

# REQUEST FOR BOARD ACTION

## HENDERSON COUNTY

### BOARD OF COMMISSIONERS

**MEETING DATE:** May 2, 2011

**SUBJECT:** Recreation Ordinance Amendments

**PRESENTER:** Sarah Zambon

**ATTACHMENT(S):** Yes  
1. Draft ordinance language

#### SUMMARY OF REQUEST:

Periodically staff reviews different ordinances to ensure that they are current with common practices and updates them as needed. Upon review of the Parks and Recreation Ordinance minor changes were made based on the current operations of the parks and existing language in other ordinances and state law. The only substantive change that was made to the Ordinance was the addition of standards regarding potential off-leash areas. While currently the County does not operate any off-leash facilities for dogs, the ordinance anticipates having standards in place if the County does have those facilities in the future.

The changes to the ordinance were reviewed by the Recreation Advisory Board at their April 12<sup>th</sup> meeting and the changes were unanimously recommended.

All changes have been **highlighted**. Additions are underlined and deletions are ~~struck out~~.

County staff will be present and prepared if requested to give further information on this matter.

#### BOARD ACTION REQUESTED:

Approval of the draft ordinance language.

#### SUGGESTED MOTION:

*I move that the Board approve the draft language to the Henderson County Recreation Ordinance as presented and unanimously supported by the Recreational Advisory Board.*

**Chapter 130A**  
**PARKS AND RECREATION AREAS**

[HISTORY: Adopted by the Board of Commissioners of Henderson County as indicated in article histories. Amendments noted where applicable.]

ARTICLE I, General Regulations [Adopted 6-20-2001]

§ 130A-1. Title.

This chapter shall be referred to as the "Henderson County Parks and Recreation Ordinance."

§ 130A-2. Authority.

This chapter is enacted pursuant to N.C.G.S. 160A, Article 18, and N.C.G.S. 153A-169.

§ 130A-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

DEPARTMENT -- The Parks and Recreation Department of Henderson County.

DIRECTOR -- The Director of the Parks and Recreation Department of Henderson County, or his/her designee.

**OFF-LEASH AREA- an area on County Parks property that is designated by the Director as an area for dogs to exercise and socialize off leash while under the supervision of the dog's owner. It is synonymous with Dog Park.**

PARK -- A park, reservation, playground, community center, recreation center, stadium or any other area or structure in the County, owned or leased or used by the County and devoted to active or passive recreation, including property owned by others and devoted to park purposes under the jurisdiction of the Department.

PERSON -- Any individual, firm, partnership, association, corporation, company or organization of any kind, but does not apply to park employees or law enforcement officers to the extent necessary to carry out their duties.

PUBLIC PLACE -- Any place which is viewable from any location open to the view of the public at large.

PUBLIC NUDITY -- A person's intentional failure to cover with a fully opaque covering the person's genitals, pubic area, anal area or female breasts below a point from the top of the areola while in a public place, excluding toilet facilities.

SEXUAL CONDUCT -- Vaginal, anal or oral intercourse, whether actual or simulated, or masturbation.

**SPECIAL EVENT- an event at the park approved by County staff that is of a temporary nature including but not limited to festivals, races, sporting events and holiday celebrations.**

**UNNECESSARY STOPPING — Bringing a vehicle to a complete stop at a point other than in a parking place, or other than in conformity with traffic regulations and other than because of a defect in said vehicle.**

VEHICLE -- Any wheeled conveyance, whether motor-powered, animal-drawn or self-propelled; except wheelchairs and similar vehicles, baby carriages and vehicles in the service of the County parks or emergency vehicles.

§ 130A-4. Park property.

A. Buildings and other property. No person in a park shall:

(1) Willfully mark, deface, disfigure, adulterate, injure, tamper with or displace or remove any buildings, bridges, tables, fireplaces, railings, paving or paving materials, water lines, or other public utilities or parts of appurtenances thereof, fences, signs, notices or placards, whether temporary or permanent, receptacles, monuments, stakes, posts, or other boundary markers, or other structures, improvements or equipment, facilities or park property or appurtenances whatsoever, either real or personal.

