BOARD OF SUPERVISORS
COUNTY OF NEW KENT
VIRGINIA

O-01-09 (R1)

At the regular meeting of the Board of Supervisors of the County of New Kent in the Boardroom of the Administration Building in New Kent, Virginia, on the 9th day of March, 2009:

Present:	Vote:
Thomas W. Evelyn	Aye
David M. Sparks	Aye
James H. Burrell	Aye
Stran L. Trout	Aye
W. R. Davis, Jr.	Aye

Motion was made by Mr. Burrell, which carried 5:0, to adopt the following ordinance:

AN ORDINANCE ADDING CHAPTER 47, PARK AND FACILITY USE

WHEREAS, the Parks & Recreation Manager has reported to the Board of Supervisors that certain rules are required to regulate and police individual conduct in the County's parks and recreational facilities; and

WHEREAS, the Sheriff has informed the Board of Supervisors that he requires the adoption of an ordinance as a predicate to law enforcement; and

WHEREAS, the Board of Supervisors wishes to preserve the peace and dignity of the County's parks and recreational facilities, and protect its patrons;

NOW THEREFORE BE IT ORDAINED this, the 9th day of March, 2009, by the New Kent County Board of Supervisors that Chapter 47 of the New Kent County Code be added to the County Code of Ordinances by inserting the text below:

Chapter 47 – PARK AND FACILITY USE ORDINANCE

Article I. In General

Sec. 47-01. Purpose.
Sec. 47-02. Definitions.
Sec. 47-03. Public use regulations.
Sec. 47-04. Conduct; personal behavior.
Sec. 47-05. Operation requirements.
Sec. 47-06. Protection of property, structures and resources.
Sec. 47-07 Recreation activities.
Sec. 47-08. Traffic regulations.
Sec. 47-09. Enforcement.
Sec. 47-10. Penalty.

Sec. 47-01. Purpose.

The purpose of this chapter is to secure the quiet, orderly, and suitable use and enjoyment of public park properties and facilities by the Board of Supervisors.

Sec. 47-02. Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Amusement Contraptions means any device, contrivance, gadget, machine or structure designed to test the skill or strength of the user or to provide the user with any sort of ride, lift, swing or fall experience including, but not limited to ball throwing contest device, pinball type device, electronic videos, animal ride devices, dunk tank, ball and hammer devices, trampoline devices and the like.

Alcohol shall have the same meaning as it is used or defined in the Alcoholic Beverage Control Act (§ 4.1-100 et seq. of the Virginia Code).

Board means the elected members of the Board of Supervisors.

Companion animal means any domestic or feral dog, domestic or feral cat, nonhuman primate, guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or native bird, or any feral animal or any animal under the care, custody, or ownership of a person or any animal that is bought, sold, traded, or bartered by any person. Service animals, agricultural animals, game species, or any animals regulated under federal law as research animals shall not be considered companion animals for the purposes of this chapter.

Controlled Substance shall have the same meaning as it is used or defined in the Drug Control Act (§ 54.1-3400 et seq. of the Virginia Code).

Facility means any structure under the jurisdiction, control, or ownership of the County for the recreational enjoyment of the public.

Firework shall have the same meaning as it is used or defined in the Statewide Fire Prevention Code (§ 27-94 et seq. of the Virginia Code).

Manager means the person designated to manage the Parks and Recreation Division.

Motorized Vehicle means any vehicle defined in the Motor Vehicles Act (§ 46.2-100 et seq. of the Virginia Code), except those propelled by human power.

Natural Resources means all flora and fauna within the parks and the physical factors upon which they depend, including air, water, soil and minerals.

Park means any land or water area under the jurisdiction, control, or ownership of the County for the recreational enjoyment of the public.

Parks Division means an operating unit of the Department of General Services responsible for the planning, development, operation and maintenance of county parks.

