, and all public service facilities located on grounds, buildings, and structures in Lee County which are under the control of or assigned for upkeep, maintenance or operation by Lee County. The term "parks" expressly includes the Sanibel Causeway facilities.

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3.2 PARK PROPERTY

The term "park property" when used hereinafter is defined to cover all property, real or personal, in or on parks.

3.3 PARK RANGER

The term "park ranger" is defined as any person employed or appointed by Lee County who is authorized to investigate, pursuant to law, civil infractions relating to Lee County public parks or beaches and to issue citations as provided in this ordinance, and to file charges based on such investigation.

3.4 DEPARTMENT

Department shall mean the Department of Parks and Recreation. The Department is charged with the duty of administering, protecting, controlling and governing the parks and park property of Lee County.

3.5 PERSON

The word "person" includes natural persons, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, including any trustee, receiver, assignee, or similar representative thereof, corporations and all other groups and combinations.

3.6 DIRECTOR

"Director" is the Director of the Lee County Department of Parks and Recreation or his/her designee.

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3.7 VEHICLE

“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. An exception is made for baby carriages, assistive vehicles for people with disabilities, and vehicles in the service of the County parks.

3.8 VESSEL

Any motorized, wind driven, or paddle-propelled means of water related transportation within a County park or upon park littoral waters. The term specifically includes, but is not limited to, personal water craft, commonly known as jet skis. The term shall not include rafts, floats or flotation devices, whether of canvas, rubber, styrofoam, or other substances intended or capable of assisting in the flotation of a person on or in the water.

3.9 IDLE SPEED

The lowest speed at which a vessel can operate and maintain steering control. The actual speed will depend upon the design of the vessel and of the vessel's load, wind direction and speed, and sea conditions. Generally, it will be between 1 and 3 miles per hour for outboard and inboard/outboard vessel, between 2 and 5 miles per hour for fixed shaft/rudder water craft, and the minimum speed merely necessary to effectively traverse breaking water for personal water craft (jet skis).

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3.10 PARKING AREA

Any designated part of a park road or area contiguous thereto set apart for the standing or stationing of any vehicle.

3.11 PARK ROADS

All surfaced areas designated for vehicular traffic. All other surfaced or cleared areas are classified as a form of trail or path.

3.12 BATHING BEACH, BATHING AREA, OR SWIMMING AREA

Any beach or pool designated as such in any park, including the actual sand beach, if any, and the adjoining land and littoral waters used for bathing and swimming.

3.13 POLICIES AND PROCEDURES

Lee County Parks and Recreation maintains an Operations Manual. Unless otherwise specified in this Ordinance, all policies and procedures shall be followed as written in the Operations Manual which is incorporated herein as part of this ordinance and is on file with the Department.

SECTION IV: PARK RULES AND OPERATING POLICY

All persons having entered on or into any part of any park within Lee County shall be governed by this Ordinance, the reasonable rules and regulations approved by the Board of County Commissioners and issued and published by the Department and by orders, directions and instructions of the Department implementing this Ordinance or the approved

rules. No person in a park shall fail to abide by the instructions of any Lee County park personnel.

4.1 HOURS Except for unusual and unforeseen emergencies and designated holidays, parks shall be open to the public every day of the year. The opening and closing hours for each individual park shall be posted therein for public information.

4.2 CLOSED AREAS Any section or part of any park may be declared closed to the public by the Director at any time and for any interval of time, either temporarily or at regular and stated intervals (daily or otherwise). Parks may be closed entirely or for certain uses, as the Director shall find reasonably necessary to protect the environment or public health, welfare and safety.

4.3 PERMIT A permit shall be obtained from the Director before participating in any activity within a park for which a permit is required hereunder or by the Lee County Parks and Recreation Operations Manual, or for any special event.

STANDARDS FOR ISSUANCE. The Director may issue a permit unless he/she finds that there is reasonable probability:

- (a-1) That the proposed activity or use of the park will interfere with or detract from the general public enjoyment of the park;
- (a-2) That the proposed activity and use will interfere with or detract from the promotion of public health, welfare, safety and recreation;
- (a-3) That the proposed activity or use is anticipated to incite violence, crime or disorderly conduct;

- (a-4) That the proposed activity will entail unusual, extraordinary or burdensome expense or police operation by the County or by any City within which the park is located, given the nature of the proposed activity for which the permit is desired;
- (a-5) That the facilities desired have been reserved for other use at the day and hour required in the application;
- (a-6) That the proposed activity is not in compliance with Facility Reservation Policy and Procedures and Rental use, if applicable.

The Director may place reasonable conditions on permits issued and/or may refer the permit application to the Board of County Commissioners for its approval in lieu of issuance or rejection of a permit hereunder.

EFFECT OF PERMIT. A permittee shall be bound by all park rules and regulations and all applicable ordinances fully as if it were inserted in said permits.

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. Proof of insurance shall be required for events when the Director decides it is necessary.

REVOCAATION. The Director shall have the authority to revoke a permit upon finding of violation of any rules or ordinance or upon good cause shown.

4.4 EXHIBIT PERMITS

No person shall fail to produce and exhibit any permit from the Director that he claims to have upon request of any authorized person who shall desire to inspect the same.

