

## ORDINANCE NO 2022-1515

### AN ORDINANCE OF THE CITY OF SAN MARCOS, CALIFORNIA, AMENDING TITLE 9 (PARKS AND RECREATION), CHAPTER 9.04 OF THE SAN MARCOS MUNICIPAL CODE, REGARDING USE OF CLASS 1 AND CLASS 2 E-BIKES ON CITY TRAILS, AND UPDATING PROVISIONS RELATING TO PARKS AND PARK HOURS

WHEREAS, electric bicycle (“E-bike”) use has grown exponentially in recent years and City staff is seeing them quite frequently on City trails, which have seen significant increased usage by hikers, bikers and equestrians since the COVID-19 pandemic began in March 2020; and

WHEREAS, E-bike use has expanded so quickly that many municipalities are scrambling to adapt and regulate them, including numerous jurisdictions in San Diego County, some of which have banned them from trails altogether, while others allow them in some capacity; and

WHEREAS, California law defines three classes of electric bicycles: “Class 1” is a bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour; “Class 2” is a bicycle equipped with a motor that may be used exclusively to propel the bicycle, and that is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour; and “Class 3” is a bicycle equipped with a motor that provides assistance only when the rider is pedaling, ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour, and is equipped with a speedometer (California Vehicle Code section 312.5); and

WHEREAS, the Vehicle Code allows Class 1 and Class 2 E-bikes, and prohibits Class 3 E-bikes, on equestrian, hiking and recreational trails, unless otherwise provided by local ordinance (Section 21207.5.); and

WHEREAS, the San Marcos Municipal Code (“SMMC”) currently prohibits motorized vehicles, which includes all forms of electric bicycles, on City trails and, thus, although Class 1 and Class 2 E-bikes on City trails would be permissible under state law, they are not allowed under the SMMC; and

WHEREAS, after considering public comment, information from the Trails Advisory Committee, and input from a focus group consisting of representatives from each trail user group (hiking, biking, and equestrian), the City’s Parks and Recreation Commission has recommended that Class 1 and Class 2 electric bicycles be allowed on City trails, with the exception of certain trails surrounding Walnut Grove Park and conservation trails in the Highlands Subdivision; and

WHEREAS, City staff has recommended amendment of Title 9 (Parks and Recreation), Chapter 9.04 of the San Marcos Municipal Code, regarding use of Class 1 and Class 2 E-bikes on City trails, as well as provisions relating to determination of sunrise and sunset for park hours and the list of the City’s various parks; and

WHEREAS, implementing these recommendations requires amendment of SMMC Chapter 9.04.

NOW THEREFORE, the City Council of the City of San Marcos, in accordance with the freedom accorded to charter cities generally, and by the Charter of the City of San Marcos specifically, does ordain as follows:

Section 1. Chapter 9.04 of the San Marcos Municipal Code is hereby modified as reflected below:

## CHAPTER 9.04 GENERAL

### 9.04.010 Purpose.

The purpose of this chapter is to govern the conduct of members of the public by regulating the use of San Marcos municipal parks and trails so as to ensure the safety, health, enjoyment and welfare of all persons, and to preserve, protect and maintain public property and recreation facilities in all municipal parks.

### 9.04.020 Definitions.

The following words shall have the meaning indicated when used in these regulations:

- (a) *Alcoholic Beverages*) includes alcohol, spirits, liquor, wine, beer, and every liquid containing more than trace amounts of alcohol, which is fit for beverage purposes either alone or diluted, mixed, or combined with other substances or as defined by California law. See, Cal. Vehicle Code § 109.
- (b) *"Area" or "Areas"* means a specified place within a park.
- (c) *Commercial Activity* means any activity in which there is an exchange of goods or services for money or something else of value in consideration therefore.
- (d) *Controlled Substance* means any drug substance or narcotics or drugs listed and defined in the California Health and Safety Code. See, Cal. Health and Safety Code §§ 11053 *et seq.*
- (e) *Director* means the Director of Parks and Recreation, his deputy, or other person authorized to act in the Director's absence.
- (f) *Litter* means garbage, refuse, paper, rubbish, debris, trash and all other waste material whether natural or artificial.
- (g) *Motorized Vehicle* means any motorized equipment, such as an automobile, truck, motorcycle, ATV, moped, segway, motorized scooter, go-cart, class 3 electric bicycle, as defined in California Vehicle Code section 312.5 (a)(3), or any other similar device.
- (h) *Non-motorized Vehicle* means any non-motorized vehicle which is driven by means of pedaling or pushing without a motor and, for purposes of this chapter, certain electric bicycles. Non-motorized Vehicles include, but are not limited to, street bicycles, mountain bicycles, recumbent bicycles, class 1 and class 2 electric

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bicycles, as defined in California Vehicle Code sections 312.5(a)(1)-(2), tricycles, strollers, skateboards, roller skates and scooters; they do not include class 3 electric bicycles, as defined in California Vehicle Code section 312.5(a)(3), or homemade electric bicycles.

