

Open Shores of Southwest Florida, Inc.

Research Memorandum: Ordinance 25-16 and the Conflict with Ordinance 18-12

Prepared June 2026 — Based on Lee County and State Public Records

Field Documentation Updated June 4, 2026 | GIS Dataset Added June 15, 2026

The Question

When Lee County adopted Ordinance 25-16 in August 2025, converting most of Boca Grande's numbered Gulf-side beach access streets to residential permit-only parking zones, it did not reference or address Ordinance 18-12 — the County's current Parks and Recreation Ordinance — anywhere in the ordinance, the supporting Agenda Item Reports, the BCC hearing transcript, or the official state filing. Instead, the 25-16 record cited Ordinance 06-26 — a parks ordinance fully repealed in 2018 and replaced by 18-12 — as its parks authority at 5th Street, while omitting any parks ordinance reference at all other County-classified beach access facilities.

This memorandum documents that conflict. Every source cited is Lee County's own public records, official datasets, and field documentation. No outside sources are required to establish the conflict.

This memorandum does not assert that Ordinance 25-16 is invalid in its entirety. The question is specific: whether 18-12 governs the Boca Grande beach access streets classified as county parks in Lee County's own records, and if so, whether 25-16's permit system is consistent with 18-12's requirements.

The Conflict: What Ordinance 18-12 Requires

Ordinance 18-12 is Lee County's current Parks and Recreation Ordinance, adopted March 2018. It replaced and fully repealed Ordinance 06-26. Its provisions create a direct conflict with what 25-16 does at the numbered beach access streets — a conflict that does not appear anywhere in the 25-16 record.

- Section 4.1 requires that parks be open to the public every day of the year.
- Section 4.3 prohibits issuing a permit where the proposed activity or use would restrict or prohibit the general public's use of the park. A residential permit-only system restricts general public use. That language creates a direct conflict with 25-16 that the County did not address in the ordinance, its supporting documents, or the BCC hearing transcript.
- Section 4.7 requires fees to be established through the Administrative Code process. 25-16 did not follow that process.

- Section 3.1 defines parks broadly to include beaches, roadways, abutting lands, adjacent littoral waters, and pertinent rights-of-way under County jurisdiction, control, or administration.
- Section XVI contains a conflicts clause: whenever Ordinance 18-12 conflicts with another ordinance, the most restrictive requirements apply. Ordinance 25-16 Section Two contains the identical clause. By both ordinances' own terms, where they conflict, 18-12's public access standard controls.
- Lee County Parks & Recreation publishes a Beach Park User Group Information Sheet on its own website stating that beach parks are first-come, first-served, that no space, shelter, or parking may be reserved, and that users must abide by Ordinance 18-12.

If the numbered beach access streets are County-recognized park facilities — and Lee County's own records say they are — then 18-12 governs them. And 18-12 prohibits what 25-16 does.

The Evidence: Lee County's Own Records

Every element of the following analysis is sourced from Lee County's own public records, official websites, state agency datasets, and field documentation.

Lee County Parks Classifications

- Lee County's Parks and Recreation website (leegov.com/parks/beaches/bocabeach) lists "Boca Grande Beach Accesses" as a County parks facility. Listed amenities include Beach Access, Free Parking, and Paddlecraft Landing/Launch. Every numbered Gulf-side street from 1st through 19th appears on that list. As of June 3, 2026, the page still lists Free Parking as an amenity — ten months after 25-16 converted most of those streets to permit-only. The page also notes under Closures: "5th Street Beach Access — Temporarily Closed."
- Ordinance 18-12 is linked directly in the Parks & Recreation navigation menu on that same page — confirming it as the governing parks ordinance for these facilities.
- Lee County's Find My Park GIS system lists each numbered street individually as a "Boca Grande Beach Access" entry with its own address and park facility record.
- Lee County Parks staff — Timothy Bonisolli, Supervisor Parks & Recreation — is listed as the facility contact, confirming these are actively managed Parks department facilities, not incidental road infrastructure.
- Lee County's official County Parks and Preserves GIS dataset — the county's maintained administrative inventory of all 231 parks and preserves — classifies all 26 Boca Grande beach access streets as TYPE: Park, Department: Parks-North District, Maintenance: Lee County Parks & Recreation, with named Supervisor Joseph Wier. The dataset was downloaded June 15, 2026 and is publicly accessible at:

https://maps.leegov.com/datasets/1678e170f3864d558ddddd419882c53b1_0/explorer?location=26.750630%2C-82.261535%2C16