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4.5 INTERFERENCE WITH PERMITTEES

No person shall disturb or interfere with any person or party occupying any area, or participating in any activity, under the authority of a permit.

4.6 USE OF COUNTY RECREATION CENTERS AND COMMUNITY BUILDINGS

Buildings located in County parks shall not be used unless permission has been granted by the Department pursuant to the rules and regulations adopted by the Board of County Commissioners and Department. Buildings are to be used for the purpose of recreational activities, civic meetings, social gatherings and public functions. Buildings may be rented for a fee as established by the Department in the Administrative Code to cover cost of maintenance and administration. Such rental use is subject to Department reservation policy and procedures and rental use criteria as uniformly applied and articulated in the Lee County Parks and Recreation Operations Manual.

4.7 FEES AND CHARGES

The Board of County Commissioners may by Resolution establish reasonable fees and charges for the use of any park facility or service as set forth in the Lee County Administrative External Fees and Charges Manual.

4.8 RESERVATION OF FACILITIES

No person shall occupy any seat or bench, or enter into or loiter or remain in any pavilion or other park structure or section thereof which may be reserved and designated by the Director for the use of specific persons or groups of persons. Nor shall any person

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occupy an area designated and set aside for the use of individuals with disabilities, except for those persons attending to said individuals with disabilities.

4.9 CONCESSIONS, VENDING, AND PEDDLING

No person shall operate a concession, or expose or offer for sale any service, article or thing; nor shall any person station or place on park property any stand, cart, or vehicle or vessel for the transportation, sale or display of any such article or thing. Exception is hereby made as to any regularly licensed concessionaire or other person engaging in such activities as authorized by the Board of County Commissioners and/or the Director. All properly authorized activities under this section are subject to reasonable regulation by the Director and require a written permit.

4.10 ADVERTISING AND COMMERCIAL SIGNS

No person shall: announce, advertise, or call the public attention in any way to any article or service for sale or hire; paste, glue, tack or otherwise post any commercial sign, placard, advertisement, or inscription whatever; erect or cause to be erected any commercial sign whatever on any public lands or highways or roads adjacent to a park, distribute any handbills or circulars, except by special permission from the Director.

Pursuant to Lee County Administrative Code AC-1-19, no person shall place any political sign on any public lands or highways or roads adjacent to a park.

SECTION V: RESOURCE PROTECTION

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5.1 REMOVAL OF NATURAL OBJECTS

No person or agent or employee of such person shall dig or move with the intent to remove, or remove from any park area, any beach sand, whether submerged or not, or any soil, rocks, stones, trees, shrubs, or plants, downed timber or other wood or materials or make any excavation by tools, equipment, blasting or other means or agency, or 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 by the Director.

5.2 PROTECTION OF VEGETATION

No person or agent or employee of such person shall cut, carve or injure the bark, limbs or branches or mutilate trees in any way, or pick the flowers or seeds of any tree, plant or shrub, nor shall any person dig in or otherwise disturb grass areas, or any other way injure or impair the natural beauty or usefulness of any area, nor shall any person pile debris or material of any kind on or about any tree or plant, or attach any rope, wire or other contrivance thereto, whether permanent or temporary in character or in use. No person shall transplant or remove any tree or plant or part thereof, or collect or remove flowers, except in areas designated for that use such as gardens, or with special permission by the Director. The Director shall control invasive exotic plants where appropriate for the restoration, maintenance and preservation of native plant communities.

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5.3 FIRE CONTROL

No person shall ignite or attempt to ignite any fire against or on any vegetation or park structures, except in designated fireplaces or grills. No person shall dispose of burning matches, smoking materials or other inflammable items within any park except in designated receptacles. Prescribed burning shall be conducted only by the Department where and when appropriate for the restoration, maintenance and preservation of certain plant communities.

5.4 PROTECTION AND PRESERVATION OF WILDLIFE

No person shall take, molest, harm, frighten, kill, trap, hunt, chase, tease, shoot, or throw missiles at any animal, wild animal, mammal or echinoderms such as starfish and sand dollars, nor shall any person remove or cause to be removed or have in their possession the young of any wild animal, or the eggs or nests, or young of any reptile or birds. No person shall take live shellfish from park property without proper authorization from the State of Florida. No person shall give or offer, or attempt to give to any wild animal any food item, tobacco, alcohol, foreign object or other known noxious substances nor attempt to pet any wild animal. No person shall transplant or remove any animal, wild animal, mammal, or echinoderms except in areas designated for that use, or with special permission by the Director. The Director is authorized to control nuisance wildlife where and when appropriate for the restoration, maintenance, and preservation of both native plant and wildlife communities.

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5.5 INTRODUCTION OF SPECIES

No person shall introduce into any park any plant or animal species by willful abandonment, negligence or for any other reason without written authorization from the Director.

5.6 LITTERING / DUMPING

(A) **POLLUTION OF WATERS.** No person shall throw, discharge, or otherwise place or cause to be placed in the waters of any fountain, pond, lake, marsh, swamp, stream, bay, gulf 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.

