



CITY OF OAKLAND

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OAKLAND

2018 NOV -1 PM 2:37

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: J. Nicholas Williams
Director

SUBJECT: Park and Recreation Area Use
Regulations Amendments

DATE: October 25, 2018

City Administrator Approval

Date:

11/1/18

RECOMMENDATION

Staff Recommends That The City Council Adopt An Ordinance Amending Chapter 12.64 Of The Oakland Municipal Code (OMC), Park And Recreation Area Use Regulations, Section 12.60.020 Of The OMC, Bicycle Operation Rules-Violations-Penalty, And Section 1.28.020 Of The OMC, Violations As Infractions, To Make Various Changes To Park Rules And Signage; And Determining That The Actions Authorized By This Ordinance Are Exempt From The California Environmental Quality Act

EXECUTIVE SUMMARY

On May 9, 2018, the Parks and Recreation Advisory Commission (PRAC) recommended approval of amendments to sections of the OMC related to park and recreation area use rules. The recommended amendments forwarded to the City Council are the result of a PRAC Task Force and community engagement effort to review and make changes to park rules including park noise regulations, children play areas, bikes in parks and other park use rules.

Staff recommends that the City Council adopt an ordinance amending park use rules that will update antiquated regulations, provide clarity for users and visitors of City parks and that will be communicated on improved and welcoming signage.

BACKGROUND / LEGISLATIVE HISTORY

OMC Chapter 12.64 Park and Recreation Area Use Regulations contains park code language that is outdated or obsolete and in need of clarification and updating to reflect today's community needs and environmental settings. As part of the process for updating regulations, Oakland Parks, Recreation and Youth Development (OPRYD) provided a forum to receive community suggestions, recommendations, and feedback on appropriate language and user-friendly rules to create an enhanced experience for park users.

On November 4, 2015, the PRAC approved staff's recommendation to establish a task force with three PRAC members to review potential ordinance changes for park rules and new

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signage. The Task Force also consisted of community members, park users and City staff as assigned by OPRYD.

On April 13, 2016, PRAC reviewed proposed amendments to OMC 12.64 Parks and Recreation Area Use Regulations and 12.60.020 Bicycle Operation Rules—Violation—Penalty. After an extensive discussion and review, the PRAC approved many of the revisions and recommended edits to some of the sections of the code that was summarized in a Supplemental Report at the May 11, 2016 PRAC meeting.

At the May 11, 2016 PRAC meeting, staff presented additional amendments and requested direction on OMC Section 12.64.120 – Park Noise Regulation. After discussion, the PRAC passed a motion that OMC Section 12.64.120 be returned to the Task Force to address the following issues raised by PRAC:

- Incorporate language relevant to noise regulations that is mindful of cultural practices
- Construct ordinance language in a way that allows the public to self-measure or monitor behavior

The Task Force met several times over two and one-half years utilizing several methods of engagement and presented regular updates to the PRAC during this time. On May 9, 2018, PRAC approved staff's recommendation for the City Council to adopt an ordinance amending Chapter 12.64 of the OMC, Park and Recreation Area Use Regulations, Section 12.60.020 of the OMC Bicycle Operation Rules and Section 1.28.020 of the OMC, Violations as Infractions.

ANALYSIS AND POLICY ALTERNATIVES

In response to emerging issues and safety concerns within parks, and unclear sections of the OMC making enforcement difficult for the Oakland Police Department, the Task Force made recommendations to update and amend the OMC related to park and recreation regulations. The amendments will modernize and refine the OMC and remove outdated language no longer applicable to OPRYD and current community needs. New user-friendly signage will communicate the updated park rules.

Below are highlights of park codes in critical need of clarification and updating.

12.64.120 – Park Noise Regulation

It is recommended the title is changed to 12.64.120 – Park Sound Regulation to provide a culturally sensitive description. The proposed amendments clarify special event sound restrictions and encourage courteous and respectful use of parks. Park signage will be updated to remove misinformation related to the regulation of sound created by musical instruments.

12.64.101 – Playground / Play Areas

There is no reference to, or definition of Playgrounds and Play Areas in the OMC. After research of six jurisdictions, that include Berkeley, Sacramento, San Leandro, Indianapolis Indiana, and Hollywood Florida, and evaluation of their existing code, the proposed amendment has been added to reflect the needs of today's community and to insure Playground / Play Areas remain clean, free of debris, are available for their intended use and provide a welcoming environment for children. The proposed amendment allows the Director to designate play areas

where the equipment shall be exclusively used or occupied by children and adults accompanying children.

12.64.160 – Fires and Barbecues

On July 8, 2015, PRAC approved designated grilling locations, size of propane grills in designated areas, and designated grilling hours in Lakeside Park and Pine Knoll Park. The proposed amendments include clarifying language and adding new sections to define the type of barbecue devices allowed in certain areas.

Policy Alternatives

Alternative	Reject the recommendation to amend the OMC related to park use regulations.
Pros	Estimated cost savings of \$25,000 to create new signage and the cost for the Oakland Public Works Department (OPW) staff to install the signs.
Cons	The alternative would not allow the City to modernize and improve the OMC to reflect the needs of today's community including: <ol style="list-style-type: none"> 1. Culturally sensitive description of sound restrictions in parks. 2. New signs that encourages courteous and respectful use of parks. 3. The addition of a Playground / Play Area code to insure playgrounds remain clean, free of debris and are available for their intended use and provide a welcoming environment for children. 4. Updated Fire regulation to clarify use of barbecues and define types of barbecue devices.
Reason for not recommending	Sections of the OMC proposed for amendment are antiquated, in some case have not been changed in over twenty years, and are no longer applicable to park users and visitors. Obsolete, and unclear language would remain in the OMC.

