

On November 2, 2017, staff provided a workshop for the Parks Commission to allow input and direction on Chapter 14.12 amendments. The Parks Commission recommended staff reorganize the Chapter structure in a style similar to San Luis Obispo County, which is easier to read and understand; ensure that fees are controlled by the Board or other approval mechanism, rather than leaving it up to staff to decide; and follow up with future review of a draft Chapter 14.12 for additional comment.

Staff provided follow-up workshops on March 1, 2018 and April 4, 2018 to review the revisions made and allow input from the Parks Commission and the public. These discussions focused on smoking in parks with only minor changes recommended for the rest of the Chapter. Staff was directed to return with additional information on smoking ban options in County Parks. Staff researched smoking bans in parks for various California counties. Staff also received input from stakeholders responsible for the operations at County parks: The County Administration Office (CAO), Sport Car Racing Club of the Monterey Peninsula (SCRAMP), Urban Parks Concessionaires (Basecamp) and the North County Youth Recreation Association (NCYRA). The updated Chapter 14.12 includes smoking restrictions within County parks.

### **Smoking Ban in County Parks**

On July 25, 2018, the Health Department (Health) and Resource Management Agency (RMA) received a referral requesting Health and RMA draft ordinance(s) prohibiting tobacco smoking, including tobacco e-cigarettes and vaping, in all County parks, buildings and parking lots (Referral No. 2018.18). On August 2, 2018, RMA presented additional information on smoking ban options to the Parks Commission. The Commission recommended that any further discussion on a park smoking ban be moved to the Board of Supervisors in consideration of the referral, and recommended the Board consider a total smoking ban in all parks with special consideration for live-on volunteers to smoke within their own living quarters, as well as for the enterprise fund facilities consisting of Laguna Seca, Lake San Antonio and Lake Nacimiento. The Commission also requested special consideration for use of medicinal cannabis in County Parks.

On August 28, 2018, RMA and Health Department, in response to Board Referral No. 2018.18, staff reported to the Board on possible smoking bans in County parks, facilities and parking lots. The Board directed staff to return with a proposed smoking ban in parks that banned smoking in all parks, but considered limited designated areas for Laguna Seca, Lake San Antonio and Lake Nacimiento and within the private trailers of live-on volunteers. The proposed ordinance includes language to allow departments responsible for Parks to create designated smoking areas (DSAs) to implement this direction.

Health Department is also working on updates to Chapter 10.70 (Smoking Pollution Control) that will address smoking in County facilities and parking lots, though that work is not anticipated to proceed in earnest until the language of Chapter 14.12 is finalized. It is anticipated that updates and revisions to 10.70 would focus on the following areas: (i) general modernization of language to address e-cigarettes and cannabis issues; (ii) general revisions to clarify and potentially strengthen current smoking prohibitions and limitations; (iii) revisions in light of state-wide legal changes (such as the prohibition on sales of tobacco products to individuals under age 21); (iv)

revisions to conform with the County's tobacco retail license (7.80); and, (v) revision to conform with the updated parks ordinance, including on enforcement and signage.

Section 10.70.080.A.2 states that parks, outdoor recreation areas, and recreation trails designated as nonsmoking are subject to Chapter 10.70. Smoking restrictions included in Chapter 14.12 specifically apply to parks and will correlate with Chapter 10.70 for enforcement language. Health Department is the authority to enforce Chapter 10.70, so park enforcement will involve coordination between the two departments.

Enforcement of the Chapter 14.12 smoking ban will require a plan to notify and educate the public, and then enforce the ordinance. Staff identifies three areas of impact to the public and County: Public Education, Citations and Fines, and Enforcement.

### **Signage and Public Education**

At this time, there may be limited funds within the Health Department available for some signage, but additional funding will need to be identified to develop educational materials and signage.

### **Citations and Fines**

County Code Section 1.22.100 sets maximum fines for an infraction of County Code at not more than one hundred dollars (\$100) for the first violation, not more than two hundred dollars (\$200), for a second violation within a period of one year, and not more than five hundred dollars (\$500) for a third or any subsequent violation within a period of one year. The California Parks and Recreation Bail and Penalty Schedule includes a fine of \$485 for smoking when extreme fire danger is present. This amount is not mandatory. The County may develop and establish a separate schedule of administrative fines for violation of the smoking restrictions. Santa Clara and Santa Cruz Counties sets administrative fines for smoking infractions at \$100 for a first violation within one year, \$200 for a second and \$500 for each additional violation.

### **Enforcement**

Per County Code Section 10.70.100, the Director of the County Health Department or his or her designee also has enforcement authority over nonsmoking areas in County Parks. Under the proposed ordinance, Parks Personnel would be authorized to issue administrative citations.

RMA and Health recommend enforcement in Day Use Parks start with public education, signage and "self-enforcement". This will allow the County to implement the ban using available staff and resources.

The County operates certain parks under enterprise funds (Laguna Seca and Lake Nacimiento). The purpose of an enterprise fund is to capture profits and reinvest them into the facility eliminating the need for general fund contributions. Laguna Seca is operated by Sport Car Racing Club of the Monterey Peninsula (SCRAMP), on behalf of the County Administration Office (CAO). Currently there are no County employees patrolling at Laguna Seca and security is provided by a contractor. Proactive enforcement would require hiring additional staff to patrol for smoking violations. Starting in 2019, Lake San Antonio was removed from being part of an enterprise fund and planned for operation similar to other County parks. RMA is preparing plans

for staffing, capital improvements and transition to present to the Board. Staff anticipates a new third party agreement to manage Lake Nacimiento in June 2019. Patrols and park enforcement are currently provided by Park Rangers.

