

ORDINANCE NO. 2023-760

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FORTUNA ADDING CHAPTER 12.26 TO TITLE 11 OF THE FORTUNA MUNICIPAL CODE TO PROVIDE RULES AND REGULATIONS PERTAINING TO THE BIKE AND SKATE PARKS LOCATED AT NEWBURG PARK

WHEREAS, the City Council of the City of Fortuna desires to make available safe and affordable recreational opportunities for youth within the City, including skating and/or bicycle parks;

WHEREAS, the City currently operates a bicycle park at Newburg Park and intends to create additional facilities;

WHEREAS, pursuant to Section 115800 of the California Health and Safety Code, the City Council adopts this ordinance to require that any person using such facilities wear a properly fitted and fastened helmet, kneepads, and elbow pads for their protection.

NOW, THEREFORE, the City Council of the City of Fortuna, State of California, does ordain as follows:

SECTION 1. Code Amendment. Chapter 12.26 is hereby added to Title 11 (Streets, Sidewalks, and Public Places) of the Fortuna Municipal Code as set forth in Attachment “1” hereto and incorporated herein by this reference as if set out in full.

SECTION 2. The City Council finds that the adoption of this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Title 14, Chapter 3, CCR, Section 15061(b)(3), in that it can be seen with certainty that there is no possibility that the adoption of this ordinance will have a significant effect on the environment.

SECTION 3. Severability. If any subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance, and each and every subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 4. Conflicts. All ordinances and parts of ordinances or resolutions, in conflict herewith, are hereby repealed to the extent of such conflicts and no further.

SECTION 5. Effective Date. The effective date of this ordinance is thirty (30) days after its adoption by the City Council.

INTRODUCED AND FIRST READING PERFORMED on the 17th day of July, 2023 by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST:

Tami Trent, Mayor

Siana Emmons, City Clerk

SECOND READING PERFORMED AND ADOPTED on the ____ day of _____, 2023 by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST:

Tami Trent, Mayor

Siana Emmons, City Clerk

Attachment "1"

Sections:

12.26.010	Purpose and Findings
12.26.020	Definitions
12.26.030	Helmet, Elbow Pads and Knee Pads Required
12.26.040	Posting of Signs at Skate Park
12.26.050	Regulations of Use and Rules of Conduct
12.26.060	Penalty

12.26.010 Purpose and Findings.

A. The purpose of this chapter is: (1) to promote the public peace, health, safety, and welfare by establishing rules and regulations for the use and enjoyment of the City operated skateboard parks, which are designed and maintained for the purpose of recreational skateboard and other wheeled recreational device use only; and (2) to comply with California Health and Safety Code Section 115800 by requiring the posting of signs at the skateboard parks affording reasonable notice that any person riding a skateboard or other wheeled recreational device at the skateboard park must wear a helmet, elbow pads, and knee pads, and that any person failing to do so will be subject to citation.

B. The City skateboard parks are unsupervised facilities. Because of the particular design features of the skateboard parks, skateboarding and the use of other wheeled recreational devices at the skateboard parks are considered stunt, trick, or luge skating, and constitute hazardous recreational activities. All persons who use the skateboard parks do so at their own risk.

12.26.020 Definitions.

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

“Other Wheeled Recreational Device” means non-motorized bicycles, scooters, roller skates, or wheelchairs being used for recreational purposes.

“Roller skates” means any footwear, or device which may be attached to the foot or footwear, to which wheels are attached and such wheels may be used to aid the wearer in moving or propulsion, including but not limited to in-line skates commonly known as rollerblades.

“Skate” or “skating” means to ride, operate, or use a skateboard or other wheeled recreational device.

“Skateboard” means a board of any material, which has wheels attached to it and which is propelled or moved by human, gravitational power, or mechanical energy and to which there is not fixed any device or mechanism to turn or control the wheels.

“Skateboard park” means the City of Fortuna bike park located within Newburg Park at 2700 Newburg Road, Fortuna or any other skate area operated by the City of Fortuna on public property that is specifically designed for skating, whether in existence as of the effective date of this chapter or later constructed.

“Skate area” means the surfaces, obstacles, and features of the skateboard park specifically designed for skating, including, but not limited to, platforms, transitions, banks, bowls, hips, half-pipes, ledges, coping, decking, rails, flat bars, stairs, and adjacent concrete surfaces.

12.26.030 Helmet, Elbow Pads and Knee Pads Required.

It is prohibited for any person to skate in a skateboard park unless that person is wearing a properly fitted and fastened helmet, elbow pads and knee pads.

12.26.040 Posting of Signs at Skate Park.

Signs shall be posted in one or more conspicuous and visible area(s) at the skateboard park to afford reasonable notice of the provisions of this chapter, and that pursuant to California Health and Safety Code Section 115800, any person riding a skateboard or other wheeled recreational device at the skateboard park must wear a helmet, elbow pads, and knee pads, and that any person failing to do so shall be subject to citation.

12.26.050 Regulations of Use and Rules of Conduct.

Any person using the skateboard parks shall comply with the following rules and regulations:

(A) The hours of use of the skateboard parks are from dawn to dusk and shall be posted at the skateboard parks. Use of the skateboard parks at any time outside the hours posted is prohibited.

(B) While using the skateboard parks, the participant may only use those areas designated for skating or related skating activities.

(C) While using the skateboard parks, the participant must use properly fitted and fastened personal safety equipment comprised of at least head, knee and elbow protection.

(D) No food or drink is allowed in the designated skate area.

(E) No moveable obstacles or materials (i.e., ramps/jumps) are allowed in the skateboard parks.

(F) Placing of graffiti anywhere in or on the park is prohibited and the park will be closed until the graffiti is removed and/or repaired. In addition to other penalties provided herein, any person putting graffiti on any part of the skate or bike park shall pay for the cost of removal and damages thereof. Parents or guardians are also liable for such costs. (Cal. Health & Safety Code. § 1714(b))

(G) Personal Conduct and Behavior. The following are prohibited in the skateboard park area at all times:

1. Possession or use of drugs or alcohol or being under the influence;
2. Fighting or other violence;
3. Possession or use of firearms, knives, or other weapons of any kind;
4. Smoking or use of tobacco products;

5. No amplified music or other excessive noise; or

6. No excessive profanity.

(H) Everyone shall treat others with respect and courtesy.

(I) The Parks & Recreation Director is authorized to determine whether certain wheeled recreational devices are unsafe or unfit for the skateboard park. A wheeled recreational device shall be “unsafe or unfit for the skateboard park” if it is likely to either (1) cause damage to the skateboard park, including to any surface therein, or (2) cause harm to one or more patrons of the skateboard park. The Director’s determination as to whether a wheeled recreational device is unsafe or unfit for use in the skateboard park shall be final.

12.26.060 Penalty.

(A) A violation of this chapter deemed an infraction for a first offense and punishable by a fine not exceeding \$50 for a first violation. Second and subsequent offenses within one year may be prosecuted as an infraction or misdemeanor. A second infraction within a year may be punishable by a fine not exceeding \$100, and a third or further infraction within a year maybe punishable by a fine not exceeding \$250. Additionally, any person found by a preponderance of the evidence to have violated any provision of this chapter may lose his or her privilege to use the skateboard park for up to one (1) year.

(B) Fines shall be administered pursuant to the administrative citation process set forth in Chapter 1.09 of this Code.