- (i) *"Park"* includes those Areas designated as City parks or municipal parks, trails, recreation Areas, reserves, and every facility owned, managed, or controlled by the City and under the jurisdiction of the Director of Parks and Recreation. *"Park"* does not include recreation facilities or tot lots owned and maintained by private homeowners' associations.
- (j) *"Park Property"* includes real property, buildings or any other improvements, signs, equipment or facilities owned by City and located in any City Park, municipal Park, recreation Area, reserve, or other facility owned, managed, or controlled by the City and under the jurisdiction of the Director of Parks and Recreation.
- (k) *Person* means any individual, group, firm or corporation, societies or any gathering whatsoever.
- (l) *Pet* means any animal that is domesticated and kept as a companion.
- (m) *"Smoke"* or *"Smoking"* means the inhaling, exhaling, heating, burning, carrying or holding of a lighted or heated pipe, cigar, cigarette, or any other lighted or heated Smoking product, device or equipment used to inhale, exhale, heat or burn any tobacco products, weed, plant, or any other combustible substance. Smoking includes emitting or exhaling the fumes of any pipe, cigar, cigarette, or any other lighted or heated Smoking equipment used for burning or heating any tobacco product, weed, plant, or combustible substance. Smoking includes the use, carrying, or holding of an activated or functioning electronic and/or battery-operated device, the use of which may resemble Smoking (commonly known as "vaping") that can be used to deliver an inhaled dose of nicotine or other substances by delivering a vaporized or heated solution.
- (n) *Weapon* includes, but is not limited to, any firearm, rifle, pistol, revolver, paintball gun, or any weapon designed or intended to propel a shot, bullet, or other missile of any kind; or any device capable of discharging a projectile by air, spirit, gas or explosive; or any explosive substance or harmful solid, liquid and gaseous substance; or any spear, arrow, bow and arrow, slingshot, crossbow, spear or spear gun; or any dirk, Bowie knife, switchblade knife, ballistic knife, or any other knife, straight-edged razor, spring stick, metal or any flailing instrument or disk which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart; or any weapon of like kind, or any stun gun, taser or similar device.

#### 9.04.030 Regulation of Public Use and Park Hours.

- (a) **Park Hours.** Each Park shall be assigned, by recommendation of the Parks and Recreation Commission, to Tier A or Tier B. Each tier shall be available to all members of the public to use during regular Park hours. A list of the Tier A and Tier B Parks, as updated by the Director from time-to-time, will be kept on file in the Director's office and shall be made available to the public.

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TIER A Parks shall be open daily from sunrise to sunset. Sunrise and sunset times shall be determined by City staff based on the official sunrise and sunset times published by the local weather service, as posted on the City website. If such service or website is unavailable for any reason, the sunrise and sunset times published in the San Diego Union-Tribune shall govern. A 15-minute grace period before sunrise and after sunset shall apply before a Person is considered to be in violation of this section.

TIER B Parks provide a public benefit that warrants their being open during evening hours and shall be open daily from sunrise until sunset. All Persons must vacate the Park at sunset, except that, scheduled sports requiring lit sports fields may remain after sunset to conclude play. When a sporting event continues past sunset, all Persons shall vacate the Park immediately after conclusion of play, but no later than 10:45 p.m. If a scheduled sporting event has not concluded by 10:45 p.m., the event must stop at that time and all Persons must leave the Park.

Any section or part of any Park may be declared closed to the public by the Director at any time for any period of time as the Director deems necessary to promote the public health, safety and welfare and to protect, preserve and maintain the Areas and facilities under his/her jurisdiction.