Pollutant means any substance, without regard to its state of matter, which could so contaminate the air, land, or water as to create a nuisance. Further, the term shall include any substance, without regard to its state of matter, that could render the air, land, or water so unclean, noxious, or impure as to be actually or potentially harmful, detrimental, or injurious to public health, safety or welfare, or that of wildlife or vegetation.

Regulation means those documents issued by the Manager to implement this and other ordinances.

Use Permit means the document obtained from the Parks Division to carry out a given activity within a park or facility to the exclusion of others for a certain time period.

Weapon means any device defined as such in Title 18 or specifically enumerated in §§ 18.2-288, 18.2-299, 18.2-308, 18.2-433.1 of the Virginia Code, any "bow" defined in § 15.2-916 of the Virginia Code, any object from which a shot or projectile of any type is discharged or propelled by means of a sling, explosive, gas, compressed air or other means. A portable device designed, used, or intended for offensive or defensive use, to immobilize or incapacitate persons by the use of an electronic current is a weapon.

Wildlife means any living creature, not human, wild by nature, endowed with sensation, power of voluntary motion, including but not limited to mammals, birds, fish, amphibians, reptiles, crustaceans, and mollusks.

Sec. 47-03. Park and Facility Operations.

(a) Hours of operation.

(1) Parks and facilities shall be open to the public at hours established by the Manager. It shall be unlawful for any person to enter or remain in a park or facility at any other time without a Use Permit, except when the park area or facility is otherwise designated by the Manager.

(2) The Manager, or the Manager's designee, is authorized to close any park or facility, or portion thereof, at any time for the protection of park property or facilities for the public health, safety, or welfare.

(b) Use Permits.

(1) Use Permits shall be required for the exclusive use of all or a portion of a park or facility; for use of a park or facility when it would otherwise be closed to the public; to conduct certain activities not normally permitted; for control of large groups; or to reduce or eliminate certain user fees for groups.

(2) The Manager, with the consent of the Board, shall issue regulations for the issuance of Use Permits.

(3) Use Permits shall be approved by the Manager, or his designee. However, the Manager shall have the right to refer the approval of any Use Permit to the Board.

(4) It shall be unlawful for a person or persons to engage in any activity requiring a Use Permit without first obtaining the permit. It shall be unlawful for a person or persons to violate any provisions of an approved Use Permit.

(c) Fees.

(1) The Board shall set fees for entrance into parks and facilities and for Use Permits by separate ordinance.

(2) It shall be unlawful for any person to use, without payment, any park or facility, or portion thereof for which a fee is charged, unless that fee is reduced or waived by Use Permit.

(3) Upon a request for the reduction or elimination of fees, the Manager shall evaluate the request according, but not limited to, the following factors:

(a) Whether the applicant is a tax-exempt entity.

(b) Whether the applicant is a civic association whose purpose is community service, even though the entity may not be tax exempt.

(4) Only the Manager, or his designee in the Manager's absence, may approve reduce or eliminate fees. The Manager shall have the right to refer any fee modification request to the Board for its consideration.

(d) Use by Groups.

(1) Use permits shall be required for any entertainment, tournament, exhibition, or any other use that can reasonably be expected to have 20 or more persons attending or that has the potential have a detrimental effect on the park or facility, or other park or facility users.

Sec. 47-04. Personal Conduct.

(a) Use of Alcohol Beverages and Controlled Substances. In a park or facility, it shall be unlawful for any person to:

(1) Possess, use, or sell any Controlled Substance in violation of state law.

(2) Possess, serve, or consume any Alcoholic Beverage, without the appropriate license from the Virginia Department of Alcoholic Beverage Control and without the prior approval of the Manager. The Manager shall have the right to refer any request for prior approval to the Board for its consideration.

(b) Gambling, Disorderly Conduct, Use of Abusive and Insulting Language. In a park or facility, it shall be unlawful for any person to gamble, engage in disorderly conduct, and or use abusive and insulting language.

