

**TOWN OF
APPLE VALLEY, CALIFORNIA**

AGENDA MATTER

SUBJECT ITEM:

UPDATE ON THE RULES AND REGULATIONS FOR THE MUNICIPAL SKATE PARK

SUMMARY STATEMENT

At the March 10, 2009 Town Council Meeting, Councilman Nassif requested an update on the current laws regarding the Town's Municipal Skate Park.

In 1997, prior to the Town's ownership of Three Diamond Skate Park, Senate Bill 1296 was passed amending Section 115800 of the Health and Safety Code classifying skateboarding at public skate parks as a hazardous recreational activity. It provided limited immunities from liability to government entities, provided specified conditions were met, including: The person skateboarding was 14 years of age or older, the skateboarding activity that caused the injury was a stunt, trick, or luge, and the skateboard park is on public property. In the case of supervised parks, immunity from liability is provided if the public entity ensures that any person riding a skateboard at a public skate park is wearing a helmet, elbow pads, and knee pads.

For unsupervised parks, such as Three Diamond, the public entity must adopt an ordinance requiring any person riding a skateboard to wear helmet, elbow pads, and knee pads, and must post these requirements on signs at the skate park. The public entity has the duty to protect against known dangerous conditions of a skate park and shall maintain a record of all known or reported injuries in a public skate park. A local public entity includes, but is not limited to a city, county, or city and county.

(Continued)

RECOMMENDED ACTION:

Direct staff to continue enforcing the Rules and Regulations of the Municipal Skate Park in compliance with State Law.

Proposed by: Municipal Services

Item Number: _____

T. M. Approval: _____

Budgeted Item Yes No N/A

In 2006, Senate Bill 1179 went into effect, which lowered the age limit from 14 to 12 and extended the law until 2012. The attempt in SB 1179 to add skateboarding to the list of hazardous recreational activities and to remove the conditions in existing law that must be met for local governments to enjoy limited protection from law suits (i.e.: age limits) failed.

In addition to and in concert with State law, the current Town of Apple Valley Municipal Code Regulations regarding Three Diamond Skate Park use states that all users of the skate park facility are required to wear helmets, elbow pads and knee pads at all times while inside the fenced skate park in compliance with the requirements of California Health and Safety Code section 115800 or with any future amendments thereto (AVMC 11.68.060 Adopted 6/24/2008).

The amendment of chapter 11.68 in June 2008 repealed Chapter 11.70 of the Apple Valley Municipal Code, which was in conflict with existing State Law. Chapter 11.70 had been amended in 2007 per Council Direction to require helmets and recommend elbow pads, wrist guards, and knee pads. This revision created a direct conflict with State Law, since this new Municipal Code section was less restrictive than the State Law in existence at the time. The amendment in June of 2008 brought the Town into compliance with existing State Law. It also brought the Town into compliance with the recommendations from the California Joint Powers Authority regarding the operation of skate parks.

Attached is a copy of a memorandum sent to Interim Town Manager Jim Cox on December 3, 2007, from James Thyden, Insurance Programs Manager with the California Joint Powers Insurance Agency and the Recommended Guidelines for the Design, Construction, and Operation of Skate Parks. These documents were provided to the Council at the December 11, 2007, Town Council Meeting. The provisions for Skate Park Operation apply to both supervised and unsupervised parks.

Guidelines require that the "City adopt an ordinance requiring any participant using the skate park to wear a helmet, elbow pads, and kneepads." The Town is also required to post signs and aggressively enforce the adopted ordinance. The intent of the provisions is to reduce the frequency and severity of claims associated with the operation of skate parks.

Historically, enforcement at the Skate Park has been based on reactive complaints, or when Town personnel have observed and/or reported users in violation of the Skate Park Regulations. Anytime the Town receives constructive notice that violations are occurring within the skate park (i.e. complaints from citizens, photographs of bikes in the skate park, and reports of small children unattended at the skate park) staff is required to provide due diligence in enforcement of the existing laws to correct the violations. State law requires that the Town protect against known dangerous conditions of the skate park.

California JPIA

MEMORANDUM

To: Jim Cox, Town Manager, Apple Valley
From: James Thyden, Insurance Programs Manager
Date: December 3, 2007
Subject: Mixed Use Skate Parks

Thank you for contacting the California JPIA regarding mixed use of skate parks and whether to retrofit your skate park to allow BMX bikes to use it.

