



MOUNTAINS RECREATION & CONSERVATION AUTHORITY

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MEMORANDUM

TO: The Governing Board

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

DATE: April 27, 2016

SUBJECT: **Agenda Item IV: Consideration of amendments to 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(q) - Definition of “permit”: This section has been amended in order to update the definition of “Permit” to include written letters of authorization, as well as 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 1.1(s) - Definition of “post” or “posted”: This section has been amended in order to require all public agencies who receive park ranger services from the Authority pursuant to a contract, to make available for inspection by members of the public a full copy of this ordinance at its headquarters.

Section 2.0: This section has been amended to add clarity to the provisions regarding contract services.

Section 2.3: This section has been amended to establish that no person shall enter or remain upon any parkland subject to a rain closure, and that signage indicating a rain closure shall be posted at all affected parkland.

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 3.5: This section has been amended in order to include dumping refuse and other materials as injury to parkland.

Section 3.6(b): This section has been amended to establish violations for providing water to wildlife, and harassing or willfully disturbing wildlife by loud or unreasonable noise,

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

Section 3.11: This section has been edited for clarification purposes.

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(b): This section has been added in order to ban the use of any unmanned aerial vehicles, drones, or unmanned aircraft systems on parkland for any purpose without a permit.

Section 3.17(c): This section has been added in order to ban the use of any motorized or radio-controlled model in a park except in areas designated for such use or by issuance of a permit.

Section 3.17(d): This section has been amended in order to establish that no person shall operate any aircraft on, in, or above any parkland without a permit issued by the Executive Officer or their designee.

Section 3.17(e): This section has been added to clarify that all provisions of Section 3.17 are subject to any applicable preemption by state or federal laws or regulations regarding operation of aircraft in public airspace.

Section 3.19: This section has been moved to section 6.4 of the ordinance.

Section 3.22: 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 3.23: This is a new section making traveling, hiking and wandering off marked trails and paths a violation.

Section 4.1(b): This section has been amended to clarify that no person shall stop or park a vehicle in an area designated as a no stopping or standing zone.

Section 5.7 - Restitution for rescue and assistance: This is a new section that authorizes the agency to hold persons 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.

Section 6.4: Former section 3.19 has been relocated here.

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

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