- (b) After Hours Use Prohibited Without Park Use Permit. All Persons are prohibited from being in or upon municipal Parks, other than during the hours of operation for each municipal Park as listed in subsection (a) above, unless specifically authorized to do so by a valid Park Use Permit.
- (c) Prohibition; Minors. In accordance with SMMC Chapter 10.20, no minor shall be present in any municipal Park unless accompanied by a parent, guardian or other authorized responsible adult during the City curfew hours of 11:00 p.m. and 6:00 a.m. the following day.
- (d) Park Use Permit Required. Park Use Permits shall be required for the exclusive use of all or any portion of specific Areas, buildings, and other municipal Park facilities, or for conducting special or group events. Any Person, group, or association of Persons required to obtain a Park Use Permit shall file an application for said Permit with the Director. Applications may require:
  - (1) Proof of Insurance indemnifying the City and the Redevelopment Agency against any liability arising from such exclusive use.
  - (2) A bond determined by the City's Risk Manager to be in sufficient amount to indemnify the City against all loss, the full expense of special police protection, anticipated damages to the Park or its facilities, or the expense of cleaning up the Park or facility after the proposed activity. The posting of such bond, when requested, shall be condition precedent to the issuance of the Park Use Permit.

Any Person who fails to obtain a Park Use Permit as required, may, in addition to being subject to prosecution for violating this section, also be prohibited from obtaining a Park Use Permit for up to six months from the date of the most recent offense.

- (e) Designated Group Reservation Sites. The Parks and Recreation Commission shall designate, and the City shall keep and make available to the public, a listing of those municipal Parks, recreation sites and other municipal Park facilities, or portions thereof, which due to their size, configuration, location or other characteristics shall be made available for the use and enjoyment of the public on a group reservation basis. It shall

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- be the duty of any party desiring to use such sites to obtain a Park Use Permit beforehand and to comply with any conditions and/or restrictions attached thereto.
- (f) Permit Non-transferable. Permittee shall not transfer or relinquish the Park Use Permit to another Person or group of Persons without written authorization from the Director.
  - (g) Unlawful to Harass Permittee. It is unlawful for any Person to disturb, harass, or interfere with the grantee of a valid Park Use Permit, or with any of the grantee's property or equipment.
  - (h) Suspension or Revocation of Park Use Permit. The City Manager, Director or a peace officer shall have the authority to revoke a Park Use Permit on any of the following grounds:
    - (1) Misrepresentation of a material fact in the application for the Park Use Permit by the applicant or permittee.
    - (2) The violation of any provision of any federal, State or local law by the permittee.
    - (3) When, based on the totality of the circumstances, the continuance of the activity authorized by the Park Use Permit would be contrary to the public health, safety, or welfare of the citizens of San Marcos.
  - (i) Hearing on Denial of Application for Park Use Permit. Within five days after receiving written notification from the Director that an application for a Park Use Permit required by this chapter has been denied, or that said Permit has been revoked or suspended, a permittee or applicant may file a written request to appeal that decision with the City Manager. The decision of the City Manager shall be final.

#### 9.04.040 Activities Authorized Only By Park Use Permit.

- (a) Solicitation. It is unlawful for any Person to solicit, sell or otherwise peddle goods, ware, merchandise, services, liquids, or edibles in a Park except pursuant to a valid Park Use Permit.
  - (b) Photography. It is unlawful to commercially operate a motion picture, video or other camera without a valid Park Use Permit.
  - (c) Advertising. It is unlawful for any Person to display, distribute or place any sign, advertisement, notice, poster or other advertisement in a Park without having obtained prior written authorization from the Director.
  - (d) Commercial and Non-Commercial Activities. It is unlawful for any Person, firm, corporation or charitable organization to engage in or to attempt to engage in any business, activity or act, whether or not it is offered in exchange for financial compensation, in or on any recreational facility or property owned, operated, or maintained by the City, including but not limited to, any municipal Park, playground, recreational Area or parking lot, without a valid Park Use Permit. Permits will be required for all activities, whether or not they are single-day events or events such as classes that occur at regular intervals over a period of time.
  - (e) Meetings. No Person shall hold any public meeting, service, sporting event, concert, exercise class, parade, public rally or exhibition in any municipal Park or facility without first obtaining a valid Park Use Permit.
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9.04.050 General Prohibited Conduct.

