

# Memorandum

**To:** Board of Directors  
Livermore Area Recreation and Park District

**From:** Andrew Shen, Legal Counsel

**Date:** June 21, 2024

**Re:** Amendments to Ordinance 8, Establishing Rules and Regulations  
Regarding Uses of District Facilities and Parks

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I write to provide an update regarding the proposed amendments to Ordinance 8, establishing rules and regulations regarding uses of Livermore Area Recreation and Park District (“District”) facilities and parks.

At its May 8, 2024 meeting, the Board of Directors (“Board”) provided further guidance regarding two issues: (1) regulation of drones; and (2) penalties for violations.

## 1. Regulation of Drones

In the accompanying version of Ordinance 8, I have added a new section – Section 326 – regarding drones. Per the Board’s direction, Section 326 provides that:

- any person operating a drone above District property must comply with Federal Aviation Administration (“FAA”) rules regarding drone usage;
- no person may fly or operate a drone within 200 feet above any District property;
- no person may use a drone to record images or video of any person located on District property, with that person’s permission;
- no person may use District property as takeoff or landing areas for a drone; and
- District staff (or their agents) and law enforcement personnel acting in their official capacities are not subject to the restrictions above.

Chapter 200 also defines “drone” as “a small unmanned aircraft system weighing less than 55 pounds,” subject to FAA regulation and 14 C.F.R. Part 107.

## 2. Penalties for Violations

As directed by the Board, Section 103(f) provides that violations of Ordinance 8 shall constitute either a misdemeanor or an infraction (subject to an escalating series of fines).

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In addition to these changes, I have made other minor edits based on Board feedback received at the May 8 meeting.

Thank you for your consideration. I look forward to your comments and potential approval at the upcoming June 26, 2024, Board meeting.

Attachment 1: Proposed Amendments to Ordinance 8 (clean)

**Ordinance Amending Ordinance 8, Establishing Rules and Regulations Concerning Use of Livermore Area Recreation and Park District Facilities and Parklands, to Incorporate Standards Applied by the California State Department of Parks and Recreation (California Code of Regulations, Title 14, Section 4300 et seq.).**

The Board of Directors for the Livermore Area Recreation and Park District ordains as follows:

**Livermore Area Recreation and Park District  
Rules and Regulations (Ordinance 8)**

In order that residents of the Livermore Area Recreation and Park District (LARPD or District) may use and receive maximum benefit from District facilities, parklands and programs, the Board of Directors of the Livermore Area Recreation and Park District hereby establishes the following rules and regulations concerning use of District facilities and parks.

**Chapter 100 – General Provisions**

**Section 101 – Authority**

**§101(a)** Authority: All sections of this Ordinance are adopted pursuant to Section 5780, et seq., of the Public Resources Code of the State of California and apply to all District facilities and parklands. A title, where used, does not limit the language of a section.

**Section 102 - Exceptions**

**§102(a)** The following regulations shall apply to all persons except:

(1) They shall not apply to employees of the District, District volunteers, or to its concessionaires or their employees engaged in and acting within the scope of their authorized duties and concession activities. However, District employees, District volunteers and District concessionaires and their employees shall abide by the laws of the State of California and all applicable county and/or municipal ordinances.

(2) They shall not apply to persons possessing a special use permit or contract, granted by the District, when such permits or contracts specifically suspend a section or sections of the regulations, providing said permittees are in compliance with all conditions of the permit or contract and all other regulations.

(3) They shall not apply to lease holders where such use is expressly provided for in the terms and conditions of their leases and where they are in compliance with all other regulations.

(4) They shall not apply to public safety employees of Federal, State, County or Municipal governments acting within the scope of their authorized duties and with the knowledge of the District.