FISCAL IMPACT

The fiscal impact of the proposed ordinance changes will be the cost to produce and install new signs with the updated OMC regulations. Many park rule signs are outdated, have graffiti on them and were slated for replacement. Improved regulations and new signs clarifying responsible park usage may result in reduced maintenance costs. The estimated cost to replace signs citywide is \$25,000 (250 signs at \$100 each). The cost of signs will be funded from the adopted budget within the OPW Fund 4400 – City Facilities Fund.

OPW confirmed funding for 28 new park rule signs for phase one of the installation process. OPRYD has provided OPW with a list of the parks and locations for installation.

PUBLIC OUTREACH / INTEREST

On October 21, 2015, OPRYD began meeting with interested community members to receive input on changes to park rules. The topic was agendaized at the November 4, 2015 PRAC meeting where the PRAC designated three commission members to serve on a task force with City staff to review and provide suggestions to existing ordinances pertaining to park rules and signage. The Task Force continued to meet with community members, park users, and City employees to review existing park rules and ordinances for the purpose of gathering information for recommendations to be considered by the City Council.

On September 14, 2016, the PRAC held a public meeting to receive an Informational Report on proposed amendments to the citywide park rules. The PRAC heard comments from approximately 40 speakers. Because of the growing public interest and concern regarding sustainable adoption of changes to the OMC, the PRAC accepted the informational report and recommended OPRYD to convene a public meeting to gather additional feedback regarding changes to the OMC and specifically to 12.64.120 Park Noise Regulation.

On November 16, 2016, a Town Hall Meeting was held at Mosswood Recreation Center on OMC 12.64.120 – Park noise regulation. OPRYD received a petition from 40 signatories and 6 emails from residents that live mostly on the east side of the Lake Merritt regarding sound coming from Lakeside Park near the Pergola area. Concerns consisted of the volume of sound, in addition to loud instruments over long periods of time by persons with, and without permits. There were over 60 residents that came to the meeting to provide feedback and recommendations. The discussion included identifying proposed changes to measure sound, level of sound, and duration of sound by individuals, groups or organizations. The Task Force met the following week to review the public's comments and discussed proposed edits for consideration to the code.

Staff and the Task Force met with various City Departments in January 2018 to discuss two critical park codes; OMC 12.64.120 – Park Noise Regulation and 12.64.101 – Playground / Play Areas. At the March 14, 2018 PRAC meeting, OPRYD presented updated amendments to the code. Due to low attendance at the meeting, the PRAC moved to postpone voting in order to provide additional noticing and insure interested community members were aware of the changes. Over seventy community members that had expressed an interest in park rule changes were emailed an announcement inviting them to attend the next PRAC meeting to provide input.

In April 2018, the Task Force introduced additional requests for changes and provided OPRYD a Finding Report and letter summarizing the history, reasoning, and value behind the proposed changes. The final recommendation, Task Force Finding Report, and Park Rule Ordinance Comparison chart were presented to the PRAC at the May 9, 2018 meeting. The PRAC passed the motion to recommend to the City Council to amend OMC Chapter 12.64, Section 12.60.020 and Section 1.28.020.

COORDINATION

OPRYD met with the Oakland Police Department and City Administrator staff to discuss and receive input on proposed changes to the OMC.

Staff in the Oakland Public Works Bicycle & Pedestrian unit and the Bicycle Pedestrian Advisory Commission were consulted on changes to Section 12.60.020 - Bicycle Operation Rules-Violations-Penalty.

This report and legislation have been reviewed by the Office of the City Attorney and the Budget Bureau.

SUSTAINABLE OPPORTUNITIES

Economic: There are no economic opportunities associated with this report.

Environmental: Improved rules and signage may lead to more responsible patron behavior therefore reducing negative impacts to city parks and the environment.

Social Equity: The inclusion of graphic icons on the new signs will assist non-English speakers to understand park rules. Modernizing park rules and signage will provide clarity for the public and enhance the recreational experience and enjoyment for all park users.

CEQA

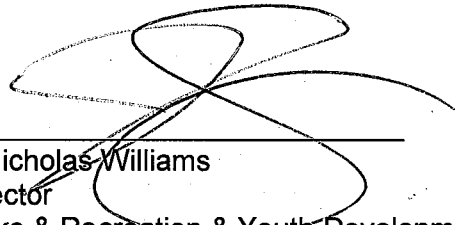
This action is exempt from California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15061(b)(3) (general rule) and 15183 (projects consistent with a community plan, general plan, or zoning), each as a separate and independent basis.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt an Ordinance amending Chapter 12.64 of the Oakland Municipal Code, Park and Recreation Area Use Regulations, Section 12.60.020 of the Oakland Municipal Code, Bicycle Operation Rules-Violations-Penalty, and Section 1.28.020 of the Oakland Municipal Code, Violations as Infractions, to make various changes to park rules and signage; and determining that the actions authorized by this ordinance are exempt from the California Environmental Quality Act.

For questions regarding this report, please contact Gail McMillon, Office Manager, at 238-3186.

Respectfully submitted,



J. Nicholas Williams
Director
Parks & Recreation & Youth Development

Reviewed by:
Dana Riley, Assistant Director

Prepared by:
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Administration Unit

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OAKLAND CITY COUNCIL

ORDINANCE No. _____ C.M.S.

