

AMENDED

Approved as to Form and Legality



Oakland City Attorney's Office

05 NOV -9 PM 1:43

Introduced by Councilmember De La Fuente

## OAKLAND CITY COUNCIL

Ordinance No. \_\_\_\_\_ C.M.S.

### **AN ORDINANCE ADDING TO CHAPTER 5 OF THE OAKLAND MUNICIPAL CODE, ENTITLED BUSINESS LICENSES AND REGULATIONS, NEW SECTIONS 5.90.010 THROUGH 5.90.040 (OR OTHER APPROPRIATE SECTION NUMBERING) RELATING TO REGULATION OF SKATE PARK FACILITIES**

**WHEREAS**, the City Council of the City of Oakland desires to enhance and promote recreational opportunities in the City for the City's youth; and

**WHEREAS**, youth in the City have expressed a desire to have recreational skateboard parks for their use and enjoyment; and

**WHEREAS**, the City Council desires that facilities for skateboarding be provided within the City of Oakland and is establishing rules and regulations to enhance the public safety and promote safe skate boarding practices; and

**WHEREAS**, the City Council of Oakland desires to establish these rules and regulations for the use of Skate Board Parks and Facilities in the City of Oakland that are City owned, City controlled, or leased by City to and operated by other entities; **now therefore**

### **THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** The City Council finds and determines that the following is hereby added to the Oakland City Municipal Code, Title 5 sections 5.90.010 through 5.90.040 to read as follows:

### **TITLE 5, CHAPTER 5.90, BUSINESS LICENSES AND REGULATIONS**

#### **Sec. 5.90.010. Definitions**

For purposes of this Chapter, certain terms and words are defined as follows:

- a. *Activities Area.* “Activities Area” shall refer to the portion of a Skate Park reserved for the use of skateboards, in-line skates, roller skates and scooters;
- b. *Audio Equipment.* “Audio Equipment” shall refer to any radio, compact disc player, tape player, walkman, megaphone, or any other audio device utilized to transmit or amplify sound;
- c. *Bicycle.* “Bicycle” shall refer to any two or three-wheeled bicycles, including BMX bicycles;
- d. *Director.* “Director” shall refer to either the Director of Public Works or the Director of Life Enrichment Agency-Office of Parks and Recreation (Parks), or his or her designees, agents or representatives;
- e. *Protective gear.* “Protective gear” shall include helmets, elbow pads, and kneepads;
- f. *Scooter.* “Scooter” shall refer to manually propelled, non-motorized, two-wheeled scooters;
- g. *Skate Park or Skate Board Park.* “Skate Park” shall refer to any property or facility owned operated, maintained, provided or controlled by the City, or any City-controlled property or facility leased or subleased to private entities for use solely for skate boarding and skating purposes.
- h. *Spectator Area.* “Spectator Area” shall refer to the portion of the Skate Park reserved for use by persons viewing the Activities Area;
- i. *Sports Equipment.* “Sports Equipment” shall refer to equipment utilized for athletic and/or recreational purposes, including but not limited to bicycles, mopeds, motorized cycles, skateboards, in-line skates, roller skates, shoe skates, scooters (both motorized and manually propelled), luge skates, ramps, jumps and similar objects utilized for athletic stunts or tricks, footballs, baseballs, basketballs, soccer balls, and Frisbees.

#### **Sec. 5.90.020. Hours of Operation**

The hours of operation for the Skate Park shall be from 8 a.m. to official Sunset daily, with the exception of posted hours for maintenance. The Director may shorten or extend the Skate Park hours when necessary to accommodate or regulate any permitted activity.

#### **Sec. 5.90.030. Use Regulations/Prohibited Activities.**

- a. No sport equipment of any nature shall be used in the Spectator Area of the Skate Park;
- b. Only skateboards, in-line skates, roller skates, and non-motorized scooters are permitted in the Activities Area of the Skate Park. The use of other sports

equipment, including bicycles and motor-driven sports equipment, is expressly prohibited anywhere within the Activities Area.