(c) Littering. In a park or facility, it shall be unlawful for any person to deposit, scatter, drop or abandon bottles, cans, broken glass, hot coals, ashes, sewage, waste or other materials, except in receptacles provided for the purposes.

(d) Weapons; Fireworks. In a park or facility, it shall be unlawful for any person to:

(1) Hunt.

(2) Discharge, fire, or shoot, a Weapon.

(3) Possess any of the items enumerated in §§ 18.2-288; 18.2-299; 18.2-308.A(ii), (iii), (iv), or (v); 18.2-433.1 of the Virginia Code, or any "bow" as defined in § 15.2-916 of the Virginia Code.

(4) Possess, detonate or attempt to detonate, ignite or attempt to ignite, any Firework or other pyrotechnic device without prior authorization from the Manager.

(e) Property of others. In a park or facility, it shall be unlawful for any person to:

(1) Intentionally disturb, harass, or interfere with a park or facility visitor's property.

(2) Leave or store personal property without prior authorization from the Parks Manager, his designee, or the Board.

(f) Interference with County Employees. It shall be unlawful for any person to impersonate any County employee or interfere with, harass, or hinder any County employee in the discharge of their duties.

Sec. 47-05. Use Restrictions.

(a) Commercial Use; Solicitation; Advertising and Photography. In a park or facility, it shall be unlawful for any person to:

(1) Solicit, sell, or otherwise peddle any goods, wares, merchandise, services, liquids or edibles, except by authorized concession granted by the Board or with the written permission of the Manager.

(2) Operate a still, motion picture, video, or other camera for commercial purposes without prior authorization from the individual depicted in the image and on a not-to-interfere basis with other park or facility patrons.

(3) Expose, distribute, or place any sign, advertisement, notice, poster, or display without authorization from the Manager.

(b) Companion Animals. In a park or facility, it shall be unlawful for any person to:

(1) Bring any Companion Animal, except in areas designated as open to Companion Animals.

(2) Allow a Companion Animal to enter a picnic area, building, ball field, or other "No Companion Animal" designated areas.

(3) Permit a Companion Animal under his or her control to disturb, harass, or interfere with any park or facility visitor, a park or facility visitor's property, or a County employee.

(4) Tether any Companion Animal to a tree, plant, building, or park or facility equipment.

(5) Have a Companion Animal in a designated area without having the means for disposing of the Companion Animal's feces in a sanitary manner.

(c) Noise; Amplification of Sound. In a park or facility, it shall be unlawful for any person, without the prior written authorization of the Manager, or his designee, to:

(1) Install, use, or operate a loudspeaker or other sound amplifying equipment;

(2) Use, operate, or permit the use or operation, of any radio, tape player, phonograph, television set, music amplifier or other machine or device for the production or reproduction of sound in a manner as to be disturbing or a nuisance to reasonable persons of normal sensitivity within or without the park or facility;

(3) Willfully make or continue, or cause to be made or continued, any loud, unnecessary or unusual noise which disturbs the peace or quiet or which causes discomfort or annoyance to any reasonable park or facility visitor of normal sensitivity, except for special programs at dates and times as authorized by Use Permit or by the Manager.

(4) Exceeding a single standard shall be sufficient to sustain a violation. The standards which shall be considered in determining whether a violation of the provisions of this section exists shall include, but not be limited to the following:

(a) The amplitude of the noise.

(b) The frequency of the noise.

(c) Whether the nature of the noise is usual or unusual.

(d) The level and intensity of the noise relative to the background noise, if any.

(e) The area within which the noise emanates.

(f) The intensity of human use of the area during the time at which the noise emanates.

(g) The time of the day or night the noise occurs.

(h) The duration of the noise.

(i) Whether the noise is recurrent, intermittent, or constant.

(d) Fires. It shall be unlawful for any person to:

(1) Start a fire in a park or facility, except in a designated area, and then only in fire rings, portable stoves or grills, except by Use Permit with Manager's approval. The Manager shall have the right to refer any such request to the Board for its consideration.