ORDINANCE AMENDING CHAPTER 12.64 OF THE OAKLAND MUNICIPAL CODE, PARK AND RECREATION AREA USE REGULATIONS, SECTION 12.60.020 OF THE OAKLAND MUNICIPAL CODE, BICYCLE OPERATION RULES-VIOLATIONS-PENALTY, AND SECTION 1.28.020 OF THE OAKLAND MUNICIPAL CODE, VIOLATIONS AS INFRACTIONS, TO MAKE VARIOUS CHANGES TO PARK RULES AND SIGNAGE; AND DETERMINING THAT THE ACTIONS AUTHORIZED BY THIS ORDINANCE ARE EXEMPT FROM CEQA

WHEREAS, persons, businesses, community, social, fraternal, charitable groups and other entities use City parks for enjoyment, leisure, special events, and other uses; and

WHEREAS, the Oakland Municipal Code currently contains park rule information under Title 12, Chapter 12.64 Park and Recreation Area Use Regulations and Section 12.60.020 Bicycle Operation Rules-Violation-Penalty that are outdated; and

WHEREAS, some of the Oakland Municipal Code sections are antiquated and require updating and clarification for users and visitors of City parks; and

WHEREAS, park and open space contain natural habitat and it is in the City's interest to preserve the natural environment and reduce stresses on wildlife by preventing an undue concentration of commercial activity in city parks; and

WHEREAS, park and open space is heavily utilized by the public and it is in the City's interest to prevent an undue concentration of commercial activity and associated negative impacts including congestion and excessive litter in City parks to ensure the public's enjoyment of and access to recreational opportunities; and

WHEREAS, park and open space is for the enjoyment of all and for these reasons it is in the City's interest to have the Parks and Recreation Advisory Commission conduct an analysis and to recommend the number, location and hours for which vendors can obtain permits to sell goods, wares, or merchandise in City parks; and

WHEREAS, California Vehicle Code section 21230 provides that a local agency may prohibit by ordinance the operation of scooters on bicycle paths, trails, or bikeways; and

WHEREAS, the Parks and Recreation Advisory Commission approved a task force to review Oakland Municipal Code Chapter 12.64, Parks and Recreation Area Use Regulations, for potential changes to park rules and signage as they relate to park noise regulation, park hours,

bicycling, grilling, children play areas, park pathways and other park usage; and

WHEREAS, the task force met with community members, park users, City employees and officials to review existing rules and ordinances pertaining to the parks; and

WHEREAS, the Parks and Recreation Advisory Commission, in their meeting of May 9, 2018 approved recommendations to amend Oakland Municipal Code Title 12, Section 12.60.020 Bicycle Operations Rules-Violations-Penalty, Chapter 12.64 Park and Recreation Area Use Regulations, and Section 1.28.020 Violations as infractions;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. The City Council finds and determines the foregoing recitals to be true and correct and hereby adopts and incorporates them into this Ordinance.

Section 2. Oakland Municipal Code Chapter 12.64 – Park and Recreation Area Use Regulations is hereby amended to add, delete or modify sections as set forth below; additions are indicated by underscoring and deletions are indicated by ~~strike-through type~~; portions of the Chapter not included in this Ordinance, or not shown in underscoring or strike-through type are not changed.

Chapter 12.64 Parks and Recreation Area Use Regulations

Article I – Generally

12.64.010 – Definitions

For the purpose of this article certain words and phrases are defined and certain provisions shall be construed as herein set out, unless it shall be apparent from the context that they have a different meaning.

“Amplified sound device” means any device with components that include microphone, amplified speaker, volume controller, and power source.

“Adult” means a person eighteen (18) years of age or older.

"Boats" means and includes canoes, rowboats, sailboats, hydroplanes and any and all other watercraft.

“Child” means a person twelve (12) years of age or younger.

“Director” means the City Administrator or the head or director of the department designated by the City Administrator to administer the provisions of this Chapter.

"Improvement," when used in this article in reference to trees or shrubs, means and includes the planting, removal or maintenance of same, and any or all acts necessary thereto.

"Maintenance" or "maintain," when used in this article in reference to trees or shrubs, means and includes clipping, spraying, fertilizing, irrigating, propping, treating for disease or injury, and any other similar acts which promote the life, growth, health or beauty of such trees or shrubs.

“Non-amplified sound device” means any device not containing components that include microphone, amplified speaker, volume controller, and power source.

“OPRYD” means the Oakland Parks Recreation & Youth Development Department.

“Picnic area” means the area within a City park that is designated for picnic use by City-installed picnic tables.

“Play area” means the area within a City park containing play equipment for children and bounded by signs that identify the designated area as a children’s play area pursuant to this section.

“PRAC” means the Parks and Recreation Advisory Commission.

"Public street" when used in this article shall include all public streets, avenues, highways, alleys, walks and lanes in the eCity of Oakland.

“Remote/Transmitter controlled aircraft” when used in this article is a small flying device that is controlled remotely by an operator on the ground.

“Unmanned aircraft” means an aircraft operated without the possibility of direct human intervention from within or on the aircraft.

“Vehicle” means a device by which a person or property may be propelled, moved or drawn, excepting devices moved exclusively by human power and devices used by individuals with mobility disabilities, and shall include, but not be limited to the following: automobile, truck, motorcycle, motor-driven cycle, animal-drawn carriage, cart, electric personal assistive mobility device, and minibike, bicycle, or scooter operated under engine/motor power.

12.64.020 - Carrying hatchets in parks.

It is unlawful for any person to carry in any public park of the eCity any hatchet, axe, machete, brush knife or any other device other than pocketknife, capable of cutting, defacing or mutilating trees or shrubs, without permission so to do so from the Board of Park Directors of the eCity or its duly authorized representatives.

12.64.030 - Prohibition against littering in parks—Enforcement by citation method—Park rangers, deputy head ranger and head ranger as peace officers for purpose of enforcement.

A. No person shall, except in the proper receptacles where these are provided by the eCity, place, deposit, dump or leave or cause to be placed, deposited, dumped or left, in, on or upon the grounds of any park or the waters of any fountain, pond, lake, stream or other body of water in any park, any garbage, swill, cans, bottles, papers, refuse, trash or rubbish. Where receptacles are not so provided, all such rubbish or waste shall be carried away from the park by the persons responsible for its presence and properly disposed of elsewhere.