### **Section 103 – Application**

- §103(a)** Special regulations enacted for an area or a subject do not preclude the application of general regulations unless expressly so indicated.
- §103(b)** Any judge or commissioner of a judicial District lying wholly or in part within the District, shall have jurisdiction over all prosecutions under this article for violations adopted by the Board of Directors.
- §103(c)** All persons entering upon District facilities or parklands shall abide by the rules and regulations of the District, the laws of the State of California and all applicable County and/or municipal laws or ordinances that pertain. In District Facilities and Parklands, District rules and regulations will supersede all other local ordinances when they are in conflict, as per section 5786.1(j) of the Public Resources Code.
- §103(d)** Parents or guardians shall be held responsible for the acts of minor children in their custody or control. Damage to property of the District shall be the financial responsibility of the minor child(ren)'s parents or guardians as set forth in the Civil Code 1714.1.
- §103(e)** The District or its authorized representatives shall diligently enforce the provisions of these regulations and may withdraw or revoke the privilege of access to District parklands or the use of any District facility for reasons of safety, security or resource protection, or from any person or group violating any provision of these regulations or any other law or ordinance.
- §103(f)** A violation of the rules set forth in this Ordinance shall constitute either:
- (1) a misdemeanor punishable pursuant to Section 19 of the Penal Code, or
  - (2) an infraction punishable by the following fines:
    - i) a fine not exceeding one hundred dollars (\$100) for a first violation;
    - ii) a fine not exceeding two hundred dollars (\$200) for a second violation within one year of the first violation; and
    - iii) a fine not exceeding five hundred dollars (\$500) for each additional violation within one year of the first violation.
- §103(g)** Headings, divisions and references to specific code sections are for convenience only and shall not be considered in the interpretation or application of this ordinance and shall not in any way affect the conduct or activities covered in other sections of this ordinance. Some rules may be duplicated in multiple sections.
- §103(h)** If any chapter, section, subsection, subparagraph, sentence, or clause of this ordinance is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the

remaining portions of this ordinance; and the Board of Directors declares that this paragraph, sentence, and clause thereof would have been adopted irrespective of such possible finding of invalidity or unconstitutionality and, to that end, the provisions of this ordinance are hereby declared to be severable.

**§103(i)** Where a section herein or rule or regulation adopted pursuant thereto is amended or repealed, acts and commissions occurring prior thereto may be prosecuted as though such section, rule or regulation had not been so amended or repealed.

**§103(j)** The failure to enforce any provision of this Ordinance shall not constitute a waiver of any right to enforce that provision or any other provision of this Ordinance.

### **Chapter 200 – Definitions**

Unless the context otherwise requires, the definitions hereinafter set forth shall govern the construction of this ordinance.

“Aircraft” means any powered, unpowered, or towed device that is used or intended to be used to carry a person or persons in the air.

“Camping” means:

- 1) Erecting a tent or shelter or arranging bedding, or both, for purposes of, or in such a way as will permit, remaining overnight.
- 2) Use of houseboats or boats for the purpose of sleeping during the nighttime hours, whether anchored, moored or beached.
- 3) Use of any parked or standing vehicle for the purpose of sleeping during nighttime hours.

“Drone” means a small unmanned aircraft system weighing less than 55 pounds, subject to Federal Aviation Administration regulation as set forth in 14 Code of Federal Regulations Part 107.

“Juvenile” means any person under the age of 18 years old.

“Nighttime” means any time from one-half hour after sunset to one-half hour before sunrise.

“Person” means and includes natural persons, firms, partnerships, corporations, clubs, and all associations or combinations of persons whenever acting for themselves or by an agent, servant, or employee.

“Rockhounding” means the recreational gathering of stones and minerals found occurring naturally on the undisturbed surface of the land.

## **Chapter 300 – Rules and Regulations**

### **Section 301 – Hours of Operation.**

It shall be unlawful to enter or remain in or on any District facility, park or trail, after said facility, parkland or trail is closed for public use, without a permit. All District facilities, parks and trails hours of operation shall be daytime, beginning at one half (1/2) hour before sunrise to one half (1/2) hour after sunset, except for lighted sports facilities that are permitted for use up until 10 p.m.

### **Section 302 – Use of Facilities; Payment.**

No person shall use or be present in any District facility, park or trail for which a use fee has been established by the District, without paying such fee, with the exception of facilities, parks or trails which require payment of fees upon exit.

### **Section 303 – Aircraft.**

No person, using any aircraft, shall land, taxi on or take off from any portion of any District-controlled property if not specifically approved by the District. No person shall parachute into, fly an unlicensed aircraft, ultralight vehicle, or hang glider over, or parasail or balloon over any District-controlled property at an altitude of less than 500 feet unless authorized by the District.

### **Section 304 – Animals.**

- (a) Protection. No person shall molest, hunt, disturb, harm, feed, touch, tease, or spotlight any kind of animal or fish or so attempt.
- (b) No person shall injure, trap, take, net, poison, or kill, any kind of animal or fish, or so attempt, except that fish and bait may be taken, other than for commercial purposes in accordance with state laws and regulations.
- (d) This section does not apply to activities undertaken by the District in conjunction with its resource management activities.

### **Section 305 – Plants.**

- (a) No person shall willfully or negligently pick, dig up, cut, mutilate, destroy, injure, disturb, move, molest, burn, or carry away any tree or plant or portion thereof, including but not limited to leaf mold, flowers, foliage, berries, fruit, grass, turf, humus, shrubs, cones, and dead wood, except in specific properties where the District has posted authorization to take berries, gather mushrooms or gather pine cones. Any collecting allowed by the authority of this Section 305 may be done for personal use only and not for commercial purposes.
- (b) This Section 305 does not apply to activities undertaken by the District in conjunction with its resource management activities.