(2) Leave a fire unattended or fail to fully extinguish a fire; and/or

(3) Scatter or leave unattended lighted matches, ashes, burning tobacco, paper or other combustible material.

(e) Assemblies; Meetings. It shall be unlawful for any person to conduct public meetings, assemblies, worship services, entertainment, parades, or demonstrations within a park or facility without a Use Permit.

(f) Amusement Contraptions. It shall be unlawful to bring in, set up, construct, manage or operate any amusement contraption without prior authorization from the Manager.

(g) Powered Models and Toys. It shall be unlawful for any person to start, fly, or use any model aircraft, model boat, or model rocket powered by a combustion engine or rocket motor. Electrically powered model cars and toys are permitted. Electrically powered aircraft are permitted provided they are tethered to the operator and under the operator's positive control.

(h) Unlawful occupancy. It shall be unlawful for any person to enter in any way any building, installation or area that may be under construction or locked or closed to public use or to enter or be upon any building, installation or area after the posted closing time or before the posted opening time or contrary to posted notice in any Park.

(i) Playgrounds.

(1) The following are not allowed around the playground equipment:

(a) Swinging of sticks or wooden or metal bats;

(b) Use of ropes;

(c) Throwing of hard objects such as baseballs, golf balls, Frisbees, etc;

(d) Games that involve any tackling, tagging, pushing, shoving, hitting, grabbing, pulling, knocking down, tripping, throwing, or, climbing or jumping on one another.

(j) Golf. It shall be unlawful for any person to hit golf balls within a park or facility except as authorized by the Manager or by Use Permit.

(k) Roller skates, roller blades, or skateboards. It shall be unlawful to use roller skates, roller blades, or skateboards in parks and facilities, except in designated areas.

Sec. 47-06. Protection of property, structures and resources

(a) Disturbance of natural features. In a park or facility, it shall be unlawful for any person to:

(1) Intentionally remove, alter, injure, or destroy any tree, other plant, rock, soil, or mineral.

(2) Dig trenches, holes or other excavations without authority.

(3) Introduce any plant, animal, or other agent without a Use Permit, and other permits as required by state and federal law.

(b) Disturbance of wildlife. In a park or facility, it shall be unlawful for any person to:

(1) Kill, trap, hunt, pursue, or in any manner disturb or cause to be disturbed, any species of wildlife, except in nuisance situations as permitted by a Use Permit;

(2) Remove any animal, living or dead, without a Use Permit and any animal so removed or taken contrary to the provisions of this chapter or laws of the state, shall be considered contraband and subject to seizure and confiscation; and/or

(3) Release or abandon any animal.

(c) Destruction or Defacement. In a park or facility, it shall be unlawful for any person to:

(1) Intentionally deface, vandalize, or otherwise cause destruction to County property.

(2) Intentionally deface, destroy, cover, damage, or remove any placard, notice, sign, or parts thereof whether permanent or temporary, posted or exhibited by the General Services Department.

(d) Release of harmful or foreign substances. In a park or facility, it shall be unlawful for any person to:

(1) Place any debris or other pollutant in or upon any park or facility, or any body of water in or adjacent to a park or facility, or any tributary, stream, storm sewer or drain flowing into the waters.

(2) Discharge wastewater or any other wastes in a park, except into designated containers, drains, or dumping stations.

Sec. 47-07. Recreation activities

(a) Camping. In a park, it shall be unlawful for any person to:

(1) Camp, except in areas provided and designated for that purpose.

(2) Camp without a Use Permit and approval of the Manager. The Manager shall have the right to refer any camping request to the Board for its consideration.