B. No person shall bring in, place, deposit, dump or leave, or cause to be brought in, placed, deposited, dumped or left in, on or upon the grounds of any park, or the waters of any fountain, pond, lake, stream, or other body of water in any park, any carcass of any dead animal or any noisome, nauseous or offensive matter.

C. This section may be enforced by the any method provided for in Title 1 Chapter 1.24 of this code Sections 853.1—853.4 inclusive of the Penal Code of California.

D. This section shall be enforced by members of the Oakland Police Department ~~and in addition the park rangers, deputy head ranger and head ranger of the city are designated as, given the powers of, and determined to be, peace officers for the purpose of enforcing this section in the manner set forth in Chapter 1.24 of this code and Sections 853.1—853.4 inclusive of the Penal Code of California;~~ provided, however that neither the park rangers, deputy head ranger nor head ranger shall be considered for any purpose members of the Oakland Police Department.

12.64.040 – Posting or Destroying notices.

A. No person shall injure, deface or destroy any notice, rules or regulations for the government of parks, posted or in any manner permanently fixed by order or permission of the ~~Board of Park Directors,~~ PRAC or the City's duly authorized representative ~~nor fix any bills or notices in said parks.~~

B. No person shall post any notices in any public park in the City, without express permission of the Director.

12.64.050 - Animals.

No person shall lead any horse in the limits of any public park in the eCity or permit any horse that is not harnessed and attached to a vehicle or mounted by an equestrian, to enter the same, and no person shall turn loose into said parks any dogs, cattle, swine, goats or other animals, or permit the same to run at large in such parks, ~~and, p~~Police officers and park employees are given authority to capture ~~and destroy~~ any cats found running at large within said parks and bring said cats to Oakland Animal Services.

12.64.060 - Games.

No person shall engage in any game of baseball, cricket, soccer, football, croquet or any other game with ball ~~and/or~~ bat, within the limits of any public park in the eCity, except where authorized by the ~~Office of Parks and Recreation~~ Director.

12.64.070 – Weapons and Remote/Transmitter Controlled Aircraft and Unmanned Aircraft—Disturbing birds and wildlife.

No person shall carry firearms or discharge any firearms in any public park in the eCity or shoot birds or throw stones or other ~~missiles—projectiles~~ within the boundaries of said parks or disturb the waterfowl on Lake Merritt or on any pond or in any way disturb any bird or wildlife in any of said parks. No person shall use remote/transmitter controlled aircraft or unmanned aircraft in any way that disturbs birds or wildlife in parks.

12.64.080 - Selling wares, or services, and collection of funds gaming, obscenity.

It is unlawful for any person to sell or offer for sale any goods, wares, merchandise, ~~foods, confections, refreshments,~~ services or other article, or to collect funds for registration fees, entrance fees, donations, or other collection of money within any public park, public building or public grounds in the eCity, without the ~~order or permission therefor~~ of the PRAC or the Director ~~commission, department or board which has jurisdiction therein.~~

~~The terms "public building" and "public grounds," as used herein, shall include the Oakland-Alameda County Coliseum Complex and public parking lots adjacent thereto when completed.~~

~~No gaming shall be allowed in said parks, building or grounds, nor any obscene or indecent act performed therein.~~

12.64.090 - Injuring trees and other properties.

~~It is unlawful for any person to trespass upon the grass of any public park in the city or to pick flowers from the same, in any public park in the eCity or to cut, break or in anywise any way injure, damage or deface the trees, grass, shrubs, turf, buildings, fences, benches, fountains, statuary or any fixtures connected therewith, or to foul any fountains or springs within said park any public park in the City.~~

12.64.100 - Disorderly conduct, vandalism, sleeping on benches, pilfering.

~~Disorderly conduct, pilfering, or vandalizing, or sleeping on benches or seats in any public park is strictly prohibited.~~

12.64.101 – Playgrounds/Play Areas

A. The Director may designate play areas where playground equipment shall be exclusively used or occupied by children and adults accompanying a child.

B. It shall be unlawful for any adult to enter or remain in a designated play area, where signage is posted, unless the adult is supervising and/or accompanying a child who is present in the play area.

C. It shall be unlawful for any person to remain in a designated play Area anytime it is not open, including after or before posted park hours, overnight and during construction or renovations.

D. Any person who violates this section shall be subject to the penalties set forth in Section 1.28.010 – Violations a misdemeanor.

12.64.110 - Hours of use of parks.

~~The Parks and Recreation Advisory Commission PRAC may recommend to the Director and the Director may fix the hours during which the parks, or any particular park, is open or closed to public use. No person, other than a eCity employee in the performance of his or her duty, shall enter or remain in any park during the time when it is not open for public use.~~

12.64.120 – Park noise sound regulation.

~~No person shall operate, or permit~~ In any park within the City, persons shall limit the level of sound produced by playing, operating, or permitting the operation of any sound amplification system or non-amplified sound device, (including but not limited to portable or car audio/radio equipment), musical instrument, tape recorder or other device for producing or causing sound, so that the sound shall not be heard in excess of one hundred (100) feet from the source in any park within the city, except upon the issuance of a permit therefor by the Director of Parks, Recreation and Cultural Affairs and payment of the fee specified in the master fee schedule.

Permits issued by the Director for the operation of a sound amplification system or non-amplified sound device shall specify the location of any bandstand and the position of each loudspeaker, amplifier or public address system shall be as specified by the said Director so as to minimize, to the extent practicable, the amount of amplified or non-amplified sound to be audible in adjacent residential properties. Except as authorized by the Director, No loudspeaker shall be permitted to be placed in a public park within three hundred (300) feet of any residential structure. In no event nor shall a permittee cause amplified or non-amplified sound to exceed eighty (80) decibels at any boundary of the park in which amplified sound is being produced.