(2) Force entry into any rest room or washroom that is locked or bolted; and no person over the age of six years shall enter any rest room, washroom or locker room designated for the opposite sex.

(3) 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 or permission of the Director.

(4) Camp or sleep overnight in any area of the park. No person shall set up tents, shacks or any other temporary shelter for the purpose of overnight camping, nor shall any person leave in any park any

movable structure or special vehicle to be used or that could be used for such purpose, such as a camper-trailer, house trailer, motor home or the like unless it is a special event approved by Henderson County.

B. Trees, shrubbery, lawns. No person in a park shall:

(1) Damage, cut, carve, transplant or remove any tree or plant or injure the bark, or pick the flowers or seeds, of any tree or plant; attach any rope, wire or other contrivance to any tree or plant or tie or hitch an animal to any tree or plant.

(2) Dig or remove any soil, rock or stones, or any trees, shrubs, plants, plantings, grass, down-timber or other wood or materials, or make any excavation by tool, equipment, blasting or other means or agency.

(3) Climb, stand or sit upon monuments, vases, fountains, failings, fences, shelters, trees or upon any other property, real or personal, not designated or customarily used for such purposes.

C. Wild animals, birds. No person in a park shall abuse or mistreat any animals or birds in the park;

(1) — Hunt, molest, harm, frighten, kill, trap, chase, tease, shoot or throw missiles at any animal, reptile or bird; remove or possess the young of any wild animal, or the eggs or nest or young of any reptile or bird; except that it shall not be unlawful to kill snakes or other reptiles thought to be poisonous.

(2) — Give or offer, or attempt to give to any animal or bird any tobacco, alcohol or other known noxious substances.

#### § 130A-5. Sanitation.

No person in a park shall:

A. 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 system, storm sewer, or drain flowing into such waters, any substance, matter or thing, liquid or solid, which will or may result in the pollution of such waters.

B. Dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cigarette or cigar butts, cans, dirt, rubbish waste, garbage or refuse, animal waste or other trash anywhere on the park grounds; except such matter may be placed in proper receptacles where provided. Where receptacles are not provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence, and properly disposed of elsewhere.

C. Dump, deposit or leave household garbage or waste generated outside the park in the park facilities, park receptacles or dumpsters, or on park grounds.

#### § 130A-6. Traffic.

No person in a park shall:

A. Fail to comply with the provisions of the motor vehicle traffic laws of the state and ordinances of the County in regard to equipment and operation of vehicles.

B. Fail to obey all traffic officers, law enforcement officers and parks and recreation employees, such persons being authorized and instructed to direct traffic whenever and wherever needed in the park.

C. Fail to obey all traffic signs indicating speed, direction, caution, stopping or parking, and all others posted for proper control and to safeguard life and property.

D. Ride or drive a vehicle at a rate of speed exceeding the posted limit 40 miles an hour, except upon such roads as the Director may specifically designate, by posted signs, for speedier travel.

E. Drive any vehicle on any area except the paved park roads or designated parking areas, or such other areas as may on occasion be specifically designated as temporary parking areas by the Director, except that bicycles shall be permitted on all trails unless specifically prohibited.

F. Park a vehicle, or allow it to stand in other than an established or designated parking area, and such use shall be in accordance with the posted directions and with the instructions of any traffic officer, law enforcement officer or parks and recreation employee who may be present.

G. Cause or permit a vehicle to obstruct the flow of traffic.

H. Cause or permit a vehicle to be parked unattended or abandoned overnight except by written permission of the Director or authorized County staff.

I. Stand, sit, congregate or in any way block or cause a hazard for vehicles in any roadway or parking area, except as may be specifically designated by the director during special events.