- (a) Any conduct or activity that violates any other provision of the San Marcos Municipal Code is prohibited in or on any City or municipal Park or trail.
- (b) Personal Conduct. It is unlawful for any Person to engage in any violent, abusive, loud, boisterous, vulgar, wanton, obscene or otherwise disorderly conduct, disturb or annoy others, or engage in any activity that could cause injury to other Persons or disrupt the enjoyment of other Persons on or in connection with their use of a recreation facility. No Person upon or in connection with a recreation facility shall by act or speech willfully or unreasonably hinder, interrupt or interfere with any permissible activity.
- (c) Possession, Use, or Consumption of Alcoholic Beverages Prohibited. It is unlawful for any Person to possess, use, or consume any Alcoholic Beverage in a recreation facility or in a City or municipal Park unless expressly authorized by a Park Use Permit. It is unlawful to be under the influence of any intoxicating substance at any time. Violation of this subsection is punishable as a misdemeanor pursuant to SMMC Section 10.32.040(c).
- (d) Possession and or Use of Controlled Substances. It is unlawful to use, manufacture, possess, constructively possess, sell, give away, barter, exchange, distribute, or otherwise transfer any Controlled Substance as provided by California law, except that a lawfully obtained medical prescription may be used as directed by a licensed physician or other authorized medical practitioner. The foregoing exception for a lawfully obtained medical prescription shall not apply to Smoking as defined in Section 9.04.020(n) and described in Section 9.04.050(e), which remains a prohibited conduct and activity.
- (e) Smoking and/or Tobacco Use. It is unlawful for any Person to Smoke and/or to use, carry or hold a lighted or heated pipe, cigar, cigarette, or any other lighted or heated Smoking product, device or equipment used to inhale, exhale, heat or burn any tobacco products, weed, plant, or any other combustible substance within 100 feet of any boundary of any municipal Park, trail or facility.
- (f) Littering. It is unlawful for any Person to deposit, scatter, drop or abandon in any Park any Litter, including bottles, cans, glass, hot coals, ashes, cigarette butts, sewage, waste or other material, natural or artificial, except in receptacles provided for such purpose.
- (g) Gambling. It is unlawful for any Person to gamble or participate in any game of chance for a consideration of items of value, except for non-profit fundraising, opportunity drawing or comparable activity that is in compliance with State law, provided a valid Park Use Permit has been issued for such activity.
- (h) Possession and Use of Fireworks. It is unlawful for any Person to have in their possession, or to set off or attempt to set off or ignite any firecrackers, fireworks, smoke bomb, rockets, black powder guns or other pyrotechnics without prior written authorization from the City Manager or Director. Violation of this subsection is punishable as a misdemeanor pursuant to SMMC Section 17.64.260.

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- (i) Interference with Employee Performance of Duty. It is unlawful for any Person to impersonate an employee of the City or Peace Officer or interfere with, harass, or hinder an employee in the lawful discharge of their duties. See Cal. Penal Code § 71.
- (j) Pets. In addition to the restrictions contained in SMMC Chapter 6.24, it is unlawful for any Person to:
- (1) Allow a Pet, except a certified assistance dog, to enter or be in an organized sport Area of any municipal Park.
  - (2) Bring a Pet into an authorized Area of a Park without complying with the leash and restraint requirements of SMMC 6.24.110(a), unless in a Pet exercise or training Area intended for off leash purposes designated by the Director.
  - (3) Allow a Pet under his/her control to disturb, harass, or interfere with any Park visitor or a Park visitor's property.
  - (4) Allow a Pet to disturb, harass, or interfere with wildlife or wildlife nesting Areas, or any tree, plant, building or Park equipment.
  - (5) Lead or attempt to control a Pet while on any means of locomotion that could potentially interfere with full control of the Pet.
- (k) Failure to Properly Dispose of Animal Feces. Any Person having the authorized custody or control of any dog shall be responsible for cleaning up the feces of the animal and properly disposing of such feces in a sanitary manner.
- (l) Amplified Sound and Annoying Noises. It is unlawful for any Person to make any loud, unnecessary or unusual noise or display, play or operate any sound amplification device including radios, television sets, public address systems, musical instruments, CD players and the like in such a way which annoys, disturbs, injures or endangers the comfort, repose, peace or safety of other Persons in a recreation facility, or is audible from more than 20 feet away.