The PRAC may, in its discretion, recommend to the Director to restrict park hours in specific parks where sound would unreasonably disturb or damage the comfort, peace, health or safety of persons or businesses.

Estuary Park and Duck Pond Stage area of Lakeside Park may be exempted from these requirements if and only if the following findings are made by the Director of Parks, Recreation and Cultural Affairs:

- A. The permittee has no prior history of events in parks which includes verified, unresolved complaints of excessive noise, poor security and crowd control, and/or poor parking control;
- B. The applicant has met and conferred with local residents and developed a specific event plan to meet the expressed concerns of said local residents; and
- C. The applicant has paid all required fees and deposits for the event in question, and has met all additional regulatory requirements which may apply to the event in question.

12.64.130 - Traffic regulations.

It is unlawful for any person to drive or ride within the boundaries of any public park in the eCity at a rate of speed exceeding fifteen (15) miles per hour, or for any person to ride or drive within the limits of said parks upon any other than the avenues and roads provided therefor, and no wagon or vehicle of burden shall pass through the said parks except upon such road or avenue as shall be designated by the PRAC Board of Park Directors and the Director for such transportation.

No person shall enter or leave any of said parks except by such gates, roads, paths or avenues as may be for such purpose provided and arranged.

No vehicle for hire shall stand upon any part of any public park in the eCity for the purpose of hire, except in waiting for persons taken by it into such park, except at such points as may be specially designated by the PRAC Board of Park Directors.

12.64.140 - Motor Vehicles in parks.

It is unlawful for any person to operate or drive any motorcycle or other motor vehicle with the exception of motorized wheelchairs or other mobility devices for individuals with a disability in, over or upon an equestrian or pedestrian path or trail or any other portion of any public park in the eCity except on such roadway or parking area regularly set apart for the use of such motor and other vehicles.

12.64.160 – Fires and Barbecues.

A. No person shall be permitted to make or kindle a fire of any kind within any public park in the eCity except in a barbecue device as defined herein and at Picnic Areas or designated

barbecue areas approved by the ~~Parks and Recreation Advisory Commission~~ PRAC or the Director.

B. For purposes of this section, "barbecue device" includes permanently-installed charcoal pit grills and portable charcoal or non-charcoal grills of metal construction that do not exceed twenty-seven inches in width.

C. Portable non-charcoal grills may be used at Picnic Areas and designated barbecue areas. Portable charcoal grills may be used only at Picnic Areas and designated barbecue areas that contain dedicated hot coal receptacles.

D. Barbecues shall be attended at all times by a person eighteen years of age or older. At no time may barbecue devices be placed upon pathways, sport courts, parking lots and the like or otherwise impede the use of such areas for their intended purpose.

12.64.190 - ~~Children in~~ Minors hiring boats.

It is unlawful for any person under sixteen (16) years of age to hire a boat or other watercraft to be used upon the waters of Lake Merritt or that portion of the estuary of San Antonio or Oakland harbor which lies within the limits of the eCity, unless such person produces documentation from a certifying boating organization or such person ~~is~~ be accompanied by his or her parent or guardian or an adult person; or for any person to rent any boat or other watercraft to any such person under sixteen (16) years of age ~~to be so used~~ unless such person produces documentation from a certifying boating organization or such person is accompanied by his or her parent or guardian or an adult person.

12.64.200 - Boats on Lake Merritt.

A. Boat Permit. It is unlawful for any person to launch, use, moor or store upon Lake Merritt any private boat unless there shall have first been procured for said boat a permit from OPRYD ~~the Recreation Commission~~ for such purpose. ~~The Director Said Commission~~ may, by rule, specify the conditions under which the same may be granted, suspended, or revoked.

B. Speed of Boats. Speed of mechanically propelled boats on Lake Merritt is limited to eight miles an hour unless special permission to exceed such limit is granted by the Director Board of Playground Directors.

C. Boats in Certain Areas. It is unlawful for any person between the first day of October and the last day of April next succeeding, to row, drive, propel or navigate any boat in, over, or upon any part of the following described area of Lake Merritt:

That portion of the northeastern arm of Lake Merritt that lies northeasterly of a line bearing north 38° 13' west from a point on the eastern line of Lakeshore Boulevard, distant thereon one hundred and sixty (160) feet southerly from the production of the entire line of that portion of Hanover Avenue that lies between Wayne and Newton Avenues.

This subsection shall not apply to the employees of the eCity properly engaged in work for ~~said the eCity~~ in or upon the above described area and authorized by the Director ~~the Board of Playground Directors or the Board of Park Directors to be thereon.~~

D. Boats and Boat Races. No person shall be permitted to use the shores of Lake Merritt as a landing place for boats, or keep ~~thereat~~ boats for hire or ~~floating boat houses with pleasure boats for hire,~~ or keep boats of any kind in Lake Merritt, except under a permit from OPRYD ~~the Recreation Commission~~ for such purpose, and only at places designated by and under restrictions and regulations promulgated by the Director Board of Park Directors ~~or the Recreation Commission~~; and no regattas, boat races, or other special events involving the use of Lake Merritt shall take place thereon without permission granted by a permit from OPRYD ~~the PRAC Recreation Commission.~~

12.64.210 - Fishing in Lake Merritt.

No person shall fish in Lake Merritt without written permission from the Director ~~Board of Park Directors~~ so to do so, and no person shall in any event be allowed to catch more than two bass in one day in Lake Merritt.

12.64.230 - Municipal swimming pools—Not to be used in absence of attendant.

It is unlawful for any person to enter upon any municipal swimming pool or the dressing rooms connected therewith at any time when no employee of OPRYD ~~the Recreation Department~~, or other attendant authorized by the Director ~~said Department~~, is on duty at said pool.

12.64.240 - Golf courses.