Hours

Dawn to Dusk

Closures

5th Street Beach Access - Temporarily Closed

Amenities

Beach Access

Free Parking

Paddlecraft Landing/Launch

News

For updated Parking Information visit www.leegov.com/parking

Lee County Parks & Recreation website (leegov.com/parks/beaches/bocabeach), captured June 3, 2026. Amenities listed: Beach Access, Free Parking, Paddlecraft Landing/Launch. Closures: 5th Street Beach Access — Temporarily Closed. News: “For updated Parking Information visit www.leegov.com/parking.” Free Parking remains a listed amenity ten months after 25-16 converted most of these streets to permit-only.

State and Federal Records

- A 2018 FDEP beach funding application signed by Lee County Operations Manager Steve Boutelle under a written certification that all information provided was true and complete listed the numbered beach access streets as public beach access points with specific parking space counts. Those counts were used to calculate eligible shoreline footage for federal and state cost-share funding. The parking was not incidental — it was the basis for federal eligibility.
- Florida’s Public Beach Access Sites dataset (ca.dep.state.fl.us/mapdirect) independently lists the numbered beach access streets as Florida Public Beach Access Sites under Lee County, with specific parking space counts documented for each location. Space counts confirmed in the dataset include 45 spaces at 7th Street West, 17 spaces at 4th Street, 9 spaces at 10th Street, and 50 feet of frontage at 13th Street, among others. As of June 2, 2026, these records remain unchanged — the state of Florida still officially records public parking spaces at these streets, ten months after 25-16 converted them to permit-only.
- The Florida Beach Access Guide, a separate FDEP dataset, lists the same numbered Boca Grande beach access streets as Coastal Access Sites with

parking — independently confirming parking as a documented feature of these locations.

- 19th Street East is a designated Great Calusa Blueway Paddling Trail Access point — a state-recognized public recreational facility. The street is largely converted to permit-only parking under 25-16, with a small remaining public area at the water's edge serving the kayak launch, as confirmed by field documentation on June 4, 2026.

Lee County Parks Infrastructure at These Streets

Lee County Parks & Recreation branded infrastructure was documented at a sampling of beach access streets on June 4, 2026. Lee County Parks & Recreation branded trash receptacles — bearing the Parks & Recreation logo and leeparks.org, identifying them as Parks department assets rather than generic county property — were confirmed at Banyan Street, 9th Street, 3rd Street, and 17th Street. Field photographs include visible date and time watermarks. Additional streets were not inspected on this date.

The Physical Signage Chain

Lee County Parks & Recreation's own physical signs constitute independent field evidence of parks ordinance authority at these locations. The signage documents an unbroken chain of parks ordinance administration: from Ordinance 06-26 physically posted at beach access facilities, through its 2018 repeal and replacement by 18-12, to the current condition in which 18-12 and 25-16 are posted at the same locations without either acknowledging the other.

At these beach access locations, Lee County Parks & Recreation rules signs citing the governing parks ordinance are posted alongside trash receptacles carrying the Parks & Recreation logo. The vehicle exclusion line marks the boundary beyond which motor vehicles are not permitted, but the entire street functions as the access facility — the parking, the exclusion boundary, and the beach access point are all components of the same County-classified beach access location.

Historical: Lee County Parks Signs at Street Entrances in 2024

Google Street View captures from May 2024 document that Lee County Parks & Recreation signs bearing the Parks & Recreation logo were posted at the entrances to the numbered beach access streets before 25-16 was adopted in August 2025. The image below is representative of the signage present across multiple streets.