J. Do not leave a bicycle in any place where it may cause a hazard for the public.

Operate any motorized vehicle at any location within the park other than such places, if any, as are specifically designated for such purposes by the Director, except that regularly licensed vehicles and

operators, or mopeds, may have access to the streets, roadways and parking areas within parks to the same extent as public streets, subject to all other rules of this article and Code.

K. — Ride a bicycle on other than the right hand side of a paved vehicular road or path designated for that purpose; or fail to keep in single file when two or more bicycles are operating as a group, except as specifically designated by the Director during special bicycle events.

L. — Ride any other person over the age of six years on a single passenger bicycle in any park.

M. — Leave a bicycle unattended in a place other than a bicycle rack when such is provided and there is space available.

N. — Leave a bicycle lying on the ground or paving, or against trees, or in any place or position where other persons may trip over or be injured by it.

O. — Ride a bicycle on any road or parking area between 30 minutes after sunset and 30 minutes before sunrise without an attached headlight plainly visible at least 200 feet from the front, and without a red taillight or red reflector plainly visible from at least 100 feet from the rear of such bicycle.

#### § 130A-7. Recreational activities.

A. Bathing and swimming. No person in a park shall swim, bathe or wade in any waters or waterways in or adjacent to any park, except in such waters and at such places as are provided ~~therefore and posted~~, and in compliance with such regulations as are now or may be hereafter adopted.

B. Boating. No person in a park shall operate any boat, raft or other watercraft, whether motor-powered or not, upon any waters within a park.

C. Fishing. No person in a park shall ~~engage in commercial fishing in the park;~~

(1) ~~Engage in commercial fishing, or the buying or selling of fish caught in any waters;~~

(2) ~~Fish in any waters, whether by the use of hook and line, net, trap or other device, where specifically prohibited by the Director for that use and under such regulations and restrictions as have been or may be prescribed by the Director.~~

D. Picnic areas, shelters and use. No person in a park shall:

(1) ~~Picnic or lunch in a place other than those designated for that purpose. The parks and recreation staff 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 the public. Visitors shall comply with any directions given to achieve this end.~~

(1) ~~Leave fire pits or barbeque grills on and unattended in the park or bring or consume alcohol in the park.~~

(2) Violate the regulations that the use of the individual picnic areas and shelters, together with fireplaces, tables and benches, follows generally the rule of "first come, first served," or occupy a reserved area without authorization.

(3) Leave a picnic area before the fire is completely extinguished and before all trash in the nature of boxes, papers, cans, bottles, garbage, cigarette and cigar butts, and other refuse, is placed in the disposal receptacles where provided. If no such receptacles are available, then refuse and trash shall be carried away from the park area by the user to be properly disposed of elsewhere.

#### § 130A-8. Behavior.

No person in a park shall:

A. Possess, consume, or be under the influence of:

(1) Any malt beverage or unfortified wine, as defined in Chapter 18B of the North Carolina General Statutes.

(2) Any fortified wine or spirituous liquor, as defined in Chapter 18B of the North Carolina General Statutes.

~~B. — Possess, use, consume or be under the influence of any illegal drugs.~~

C. Build or attempt to build a fire, except in such areas as may be designated by the Department for the building of fires; or throw or otherwise scatter lighted matches, burning cigarettes, tobacco paper or other flammable material, within any park area.

D. Enter an area posted as "closed to the public," nor shall any person use or abet the use of any area in violation of posted notices.

E. Engage in any disorderly conduct or behavior tending to be a breach of the public peace.

F. Engage in public nudity in any area of the park.

G. Engage in any sexual conduct in any area of the park.

~~H. Produce or emit any amplified speech, music or any other sounds that annoy, disturb or frighten park users, without a permit. This provision does not apply to events organized by the Department.~~

I. Disturb or unreasonably interfere with the activities of any other person or persons occupying an area of a park.

~~J. Cause or permit any animal owned by or in the custody of such person to run at large or be out of the immediate control such person. Each animal found at large may be seized and disposed of as provided by local ordinance governing disposal of stray animals.EN~~

K. Enter, use or remain within any park during the hours when the park is closed.

§ 130A-9. Firearms; weapons; explosives.