- A. Trespass on. It is unlawful for any person to trespass upon ~~the Oakland Municipal Golf Course, or upon~~ any private or public golf course in the eCity, except pursuant to the express consent of the person in charge of the management thereof.
- B. Play Upon. It is unlawful for any person to play upon ~~the Oakland Municipal Golf Course, or upon~~ any private or public golf course in the eCity, without first having obtained a ticket therefor, or except pursuant to the express consent of the person in charge of the management thereof.
- C. Taking of Golf Balls. It is unlawful for any person to take possession of any golf ball not belonging to him or her from any golf course, or from any land or any street adjacent thereto.
- D. Injury to Turf. It is unlawful for any person to ~~wilfully~~ willfully or maliciously injure the turf on any golf course.
- E. Sales on. It is unlawful for any person to sell golf balls, golf equipment, food, drinks, or other commodities, or provide golf lessons on the Oakland Municipal Golf Course, or upon any private or public golf course in the eCity, except pursuant to express permission of the person in charge of the management thereof.

Article II – Park Permits

12.64.250 - Statement of principles.

All parks within the eCity are held in trust for the use of the public. Included within such use are public assembly, communication of thoughts between citizens and discussion of public questions. These uses of the eCity's parks are recognized as privileges, immunities, rights, and liberties belonging to all citizens, regardless of sex, race, religion, color, national origin, sexual orientation, gender identity and expression, or political or philosophical persuasion. It is also recognized that the right to use the parks is not absolute, but relative, and must be exercised in subordination to the general comfort and convenience and in consonance with peace and good order.

12.64.260 - Definitions.

The following words and phrases, whenever used in this article, shall be construed as defined in this section:

"Director" means the City Administrator or the head or director of the department designated by the City Administrator to administer the provisions of this Chapter Director of the Parks, Recreation and Cultural Services or his or her authorized representative.

"Musical or other entertainment" means and includes the playing of any musical instrument and/or the use of any sound amplifying device.

"OPRYD" means the Oakland Parks Recreation & Youth Development Department.

"Parks" means and includes all grounds, roadways, avenues and parks of the eCity, or any part, portion or area thereof.

"Permit" means a permit for use of parks as provided for and defined in this article.

"Persons" means and includes persons, associations, partnerships, firms or corporations.

"PRAC" means the Parks and Recreation Advisory Commission.

"Private event" means any event conducted in any eCity park consisting of twenty-five (25) or more patrons that is not open to the public, including but not limited to picnics, birthday parties, family, church and school events or related activities, and may include amplified or non-amplified sound.

"Special event" means any event that is open to the public, including but not limited to musical or other entertainment, rallies, concerts, fundraisers, fairs, exhibits or related activities, and which is more specifically defined in Title 9, Chapter 9.52 of the Oakland Municipal Code. "Special event" permit requirements shall apply to park events, so that the permit process for special events in Chapter 9.52 applies to this section and is incorporated by reference herein.

12.64.280 - Permit required.

No use of any park for a private or special event may be made without issuance of a permit therefor. All applications for use of any park must be accompanied by the fee prescribed in the ~~m~~Master Fee Schedule, signed or co-signed by ~~an adult, a person twenty-one (21) years of age or over, which adult person~~ shall agree to be responsible for said exclusive use. No use permit will be granted, if, prior to the time the application was filed, the eCity has scheduled a eCity-sponsored event at the same time and place as the activity proposed in the application.

12.64.290 – Permit for Pprivate events park use application.

Any person applying for a private event permit hereunder shall file an application for such permit with the PRCS OPRYD Central Reservations Unit not less than ~~fifteen (15) working~~ thirty (30) calendar days nor more than eleven (11) months prior to the proposed use of said park. The Director may waive the ~~fifteen (15) working~~ thirty (30) day period if applicant waives all rights to appeal rights the denial of a private event permit pursuant to Section 12.64.330.

12.64.291 – Park-use Permit for special events.

Any person applying for a park-use permit for a special event shall file an application for such permit with the PRCS OPRYD Central Reservations Unit not less than ~~ninety (90)~~ sixty

(60) calendar days nor more than eleven (11) months prior to the proposed use of said park. The Director may waive the ~~ninety (90)~~ sixty (60) day period if the applicant waives all appeal rights.

In addition to applying for a ~~park-use permit~~ for a special event pursuant to this Chapter, the applicant must apply for a special event permit with the Oakland Police Department for approval by the Chief of Police or his designee pursuant to the requirements enumerated in Chapter 9.52 of Title 9 of the Oakland Municipal Code. ~~However, the Chief of Police, in consultation with the Director of Parks, Recreation and Cultural Services or his or her authorized representative, shall retain the authority to delegate the issuance of special event permits for certain routine events in city parks not likely to result in impacts on the public safety and welfare to the PRCS Central Reservations Unit.~~

~~Should the Chief of Police delegate the issuance of OPD special event permits to the use of any amplified or non-amplified sound, whether speech or music;~~

~~H. Estimated number of parking spaces required.~~

12.64.310 - Action on application for permit.

A. ~~Park Use Permits for Private Events. The Director of PRCS shall grant or deny applications for park-use permits for private events on or before fifteen (15) calendar days after the filing of the application unless the time for such granting or denial of the permit has been waived by the applicant in writing. For applications received within fifteen (15) days of the proposed use, approval or denial of the application is at the discretion of the Director of PRCS pursuant to this subsection, the Director shall cause PRCS to notify the Oakland Police Department of the issuance of any such permit at least ten (10) working days before the event commences.~~

12.64.300 - Contents of park permit applications.