(B) **REFUSE AND TRASH.** No person shall bring in or dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, refuse, or other trash such as debris from beach raking. No such materials 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 materials shall be carried away from the park by the person responsible for its presence, and properly disposed of elsewhere.

SECTION VI: VISITOR SAFETY

6.1 WEAPONS

No person shall use, carry, or possess firearms of any description, or air-rifles, paint

guns, spring-guns, bow and arrows, slings or any other form of weapon potentially injurious or harmful to wildlife and dangerous to human safety, or any instrument that can be loaded with and fire blank cartridges, or any kind of trapping device, in any park except in areas specifically designated for such activity, by authorized law enforcement officials, or in the case of special events as permitted by the Director. Shooting into park areas from beyond park boundaries is forbidden without special permission from Director.

6.2 FIREWORKS AND EXPLOSIVES

No person shall bring, possess, set off, or otherwise cause to explode or discharge or burn, any firecrackers, torpedo, rocket, or other fireworks or explosives of inflammable material, or discharge them or throw them into any park area from land or highways adjacent thereto, except as permitted by director.

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.

6.3 RESTROOMS AND WASHROOMS

No person shall use the restroom and washrooms designated for the opposite sex, unless accompanied by a guardian, parent or caregiver.

6.4 BATHING AND SWIMMING

Bathing and swimming is done at the risk of the park user. No person, regardless

of age or manner of dress, shall swim, bathe or wade in any park waters or waterways designated as "no swimming areas." Swimming activities shall comply with such regulations as to the hours of the day and safety limitations or such use as set by the Director and/or posted in the area. Areas where swimming is permitted will be designated by official signs and markings.

6.5 SURF OR SKI

No person shall surf or ski at any public beach not designated specifically for that purpose. Body surfing is permitted.

6.6 GLASS CONTAINERS

No person shall bring glass containers to any beach, pool, or public bathing area.

SECTION VII: FISHING

AUTHORIZATION. Fishing is authorized in park waters in accordance with Florida law, Florida Statutes § 372.57, the rules of the Florida Department of Environmental Protection and the Florida Fish and Wildlife Conservation Commission, and provisions of local ordinance except as follows:

7.1 SPECIFIC PROHIBITIONS

No person shall fish off-shore from any type of vessel or from the beach within 200 feet of any "swimming only" exclusion area. Nor shall any person fish in any area where bathing or swimming is permitted or where such area is specifically designated as a "no fishing" area except fishing is allowed from the pier at Lynn Hall Park subject to the

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restrictions set forth on the attached "Exhibit A". Fishing with nets, spears, snatch hooks and gigs is prohibited at all times. Cast netting is prohibited from the fishing piers.

7.2 COMMERCE PROHIBITED

No person on park property shall engage in commercial fishing, or the buying or selling of fin fish or shellfish caught in any waters. Public boat ramps may be used to launch and/or retrieve commercial vessels.

SECTION VIII: VESSEL CONTROL

Any person operating a vessel shall be governed by rules and regulations in Lee County Ordinance 90-51 and as further amended and restated in Lee County Ordinance 96-22. In addition, the following specific regulations shall apply to parks.

8.1 OPERATION IN "SWIMMING ONLY" VESSEL EXCLUSION AREAS

No person shall operate any vessel within 500 feet of a park designated by posting as "Swimming Only." Official patrol rescue craft, other official craft, and craft operating under emergency conditions shall be exempted from the provisions of this article while performing their official duties or operating in an emergency.

8.2 OPERATION OF VESSELS OUTSIDE "SWIMMING ONLY" VESSEL AREAS

For areas not posted as "Swimming Only" exclusion area, no person shall operate a vessel at a speed in excess of idle speed in any waters within 500 feet of a park.

8.3 LAKES PARK

The Board of County Commissioners has adopted, as a matter of operating policy, that the use of boats powered by internal combustion engines are prohibited in the Lakes Park system. The sole exception being at least one power boat for safety and security reasons, which will be operated by County staff only, at minimal power, approximately 40 horsepower and possible additional rescue boats for emergencies. Electric boats necessary for the operation of this park will be permitted.

8.4 LAUNCHING/RETRIEVAL OF VESSELS

No person shall launch or retrieve a vessel from any park property which is not designated specifically for that purpose.

8.5 PUBLIC DOCKS

No person shall use public docks for any purpose other than those as specified in the Parks and Recreation Operations Manual.

8.6 PROHIBITION DURING CLOSED HOURS

No person shall launch, retrieve, dock or operate any vessel within a park or littoral waters after the park is closed.

8.7 POWER UP ON LAUNCH PAD

No person shall accelerate a vessel engine while at any Lee County public boat ramp.

SECTION IX: RECREATIONAL REGULATIONS

9.1 PICNICKING

PICNIC AREAS. Park personnel shall have the authority to regulate the activities in such areas when necessary to prevent congestion and to secure the maximum use for the comfort and convenience of all. Visitors shall comply with any directions given to achieve this end.

AVAILABILITY. No person shall violate the regulation that use of the individual fireplaces together with tables and benches, generally follows the rule of "first come, first served." This prohibition does not apply to rented or reserved facilities.

