

# MAMMOTH LAKES TOWN COUNCIL STAFF REPORT

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**Council Meeting Date:** April 3, 2019

**Date Prepared:** March 26, 2019

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**Title:** Municipal Code Ordinance Amendments

**Agenda:** Discussion Item

**RECOMMENDATION:** Waive the first reading and introduce by title only the ordinance amending Municipal Code Sections 12.20.310 and 12.20.500.

**BACKGROUND:** The Recreation Commission accepted the 2019 Program and Facilities Manual on February 12, 2019. The purpose of the Program and Facilities Manual is to centralize all relevant Town ordinances and Parks and Recreation Department policies, procedures, rules, fees, and program and facility information into one source document. Since inception, the manual has greatly assisted staff in administering the many parks, programs and facilities currently offered by the department with the goal of providing exceptional service to our community and the many visitors of our parks and facilities.

Throughout the year, staff proactively track potential changes or amendments to the document and update the document at the end of each calendar year. In addition to clarifying policy, forms or procedures, staff have identified two recommended ordinance amendments. The first adds unmanned aerial vehicles (UAVs) or drones to the list of items whose use in parks requires a permit, and the second adds scooters to the list of permitted equipment at the Volcom Brothers Skate Park.

## **ANALYSIS/DISCUSSION:**

### **1. Inclusion of Drones in Existing Ordinance**

The proliferation of drones in public spaces and parks is a concern for many parks and recreation agencies across the country. Town staff believe that it is appropriate to recognize the popularity and use of drones in and around the Town of Mammoth Lakes by including them in an existing ordinance that allows model airplanes, boats, cars and model rockets to be used in designated areas with a Town permit. We believe this action provides basic regulation and guidelines to address public safety in Town parks and as public policy becomes more defined, with drone usage over time, the Parks and Recreation Department will continue to reevaluate and present proposed regulations to the Recreation Commission for consideration at a future date.

#### **“Drones in Parks: It’s All About Perspective,”**

The National Recreation and Parks Association (NRPA) cited similar challenges and issues caused by the increase of drones in parks, in a recent article titled “Drones in Parks: It’s All About Perspective”: *“Recreational flying of drones in parks brings up a new set of issues. Complaints that drones pose safety problems, cause noise pollution and are a nuisance to other park visitors*

*have become more common. To alleviate these public concerns, park and recreation professionals need to figure out how to regulate drones and accommodate public recreation flying in a way that is safe and productive.”*

The authors reiterate the importance of regulations in parks, but are also open and supportive of the development of programming specifically for drone usage as a way and means to grow other forms of recreation in and around parks.

*“By creating stronger guidelines and policies about how to fly drones in parks instead of adopting blanket restrictions, parks can give people an outlet and place to fly recreationally. New programming and events can be planned around drones, bringing in visitors and related businesses that benefit the parks. The popularity of drones will continue to climb. The opportunity is here for park and recreation professionals to accept drone flying and keep it focused on safety and respect for all parties. Such acceptance will protect the public and park resources and enable an exciting new form of recreation to take place.”*

### **Federal Aviation Authority (FAA)**

The FAA establishes and enforces all rules and regulations for airspace including drone usage. The Town’s draft permit for drone users states all drones must be registered and operators must abide by FAA regulations. This language has been recommended to us by JPIA and is considered standard practice at this time as the regulations are changing too rapidly for us to include specific language within our permit. For example, drones are supposed to stay under 400 ft., however, the Town cannot state this in our permit as this requirement can be modified by the FAA at any time and our permit cannot be in conflict with FAA regulations.

Regarding drone usage in the following areas:

- Drone usage on BLM land is allowed by certified drone operator – FAA has a certification class and operators are required to have their license on them and provide upon request when operating a drone.
- USFS defers to any and all FAA regulations; operators must abide be aware of and obey temporary flight restrictions
- Wilderness areas - Drones are classified as “mechanized equipment” and their use is prohibited, although it is not clear how this is enforced.

This ordinance amendment will assist the Town in managing drone usage in our parks and facilities. However, for uses in other locations we can only refer them to the FAA information page for the most up to date information and regulations. In addition, some drone software automatically lets people know where they can or cannot fly and even will not allow a user to fly in a restricted area.

Enforcement for drone usage is also through the FAA, although recently in California there has been some confusion regarding which laws take priority (for example privacy laws vs. FAA air space). MLPD Officer Hansen has taken the lead on enforcement within the town, has access to a drone consultant, and has been consulting with the department on our permit and ordinance amendment.