In addition to other information required, applications for ~~park-use permits~~ for a private or special event shall contain at the minimum the following:

- A. Name of each applicant, sponsoring organization and the person or persons ~~who are~~ in charge of or responsible for the proposed activity;
- B. The business and residence address and telephone numbers of each person and entity named in subsection A of this section;
- C. The park location~~being applied for~~;
- D. The starting time of the proposed activity;
- E. The finishing time of the proposed activity;
- F. The number of persons expected;
- G. The nature of the proposed activity or activities including equipment ~~and vehicles~~ to be brought into the park, nature and duration of the use of such equipment, nature and duration of of the Director.

B. Applications for OPD Permits for Special Events. The Chief of Police or his designee shall grant or deny applications for special events in parks pursuant to Title 9, Chapter 9.52 of the Oakland Municipal Code. ~~Nothing precludes the Chief from delegating to the Director of PRCS this authority pursuant to Section 12.64.291, in which case the Director shall approve, conditionally approve, or deny the application no later than fifteen (15) calendar days after the filing of a complete application. The applicant shall be notified of any conditions of approval at the time the action on the application is taken.~~

C. Permits for Special Events. The Director shall grant or deny applications for permits for special events on or before thirty (30) calendar days after the filing of the application. For

applications received within thirty (30) days of the proposed use, approval or denial of the application is at the discretion of the Director.

12.64.320 – Criteria for issuance of permit.

An application for a ~~park use~~ permit for a private or special event should be granted unless any one or more of the following conditions apply:

- A. That a permit ~~has been granted~~ for the same park, ~~date and on the same day and time~~ has previously been granted to another applicant for which the application in question pertains;
- B. That the applicant has made no provision for temporary toilet facilities as required in this article;
- C. That the applicant has made no provision for crowd control monitors as required in this article;
- D. That the applicant has made no provision for cleanup services as required in this article;
- E. That the applicant has refused to agree in writing to comply with the regulations for the use of parks as provided for in this code or has failed to provide a reasonable means of informing all persons participating in the proposed activity of the regulations;
- F. That the applicant has refused to execute the indemnification agreement provided for in this article;
- G. That the application was not filed in time pursuant to Sections 12.64.290 and 12.64.291 ~~, unless the Director waives the time requirements and applicant waives his or her right of appeal;~~
- H. That the applicant has not secured a charitable solicitation permit as provided for in Chapter 5.18 of this code, if such permit is required thereby for the proposed activity;
- I. That the proposed activity involves the sale of goods, wares, merchandise, foods, confections, refreshments, or other articles, and the permission of PRAC or Director has not been secured, as required by Section 12.64.080;
- J. That the applicant has not secured a certificate of insurance as provided for in this article if insurance is required for the proposed activity.
- K. For a ~~park use~~ permit for a special event. That the applicant has not filed an application with the Police Department for a special event permit as defined in Title 9, Chapter 9.52.
- L. The applicant has a prior history of one or more events in parks, which include verified, unresolved complaints of excessive noise, inciting violence or poor security and crowd control and/or poor parking control.

12.64.330 - Right of appeal.

~~A. For~~ Decisions on a permit application filed with the Police Department to hold a special event in a park, are subject to the reconsideration process as provided for in Title 9, Article 9.52.090 shall apply, whether if the decision from which the appeal is taken is made by the Chief of Police or by the Director of PRCS pursuant to Section 12.64.291.

B. An applicant whose application for a ~~park use~~ permit for a private event has been denied or any person claiming to be adversely affected by the issuance of a ~~park use~~ permit for a private event may appeal the decision within five (5) working days of the permit decision. The appeal shall be heard before the ~~Parks and Recreation Advisory Commission (PRAC)~~ pursuant to the hearing and appeals process adopted by that body. The decision of the PRAC shall be final.

An applicant whose application for a permit for a special event filed with OPRYD has been denied or any person claiming to be adversely affected by the issuance of a permit by OPRYD for a special event may appeal the decision within five (5) working days of the permit decision. The appeal shall be heard before PRAC pursuant to the hearing and appeals process adopted by that body. The decision of the PRAC shall be final.

Upon receipt of such appeal, the Director shall set the appeal at the next available ~~Park and Recreation Advisory Commission~~ PRAC meeting, The Director shall give notice to the appellant and any known adverse parties, or their representatives, of the time and place of the hearing.

The appellant shall pay the appeal fee established by the current eCity of Oakland ~~M~~master ~~F~~fee ~~S~~chedule.

12.64.360 - Temporary toilet facilities.

Provision shall be made by the permittee for temporary or portable toilets at the ratio of one per every five hundred (500) persons over and above the number of toilets permanently located at the site. The required number of temporary or portable toilets shall be determined by the Director based upon the type of event, how many hours the event will last, number of expected attendees, other events occurring in the park and availability of permanent toilets located at the site. Such temporary or portable toilets shall be removed from the park within twenty-four (24) hours after the event for which the permit was granted.

12.64.380 - Certificate of insurance.

A certificate of insurance naming the eCity, its council, agents and employees as additional insured is required for all special events and may be required for private events when the proposed activity is likely to have an impact on park and/or eCity services and resources. If required, the certificate of insurance must be submitted to the PRCS OPRYD Central Reservations Unit at least three weeks before date of the proposed activity.

12.64.400 - Public parks as drug free zones.

~~Pursuant to California Health and Safety Code Section 11380.5(e),~~ The City Council of the eCity of Oakland, California does designate as drug free zones, all public parks within its geographical boundaries.

Article III – Miscellaneous

12.64.410 – Administrative Regulations

The City Administrator is hereby authorized to adopt rules and regulations as needed to implement this chapter, in consultation with the Office of the City Attorney, and to develop all related forms and/or other materials and take other steps as needed to implement this chapter, and make such interpretations of this chapter as he or she may consider necessary to achieve the purposes of this chapter.

