



# MOUNTAINS RECREATION & CONSERVATION AUTHORITY

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## MEMORANDUM

TO: The Governing Board

FROM:  Joseph T. Edmiston, FAICP, Hon. ASLA, Executive Officer

DATE: April 6, 2016

SUBJECT: **Agenda Item XIV: Consideration of adoption of ordinance regarding park rules and regulations, waiver of first reading, and introduction of "An ordinance of the Mountains Recreation and Conservation Authority establishing park rules and regulations, and prescribing the punishment for violations thereof."**

Staff Recommendation: That the Governing Board introduce, discuss, and waive the first reading of "An ordinance of the Mountains Recreation and Conservation Authority establishing park rules and regulations, and prescribing the punishment for violations thereof" ("Ordinance").

### Legislative Authority:

Public Resources Code Section 5782.21 provides, in part, as follows:

Districts may adopt and enforce all rules, regulations, ordinances, and bylaws necessary for the administration of government, and protection of the property, improvements, and facilities under the management or belonging to the district.

Government Code Section 53069.4 provides, in part, as follows:

The legislative body of a local agency, as the term "local agency" is defined in Section 54951, may by ordinance make any violation of any ordinance enacted by the local agency subject to an administrative fine or penalty. The local agency shall set forth by ordinance the administrative procedures that shall govern the imposition, enforcement, collection, and administrative review by the local agency of those administrative fines or penalties.

Public Resources Code Section 5786.17(c) provides, in part, as follows:

To protect property and to preserve the peace at recreational facilities and other property owned or managed by the district, the Board of Directors may confer on designated uniformed district employees the power to issue citations for misdemeanor and infraction violations of state law, city or county ordinances, or District rules, regulations, or ordinances...

Background: The Ordinance currently in effect on agency-owned and operated parklands has provided ranger and park staff with a valuable tool to provide for enhanced public safety while preserving both open space and recreational values thereupon. Evolution in statutory and case law, however, now requires that the Ordinance be updated accordingly. The most significant differences between the current Ordinance and the proposed Ordinance are summarized below.

An affirmative vote on this agenda item will acknowledge the reading of the title and introduction of the proposed Ordinance, waive the first reading, and set the public hearing, second reading, and possible adoption of the Ordinance at the subsequent regular meeting of the Board, pursuant to Government Code Section 25120, *et seq.*

The revised Ordinance represents the full and comprehensive Ordinance code for all property and parkland owned, operated, or managed by the Mountains Recreation and Conservation Authority. Adoption of this proposed Ordinance shall serve to amend the existing ordinance as indicated.

This item is the introduction and first reading of the proposed Ordinance. The second reading and possible final passage of the proposed Ordinance will be scheduled for the next regular meeting of the Board. The new provisions of the Ordinance shall go into effect 30 days from the date of final passage.

The revised Ordinance is intended to apply from the effective date forward. The Ordinance operative prior to the effective date, with all attendant procedures, is intended to remain in effect for and apply to all citations issued for violations which occurred prior to the effective date continuing until such time as each of those procedures and violations have been resolved.

Summary of relevant changes in proposed Ordinance:

Section 1.1(g) - Definition of "commercial use": This section has been amended in order to clarify that commercial use includes any park use that involves a financial transaction between one or more park users, and any promotional

activity.

Section 1.1(g) - Definition of “permit”: This section has been amended in order to clarify that filming and use permits can be revoked for violation or abuse of permit terms, that the agency may charge a permit fee and that, if revoked, the agency has no obligation to refund.

Section 2.4: This section has been amended to establish specific authority to indefinitely ban ordinance violators in certain circumstances.

Section 3.2(c): This section has been amended to establish a violation for use of vaping, e-cigarette or electronic smoking devices.

Section 3.10(d): This section has been amended to establish clear safety equipment requirements in skateboard parks operated on parkland property.

Section 3.13: This section has been amended to establish non-permitted filming uses that would impair natural features of Agency parks, and interfere with the public’s enjoyment of Agency parks.

Section 3.13.2: This is a new section to establish specific authority to cite for non-permitted commercial uses and vending.

Section 3.13.3: This is a new section to establish that any person utilizing parkland under sections 3.13 and 3.13.2 under a permit, shall have the original signed permit in their possession to make available for inspection.

Section 3.17: This section has been amended in order to ban the use of any unmanned aerial vehicles, drones, or unmanned aircraft systems on parkland for any purpose without authorization from the authority.

Section 3.23: This is a new section to establish a violation for unauthorized erection of barriers against agency property or the attaching of any personal property to agency property.

Section 3.24: This is a new section making traveling, hiking and wandering off marked trails and paths a violation.

Section 5.7 - Restitution for rescue and assistance: This is a new section that authorizes the agency to hold park visitors financially responsible for the cost of rescue, emergency, first responder and other services when the park visitor negligently, recklessly or intentionally creates a danger to park property, or the health, property and safety of that park visitor or another. The measure of damages and/or the remedy under this section shall include a restitution payment of an amount equal to the actual cost of said rescue, emergency, first responder and other services, including administrative costs incurred by the agency

Miscellaneous changes: Various grammatical and spacing changes have been made throughout the ordinance. The ordinance has also been updated to be made gender neutral.

A full and complete copy of the proposed Ordinance is attached hereto.