



## CITY OF MILPITAS AGENDA REPORT (AR)

<b>Item Title:</b>	<b>Introduce Ordinance No. 304 Adding Subsection 7.02 to Chapter 9 (Parks) of Title V of the Milpitas Municipal Code Relating to the Milpitas Skate Park</b>
<b>Category:</b>	Community Services and Sustainable Infrastructure
<b>Meeting Date:</b>	1/21/2020
<b>Staff Contact:</b>	Renee Lorentzen, Recreation and Community Services Director, 408-586-3409
<b>Recommendation:</b>	Waive the first reading and introduce Ordinance No. 304 adding Subsection 7.02 of Chapter 9 (Parks) of Title V of the Milpitas Municipal Code relating to the Milpitas Skate Park.

### **Background:**

The new Milpitas Skate Park at the Milpitas Sports Center Complex grounds is expected to open in summer 2020. As this is a specialized facility for an activity that includes elements of physical risk, staff is recommending adoption of regulations specific to this park site to promote and communicate safe use rules to the public.

### **Analysis:**

Many cities, including Milpitas, routinely add sections to their Municipal Codes governing acceptable use of specialized city facilities, when general park rules are insufficient to address the concerns that are unique to a specialized facility.

Ordinances governing Milpitas' Park use (Title V, Chapter 9) already include regulations related to use of the City Dog Park located at Ed Levin Park and restricting the types of activities allowable on tennis courts.

Regulations for specialized facilities are particularly advisable when the intended use is a potentially hazardous recreational activity.

California Government Code section 831.7 provides that public entities and public employees are not liable for injuries and property damage incurred by persons who voluntarily place themselves at risk by participating in a hazardous recreational activity that the person, including persons who assist the participant or spectators, who knew or reasonably should have known the activity created a substantial risk of injury. Skateboarding is deemed a hazardous recreational activity within the meaning of California Government Code section 831.7. for persons 12 years of age or older, when a skateboard park is on public property and the local public agency adopts an ordinance and posts signs requiring a person riding a skateboard at the facility to wear a helmet, elbow pads, and knee pads. (Cal. Health & Safety Code section 115800.) (Note: this section does not limit the liability of a public entity with respect to any other duty imposed pursuant to existing law, including the duty to protect against dangerous conditions of public property.)

Further, Section 115800 of the California Health and Safety Code says, with respect to any facility, owned or operated by a local public agency, that is designed and maintained for the purpose of riding a recreational skateboard, recreational skateboard use, and that is not supervised on a regular basis, the requirements may be satisfied by compliance with the following:

- 1) Adoption by the local public agency of an ordinance requiring any person riding a skateboard at the facility to wear a helmet, elbow pads, and knee pads; and

2) The posting of signs at the facility affording reasonable notice that any person riding a skateboard in the facility must wear a helmet, elbow pads, and knee pads, and that any person failing to do so will be subject to citation under the ordinance required by paragraph

By establishing regulations governing safe use of a facility and posting on signage at the facility, cities can alert participants, parents and guardians, and spectators of the risks involved and offer guidelines to help prevent injury.

In anticipation of the opening of the Milpitas Skate Park, staff researched rules and/or regulations that have been adopted and/or posted at dedicated skate park facilities in nearby cities, including the City of Fremont's Skatepark at Central Park, Santa Clara Skate Park, and the City of San Jose, which has multiple dedicated skateboard facilities.

Staff has used this information to help draft the attached proposed Ordinance with regulations for the Milpitas Skate Park. In summary, Ordinance 304 would establish safety rules based on common safety practices at similar facilities in the area. If adopted, the ordinance could provide additional legal protection for the City in the event of future injuries incurred at the Skate Park as a result of unsafe use by the public.

Ordinance 304 would limit Skate Park use to skateboarders and others operating non-motorized, wheeled devices. It would require parents or guardians to accompany users under age 12 and require all users to wear safety gear, including helmets. It would prohibit use of user-supplied obstacles, ramps and jumps, eating, drinking, smoking, vaping and animals on the skate surface, and any other reckless and unsafe behavior. It would declare that Skate Park users use the facility at their own risk, no onsite supervision is provided, and the City is not responsible for injuries and damage.

#### **Policy Alternatives:**

**Alternative 1:** Do not introduce Ordinance No. 304 adding Subsection 7.02 to Chapter 9 (Parks) of Title V of the Milpitas Municipal Code Relating to the Milpitas Skate Park.

Pros: There are no pros associated with not introducing Ordinance No. 304.

Cons: Without formal safety regulations in place, the City will have difficulty enforcing safe use of the Skate Park facility and could subject Skate Park users to unnecessary risk of injury and leave the City liable if an injury occurs.

Reason not recommended: Existing park regulations are not sufficient to ensure safe use at a specialized Skate Park facility.

#### **Fiscal Impact:**

There is no immediate fiscal impact. However, ultimately adopting Ordinance No. 304 could help protect the City against costly litigation in the event of a serious injury sustained by a future Milpitas Skate Park user.

#### **California Environmental Quality Act:**

By the definition provided in the California Environmental Quality Act Guidelines Section 15378, this action does not qualify as a "project" for the purpose of CEQA.

#### **Recommendation:**

Following the City Attorney reading aloud the title, move to waive the first reading beyond the title and introduce Ordinance No. 304, adding Subsection 7.02 to Chapter 9 (Parks) of Title V of the Milpitas Municipal Code relating to the Milpitas Skate Park.

#### **Attachment:**

Ordinance No. 304 for introduction