Section 3. The Oakland Municipal Code Section 12.60.020 – Bicycle operation rules-Violation-Penalty is hereby amended to add, delete or modify sections as set forth below; additions are indicated by underscoring and deletions are indicated by ~~strike through type~~; portions of the Section not cited or not shown in underscoring or strike-through type are not changed

12.60.020 Bicycle Operation Rules-Violation-Penalty

It is unlawful to operate a bicycle ~~on any trail~~ within the eCity in an unsafe, reckless, dangerous or negligent manner. No person shall operate a bicycle in a City park in excess of fifteen (15) miles per hour, ~~nor in excess of five miles per hour when passing pedestrians or equestrians or when approaching and negotiating a blind turn,~~ nor at a greater speed ~~then~~ than is reasonable or prudent. Within eCity parks, bicyclists can ride on ~~named~~ designated paths and trails only and are prohibited from operating bicycles off-trail. Bicyclists must obey all posted signs and rules. Bicyclists must yield and call out by voice or bell when passing pedestrians or other bicyclists, and must keep right except to pass and then must pass to the left if practicable. Bicyclists must yield to equestrians by calling out by voice and requesting instructions to pass. The City ~~Manager Administrator~~, or his or her designees, shall determine path and trail accessibility for bicyclists. Any person who violates this section shall be guilty of an infraction punishable as provided in Chapter 1.28 of this code.

Section 4. The Oakland Municipal Code Section 1.28.020 is hereby amended to add, delete or modify sections as set forth below; additions are indicated by underscoring and deletions are indicated by ~~strike-through type~~; portions of the Section not cited or not shown in underscoring or strike-through type are not changed.

1.28.020 – Violations as infraction.

- A. Any person violating any of the provisions or failing to comply with any of the regulatory requirements of the following code sections shall be guilty of an infraction:
1. Public Safety
 - a. Chapter 15.32. Dangerous Structures
 - b. Chapters 5.62, 8.36; Sections 8.40.120 – 8.40.170, 12.64.190. Accident Prevention
 - c. Section 15.04.780. Grading, Excavations and Fills
 - d. Chapter 15.64 Bedroom Window Security Bar and Smoke Detector Permit Requirements
 - e. Chapter 8.44.040. Activities prohibited within the parking facility
 2. Public Welfare, Morals and Policy
 - a. Chapter 8.18. Public Nuisances
 - b. Chapter 5.18. Charities and Relief
 - c. Sections 9.04.030—9.04.060, 9.08.210. Fraud and Deceit: Section 9.04.050: Defacing Notices. Violations of other provisions of Sections 9.04.030—9.04.060, 9.08.210 shall be a misdemeanor.
 - d. Chapters 6.04, 6.08. The Animal Control Ordinance, with the exception of Sections 6.08.120, 6.08.130, 6.08.150—6.08.180, and 6.08.200, vicious dogs, the violation of which shall be a misdemeanor.
 - e. Sections 9.04.070, 9.04.080, 9.08.220—9.08.240. Miscellaneous
 - f. Sections 8.04.080—8.04.150. Theft Provision: Title 10. Vehicles and Safety.
 - g. Section 9.08.250; Chapter 9.32. Trespass. Notwithstanding the provisions of Section 1.28.010A of this code, a person shall be guilty of a separate violation of Section 9.08.250 for loitering, prowling, wandering or being present without lawful business on the property of the Housing Authority of the city of Oakland for each and every instance of failure to leave upon request of a peace officer or authorized agent of the Housing Authority of the city of Oakland or for each return to the property of the Housing Authority of the city of Oakland within seventy-two (72) hours after being asked to leave by a peace officer or authorized agent of the Housing Authority of the city of Oakland.
 - h. Chapter 5.40. Mechanical or Electronic Games
 - i. Chapter 5.10. Bingo Games with exception of Section 5.10.370, which shall remain a misdemeanor punishable by a ten thousand dollar (\$10,000.00) fine.
 - j. Chapter 8.26. Abatement of Illegal Scrapyards and Recyclable Materials Held Illegally in Open Storage.
 - k. Section 12.64.120, Park sound regulation.

Section 5. California Environmental Quality Act. The City Council independently finds and determines that this action is exempt from CEQA pursuant to CEQA Guidelines sections 15061(b)(3) (general rule) and 15183 (projects consistent with a community plan, general plan, or zoning), each as a separate and independent basis.

Section 6. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter . The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

Section 7. Effective Date. This Ordinance shall become effective immediately upon final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

Section 8. The City Council hereby authorizes the City Administrator or designee to make non-substantive, technical conforming changes (essentially correction of typographical and clerical errors), including omnibus cross-referencing conforming changes throughout the Oakland Municipal and Planning Codes, prior to formal publication of these amendments in the Oakland Municipal Code.

Section 9. Nothing in this Ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law.

IN COUNCIL, OAKLAND, CALIFORNIA

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL-WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLEN, KALB, KAPLAN, AND
PRESIDENT REID

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

NOTICE AND DIGEST

ORDINANCE AMENDING CHAPTER 12.64 OF THE OAKLAND MUNICIPAL CODE, PARK AND RECREATION AREA USE REGULATIONS, SECTION 12.60.020 OF THE OAKLAND MUNICIPAL CODE, BICYCLE OPERATION RULES-VIOLATIONS-PENALTY, AND SECTION 1.28.020 OF THE OAKLAND MUNICIPAL CODE, VIOLATIONS AS INFRACTIONS, TO MAKE VARIOUS CHANGES TO PARK RULES AND SIGNAGE; AND DETERMINING THAT THE ACTIONS AUTHORIZED BY THIS ORDINANCE ARE EXEMPT FROM CEQA

This Ordinance would amend Oakland Municipal Code Chapter 12.64 Parks and Recreation Area Use Regulations, Section 12.60.020 Bicycle Operation Rules as it relates to park use and Section 1.28.020 Violations and Infraction.