The Parks and Recreation Department will continue to reevaluate the use and regulations of drones in and around public spaces. This amendment is a first step in aligning the use of drones with

industry and FAA best practices and guidelines for use. Staff have a developed a permit process for the safe use of these devices on park property and upon adoption of the proposed ordinance by Town Council will implement this new procedure. Below is the existing and proposed ordinance amendment.

**EXISTING ORDINANCE:**

**12.20.310** - Model airplanes, boats, cars or model rockets. The operation of motor-driven airplanes, boats, cars, or model rockets is prohibited on park property except in designated areas and without first obtaining a town permit.

(Ord. 87-04 § 31, 1987)

**PROPOSED ORDINANCE:**

**12.20.310** - The operation of motor-driven airplanes, ~~boats, cars, or~~ model rockets, or **Unmanned Aerial Vehicles (UAVs), commonly called drones** are prohibited on park property except in designated areas and without first obtaining a town permit.

**2. Use of Scooters in the Volcom Brothers Skate Park**

The intent with this ordinance revision is to address the increasing use of scooters as a wheeled device in the Volcom Brothers Skate Park. In all of these situations, staff's primary goal is to minimize user conflict by creating a safe and welcoming, user-friendly environment for all ages and abilities. In addition, we see this as an opportunity to broaden the use of the facility by making it more inclusive rather than restrictive by employing reasonable guidelines consistent with State Law (AB1146).

Trails End Park is a true multi-generational community park fostering interaction and engagement between users. Park users of all ages share park features, help each other master new tricks, or rest and socialize under the canopy of towering pine trees. Perhaps most importantly, the park inspires everyone to take pride in their park. The following Volcom Brothers Skate Park mission statement succinctly expresses the pride, ownership and inclusive nature of the facility as expressed by the founders.

- Provide an appropriate place for kids to practice their sport skills in a positive manner and build self-esteem.
- Provide a place where people learn to be considerate, helpful and tolerant of all human beings.
- Provide a place where kids and young adults feel supported by their community, treating each other with dignity and respect in a self-governing atmosphere.
- Provide a place where we [skaters] are responsible for our space and our actions.
- Provide a place for young and old to come together to develop relationships and understanding of each other.

In February 2018, representatives from the JLA Project stated at the regular meeting of the Recreation Commission that the adult scooter user creates the majority of user problems in the park. This includes both damage to the coping and inappropriate use of scooters around children in the Little Brothers Skate Park. Further, the JLA Project, who were instrumental in fundraising

and building the park, strongly believes that because the park was designed and built specifically for skateboards, it should be just that: A skate park. The Recreation Commission extensively discussed this item several times in the past year and recommended staff conduct an analysis of park usage relative to scooters and skateboards and provide any maintenance costs incurred by the department relative to the use of scooters in the park.

### Volcom Brothers Skatepark Data Collection

In the summer of 2019, staff conducted a visual count of users at the skate park on seven different occasions and of the 328 active users, 93% were skateboarders, 6% scooters and 1% bikes, which is a concern as the use of a bicycle on the skating surface of the Volcom Brothers Skate Park is strictly prohibited. In regards to maintenance, staff were not able to specifically identify items relative to the use of skateboarders or scooter use.

Volcom Brothers Skate Park User Data Collection								
#	Day	Date	Time	Skateboarders	Scooters	Bikes	Non-Participants/Spectators	Totals
1	Friday	6/1/2018	4pm	52	1	1	13	67
2	Friday	6/8/2018	4pm	40	1	0	12	53
3	Wednesday	6/20/2018	3pm	53	0	0	15	68
4	Friday	6/22/2018	3pm	38	5	0	18	61
5	Tuesday	7/3/2018	10am	6	7	3	14	30
6	Wednesday	7/18/2018	3pm	56	3	0	16	75
7	Wednesday	8/1/2018	2pm	59	3	0	15	77
				<b>304</b>	<b>20</b>	<b>4</b>	<b>103</b>	<b>431</b>
<b>Note: data collected in a 60 minute period</b>				<b>93%</b>	<b>6%</b>	<b>1%</b>		

### Recreation Commission Recommendation

Based on this analysis and the department’s goal of ensuring that all people have access to the benefits of parks and recreation services and amenities (social equity), the Recreation Commission did not recommend the exclusion of scooters from the park, but instead, proposed to broaden the ordinance language to include all **non-motorized wheeled devices**. Further, the Commission believes that the user conflict does not originate from the type of equipment or wheeled device being used, but rather, it is the inappropriate behavior and unfortunate actions of a small number of park users. By consensus, the Commission believes that the proposed ordinance amendment is congruent with both the Volcom Brothers Skate Park mission statement and the Parks and Recreation Department mission statement to “provide multi-purpose, year-round, indoor and outdoor recreation opportunities accessible to all residents and visitors.”