Exhibit A — 7th Street West, May 2024, Google Street View. Lee County Parks & Recreation sign with Parks logo posted at the street entrance prior to adoption of Ordinance 25-16 in August 2025. Establishes Parks & Recreation administrative presence and signage at these locations before the permit system was imposed.

Historical: A Parks Ordinance Physically Posted at a Beach Access Street

A Google Street View historical capture documents a sign at the 19th Street East kayak launch — classified by Lee County as a Boca Grande Beach Access facility — reading “PUBLIC PARKING / PARK ORD. 06-26 AS AMENDED.” This establishes that parks ordinance authority was physically posted at Beach Access classified facilities on Gasparilla Island under the prior ordinance. That sign is no longer present as of June 4, 2026.

Current: Ordinance 18-12 Posted at Beach Access Streets — June 4, 2026

Field photographs taken June 4, 2026 with visible date and time watermarks confirmed Lee County Parks & Recreation rules signs citing “Ordinance 18-12 (as amended)” at a sampling of beach access streets. Additional streets were not inspected on this date.

At 9th Street West, a Lee County Parks & Recreation rules sign clearly cites “Ordinance 18-12 (as amended)” — the same governing ordinance that 25-16 never mentioned — with beach visitors present in the background.



Exhibit B — 9th Street West, June 4, 2026, 1:28 PM. Lee County Parks & Recreation rules sign posting “Ordinance 18-12 (as amended)” at a beach access street currently operating as a permit-only zone under Ordinance 25-16. Establishes that Lee County Parks & Recreation itself treats 18-12 as the governing ordinance at this location — the same ordinance absent from the entire 25-16 record.

Wheeler Road Community Park, the island’s primary County park facility, also currently posts “Ordinance 18-12 (as amended)” — confirming 18-12 as the governing parks ordinance for Lee County park facilities on Gasparilla Island.



Exhibit C — Wheeler Road Community Park, June 4, 2026, 2:26 PM. Lee County Parks & Recreation sign posting “Ordinance 18-12 (as amended)” at the island’s primary county park facility. Establishes 18-12 as the governing parks ordinance for Lee County park facilities on Gasparilla Island, providing the baseline against which the beach access street signage is consistent.

Current: 18-12 and 25-16 at the Same Location — Banyan Street

At Banyan Street, field documentation on June 4, 2026 captured the conflict at a single location. One pole, positioned between two Lee County Parks & Recreation trash receptacles, carries both a Lee County Parks rules sign citing “Ordinance 18-12 (as amended)” at the top and a green “BY PERMIT ONLY — ORD 25-16” permit sign below it. Ordinance 18-12 — which prohibits permits that restrict general public use of a park — and Ordinance 25-16 — which creates a permit-only system — are posted on the same pole, neither acknowledging the other.



Exhibit D — Banyan Street, June 4, 2026, 2:12 PM. A single pole between two Lee County Parks & Recreation trash receptacles carries a Parks rules sign citing “Ordinance 18-12 (as amended)” above a green “BY PERMIT ONLY / ORD 25-16” permit sign. The governing parks ordinance and the permit-only system are posted at the same physical location, neither acknowledging the other. This photograph documents the ordinance conflict at a single point in the field.

Current: Ordinance 06-26 Still Posted at 17th Street — Eight Years After Repeal

At 17th Street, a Lee County Parks & Recreation rules sign currently cites “Ordinance 06-26 (as amended)” — an ordinance fully repealed in 2018 by Ordinance 18-12. Ordinance 06-26 has been legally dead for eight years. It remains posted at a beach access street where \$200 citations are being issued under Ordinance 25-16.



Exhibit E — 17th Street West, June 4, 2026, 1:22 PM. Lee County Parks & Recreation rules sign posting “Ordinance 06-26 (as amended).” Ordinance 06-26 was fully repealed in 2018 and replaced by Ordinance 18-12. This sign remains posted at a beach access street where \$200 citations are currently being issued under Ordinance 25-16 — the same repealed ordinance cited in the 25-16 Agenda Item Report as parks authority at 5th Street.