### **Section 306 – Geological Features.**

- (a) No person shall destroy, disturb, mutilate, or remove earth, sand, gravel, oil, minerals, rocks, paleontological features, or features of caves.
- (b) Rockhounding may be permitted as defined in Chapter 200.

**Section 307 – Archaeological Features.**

No person shall remove, injure, disfigure, deface, or destroy any object of archaeological, or historical interest or value.

**Section 308 – Special Permits.**

The District may grant a permit to remove, treat, disturb, or destroy plants or animals or geological, historical, archaeological or paleontological materials; and any person who has been properly granted such a permit shall to that extent not be liable for prosecution for violation of the foregoing.

**Section 309 – Litter.**

No person shall leave, deposit, drop, or scatter bottles, broken glass, ashes, wastepaper, cans, or other litter except in a receptacle designated for that purpose, and no person shall import any litter, or import and deposit any litter from other places.

**Section 310 – Fire in Stoves; Smoking.**

- (a) No person shall light, build, use, or maintain a fire within except in a camp stove or a fireplace provided, maintained, or designated by the District for such purpose. Portable camp stoves may be used in areas approved by the District.
- (b) Fires shall at all times be maintained in a safe condition that does not threaten any person, natural or structural feature.
- (c) Upon a finding of extreme fire hazard by the District no person shall smoke or build fires in areas other than those designated by the District for such purposes.
- (d) This section does not apply to fire fighters or District employees carrying out fire suppression or resource management activities approved by the District.

**Section 311 – Control of Animals.**

- (a) Except in designated dog parks, no person shall permit a dog to run loose, or turn loose any animal.
- (b) No person shall keep an animal on any District property except under his/her immediate control.
- (c) No person shall keep a noisy, vicious, or dangerous dog or animal or one which is disturbing to other persons, on any District property and remain therein after he/she has been asked by a peace officer to leave.
- (d) No person shall permit a dog or a cat to remain outside a tent, camper, or enclosed vehicle during the night.

- (e) Except in designated dog parks, no person shall bring a dog into, permit a dog to enter or remain, or possess a dog in property under control of the District unless the dog is on leash of no more than six feet in length.
- (f) No person shall bring a dog into, permit a dog to enter or remain, or possess a dog beyond the limits of campgrounds, picnic areas, parking areas, roads, structures or in posted area except as provided elsewhere in this Section 311.
- (g) Subsections (e) and (f) shall not apply to trained “seeing eye,” “signal,” or “service” dogs used to guide a physically impaired person there present, or dogs that are being trained to become “seeing eye,” “signal,” or “service” dogs.
- (h) Grazing. No person shall graze, herd or permit livestock to enter or remain in District property without specific written authorization of the District, except for grazing by animals used for riding or packing under direct control of visitors or concessionaires.

**Section 312 – Weapons and Traps.**

- (a) No person shall carry, possess or discharge any weapon, firearm, spear, bow and arrow, trap, net, or device capable of injuring, or killing any person or animal, or capturing any animal, or damaging any public or private property, except in underwater parks or designated archery ranges where the District finds that it is in its best interests.
- (b) Nothing herein contained shall be construed in derogation of the use of weapons permitted by law or regulation.
- (c) Firearms not having a cartridge in any portion of the mechanism, other unloaded weapons or devices such as traps, nets, and bows and arrows may be possessed within temporary lodging or mechanical mode of conveyance when such implements are rendered temporarily inoperable or are packed, cased, or stored in a manner that will prevent their ready use.

**Section 313 – Fireworks.**

- (a) No person shall possess, discharge, set off, or cause to be discharged any firecrackers, torpedoes, rockets, fireworks, explosives, or substances harmful to the life or safety of persons.
- (b) The District may grant exceptions to this section for specified locations and periods of time upon finding that such activity will not endanger persons, property, or resources.
- (c) This Section 313 does not apply to explosives lawfully possessed or used under the direction of the District.

**Section 314 – Commercial Filming.**

Except where authorized by the District, no person shall photograph, videotape or film for commercial (profit and sale) purposes in any property, or portion thereof, owned, operated or administered by the District without a permit.

**Section 315 – Curfew.**

- (a) The District may from time to time by order declare curfew for juveniles upon a finding that conditions therein are such as to warrant special measures for the protection of juveniles and



others and for the safety and welfare of the general public.