Staff will work with the Mammoth Lakes Police Department on the continued enforcement of bikes in the Volcom Brothers Skate Park, and continue to partner with the JLA project and park users on appropriate behavior. All users of the Volcom Brothers Skate Park are empowered to enforce park rules such as wearing helmets and appropriate safety equipment, along with keeping the riding surface clean of trash and graffiti. Rules are kept to a minimum reflecting park use as a matter of personal responsibility.

### State Law

This proposed action is consistent with AB 1146 that was signed into law by Governor Brown in 2015. This legislation expands the immunity to skate park users operating “other wheeled recreational devices” such as non-motorized bicycles, inline skates, roller skates, scooters, and wheelchairs. This legislation is in response to a reluctance from local public agencies to allow those riding anything other than a skateboard to use public skate parks for fear that the statutory

immunity would not apply. However, individual cities and counties can decide for themselves whether to allow “other wheeled recreational devices” in the park or not. Our current ordinance was revised in 2015 to comply with AB 1146 in relation to the requirements of the user to wear helmets, elbow pads, and knee pads, including appropriate posted signage.

### **Social Equity and Inclusion**

The philosophy of parks and recreation agencies across the country is that all people, no matter where they come from, what they look like, the neighborhood they live in or how they identify - have access to quality programs, facilities, and spaces that make their lives and communities more enjoyable. It is not the intent of the department to add or impose any barriers to inclusion. Our shared and collective focus as a community should be removing barriers that deprive people of the opportunity to enjoy all the benefits that parks and facilities inherently provide. Banning scooters in the Volcom Brothers Skate Park does not promote or encourage social equity or inclusion. Much like the new inclusive playground at Mammoth Creek Park demonstrates, we want to create and foster environments in our parks and facilities where everyone feels welcome, safe and respected.

This is the intent of changing the language in the ordinance to a “non-motorized wheeled device,” permissible for not only wheelchairs and adaptive devices, but skateboards, inline skates, and scooters, or similar devices. The prohibition of bicycles on the skating surface of the Volcom Brothers Skate Park will remain.

Below is the existing and proposed ordinance amendment – changes are in bold font:

#### EXISTING:

- A. With respect to any skateboard facility or inline park owned or operated by the town, any person riding a skateboard, inline skates, or similar device shall wear a helmet, elbow pads and knee pads at all times.
- B. The town shall post signs at all facilities affording reasonable notice that any person riding a skateboard or inline skating in a facility designated for one or the other of these purposes must wear a helmet, elbow pads and knee pads, and that any person failing to do so shall be guilty of an infraction and subject to citation.
- C. Any person who fails or refuses to comply with the provisions of this section and who is injured while using the park or facility shall be deemed negligent per se.
- D. No person shall use the skating surface of the Volcom Brothers Skate Park other than for proper use of a skateboard or inline skates. Use of a bicycle on the skating surface of the Volcom Brothers Skate Park is strictly prohibited and any person failing to comply with this requirement shall be guilty of an infraction and subject to citation.

(Ord. 02-08 § 1 (Exh. A), 2002; Ord. 97-12 § 1, 1997)

(Ord. No. 2010-12, § 1(Att. A), 10-6-2010)

**PROPOSED ORDINANCE:**

- A. With respect to any skateboard facility or inline park owned or operated by the town, any person riding **a non-motorized wheeled device** (skateboard, inline skates, **scooter**, or similar device) shall wear a helmet, elbow pads and knee pads at all times.
- B. The town shall post signs at all facilities affording reasonable notice that any person riding **any non-motorized wheeled device** in a facility designated for one or the other of these purposes must wear a helmet, elbow pads and knee pads, and that any person failing to do so shall be guilty of an infraction and subject to citation.
- C. Any person who fails or refuses to comply with the provisions of this section and who is injured while using the park or facility shall be deemed negligent per se.
- D. No person shall use the skating surface of the Volcom Brothers Skate Park other than for proper use of **non-motorized wheeled devices** (i.e. skateboard, inline skates or scooters). Use of a bicycle on the skating surface of the Volcom Brothers Skate Park is strictly prohibited and any person failing to comply with this requirement shall be guilty of an infraction and subject to citation.

**ATTACHMENT:**

- A. An Ordinance of the Town Council of the Town Of Mammoth Lakes, State Of California, Amending Municipal Code Chapters 12.20.310 and 12.20.500