NON-EXCLUSIVE. No person shall use any portion of the picnic area 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. This prohibition does not apply to rented or reserved facilities.

DUTY OF PICNICKER. No person shall leave a picnic area before a fire, if any, is completely extinguished and before all trash and 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.

9.2 CAMPING

No person shall set up tents, shacks, or any other temporary shelter for the purpose of overnight camping, except in designated camping areas, nor shall any person leave in a park, after closing hours, any movable structure or vehicle to be used or that could be used for such purpose, except by special written permit granted by the Director. Failure to observe and comply with park rules may result in forfeiture of camping privileges.

9.3 GAMES/ACTIVITIES

No person shall take part in or abet the playing of any games involving thrown or otherwise propelled objects except in areas set apart for such forms of recreation.

9.4 HORSEBACK RIDING

No person shall ride a horse except in areas specifically designated for such activity or in the case of special events, as designated by the Director or for authorized law enforcement purposes. Where permitted, horses shall be thoroughly trained and properly restrained, and ridden with due care, and shall not be allowed to graze or go unattended, nor shall they be hitched to any rock, tree or shrub.

Riders should have proof of a negative Coggins test result for their horse(s) and must provided such documentation upon request from a Park Ranger. Failure to provide proof of such test will result in expulsion from the park.

9.5 DOMESTICATED ANIMALS

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(A) Domesticated animals are prohibited on park property, whether or not under restraint, with the following exceptions:

- i. Service animals or guide dogs which are specially trained to perform tasks for an individual with a disability. The tasks may include, but are not limited to, guiding a person who is visually impaired or blind, alerting a person who is deaf or hard of hearing, pulling a wheelchair, assisting with mobility or balance, alerting and protecting a person who is having a seizure, retrieving objects, or performing other special tasks. The guide dog or service dog must be capable of being properly identified as being from a recognized school for seeing-eye dogs, hearing-ear dogs, service dogs, including but not limited to, seizure-alert and seizure response dogs or guide dogs.
- ii. Police dogs or horses on duty, horses in designated equestrian areas, or other domestic animals

(B) Notwithstanding the foregoing, the Board from time to time may, by County resolution, designate specific County parks where animals may be allowed and whether or not under restraint. In the event the Board designates such areas where animals are allowed, any person who owns, or has apparent control over an animal in such area shall immediately remove all fecal matter that is deposited by said animal in those areas and dispose of same in a lawful manner or in a trash receptacle for such waste provided on site.

9.6 ROLLER BLADES, ROLLER SKATES, SCOOTERS, SKATEBOARDS

No person shall use roller blades, roller skates, scooters or skateboards on other than a paved vehicular road or path designated for that purpose. Roller blades, roller skates, scooters and skateboards must be used only in areas specifically designated for that purpose.

9.7 SEGWAY HUMAN TRANSPORTER

No person shall use human transport devices or similar self-balancing, electric-powered transportation devices on county park property other than on a path designated for that purpose. Food and Drug Administration approved motorized disability access vehicles are excepted from this Section.

9.8 AVIATION

No person shall launch or land within or upon any park, preserve or littoral waters any airplane, balloon, parachute, hang glider, or other aerial device, except that certain areas may be designated appropriate landing places for medical evacuation helicopters, law enforcement, or official government aviation equipment unless authorized by the Director.

SECTION X: CONDUCT

10.1 SLEEPING

Except for authorized campers in designated camping areas, no person shall sleep overnight in any area of a County park, including beaches, lawns, fields and wooded areas.

10.2 PANHANDLING

No person shall solicit alms or panhandle contributions for any purpose, whether public or private, without the express written permission of the Director.

10.3 SMOKING

Pursuant to Florida Statutes 386, "Florida Clean Indoor Air Act", no person shall smoke within the confines of any indoor park facility. Additionally, smoking is not permitted in additional areas as designated in the Lee County Parks and Recreation Operations Manual.

10.4 GAMES OF CHANCE

No person shall gamble, or participate in or abet any game of chance.

10.5 SIGNS

No person shall carry on or engage in any activity which is expressly prohibited by a posted sign.

10.6 CONGREGATE

No person or group of persons shall congregate in the vicinity of a public restroom or near an area designated for vehicle parking or other public use area so as to interfere with its use by other persons. No person shall sleep on park benches, picnic tables or other structures not specifically designated for such use.

10.7 BREACH OF PEACE

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No person shall conduct themselves in a riotous, disorderly, threatening, loud, abusive, insulting, indecent, boisterous or other manner so as to disturb the peace and good order in the park.

10.8 NUDITY IN PARKS OR BEACHES

In each and every bathing area and on park property, all persons shall be so covered with a bathing suit so as to prevent any indecent exposure of the person, as that term is defined in Florida Statutes § 800.03. No person shall dress or undress on any beach or in any vehicle or other place in any park area, except at such bathing houses or structures as may be provided and maintained by the park for that purpose.

10.9 INTOXICATING BEVERAGES/ILLEGAL SUBSTANCES

GENERAL PROHIBITION. Except as herein provided, no person shall possess, consume, use, sell or distribute alcoholic or intoxicating beverages, or illegal substances in any park. No person shall enter or remain in any park under the influence of alcohol, other intoxicants, or illegal substances.