As we discussed, BMX bikes should never be permitted at a skate park that has not been designed for their use. Signs should be posted specifically prohibiting them.

The California JPIA recommends against mixed use in an unsupervised skate park. BMX bikes and both skateboarders and skaters cannot safely use a skate park at the same time. Further, enforcing use schedules at an unsupervised park is impractical, if not impossible. Additionally, failing to enforce use schedules at an unsupervised park would expose the City to significantly higher liability. For further information on whether a skate park should be supervised or unsupervised, please see the attached Recommended Guidelines For The Design, Construction and Operation of Skate Parks, or contact me.

While the California JPIA recommends against mixed use at an unsupervised skate park, and against supervising skate parks, should you choose to retrofit your skate park, you will lose your ability to pursue the original designer for any design issues that may arise, unless you use the same designer for the retrofit. For that reason, it is strongly recommended that the same designer be used for any retrofit.

Please feel free to call me if you have any questions.

CALIFORNIA JPIA

Policy Library

Policy Name:
Recommended Guidelines For The
Design, Construction and Operation of Skate Parks

Important:

This reference material is compiled for use by Authority members in the preparation, development and implementation of risk management policies, programs, and procedures. Since this document is designed to meet the needs of the general pool membership, please be aware that the present form is best considered a template for use by your agency in drafting specific documents. This template should not be construed as legal advice. Accordingly, any resulting policy, program or procedure that results from this template should always be reviewed and approved as is customary by your agency, including the purview of any necessary legal and/or governing body authorities to ensure the policy being developed meets the unique needs of your jurisdiction. Policies should be implemented after proper training has been provided.

This reference material is to be considered proprietary and confidential and may not be disclosed to any person without the express, prior permission of the California JPIA. This reference material is for Authority member use only and does not apply in any criminal or civil proceeding. This reference material should not be construed as a creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims.

RECOMMENDED GUIDELINES FOR THE DESIGN, CONSTRUCTION, AND OPERATION OF SKATE PARKS

Members of the CALIFORNIA JOINT POWERS INSURANCE AUTHORITY are encouraged to consider the following guidelines to create a safe and enjoyable skate park for the members of their community and to reduce the frequency and severity of claims associated with the design, construction, and operation of skate parks.

I. SKATE PARK DESIGN

1. Skate parks should be designed with input from participants, parents, business owners, homeowners, neighbors, and public safety personnel to ensure all issues are discussed prior to design and construction.
2. In order to maintain design immunities provided under state law, skate parks should be designed by licensed architects or landscape architects that are qualified and experienced in the design and construction of skate parks. The city council should review and approve of the skate park's design in accord with Government Code § 830.6.
3. Skate park design should include the following features: public telephone (within 50 yards), drinking fountains (within 50 yards) rest rooms (within 100 yards). A sufficient number of secured trash receptacles, preferably square, secured to the pavement, should be provided to prevent the accumulation of litter in and around the facility. Ample parking should be provided for skaters and spectators. Consideration should also be given to providing space for bleachers and concession activities.
4. Lighting that meets sports lighting standards should be installed if the skate park is to be operated after dusk.
5. Fencing should be installed around the designated skate park area to protect participants from dogs and children running into area and to protect spectators or passersby from being struck by skateboarders, in-line skaters, or errant skateboards. The fencing should be a minimum of eight feet above grade.
6. Design elements within the skate park should be spaced so participants maneuvering on one element are able to complete the maneuver and recover without interfering with other participants and without entering another element.
7. Participants of differing skill levels should have access to design elements of their skill levels without crossing areas requiring greater skill levels.
8. The skate park should be visible from the street. This will enable observation of the skate park by public safety personnel and other staff.

II. SKATE PARK CONSTRUCTION

1. Licensed contractors that are qualified and experienced in the construction of skate parks should construct the park.
2. The city, architect, and contractor should work together to ensure the skate park is constructed as designed.