The 5th Street Tell

5th Street Beach Access is the only beach-access location that did not become permit-only under 25-16. It was designated as a time-limited public zone instead. When the official Agenda Item Report for Ordinance 25-16 addressed 5th Street Beach Access, it cited “Lee County Parks and Recreation Ordinance 06-26, as amended” as the authority for imposing fees, tow-away zones, and time limits.

Ordinance 06-26 was fully repealed in 2018 and replaced by Ordinance 18-12. A repealed ordinance cannot be amended. Lee County cited it anyway, in the official Agenda Item Report filed with the Florida Secretary of State, reviewed and approved by County Attorney Richard Wesch — the same attorney who had correctly cited 18-12 as the governing parks ordinance six weeks earlier in Ordinance 25-14, a smoking and vaping amendment to 18-12 approved June 5, 2025 — along with Deputy County Attorney Michael Jacob and attorney Lauren Schaefer. Six weeks after correctly citing 18-12, the 25-16 package cited the repealed 06-26 at 5th Street and omitted 18-12 entirely across all County-classified beach access facilities.

A January 2026 scrivener’s error correction to 25-16 fixed a different numerical error using the County’s own correction mechanism — and left the 06-26 citation untouched. The inadvertence defense is closed by Lee County’s own paperwork.

The practical effect of citing 06-26 instead of 18-12 was to avoid the conflicts that 18-12 would have raised. Ordinance 06-26 Section 4.3 allowed permits unless the activity would “interfere with or detract from” general public enjoyment — an arguable standard. Ordinance 18-12 Section 4.3 prohibits permits where the activity would “restrict or prohibit” general public use. They chose the dead ordinance because the living one said no.

The 5th Street citation also establishes a principle Lee County cannot escape: by citing any parks ordinance at one beach access facility in the 25-16 record, Lee County acknowledged that parks ordinance authority was required to regulate parking at these locations. That acknowledgment applies equally to all other County-classified beach access facilities where the 25-16 record cited no parks ordinance at all.

A Lee County Parks & Recreation sign posted at 5th Street Beach Access directs visitors to leeparks.org for information about “other beach access locations.” Lee County Parks installed this sign at the location the 25-16 record cited as requiring parks ordinance authority, identifying it as a Parks & Recreation facility and connecting it to all other beach access locations on the island through their own Parks website.



Exhibit F — 5th Street Beach Access, June 4, 2026, 1:38 PM. Lee County Parks & Recreation Temporary Ramp Notice sign directing visitors to leeparks.org for information about ‘other beach access locations.’ Posted at the location the 25-16 Agenda Item Report cited as requiring parks ordinance authority. Lee County Parks & Recreation logo visible. Establishes that Parks & Recreation administers 5th Street as a parks facility and treats the other beach access streets as connected facilities under the same Parks administration.

Why Was 18-12 Never Cited Anywhere in the 25-16 Record?

Open Shores conducted a search of the complete 25-16 record — including the March 2025 Agenda Item Report, the April 1, 2025 BCC meeting transcript, and the August 5, 2025 official state filing — and found zero references to Ordinance 18-12. The same search found nine references to Ordinance 06-26, all in connection with 5th Street operations.

Citing 18-12 anywhere in the 25-16 record would have created cascading problems:

- For the numbered streets: Section 4.3 prohibits permits that restrict general public use. Acknowledging 18-12 existed meant acknowledging the conflict existed — and Lee County had no answer to it.
- For the fee and permit structure: 18-12 requires fees through the Administrative Code process. 25-16 did not follow that process. Citing 18-12 would have exposed that gap on the face of the ordinance.
- For Lee County Parks itself: The Parks department publishes 18-12 as the governing standard on its own website, posts 18-12 on its own signs at the beach access streets, and tells users to abide by Ordinance 18-12. Citing 18-12 in 25-16 would have forced a direct confrontation between what Parks represents these locations to be and what the ordinance was doing to them. The ordinance team and the Parks department were operating in entirely separate worlds. The solution was to keep 18-12 out of the 25-16 record entirely.

How Lee County Will Likely Respond

Lee County has two available arguments. Neither holds up cleanly against the record.