After consulting with the CAO and County contractors responsible for management of County enterprise fund parks, staff recommends that smoking restrictions at the enterprise fund parks be deployed in stages over several years. Gradual implementation would allow current visitors time to adjust to the change in regulations. Any shift in visitor demographics resulting from a smoking ban would take place over the next few years without causing a major disruption to the revenue generated at the parks. A more aggressive implementation and enforcement plan would require additional staff or reassignment of existing staff from current responsibilities. Responsibilities include Ranger patrol and initial emergency response, invasive species inspection and enforcement at the lakes, and repair and maintenance of County Park facilities.

### **Summary of Chapter 14.12 Revisions**

The following revisions and additions are included in the new Chapter:

#### Section 010 – Definitions

The definitions below have been added or revised in the new ordinance: Alcohol, Beer, Boat, Contractor, County Park, Cremated Remains, Day Volunteer, Director, Electric Bicycle, Electronic Smoking Device, Firework, Laguna Seca, Lake Nacimiento, Lake San Antonio, Open Space Camping Areas, Park Host, Parks Personnel, Pass, Pass Holder, Permit, Permittee, Pet, Person, Ranger, Raceway, Service Animal, Smoking.

#### Section 020 – Authority and Responsibility

Section 020 outlines the process for development of rules, regulations and policies for County Parks. There are separate provisions for park facilities at Laguna Seca and East Garrison Community Service District.

The Board of Supervisors is responsible for establishing rules, regulations and policies, and the Director as defined in the Chapter is authorized to implement. Parks Personnel, Volunteers and Contractors are allowed to direct the public to meet all ordinances, rules and policies. Authority to direct is separate from authority to enforce in this Chapter. While Personnel, Volunteers and Contractors may direct the public, and failure by the public to do so is considered an infraction, only Parks Personnel are authorized to issue a citation and enforce.

#### Section 030 - Fees

This section sets authority for establishing fees and how fees are collected. County employees may receive discounts on fees available to the public, but may not receive special discounts, in accordance with laws preventing a gift of public funds.

## Attachment A - Discussion

Any refund process must be established by the Board of Supervisors. Fee Waivers will be addressed in a separate resolution going to the Board to address the fee waiver process across all RMA.

### Section 040 – Park Access, Passes and Permits

The number and type of activities that occur in the parks require the County to create a system for event review and scheduling. A permit or pass is the authorization to enter and use a park or park facility. It may be issued after payment of a fee, passing a required inspection, or any other prerequisite as set by the ordinance.

This section defines the activities which require a pass or permit, the minimum information required to review a permit application and general conditions of approval. An appeals process has been added, consistent with other sections of County Code which allows an applicant to appeal a permit application which has been denied or approved conditionally.

Staff wish to reduce the amount of hard alcohol present in day use parks. An increase in the prevalence of alcohol may lead to increased incidents requiring staff intervention. In order to promote a family-friendly environment, alcohol at day use parks will be limited to beer and wine as defined in the chapter. Due to the nature of their use, Laguna Seca and the lakes are exempt from this restriction.

Excessive sound will require a special permit from the County. Separate sound levels may be set for specified areas. Previously, a sound permit was required for any “noise producing equipment”.

### Section 050 – General Park Use Guidelines

Section 050 includes a list of general restrictions on specific activities in County Parks. New clauses have been added to address common problems in the parks. Scattering remains is prohibited, and drones and metal detecting require a permit.

### Section 060 – Transportation

Sections related to vehicles and transportation in the park have been brought together under Section 060. Park speed limits have been clarified. Electric bikes are prohibited from trails unless specifically authorized.

### Section 070 - Campgrounds

The new ordinance combines ordinance language from three current sections for easier reading of the code. The section includes minor revisions throughout and a new clause to address camp permits for Open-Space Camp Areas.

Section 080 – Boating and Watersports

This section combines language from two different sections in the old ordinance and adds boating safety and invasive species inspection language adapted from San Luis Obispo code. In 2014, the County Parks Department worked with San Luis Obispo County to create a section of county code specific to Lake Nacimiento. This update to Chapter 14.12 will allow Rangers to effectively patrol and enforce the reservoirs at both Lake Nacimiento and Lake San Antonio using common language.

Section 090 – Fishing Regulations

Section 090 includes minor revisions for clarity.

Section 100 – Animals and Pets

A key addition to this section is the exemption of service animals from any pet fees. Requirements for maintaining control of pets is revised to meet ADA guidelines for Service Animals.

Section 110 – Firearms, Weapons and Explosives

Section 110 includes minor revisions for clarity.

Section 120 – Smoking

This section is new to the ordinance. Smoking is prohibited in all day use parks. Laguna Seca, Lake Nacimiento and Lake San Antonio may have designated smoking areas. The Board of Supervisors may also approve smoking areas at large events held within County Parks.

Section 130 – Enforcement

The existing enforcement language was carried forward with revisions for clarity and consistency with other new sections of the Chapter. While Parks Personnel, Volunteers and Contractors will have authority to direct the public to follow codes, rules and policies, only Parks Personnel will be able to issue citations.