

STAFF REPORT
COUNCIL MEETING DATE:
February 28, 2011

ITEM FOR COUNCIL CONSIDERATION:

First Reading of Ordinance Nos. 648 and 649, amending the Carpinteria Municipal Code to regulate the use of model hobby craft in the City's park system and prohibit dogs and the riding of wheeled devices such as bicycles in the Carpinteria Salt Marsh Nature Park.

Report prepared by:
Matthew Roberts, Parks and Recreation Director



Signature

Reviewed by:
Dave Durlinger, City Manager



Signature

STAFF RECOMMENDATION:

Action Item: **Non-action item:**

Conduct the first reading of Ordinance Nos. 648 and 649 amending the Carpinteria Municipal Code, and schedule the second reading for the regular City Council Meeting of March 14, 2011

Sample Motion: I move to approve as read by title only, Ordinance No. 648 and Ordinance No. 649, and to schedule the second reading for the regular City Council Meeting of March 14, 2011.

I. **Background:**

As the popularity of the City's park system has grown some issues regarding the use, health and safety of our park visitors and the well being of the park system environmental

resources have come to City Staff's attention. The Carpinteria Municipal Code (CMC) contains many park rules that help protect public safety and environmental resources. Amendments to park rules are necessary from time to time as new or unanticipated issues emerge that are not addressed in the existing CMC provisions. More specifically, conflicts between park users related to the popularity of radio controlled model aircraft at Viola Fields and the public concerns over disturbances and public safety caused by dog walking and bicycle riding within the boundaries of the Salt Marsh Nature Park led to the City Council requesting the opportunity to consider amending local regulations to address these issues.

At the City Council meeting held on November 8, 2010 after hearing a staff report and receiving public testimony, the City Council gave City Staff direction to prepare draft ordinances to amend the Carpinteria Municipal Code to regulate three activities in the City's Park system. The three activities are as follows;

1. To regulate use of model aircraft, cars, boats and the like in the City park system
2. To prohibit dogs within the boundaries of the Carpinteria Salt Marsh Nature Park
3. To prohibit bicycle riding in the boundaries of the Carpinteria Salt Marsh Nature Park.

Dogs and Bicycle Riding in the Carpinteria Marsh Nature Park

Since the Carpinteria Salt Marsh Park was opened over 14years ago, the park has had two rules posted that are not explicitly supported by the City's Municipal Code. The request that no bicycles and no dogs be allowed into the park were proposed by the park biologist at the time of its opening to best protect the habitat values there. Many abide by these guidelines, but enough park visitors are choosing to ignore them that volunteer park docents have asked that local regulations be established to back the posted prohibitions.

Bicycle riding in the Carpinteria Salt Marsh Nature Park is potentially unsafe. The park's trails were not designed as bike paths. They are narrow, sinuous and have poor line of sight clearances due to the height and density of native vegetation. Therefore, bicycle riders can suddenly and unexpectedly come upon other trail users and cause the potential for a collision. Furthermore, the rapid movement of bicycles can disrupt the natural behavior of wildlife; one of the most important qualities of the park.

Dogs within the boundaries of the Salt Marsh Nature Park disrupt the natural behavior of wildlife as well. The Salt Marsh is an Environmentally Sensitive Habitat Area (ESHA). The Salt Marsh Nature Park was restored with public access in mind to allow a close encounter with the estuary environment. Waterfowl such as egrets, herons, ducks as well as upland birds and mammals are some of the principle beneficiaries of the habitat restoration. The presence of dogs has been shown to be disruptive and often causes birds to scatter. Dog odor can linger for hours or days and cause small animals to stay hidden. This not only alters the natural behavior of the animals, but also frustrates the enjoyment of park visitors that have come to observe them.

The attached draft Ordinance No. 648 (attached), would amend sections of Chapter 12.24 and Chapter 6.04 of the CMC by prohibiting bicycle riding and dogs in the Carpinteria Salt Marsh Nature Park.

Model Hobby Craft including Aircraft, Cars, Boats and Rockets.

Several years ago, the popularity of model aircraft flying at Viola Fields grew to a point where some user conflicts began to emerge. A group of pilots are routinely using the fields to practice model aircraft use. Most pilots are using "Park Flyer" qualified models. Park

Flyer model airplanes are electrically driven and can easily be flown in any mid-sized park that has relatively few trees or obstructions. Airplanes in this class are fairly slow, and weigh 2 pounds or less. However, larger, faster, noisier and potentially more dangerous model aircraft have also been observed using the area. City Staff is concerned that while the operation of "park flyer" qualified models may be appropriate under optimal conditions, the City has no rule or regulation that prohibits the operation of model-craft of any size, type or attribute. On several occasions, large gas powered models with considerable weight, noise and power have been witnessed at Viola Fields. City Staff believes these types of models are inappropriate and should be prohibited.