(3) Occupy campsites in a park contrary to a Use Permit or otherwise violate provisions of a Use Permit;

(4) Camp overnight in a park if under 18 years of age, unless accompanied by parent or legal guardian, or possessing written permission from a parent or legal guardian;

(b) Picnicking. In a park or facility, it shall be unlawful for any person to:

(1) Assume exclusive use of a reservation picnic site without a Use Permit;

(2) Use a portion of a reserved picnic area, when that area is reserved for a permitted group.

(3) Conduct picnic activity at reservation picnic sites contrary to a Use Permit or otherwise violate provisions of a Use Permit.

(4) Set up temporary shelters, such as tents, tarps, canopies and other devices other than in designated camping areas without authorization by a Use Permit.

(c) In a park, it shall be unlawful to wade or swim in streams or creeks.

(d) Fishing. In a park, it shall be unlawful for any person to:

(1) Fish without the appropriate license.

(2) Fish in a prohibited area.

(e) Horses and horseback riding. In a park, it shall be unlawful for any person to ride, lead, or allow a horse except as authorized by the Manager or by Use Permit. The Manager shall have the right to refer any horseback riding request to the Board for its consideration.

(f) Bicycling. In a park or facility, it shall be unlawful for any person to:

(1) Operate a bicycle, except on roadways and designated trails, and except as close to the right side of roadways and designated trails as conditions permit.

(2) Ride or operate a bicycle, except in a prudent and careful manner and at speed faster than is reasonable and safe with regard to the safety of the operator and other persons in the immediate area.

(3) Park a bicycle at any park or facility except at a bicycle rack, if the rack is provided.

(g) Other special activity uses. In a park or facility, it shall be unlawful for any person to participate in or conduct any activity without a Use Permit, except those uses for which a park area or facility has been planned or promoted by the Parks Division.

Sec. 47-08. Traffic regulations

(a) Motorized vehicles. In a park or facility, it shall be unlawful for any person to operate a Motorized Vehicle, except on designated roads and in a manner compliant with the Motor Vehicle laws of Virginia.

(b) Parking Motorized Vehicles. In a park, it shall be unlawful for any person to:

(1) Park or leave a Motorized Vehicle standing, except in a designated area and then only in a manner so as not to restrict normal traffic flow.

(2) Leave a Motorized Vehicle parked or standing after posted closing hours without a valid Use Permit.

(3) Park a Motorized Vehicle in a space designated for handicapped parking only, except with handicapped vehicle license or permit.

(4) Park a Motorized Vehicle with a trailer, except in designated vehicle trailer parking areas.

(c) Maintenance of Motorized Vehicles. In a park or facility, it shall be unlawful for any person to wash, polish, grease, change oil, or perform other maintenance on any Motorized Vehicle, except in emergencies.

Sec. 47-09. Enforcement

(a) The New Kent County Sheriff's Office, the State Police, and agents of the State Department of Natural Resources, in connection with duties imposed by law, shall enforce the provisions of this chapter and may issue citations, and eject from any park persons acting in violation of the provisions of this chapter. The above agencies shall have the authority to seize, confiscate and impound any substance, plant, animal, vehicle or other article which upon probable cause, is found to be used or possessed in violation of this chapter.

(b) The Board shall have the power to adopt additional rules and regulations to implement this chapter.

(c) The County Sheriff's Department or local law enforcement agencies shall have the authority to impound any Companion Animal found in violation of this chapter and shall collect an impoundment fee, plus a per diem fee, specified in contract for impounding of animals which may be in force.

(d) The Manager or the Board shall have the authority to revoke for good cause any Use Permit. Any permit or reservation may be revoked upon violation by the permittee of any ordinance, rule, or regulation of the County.

(e) Nothing in this chapter shall prevent employees or agents of the Parks Division from performing their assigned duties.

Sec. 47-10. Penalty; How Punished.

A violation of a provision of this chapter shall be punished as a Class 4 misdemeanor.

This ordinance shall be effective immediately.

John A. Budesky
County Administrator

W. R. Davis, Jr.
Chairman