Notwithstanding the foregoing, the sale, service and consumption of beer and wine at the Lee County Sports Stadium Complex, Red Sox City of Palms Stadium and Terry Park pursuant to a written contract with the Board of County Commissioners, is specifically excepted from the foregoing provisions and limitations. A person under a written contract with the Board of County Commissioners may sell, serve and/or permit to be sold or served beer and wine at professional major and minor league baseball games at the Lee County

Sports Stadium Complex and Terry Park or at other events designated by the Board, and persons may consume said beer and wine sold therein on the premises only without violating the provisions of this section. Notwithstanding, the foregoing, the County Manager/Administrator is hereby authorized to grant an alcohol permit for a one-time event at any County-maintained park.

10.10 OBSTRUCTION OF WALKWAYS/BENCHES/PUBLIC AREAS

No person shall use a bench or walkway or other public use areas so as to interfere with its use by other persons, including storing any materials thereon, with the exception of designated camp sites and picnic tables that are reserved for such activities.

10.11 CLIMBING UPON PARK PROPERTY

No person shall climb any tree or walk, or stand or sit upon monuments, vases, fountains, railings, fences or upon any other property not designated or customarily used for such purposes.

10.12 DEFACING OF BUILDINGS AND OTHER PARK PROPERTY

No person shall willfully mark, soil, deface, or injure in any way, or displace, remove or tamper with, any park building, bridge, public restroom and washroom facility, table, bench, fireplace or other cooking facility, railing, paving or paving material, water line or other public utility or parts or appurtenances thereof or equipment thereon, park sign, notice or placard whether temporary or permanent, monument, stake, post, or other

boundary marker, or other structure or equipment, facility or park property or appurtenance whatsoever, either real or personal.

10.13 METAL DETECTORS

No person shall use a metal detector (to locate coins, jewelry or other lost objects) on an athletic field or in an environmentally sensitive area or in an area that may pose a safety hazard unless authorized by the department director or his/her designee.

10.14 ENCROACHMENT

No encroachment on parks' property will be permitted unless prior approval is obtained from Lee County Parks and Recreation.

SECTION XI: TRAFFIC VIOLATIONS

11.1 PARKING

The Department shall provide and mark off individual parking spaces to be used by patrons of park facilities. No person shall park any vehicle in any place other than that provided for by the Department nor shall such person park in the provided parking area except while such person is using park facilities. Parking shall be within the delineated area of one parking space. Fees for parking may apply in certain parks as established by the Lee County Administrative Code. Failure to pay the established parking fees may result in a written citation and/or fine.

11.2 NIGHT PARKING

No person shall leave a vehicle standing or parked at night without lights clearly visible for at least 500 feet from both front and rear on any driveway or road area except when properly parked in a clearly designated parking area.

11.3 DOUBLE PARKING

No person shall double park any vehicle on any road or parkway unless so directed by a park official or police officer.

11.4 ACCESSIBLE PARKING

In accordance with Section 553.5041, Florida Statutes, no person shall stop, stand, or park any vehicle within or to obstruct, any such specially designated and marked parking space provided for individuals with disabilities unless such vehicle displays a Disabled Parking Permit or license plate issued pursuant to Florida Statutes.

11.5 UNAUTHORIZED MOTORIZED VEHICLE

No vehicle shall be operated on park property or on any area other than that area specifically designated for the use of such vehicle. Motor vehicles are prohibited on all beaches in Lee County. Violations of any of the provisions in this section shall submit the offending vehicle to removal at owner's risk and expense and to other penalties as provided by law. No person shall drive any vehicle on any road except the paved or graded park roads or parking areas, or such other areas as may on occasion be specifically designated as temporary parking areas by the Director.

11.6 STATE MOTOR VEHICLE LAWS APPLY

No person shall fail to comply with all applicable provisions of the State Motor Vehicle Traffic Laws in regard to equipment and operation of vehicles, together with such regulations as are contained in this and other ordinances.

11.7 ENFORCEMENT OF TRAFFIC REGULATIONS

No person shall fail to obey all traffic officers and park 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 or other applicable regulations.

11.8 OBEY TRAFFIC SIGNS

No person shall fail to observe carefully all traffic signs indicating speed, direction, caution, stopping or parking, and all others posted for proper control of vehicles.

11.9 SPEED OF VEHICLES

No person shall ride or drive a vehicle within a park at a rate of speed exceeding a posted speed limit.

11.10 REPAIRS OR WASH VEHICLES

No person shall repair or wash vehicles, except to make minor repairs in the event of a breakdown.

11.11 BICYCLES

CONFINED TO ROADS. No person shall ride a bicycle, scooter, segway, skateboard, or roller blades/skates on other than a paved vehicular road or a path designated for that purpose.

OPERATION. All persons shall ride a bicycle in a safe manner as directed by the Florida Statutes Chapter 316, to include Florida Statutes Section 316.2065.

RIDER PROHIBITED. No person shall ride any other person on a bicycle which is designed for use by only one person.

DESIGNATED RACKS. No person shall leave a bicycle in a place other than a bicycle rack when such is provided and there is a space available.

