



# MOUNTAINS RECREATION & CONSERVATION AUTHORITY

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## MEMORANDUM

TO: The Governing Board

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

DATE: June 1, 2016

SUBJECT: **Agenda Item XIII: Consideration of amendments to ordinance regarding park rules and regulations, waiver of second reading, and adoption 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...

Government Code Section 25131 provides, in part:

Ordinances shall not be passed within five days of their introduction, nor at other than a regular meeting or at an adjourned regular meeting. However, an urgency ordinance may be passed immediately upon introduction and either at a regular or special meeting. Except when, after reading the title, further reading is waived by regular motion adopted by majority vote, all ordinances shall be read in full either at the time of introduction or passage.

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 the definition of commercial use.

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 ban ordinance violators in certain circumstances for 24 hours.

Section 3.1: This section has been amended to establish that parkland are now open 30 minutes before sunrise and after sunset unless posted otherwise by sign.

Section 3.2(c): This section has been amended to establish a violation for use

of vaping, e-cigarette or electronic smoking devices.

Section 3.4(b): This section has been amended to ban depositing canisters or other containers.

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: This section has been amended to establish clear safety equipment requirements in skateboard parks operated on parkland property. The section also bans motor vehicles, motorcycles, all electric bicycles, motorized bicycles and scooters anywhere other than on paved roadways or parking lots unless allowed by sign. This section also bans the operation of electric bicycles in a reckless or hazardous manner.

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. This shifts the main trigger for fees and permits for filming from a question of commercial use to a question of park impacts.

Section 3.13.1: This is a new section to establish specific authority to cite for non-permitted commercial uses and vending.

Section 3.17: 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. The section has been amended 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. The section is also 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. This section has been amended 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 prohibiting the creation of new trails without permission. This section also provides that no person shall walk, hike, bike, ride, or otherwise travel off of authorized trails or outside of areas designate for public access in any parkland where an official trail map is posted at mapped trailheads, unless permitted by the Executive Officer or the Executive Officer's designee.

Section 3.23: This is a new section to establish that any person utilizing parkland under a permit, shall have the original signed permit in their possession to make available for inspection.

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 6.4: Former section 3.19 has been relocated here.

Miscellaneous changes: Various grammatical, spacing, organization, minor definitional, minor terminology and vocabulary changes or clarifications 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.