- c. Pursuant to the provisions of this chapter, and in conformity to California Health and Safety Code Section 115800, all persons using or riding a skateboard, in-line skates, roller skates or scooters at the Skate Park shall be required to wear protective gear, which includes wearing elbow pads, kneepads, and a helmet that meets the standards of either the American Society for Testing and Materials (ASTM) or the United States Consumer Product Safety Commission (CPSC), or standards established by these entities subsequent to the adoption of this section. All protective gear and equipment shall be in good repair at all times during use;
- d. No portion of the Skate Park shall be modified, altered, or added to in any manner without the permission of the Director'
- e. No person under the age of fourteen (14) years old shall be permitted to utilize the Activities Area of the Skate Park unless accompanied by an adult;
- f. No audio equipment or amplified sound equipment may be used or brought within the Activities Area or Spectator Area of the Skate Park, absent written approval from the Director. Audio equipment that is equipped and relies solely on earphones for sound amplification may be used or played in the Spectator Area of the Skate Park;
- g. No glass bottles or any other breakable glass items, food or beverages shall be permitted within the Activities Area or Spectator Area of the Skate Park;
- h. No drugs, alcohol, smoking or tobacco products shall be permitted or consumed in any portion of the Skate Park;
- i. No knives, guns, air guns or weapons of any nature shall be permitted in any portion of the Skate Park;
- j. No pets or other animals shall be permitted at the Skate Park;
- k. No use of the Skate Park or its amenities may be used when their surfaces are wet or other conditions exist that would adversely affect the safety of skateboarders or skaters;
- l. The Director shall post visible signs at each Skate Park, providing rules for use of the Skate Park consistent with this Ordinance. The Director is also authorized to post additional rules as necessary for operation of the Skate Park, the violation of which shall be punishable pursuant to Title 5, Sec. 5.90.040.
- m. Any person who fails or refuses to comply with the provisions of this Section and who is injured while using the Skate Park shall be deemed negligent.

**Sec. 5.90.040. Violation as Infractions.**

- a. Any violation of this Chapter is punishable as an infraction, including but not limited to the failure to wear protective gear. Violation of this Chapter is punishable by 1) a fine of not more than \$100.00 for the first violation, 2) a fine of not more than \$200.00 for a second violation within a period of one-year, and 3) a fine of not more than \$500.00, for a third violation within a one-year period. Any violation beyond the third within a one-year period may be charged by the City Attorney or the District Attorney as a misdemeanor and the penalty for conviction of the same shall be punishable by a fine on not more than \$1,000.00 or by imprisonment in the County Jail for a period of not more than six months or by both.
- b. Any person cited for three or more infractions of this Chapter during a one (1) year period may be permanently barred from the use of, or entrance into, a City Skate Park facility, at the Director's discretion.
- c. Citations for violations may be issued by the City Administrator, the Skate Park Director or any Oakland City Department Director.

**SECTION 2.** This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care toward persons or property within the city or outside the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law;

**SECTION 3.** The City Council finds that pursuant to Title 14 of the Code of Regulations, Section 15061(b)(3), this ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") because this is not a project that has the potential for causing significant effect on the environment. The Council therefore directs the City Administrator to file a Notice of Exemption.

**SECTION 4.** The City Administrator, or her designee, is hereby authorized to take any and all actions necessary to cause the City Clerk to amend the Oakland Municipal Code consistent with this ordinance.

**SECTION 5.** If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be effective without the invalid provision or application, and to this end the provisions of this ordinance are severable. The City council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

**SECTION 6.** This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2005

**PASSED BY THE FOLLOWING VOTE:**

AYES - BRUNNER, KERNIGHAN, NADEL, QUAN, BROOKS, REID, CHANG, AND  
PRESIDENT DE LA FUENTE

NOES -

ABSENT -

ABSTENTION -

ATTEST:

\_\_\_\_\_  
LATONDA SIMMONS  
City Clerk and Clerk of the Council of  
the City of Oakland, California