IMMOBILE. No person shall leave a bicycle lying on the ground or pavement, or set against trees, or in any place or position where other persons may trip over or be injured by them.

11.12 MOUNTAIN BIKING

This activity shall be limited to areas specifically designated for this sport.

12.0 PENALTY

Violation of the provisions of this Ordinance or failure to comply with any of the requirements herein, shall be prosecuted in accordance with Section 125.69, Florida Statutes. Any person who violates this Ordinance or fails to comply with any provisions shall, upon conviction thereof, be punished by a fine not to exceed \$500 or as set forth in

the fee schedule (attached as Exhibit "B") or imprisonment in County jail not to exceed 60 days or both, as provided by law, and in addition shall pay all costs and expenses incurred by the County in prosecuting the case. In certain cases, restitution may be sought in addition to a fine and/or imprisonment.

When determining the amount of a fine or restitution to be imposed for a violation of Sections (5.1, 5.2, 5.3, 5.6, and 10.13) the following factors should be consider:

- A. The value of the products removed from the county's land and/or destroyed
- B. The cost to remove dumped debris.
- C. The diminished value of county land or products, or the cost of restoring the affected county land or products;
- D. The need to deter future violations.

13.0 EXPULSION

Any person violating any of the provisions of this Ordinance shall be subject to expulsion from the park.

14.0 EFFECT

The provisions of this Ordinance, except as set forth herein, shall be deemed cumulative, supplemental and alternative authority for the exercise of the powers provided for herein. This Ordinance shall not be construed as repealing or superceding any other Ordinance or law except as specifically provided below.

15.0 SEVERABILITY

The provisions of this Ordinance are severable and it is the intention to confer the whole or any part of the powers herein provided for. If any of the provisions of this Ordinance shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any remaining provisions of this Ordinance.

It is hereby declared to be the legislative intent that this Ordinance would have been adopted had such unconstitutional provision not been included therein.

16.0 EFFECTIVE DATE

This Ordinance shall take effect as provided by law.

17.0 INCLUSION IN CODE

It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Lee County Code and that sections of this Ordinance may be renumbered or relettered and the word "Ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions and regardless of whether such inclusion in the Code is accomplished. Sections of this Ordinance may be renumbered or relettered and the correction of typographical errors which do not affect the intent may be authorized by the County Manager or his or her designee, without need of Public Hearing, by filing a corrected or recodified copy of same with the Clerk of the Circuit Court.

18.0 REPEALER CLAUSE

By enactment of this Ordinance, Lee County Ordinances 90-56, 01-01 and 02-12 are hereby repealed on the effective date of this Ordinance and of no further legal effect.

19.0 CONFLICTS

Whenever the requirements or provisions of this amending ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements shall apply.

20.0 EFFECTIVE DATE

This ordinance shall become effective immediately upon receipt of official acknowledgment from the office of the Secretary of State of Florida that the ordinance has been filed.

(Balance of page left blank intentionally)

THE FOREGOING ordinance was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

ROBERT JANES _____
DOUGLAS ST. CERNY _____
RAY JUDAH _____
TAMMARA HALL _____
JOHN ALBION _____

DULY PASSED AND ADOPTED this _____ day of _____, 2006.

ATTEST:

CHARLIE GREEN
CLERK OF THE COURT

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairman

LEE COUNTY ATTORNEY'S OFFICE
APPROVED AS TO FORM:

By: _____
County Attorney

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EXHIBIT "A"

LEE COUNTY ORDINANCE _____, SECTION 7.1

LYNN HALL PARK PIER RULES

Fishing is allowed on the Lynn Hall Park Pier, subject to the following rules and restrictions:

1. No shark fishing is allowed.
2. No fishing within 200 feet of swimmers or of the bathing area.
3. No baiting or chumming is allowed on or near the area. Baiting or chumming is defined as using cut up or ground up bait to put an attracting scent-line on or below the surface of the water, or to visually attract other fish.
4. Do not use flashers, teasers or drop-lines in combination with live bait.
5. No net, casting, spear, snatch or trap fishing is allowed.
6. No more than one method of fishing in use per person and must be physically attended to at all times. Methods are defined as, but not limited to, a pole or hand line.
7. No live or dead bait larger than 8 inches may be used.
8. No hooks larger than 5/0 may be used.
9. The use of shark lures and rigs is strictly prohibited.
10. All accidental shark catches must be cut loose. No landing or reeling in of sharks.

Violation of this section is punishable as provided for in Section 12.0 above and may result in removal or exclusion from the pier and park.