The following factors shall be considered in determining whether a violation of the provision of this section has occurred, and shall include, but not be limited to, the following:

- Volume of the noise;
- Intensity of the noise;
- Whether the nature of the noise is usual or unusual;
- The level and intensity of the background noise, if any;
- The type of area within which the noise emanates;
- The intensity of human use of the area during the time at which the noise emanates;
- The time of day or night when the noise occurs;
- The duration of the noise.

These criteria shall be interpreted by staff of the Parks and Recreation Department and/or a Peace Officer who shall allow, deny or restrict the level of sound allowed.

- (m) Fires and Use of Barbeque Grills. It is unlawful for any Person to light or maintain any fire in any Park other than in a designated receptacle designed for such a purpose,

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except upon issuance of a Park Use Permit by the Director. All fires lighted or maintained pursuant to this section shall be in compliance with all applicable rules and regulations of the County of San Diego for air pollution and any Fire Department having jurisdiction over the respective Park Areas and or recreation facility.

It is unlawful for any Person to use a City barbecue grill and allow such grill to remain in an untidy or unsanitary condition. Additionally, it is unlawful for any Person to fail to clear away all cooking and eating utensils and waste matter after use. Any Person using a City barbecue grill shall ensure that all fire is completely extinguished when such use is completed.

- (n) Amusement Contraptions. It is unlawful to bring in, set up, construct, manage or operate any amusement or entertainment contraption, device or gadget without a valid Park Use Permit. The use of an amusement contraption is limited to designated group reservation sites as may be identified by the Parks and Recreation Commission pursuant to Section 9.04.030(e), *supra*.
- (o) Engine Powered Models and Toys. It is unlawful for any Person to start, fly or use any fuel-powered model aircraft, model boat, model car, or rocket or like-powered toy or model, except at those Areas or waters specifically designated by the Director for such use, or with a valid Park Use Permit.
- (p) Unlawful Occupancy. It is unlawful in any municipal Park for any Person to enter any building, installation, or Area that may be under construction or locked or closed to public use; or to enter or be upon any building, installation or Area after the posted closing time or before the posted opening time, or contrary to posted notice.
- (q) Glass Containers. No Person shall possess any glass container in any municipal Park.
- (r) Possession and Use of Weapons. It is unlawful for any Person to possess, use, fire, discharge, or cause to be discharged across, in, or into any portion of a Park, any Weapon, except in Areas and at times designated by the Director for such use, or pursuant to a Park Use Permit. See, also Cal. Penal Code § 16000, *et seq*.

#### 9.04.060 Protection of Park Property and Natural Resources.

- (a) Release of Harmful or Foreign Substances. It is unlawful for any Person to place any debris, foreign substances, detergent or pesticide in, adjacent to and/or upon any municipal Park body of water, including but not limited to any tributary, stream, storm or sewer drain, pond or swimming pool. Violation of this provision is punishable as a misdemeanor pursuant to SMMC Chapter 14.15.
- (b) Destruction/Defacement of Park Property/Signs. It is unlawful for any Person to intentionally deface, graffiti, vandalize, or remove Park Property, buildings, equipment, or facilities; or intentionally deface, destroy, cover, damage, or remove any placard notice, or sign or parts thereof, whether permanent or temporary, posted or exhibited by the Department of Parks and Recreation. Violation of this provision is punishable as a misdemeanor.
- (c) Disturbance of Natural Features, Wildlife. It is unlawful for any Person to remove, alter, injure or destroy any tree or other plant, rock, soil or mineral. It is unlawful for any Person to kill, trap, remove, harass, annoy, pursue or in any manner disturb or cause to be disturbed, any species of wildlife, or to release or abandon any animal, plant or fish within a municipal Park. With respect to fishing when permitted by a state fishing license, catch and release with a barbless hook is recommended.



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#### 9.04.070 Recreational Activities.