No person in a park shall:

A. Carry, use or possess firearms or other dangerous weapons of any nature within any park or other recreation facility; provided, however, that this section shall not apply to sworn law enforcement officers of any branch of federal or state government or to any County or municipal law enforcement officer of any jurisdiction within Henderson County.

B. Possess or cause to explode, discharge, burn, or otherwise set off, any pyrotechnic, firecracker, other fireworks or explosives, or to discharge or throw them into any such land or highway adjacent thereto, except as may be specifically authorized by the Henderson County Board of County Commissioners. This provision does not apply to events organized by the Department.

§ 130A-10. Merchandising, advertising and signs.

No person in a park shall:

A. Expose, offer for sale or advertise any food, beverage, article or service, or solicit donations, except as allowed ~~by County policy or ordinance.~~

B. Paste, glue, tack or otherwise post any sign, placard, advertisement or inscription whatever; except as allowed by County policy or ordinance.

~~C. No solicitation or sale within the park except at special events with the permission of the County.~~

§ 130A-11. Park operating policy.

A. The opening and closing hours for each individual park or recreation facility shall be determined by the Director and shall be posted therein for public information.

B. All or any section of any park or recreation area or facility 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), and either entirely or merely to certain uses, as the Director shall find reasonably necessary.

~~C. A permit shall be obtained from the County for shelter use, parking or special events at the Park. The findings of lost articles by park attendants shall be reported to the Director, who shall make every reasonable effort to locate the owners.~~

~~D. A permit shall be obtained from the Director before participating in any park activity which the Department shall from time to time designate as requiring such a permit.~~

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

§ 130A-12. Liability.

Any person or persons entering into a lease or rental agreement of any recreation facility agrees to hold harmless the County of Henderson and park and recreation staff for any injuries or death occurring while using the facilities. The sponsor shall assume full responsibility.

§ 130A-13. Enforcement.

A. The Director ~~and Sheriff's Office~~ has the authority and responsibility to enforce any rules and regulations governing the use and maintenance of the parks and recreation facilities as adopted by the Henderson County Board of Commissioners.

B. The Director, employees of the department, the Henderson County Sheriff or his deputies, and any law enforcement officer having territorial jurisdiction over said park, shall have the authority to eject from

any park any person acting in violation of this or any section of this Code, **park policy**, or any law of the state.

C. When there is a violation of any provision of this chapter, the County, or any person set forth in § 130A-13B, in his/her discretion, may take one or more of the courses of action set forth in Chapter 1, General Provisions, Article II, **including possible criminal and civil penalties**.

**§ 130A-14. Off Leash Area**

**A. It shall be unlawful for dogs to enter or be on park property without a leash except in such areas designated as Off-Leash Areas.**

**B. Certain areas designated by the Director shall serve as Off-Leash Areas within the Henderson County recreation system.**

**1. Only dogs shall be permitted in the off leash areas. All other animals are prohibited.**

**2. All dogs must be under the control of an attendant who is competent and knowledgeable about the dog's behavior and has control over the animal at all times.**

**3. Dogs deemed dangerous under the North Carolina statute or the Henderson County Animal Ordinance or animals deemed aggressive under the Animal Ordinance shall not be permitted in the off leash areas.**

**4. The Director shall promulgate rules and regulations for the Off-Leash Areas.**

**C. Violations of this Ordinance or of the Park Rules for Off-Leash areas may be subject to a \$50 fine per violation per occurrence as per N.C.G.S 14-4/**

§ 130A-15. (Reserved)

§ 130A-16. (Reserved)