- (b) Such curfew order shall specify the hours thereof and the period therefor and shall be posted.
- (c) When curfew has been so ordered, no juvenile so prohibited shall during the effective period enter or remain therein, except as follows:
  - 1) One who is accompanied by a parent or guardian.
  - 2) One who is part of a group permitted to occupy a District-controlled property or portion thereof and who is supervised by at least one responsible adult for each fifteen juveniles.
  - 3) One who is lawfully camping, having furnished to the District written consent of and the full name, residence number, and telephone number of the juvenile's parent or guardian, with the inclusive dates for which permission is granted to camp at the property involved.

### **Section 316 – Peeping Toms.**

No person shall loiter, prowl or wander about a park restroom, shower or changing facility and peek into the doors and windows or other openings of such facilities when occupied, without visible or lawful business with the occupants thereof.

### **Section 317 – Games and Recreational Activities.**

No person shall engage in games or recreational activities that endanger the safety of persons, property, resources, or interfere with visitor activities except as permitted by the District. No person shall hold, sponsor, lead, or otherwise have control over a game or recreational activity occurring wholly or partially within or on any property owned, operated or administered by the District without an approved permit.

### **Section 318 – Peace and Quiet.**

To ensure peace and adequate rest for visitors:

- (a) No person shall disturb others in sleeping quarters or in campgrounds between the hours of 10 p.m. and 6 a.m. daily.
- (b) No person shall, at any time, use outside machinery or electronic equipment including electrical speakers, radios, phonographs, televisions, or other devices, at a volume which is, or is likely to be, disturbing to others without specific permission of the District.
- (c) No person shall operate an engine driven electric generator which emits sound which is, or is likely to be, disturbing to others between the hours of 8 p.m. and 10 a.m. without permission of the District.

### **Section 319 – Assembly.**

No person shall conduct or attend an assembly or public demonstration except by permission of the District upon a finding that such activity would not substantially interfere with park use.

### **Section 320 – Nudity.**

No person shall appear nude except in authorized areas set aside for that purpose by the District. The word nude as used herein means unclothed or in such a state of undress as to expose any part or portion of the pubic or anal region or genitalia of any person or any portion of the breast at or below the areola thereof of any female person.

**Section 321 – Sanitation.**

- (a) No person shall deposit waste, water, sewage or effluent from sinks, portable toilets, and other plumbing fixtures directly upon or into the surface of the ground or water.
- (b) No person shall deposit any body waste in or any portion of any comfort station or other structure except into fixtures provided for that purpose.
- (c) No person shall place any bottle, can, cloth, rag, metal, wood, paper, or stone substances in any plumbing fixture in such a manner as would interfere with the normal operation of such fixture.

**Section 322 – Violation of Posted Orders or Permits.**

No person shall:

- (a) violate any provision of a posted order including, but not limited to, prohibited areas, use periods, no alcoholic beverage areas, no smoking areas and no parking areas, or
- (b) violate any provision or restriction of a permit issued by the District.

**Section 323 – Pesticides.**

No person shall disperse or otherwise apply any pesticide whether to the air, water, ground, or vegetation, unless prior written approval has been obtained from the District.

**Section 324 – Soliciting.**

No person shall solicit, sell, hawk, or peddle any goods, wares, merchandise, services, liquids, or edibles for human consumption or distribute circulars in any District-controlled property, except as permitted by the District. Such prohibition shall include sales activities that utilize park property or facilities to complete the terms of sale or provide a service as a result of the sale or that affect park operations, facility use or visitor safety. Also included are sales activities which encroach on the sales rights of a vendor authorized to sell such products, or services pursuant to a concession contract with the District.

**Section 325 – Glass Containers.**

No person shall possess or use a glass container, bottle, jar, tumbler, or vessel of whatever nature, empty or not, where prohibited by order of the District, except that persons may pick up glass containers left or discarded by others and remove or deposit same in an approved trash receptacle. Signs shall be posted at locations where glass containers are prohibited.

**Section 326 – Drones.**

- (a) No person shall operate a drone above District property, unless the drone operator complies with rules established by the Federal Aviation Administration (FAA), including FAA requirements regarding authorized altitudes, registration, and safety training.
- (b) Except for the entities authorized under subsection (c), no person shall:
  - 1) fly or operate a drone within 200 feet above any District property or park;
  - 2) use a drone to capture images or video of any person located on District property, without that person's explicit permission; or
  - 3) use any District property as takeoff or landing areas for a drone.
- (c) District staff, or agents acting on behalf of District staff, and law enforcement personnel acting in their official capacities shall not be subject to the prohibitions set forth in subsection (b) regarding the operation of drones.