- (a) Camping. No Person shall camp, lodge or sleep overnight as defined in SMMC Section 12.20.120 between sunset and sunrise in any Area without a Park Use Permit. Camping shall only be permitted in Areas designated specifically for those purposes. No Person shall camp overnight in a Park if under 18 years of age, unless accompanied by a parent or legal guardian or as part of a sponsored outing conducted by a scout, church, or other youth organization where the leader of the organized outing is age 21 or older.
- (b) Picnicking. No Person shall assume exclusive use of a reservation picnic site or a portion of a reservation picnic Area without a Park Use Permit if the Area is already reserved by a group with a valid Park Use Permit.
- (c) Boating and Swimming. It is unlawful for any Person to launch or travel in any watercraft, swim, bathe or wade in any body of water in a recreation facility unless designated for such use and then only in accordance with the rules, regulations and restrictions provided and posted at the recreation Area.
- (d) Fishing. No Person shall fish in a municipal Park in violation of any provision of California law. See, Cal. Fish and Game Code §§ 2000, et seq.
- (e) Horseback Riding. No Person shall ride, lead, or allow a horse within a municipal Park except in designated Areas or on designated trails and only at designated hours. In addition, no Person shall:
  - (1) Ride a horse in a reckless manner so as to create nuisance or endanger the safety or property of any Park visitor.
  - (2) Tether a horse to a tree, other plant, building or Park equipment not intended for such purpose.
  - (3) Allow a horse to graze, browse, or roam freely except in designated Areas. Horse owners/riders must be in control of their equine companions at all times.
- (f) Bicycling and Non-motorized Vehicles.
  - (1) Bicycles and other Non-motorized Vehicles shall yield to pedestrians and equestrians. No Person shall operate a bicycle or other Non-motorized Vehicle except in Areas designated for that purpose. Cyclists shall ride as close to the right-hand side of a trail or roadway as conditions permit and in a reasonable, prudent and careful manner. No cyclist shall operate a bicycle, including an electric bicycle, at a speed faster than is reasonable and safe with regard to the safety of the operator and other Persons in the immediate area, with a maximum speed of 15 miles per hour, which maximum speed shall be reduced to five miles per hour when within 50 feet of another Park or trail user. All cyclists shall be outfitted with appropriate head/helmet gear as required by California law. See, Cal. Vehicle Code § 21212.
  - (2) Electric Bicycles. No Person shall operate a class 3 electric bicycle or homemade electric bicycle within any Park or on any City trail. Class 1 and class 2 electric bicycles are permitted, except on certain trails, as designated by the Director. A list of the trails on which electric bicycles are prohibited, and a map depicting the trails, shall be posted on the City website, and kept on file in the office

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of the Director, where they shall be publicly available. The list and map may be updated periodically as necessary, in the discretion of the Director.

- (g) Skateboarding and Skating. No Person shall skateboard or skate in a municipal Park or facility unless in an Area designated for that purpose by the Director. Skateboarders and skaters shall ride as close to the right-hand side of a trail or roadway as conditions permit and in a reasonable, prudent and careful manner. Skateboarders and skaters shall ride at a speed that is reasonable and safe with regard to the safety of the operator and other Persons in the immediate area, with a maximum speed of 15 miles per hour, which maximum speed shall be reduced to five miles per hour when within 50 feet of another Park or trail user. Skateboarders and skaters under the age of 14 must be supervised at all times by an authorized and responsible adult. Every Person riding a skateboard or skating shall wear all appropriate safety equipment, including a functioning helmet, elbow and knee pads, and comply with all posted rules and regulations. See, Cal. Vehicle Code § 21212, and Cal. Health and Safety Code § 115800.
- (h) Golfing. It is unlawful for any Person to play or otherwise participate in the game of golf, except at a recreation facility designated for such use and only in accordance with the rules, regulations and restrictions provided by the Director.
- (i) Other Special Activity Use. It is unlawful for any Person to participate in or conduct any activity without a Park Use Permit, except those uses for which a Park Area or facility has been planned or promoted by the Parks and Recreation Commission.

#### 9.04.080 Regulation of Motorized Vehicles, Traffic and Parking.

- (a) Motorized Vehicles. It is unlawful for any Person to operate a Motorized Vehicle within a Park or trail, except on roadways and in Areas specifically designated for such purposes or by Park Use Permit.
- (b) Motorized Vehicle Operation. It is unlawful for any Person to:
  - (1) Operate a motor vehicle at a speed in excess of 15 miles per hour, which speed is reduced to a maximum of five miles per hour when within 50 feet of another Park or trail user, or to obey other speed limits as posted.
  - (2) Operate a motor vehicle within a Park in violation of posted regulations.
  - (3) Operate a motor vehicle on any City trail other than for maintenance, security or emergency purposes.
  - (4) Operate a motor vehicle in a careless or reckless manner. Violation of this provision shall be punishable as a misdemeanor.
  - (5) Operate a motor vehicle without an operable muffler, or that emits excessive fumes or dense smoke.
  - (6) Fail to yield the right-of-way to pedestrians.
  - (7) Wash, grease, change oil, service, or repair any motor vehicle in a Park, except that disabled motor vehicles may be expeditiously repaired so that they are operational and can be removed.
- (c) Parking Vehicles. It is unlawful for any Person to:

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- (1) Park or leave a vehicle standing, except in designated Areas and then only in a manner so as not to restrict normal traffic flow.
  - (2) Leave a vehicle standing after posted closing hours except by written authorization from the Director.
  - (3) Park in a space designated for handicapped parking only, except with a valid handicapped vehicle license, placard, or permit on display as required by law.
  - (4) Allow vehicles to remain illegally parked or disabled vehicles to remain for more than 72 hours. In accordance with SMMC Chapter 12.32, illegally parked or disabled vehicles may be towed away and impounded at the owner's expense. Impounded vehicles may be sold, if left unclaimed, to pay towing and storage fees.

#### 9.04.090 Parks and Recreation Director; Power and Duties.

The activities at all municipal Parks and recreational facilities shall be under the control of the Director, subject to the supervision of the City Manager, City Council, and Parks and Recreation Commission. The Director and employees under the direction of the Director shall:

- (a) Establish, conduct, and maintain rules and regulations governing the use by members of the public of any municipal Park, recreation Area, recreation or community center, building, structure, equipment, apparatus or appliances thereon, or any portion thereof to include charges for the use of the same which shall be effective once approved by the City Council and/or Parks and Recreation Commission.
- (b) Provide a copy of such rules and regulations, or a synopsis thereof, posted in some conspicuous place at or near the premises where such rules and regulations are to be effective; or in lieu thereof, signs or notices may be posted at or near said premises in order to give the members of the public notice of said rules and regulations. Copies of such rules and regulations shall be available to any Person desiring copies at the office of the Director during regular business hours, and also on the City's website. Failure to read such posted notices shall not be a defense to violating any of the provisions contained herein.

#### 9.04.100 Enforcement and Expulsion.

This Chapter shall be enforced by any authorized law enforcement officer or authorized employee of the City of San Marcos. Where there has been a violation of any of the provisions of this Chapter, the law enforcement officer or employee may, in his/her discretion, issue a citation or warning as provided in SMMC Chapter 1.12, and/or order the Person to leave the Park or recreation Area. An individual ordered to leave the Park must immediately comply as ordered and may not return to the Area during the same calendar day during which s/he was ejected unless specifically permitted to do so by the law enforcement officer who expelled the individual or another enforcement official. The Director, in conjunction with the City Manager, may establish additional administrative rules or regulations under Section 9.04.090, *supra*, to prohibit a Person from returning to a Park for a longer period than provided herein.

9.04.110 Violations and Penalties.

Except as otherwise provided, any Person who violates any provision of this chapter, the conditions of any Park Use Permit issued pursuant thereto, or any rule or regulation relating to Parks, shall be guilty of an infraction and punished in accordance with SMMC Chapter 1.12. Each day that any violation continues shall be deemed a separate offense.

Violations of provisions designated as misdemeanors shall be punishable by a fine of not more than \$1,000.00, or by imprisonment for a period not to exceed 90 days, or both.

Section 2. Severability. If any section, sentence, clause, or phrase of this Ordinance is determined to be invalid, illegal, or unconstitutional by a decision or order of any court or agency of competent jurisdiction, then such decision or order will not affect the validity and enforceability of the remaining portions of this Ordinance. The City Council declares that it would have passed and adopted the Ordinance, and each section, sentence, clause, or phrase thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

Section 3. Effective Date. This Ordinance shall take effect and be in force thirty (30) days after its passage.

Section 4. Publication. Within fifteen (15) days following its adoption, the City Clerk shall certify to the passage of this Ordinance and cause the same to be published, or the title thereof as a summary, in accordance with the provisions of State law in a newspaper of general circulation designated for legal notices publication in the City of San Marcos.

INTRODUCED at a regular meeting of the City Council of the City of San Marcos, California, held on the 8<sup>th</sup> day of March, 2022; and

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of San Marcos, California, held on the 22<sup>nd</sup> day of March, 2022, by the following roll call vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED:

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Rebecca D. Jones, Mayor

ATTEST:

APPROVED AS TO FORM:

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Phillip Scollick, City Clerk  
City of San Marcos

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Helen Holmes Peak, City Attorney  
City of San Marcos