§ 130A-17. (Reserved)

§ 130A-18. (Reserved)

§ 130A-19. (Reserved)

§ 130A-20. (Reserved)

§ 130A-21. (Reserved)

§ 130A-22. (Reserved)

§ 130A-23. (Reserved)

§ 130A-24. (Reserved)

§ 130A-25. (Reserved)

§ 130A-26. (Reserved)

§ 130A-27. (Reserved)

§ 130A-28. (Reserved)

§ 130A-29. (Reserved)

§ 130A-30. (Reserved)

§ 130A-31. (Reserved)

§ 130A-32. (Reserved)

§ 130A-33. (Reserved)

§ 130A-34. (Reserved)

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§ 130A-36. (Reserved)

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§ 130A-41. (Reserved)

§ 130A-42. (Reserved)

§ 130A-43. (Reserved)

§ 130A-44. (Reserved)

§ 130A-45. (Reserved)

§ 130A-46. (Reserved)

§ 130A-47. (Reserved)

§ 130A-48. (Reserved)

§ 130A-49. (Reserved)

ARTICLE II, Child Safety Zone [Adopted 10-18-2006]

§ 130A-50. Prohibition of convicted child sex offenders in child safety zone.

A. Definitions. For the purpose of this article, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words in the plural number include the singular and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

CAMP -- A site where educational and recreational activities are provided for children.

CHILD SAFETY ZONE -- All parks, public libraries, school sites, camps, and the public ways within 300 feet of a park, public library, school site, or camp.

CONVICTED CHILD SEX OFFENDER -- Any person who is required to register on the North Carolina Sex Offender and Public Protection Registry pursuant to N.C.G.S. § 14-208.5 et seq., and any person convicted of any offense which could require him or her to register on the North Carolina Sex Offender and Public Protection Registry.

LOITER -- Standing, sitting idly, whether or not the person is in a vehicle or remaining in or around a child safety zone. This term shall not include the following:

- (1) A person's mere physical presence on a school site for the purposes of:
  - (a) Dropping off or picking up such person's legal child who attends such school; or
  - (b) Meeting with school officials at the school at which such person's legal child attends; or
  - (c) Attending a school event in which such person's legal child is actively participating.
- (2) A person's mere physical presence at an event announced to and open to the general public held on a school site.

PARK -- The same as defined by § 130A-3.

PUBLIC WAY -- Any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, common areas of schools, shopping centers, parking lots, parks, playgrounds, transportation facilities, theaters, restaurants, shops, bowling alleys, taverns, cafes, arcades, and similar areas that are open to the use of the public.

SCHOOL SITE

(1) The buildings and grounds of any elementary school, junior high school, high school, or pre-school or child development or child-care facility required to be licensed by the State of North Carolina; and

(2) All school-bus stops.

PUBLIC LIBRARY -- Any library operated by Henderson County.

B. It shall be unlawful for a convicted child sex offender to knowingly loiter in any child safety zone.

§ 130A-51. Enforcement procedures.

A. If a law enforcement officer reasonably believes that a convicted child sex offender is in a child safety zone in violation of this article, the officer shall require the convicted child sex offender to provide his/her name, address, and telephone number. If the officer establishes that the individual is a convicted child sex offender, then the officer shall notify the convicted child sex offender that he/she is in violation of the article.

B. For the purposes hereof, an individual may be established as a convicted child sex offender:

- (1) If he/she is a resident of North Carolina and is required to be registered on the North Carolina Department of Public Safety Sex Offender Registration Database; or
- (2) If he/she is not a resident of North Carolina, he/she would be required to so registered if he/she was, in fact, a North Carolina resident.

§ 130A-52. Violations and penalties.

Any person violating any provision of this article, upon conviction, shall be punished by incarceration as allowed by North Carolina law, and by a fine not to exceed \$500.

§ 130A-53. Severability.

If any provision of this article is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall remain in full force and effect.