- Argument 1 — These are road rights-of-way, not parks: Lee County cannot easily characterize these as ordinary road shoulders after its own Parks website, GIS system, state and federal access records, and physical Parks signs all treat them as beach-access park facilities. Lee County cannot simultaneously represent these locations as public beach-access facilities with parking to federal agencies and argue they are ordinary road rights-of-way when the classification becomes inconvenient.

Lee County's own County Parks and Preserves GIS dataset directly forecloses this argument. All 26 Boca Grande beach access streets are classified TYPE: Park in the county's own maintained administrative inventory of 231 parks and preserves. A county cannot argue that facilities in its own official parks inventory are not parks.

- Argument 2 — The later specific ordinance controls: If 25-16 fully superseded 18-12, no parks ordinance citation was needed anywhere in the 25-16 record. The Agenda Item Report cited one anyway — at 5th Street — implicitly acknowledging that parks ordinance authority was required for at least some of the regulated locations. That acknowledgment undermines the claim that 25-16 operated independently of 18-12 across the board.

There is a further problem with the “later ordinance controls” argument. Ordinance 25-16 Section Two contains its own conflicts clause: “Whenever the requirements or provisions of this ordinance are in conflict with the requirements or provisions of other lawfully adopted ordinances or statutes, the most restrictive requirements will apply.” Ordinance 18-12 contains the identical provision in Section XVI. By the plain language of both ordinances’ own conflicts clauses, 18-12’s public access standard controls where the two conflict. Lee County’s own ordinance resolves the conflict against itself.

Sources

- Lee County Parks and Recreation website (leegov.com/parks/beaches/bocabeach), captured June 3, 2026
- Lee County Find My Park GIS system (leegov.com/parks)
- Lee County County Parks and Preserves GIS dataset https://maps.leegov.com/datasets/1678e170f3864d558dd419882c53b1_0/explorer?location=26.751358%2C-82.260427%2C16
- downloaded June 15, 2026 — 26 Boca Grande Beach Access records, all classified TYPE: Park, Maintenance: Lee County Parks & Recreation, Department: Parks-North District, Supervisor: Joseph Wier. Wheeler Road Community Park and Boca Grande Park and Community Center appear in the same 231-record dataset.
- Florida Public Beach Access Sites dataset (ca.dep.state.fl.us/mapdirect), captured June 2, 2026
- Florida Beach Access Guide (fdep.maps.arcgis.com), captured June 2, 2026
- FDEP FY2019/20 Local Government Funding Request, Beach Projects Application, signed by Steve Boutelle under written certification of accuracy, July 30, 2018
- Lee County Ordinance 18-12 (Section XVI conflicts clause; Sections 3.1, 4.1, 4.3, 4.7); Lee County Ordinance 06-26; Lee County Ordinance 25-16 (Section Two conflicts clause)
- Lee County Ordinance 25-14 (smoking and vaping amendment to 18-12, approved June 5, 2025 — confirming 18-12 as operative parks ordinance six weeks before 25-16 was adopted)
- Agenda Item Report for Ordinance 25-16, Item 86 (August 5, 2025 BCC meeting); March 2025 Agenda Item Report; April 1, 2025 BCC meeting transcript
- January 5, 2026 Scrivener’s Error Memo, Office of County Manager, Lee County
- Lee County Administrative Code AC-2-27 (adopted September 16, 2025)
- Boca Beacon, February 20, 2025 — Wheeler Road Community Park reopening after Hurricane Milton recovery operations
- Google Street View historical captures: 19th Street East (06-26 sign), 7th Street West entrance (Parks signs, May 2024)

- Field photographs with visible date and time watermarks: 5th Street Beach Access (1:38 PM and 1:40 PM), Banyan Street (2:12 PM), 9th Street West (1:28 PM), 17th Street West (1:22 PM), 3rd Street West, 1st Street West, Wheeler Road Community Park (2:26 PM), 19th Street East (2:39–2:40 PM) — all June 4, 2026. Additional beach access streets not inspected on this date.

Open Shores of Southwest Florida, Inc. | Placida, Florida | openshoresswfl.org