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EXHIBIT "B"

**SCHEDULE OF FINES FOR VIOLATION OF
LEE COUNTY ORDINANCE ()**

<u>Section #</u>	<u>Offense</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>3rd Offense</u>
2.3	Refusing to Accept/ Sign Citation	2 nd Degree Misdemeanor Up to \$500.00 Or 60 Days	2 nd Degree Misdemeanor Up to \$500.00 Or 60 Days	2 nd Degree Misdemeanor Up to \$500.00 Or 60 Days
2.4	Opposing/Resisting Ranger	2 nd Degree Misdemeanor Up to \$500.00 Or 60 Days	2 nd Degree Misdemeanor Up to \$500.00 Or 60 Days	2 nd Degree Misdemeanor Up to \$500.00 Or 60 Days
4.2	Within Closed Areas	100.00	300.00	500.00
4.4	Failure to Produce Exhibit Permits	100.00	300.00	500.00
4.5	Interference with Permit	100.00	300.00	500.00
4.6	Unauthorized Use	100.00	300.00	500.00
4.8	Reservations	100.00	300.00	500.00
4.9	Concession, Vending, Peddling	300.00	400.00	500.00
4.10	Advertising/Commercial Signs	150.00	300.00	500.00
5.1	Removal of Natural Objects	300.00 Mandatory Court Appearance/ Restitution	400.00 Mandatory Court Appearance/ Restitution	500.00 Mandatory Court Appearance/ Restitution
5.2	Protection of Vegetation	300.00 Mandatory Court Appearance/ Restitution	300.00 Mandatory Court Appearance/ Restitution	500.00 Mandatory Court Appearance/ Restitution
5.3	Fire Control	300.00 Mandatory Court Appearance/ Restitution	300.00 Mandatory Court Appearance/ Restitution	300.00 Mandatory Court Appearance/ Restitution

5.4	Wildlife Protection	300.00 Mandatory Court Appearance	300.00 Mandatory Court Appearance	300.00 Mandatory Court Appearance
5.5	Introduction of Species	300.00	400.00	500.00
5.6	Littering/Dumping (A-Park Waters) (B Park Property)	300.00 Mandatory Court Appearance/ Restitution	400.00 Mandatory Court Appearance/ Restitution	500.00 Mandatory Court Appearance/ Restitution
6.1	Weapons	300.00	400.00	500.00
6.2	Fireworks	100.00	200.00	500.00
6.3	Occupying Restrooms of Opposite Sex	300.00	400.00	500.00
6.4	Swimming in Unauthorized Area	75.00	150.00	300.00
6.5	Surf/Ski	75.00	150.00	300.00
6.6	Glass Containers	75.00	150.00	300.00
7.1	Fishing Prohibitions	75.00	150.00	300.00
7.2	Commercial Fishing	150.00	300.00	500.00
8.1	Vessel Operation in Swimming Area	350.00	400.00	500.00
8.2	Vessel Outside Swim Area	150.00	300.00	500.00
8.3	Lakes Park Boats	75.00	150.00	300.00
8.4	Vessel Launch/Retrieval	75.00	150.00	300.00
8.5	Public Docks	75.00	150.00	300.00
8.6	Vessel Operation During Closed Hours	75.00	150.00	300.00
8.7	Power Up on Launch Area	150.00	300.00	500.00
9.1	Failure to Remove Picnic Items	75.00	150.00	300.00
9.2	Unauthorized Camping	75.00	150.00	300.00

9.3	Unauthorized Games/Activities	75.00	150.00	300.00
9.4	Unauthorized Horseback Riding	100.00	200.00	500.00
9.5	Domesticated Animals	100.00	200.00	500.00
9.6	Roller Blades, Scooters	75.00	150.00	300.00
9.7	Segway	75.00	150.00	300.00
9.8	Aviation	150.00	300.00	500.00
10.1	Sleeping	75.00	150.00	300.00
10.2	Panhandle	75.00	150.00	300.00
10.3	Smoking	100.00	300.00	500.00
10.4	Games of Chance	75.00	150.00	300.00
10.5	Failure to Obey Park Sign	150.00	300.00	500.00
10.6	Congregate	75.00	150.00	300.00
10.7	Breach of Peace	150.00	300.00	500.00
10.8	Nudity in Parks	150.00	300.00	500.00
10.9	Intoxicating Substance	100.00	200.00	500.00
10.10	Obstructing Walkway	75.00	150.00	300.00
10.11	Climbing Upon Park Property	75.00	150.00	300.00
10.12	Defacing Building/Park Property	250.00 Mandatory Court Appearance/ Restitution	350.00 Mandatory Court Appearance/ Restitution	500.00 Mandatory Court Appearance/ Restitution
10.13	Metal Detecting	75.00	150.00	300.00
11.1-11.3	Parking	As designated by Ordinance No. 91.29		

11.4	Accessible Parking Violation	As designated by FSS 316.1958 or 320.0848		
11.5	Unauthorized Motorized Vehicles	100.00	250.00	500.00
11.6	State Motor Vehicle Laws	100.00	250.00	400.00
11.7	Failure to Comply with Traffic Regulations	100.00	250.00	400.00
11.8	Obey Traffic Signs	100.00	250.00	400.00
11.9	Speed of Vehicles	100.00	250.00	400.00
11.10	Repair of Vehicles	75.00	150.00	300.00
11.11	Bicycles	75.00	150.00	300.00
11.12	Mountain Biking	75.00	150.00	300.00
Exhibit "A"	Shark Fishing	500.00 Mandatory Court Appearance/ Restitution	500.00 Mandatory Court Appearance/ Restitution	500.00 Mandatory Court Appearance/ Restitution