III. SKATE PARK OPERATION

Both Supervised and Unsupervised skate parks:

1. The skate park should be used by skateboarders and in-line skaters only. All other activities should be prohibited.
2. Even if the skate park has been designed for mixed use (skateboards, in-line skates, and bicycles), mixed use should not be allowed in an unsupervised skate park.
3. Supervised skate parks can allow bicycles in the skate park at times separate from skateboard and in-line skaters if the skate park has been designed for mixed use. However, the architect must provide written design approval if bicycles are to be allowed.
4. The City should adopt an ordinance requiring any participant using the skate park to wear a helmet, elbow pads, and kneepads. In addition, the ordinance should prohibit participants from performing stunts, tricks, or luge skateboarding on all other public property.
5. The city should post signs at the skate park giving reasonable notice that any person using the skate park 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 adopted in accord with section III (4).
6. Public safety personnel should aggressively enforce the ordinance adopted in accord with section III (4) by regularly driving by, observing, and citing any person in violation of the ordinance.
7. Weekly maintenance inspections should be conducted and documented using checklists provided by the CALIFORNIA JPIA. Any defects reported by the public should be documented. All repairs should be completed in a timely fashion. The affected portion of the park should be closed until repairs can be completed. All

repairs should be documented. Records should be maintained in one location for at least five years.

8. All stickers, leaves, glass, cans, and trash should be removed on a daily basis.

9. Spectators should not be allowed in the designated skate park area.

10. Signs should be prominently posted with the following rules:

- **Skateboarding and in-line skating are hazardous activities.**
- **Skate at your own risk. Skateboards and in-line skates only.**
- Skate park hours are _____ to _____.
- No skateboarding or in-line skating on wet surfaces.
- Helmets, knee pads, and elbow pads required in the designated skate park area.
- Failure to wear helmets, kneepads, and elbow pads in the designated skate park area will subject persons to citation (Municipal Code _____).
- Skating on park curbs, parking lot, and entrance sidewalk is prohibited.
- No graffiti or tagging.
- No glass bottles.
- Dispose of trash in trash receptacles.
- No smoking, alcohol, or drug use.
- No intimidation, hazing, or fighting.
- No spectators are permitted in the designated skate park area.
- No unauthorized pieces of equipment, obstacles, or apparatus may be brought into the designated skate park area.
- No food or drink in the designated skate park area.
- No special events or contests are allowed in the designated skate park area unless authorized by the City.
- **The City reserves the right to eject anyone from the skate park at any time for any reason.**

11. The recommended sign content in section III (10) should be changed if the supervised skate park is going to allow bicycles in the designated skate park area at separate times from the skateboarding and in-line skating schedules. The changes should be as follows:

Bullet one should include bicycles as a hazardous activity along with skateboarding and in-line skating.

Bullet two should have the word bicycles added if the supervised skate park is going to allow bicycles access at separate times from skateboards and in-line skating.

12. The city should not charge admission to the skate park.

13. The city should not rent the skate park for parties or offer lessons for skateboarding or in-line skating.
14. If the skate park is to be supervised a portion of the day and unsupervised the rest, the city should include the information on the skate park signs section III (10) and keep a log of the supervised operating hours and the attendant's name.
15. The skate park attendant should be at least 18 years of age.
16. There should be no more than 35 skate park participants for each skate park attendant.
17. The skate park attendant should be trained on how to perform the functions of a skate park attendant.
18. The City should provide CPR – First Aid and Bloodborne Pathogen awareness training.
19. The skate park attendant should require registration and waiver forms be signed by each participant (if 18 or over) or by the parent or guardian (if under 18) in the presence of the attendant.
20. After the registration and waiver forms have been processed and signed, the skate park attendant should issue an ID card (photo if possible) to the participant to be used when entering the skate park. If a photo ID is not available, then an alternate ID provided by the participant will be necessary.
21. The skate park attendant should enforce the ordinance adopted in accord with section III (10) by observing, and communicating to any person in violation of the ordinance.
22. The City should provide back up for the skate park attendant (Police or Park Ranger) in the event of a confrontation.
23. The skate park attendant should provide assistance to injured skate park participants. Assistance may include calling for medical assistance, notifying the recreation supervisor, calling the emergency number provided by the registration information, providing first aid or CPR, and starting an initial Accident Information Form provided by the CALIFORNIA JPIA.
24. Loaning personal protection equipment is not recommended. If your agency allows equipment to be loaned, inspections must be performed (helmet, elbow pads, and knee pads) before each use. Documentation of inspections must be maintained for at least three years.
25. The city should maintain a record of all known or reported injuries sustained by

skateboarders and in-line skaters in the skate park and report them to the state administrative office of the courts each year:

Research and Planning Unit, 5th Floor
Administrative Office of the Courts
455 Golden Gate Avenue
San Francisco, CA 94102