LEE COUNTY
NOTICE OF INTENT TO ENACT A COUNTY ORDINANCE

TO WHOM IT MAY CONCERN:

NOTICE IS HEREBY GIVEN that on **Tuesday**, the **12th** day of **December, 2006**, at **5:00 o'clock p.m.**, in the County Commissioners' Meeting Room, Old Lee County Courthouse, 2120 Main Street, Fort Myers, Florida, the Board of County Commissioners of Lee County, Florida, will consider the enactment of a County Ordinance pursuant to Chapter 125, Florida Statutes. The title of the proposed County Ordinance is as follows:

AN ORDINANCE REPEALING AND REPLACING LEE COUNTY ORDINANCE 90-56, AS AMENDED BY ORDINANCE NO. 01-01 AND AS AMENDED BY ORDINANCE 02-12; PROVIDING FOR CODE ENFORCEMENT IN PARKS AND PRESERVES BY PARK RANGERS, REGULATING CERTAIN ACTIVITIES IN AND USAGE OF COUNTY PUBLIC PARKS AND PARK LITTORAL WATERS WITHIN LEE COUNTY; RELATING TO AMENDMENTS OF DEFINITIONS; DEPARTMENT POLICIES AND PROCEDURES; USE OF COUNTY RECREATION CENTERS AND COMMUNITY BUILDINGS; PROTECTION OF VEGETATION AND AMENDMENTS RELATING TO FIRE CONTROL; INTRODUCTION OF SPECIES; WEAPONS; BATHING AND SWIMMING; NUDITY; FISHING; LYNN HALL PARK PIER RULES; GAMES/ACTIVITIES; HORSEBACK RIDING; FEES AND CHARGES; DOMESTICATED ANIMALS; ADVERTISING AND COMMERCIAL SIGNS; SMOKING; INTOXICATING BEVERAGES; PARKING; TRAFFIC CONTROL; BICYCLES; ROLLER BLADES, ROLLER SKATES, SCOOTERS, SKATEBOARDS AND SEGWAYS; VESSEL CONTROL; PUBLIC DOCKS; SANITATION; PARK RULES AND OPERATING POLICIES AND PENALTY RESTITUTION AND ENFORCEMENT; PROVIDING FOR PENALTIES AND A FEE SCHEDULE, CONFLICT, INCLUSION IN CODE, SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

1. Copies of this Notice and the proposed Ordinance are on file in the Minutes Office of the Clerk of Courts of Lee County. The public may inspect or copy the proposed Ordinance during regular business hours at the Office of Public Resources. The Minutes Office and Public Resources are located in the Courthouse Administration Building, 2115

Second Street, Fort Myers, Florida. Public Resources is located on the first floor and the Minutes Office is located on the second floor of the Courthouse Administration Building.

2. Interested parties may appear at the meeting in person or through counsel, and be heard with respect to the adoption of the proposed Ordinance.

3. Anyone wishing to appeal the decision(s) made by the Board with respect to any matter considered at this meeting, will need a record of the proceedings for such appeal, and may need a verbatim record, to include all testimony and evidence upon which the appeal is to be based.

4. The Ordinance shall take effect immediately upon its adoption by the Board of County Commissioners at the public hearing.

5. If you have a disability that will require special assistance or accommodations for your attendance at the public hearing, please call the Lee County Office of Public Resources at 335-2269 for information.

PLEASE GOVERN YOURSELF ACCORDINGLY.

The text of this Notice is in conformance with Section 125.66, Florida Statutes (2005), and other relevant sections of Florida law.

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Charlie Green, Ex-Officio Clerk
to the Board of County Commissioners
of Lee County, Florida

APPROVED AS TO FORM:

By: Walter J. Bowser
Office of the County Attorney

Ad Size: 2 x 5

Publishing Dates: **November 28, 2006 and
December 5, 2006**

**LEE COUNTY, FLORIDA
FINANCIAL & ADMINISTRATIVE IMPACT STATEMENT
PROPOSED COUNTY ORDINANCE:**

Repeal and Replacement of Lee County Ordinance 90-56 Regarding Parks and Recreation Facilities: Code Enforcement, Vegetation Protection and Park Rules and Policies

I. FISCAL IMPACT ON COUNTY AGENCIES/COUNTY FUNDS.

A. What is estimated Demand? (Develop Indicators)

N/A

B. What is estimated Workload? (Develop Indicators)

N/A

C. What are estimated costs?

	1st Year \$'s		2nd Year \$'s	
	Existing	New	Existing	New
Personnel				
Fringe	N/A		N/A	
Operating				
Capital Outlay				
Total				

D. List the anticipated revenues to cover costs identified in II., C., above. If a fee is to be charged, answer the following:

1. What is the basis (rationale) for the fee? N/A

2. Do the anticipated fees cover the full cost of operation? If not, what percentage of the costs are covered?

N/A

E. Give a brief narrative analysis of the information contained in II., A. through D., above.

No financial or administrative impact. The main purpose of the ordinance is to prohibit sharking fishing and fishing within 200 feet of swimmers or the bathing area at Lynn Hall Park. The ordinance further clarifies the role of park rangers and disallows any encroachments on park property. No change in fees.