Concerns by some park users have also been brought to the City's attention that the flight of model aircraft at Viola Fields may interfere or displace the native birds, specifically, the White Tailed Kite (*Elanus leucurus*). City staff has contacted Paul Collins, Curator of Vertebrate Zoology at the Santa Barbara Museum of Natural History. He is knowledgeable about the White Tailed Kite. When asked for information and possibly a recommendation regarding the possible conflict of use between RC aircraft and raptor foraging, he commented that the two uses are not mutually exclusive but potential for some interference exists. This potential could be reduced with good management practices that include some of the following guidelines:

1. Do not allow model aircraft to fly over naturalized areas.
2. Prohibit model aircraft from approaching, harassing or otherwise interfering with raptors when present.
3. Monitor the activity in hopes of making observations when both aircraft and raptors are present so that more information could be known.

Mr. Collins went on to say, "As far as I know there isn't any confirmed data that says planes interrupt the bird."

The Carpinteria Bluffs Advisory Board met on August 19, 2010 and considered the matter of the use of model aircraft at Viola Fields and by a four to one affirmative vote recommended the City prepare an ordinance that would regulate their use but not prohibit them.

The draft Ordinance No. 649 (attached) would amend the CMC chapter 12.24 to prohibit model craft use in City Parks except in areas designated by the City Manager and posted. This allows some flexibility for the continued use of model craft in the City's parks but with regulatory control to protect public safety and the environment. Also it would allow the City to implement some of Mr. Collins' recommendations through operating conditions.

II. Policy:

In the Open Space and Conservation element of the City of Carpinteria's General Plan, policy OSC-1b states that the City should prohibit activities, including development, that could damage or destroy ESHA. It is City Staff's opinion that this policy supports limiting the use of powered models to the airspace directly above active recreational or sports turf areas only.

The City's General Plan and Local Coastal Plan policy OSC-14 directs the City to pursue the provision of adequate parks and open space for all community members. Implementation of rules and regulations intended to improve safety in City parks is a basic tenant of park and public space management that is necessary to allow universal appreciation and shared use of the park system.

III. Financial Considerations:

Some expense to manufacture signs for the park sites will be necessary; however, no budget adjustments are needed to carry out the recommended action.

IV. Legal Issues

Staff recommends that the City Council find that these Ordinances are not subject to the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines §15060(c)(3) (this activity is not a "project" as defined in §15378), and or §15307(actions taken by regulatory agencies for protection of natural resources) and 15308(actions taken by regulatory agencies for protection for the environment).

15307. Actions by Regulatory Agencies for Protection of Natural Resources

Class 7 consists of actions taken by regulatory agencies as authorized by state law or local ordinance to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment. Examples include but are not limited to wildlife preservation activities of the State Department of Fish and Game. Construction activities are not included in this exemption.

The act of establishing these new ordinances is Categorically exempt from CEQA under §15308. Actions by Regulatory Agencies for Protection of the Environment Class 8 consists of actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. Construction activities and relaxation of standards allowing environmental degradation are not included in this exemption.

The act is not a project under CEQA and/ or does not have a foreseeable physical change in the environment.

§15060(c)

An activity is not subject to CEQA if:

- (1) The activity will not result in a direct or reasonably foreseeable indirect physical change in the environment; or
- (2) The activity is not a project as defined in Section 15378.

V. Principal parties expected at meeting:

Volunteer Salt Marsh Park Docents
Model aircraft operators.

VI. Attachments

Ordinance No. 648

Ordinance No. 649

ORDINANCE NO. 648
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
CARPINTERIA AMENDING THE CARPINTERIA
MUNICIPAL CODE TO PROHIBIT THE RIDING OF BICYCLES OR
OTHER WHEELED DEVICES AND TO PROHIBIT DOGS WITHIN
THE BOUNDARIES OF THE
CARPINTERIA SALT MARSH NATURE PARK

WHEREAS, Carpinteria Municipal Code Chapter 12.24 and Section 6.04.240 regulate certain activities within public parks and beaches in the City in order to maintain the public health, safety and welfare; and

WHEREAS, the Salt Marsh Park contains unique coastal resources including sensitive plant and wildlife species and habitat which are easily disturbed; and

WHEREAS, under Chapter 12.24 the use or operation of motor-powered vehicles is prohibited within City parks and beaches, but the code does not expressly prohibit the use or operation of man-powered vehicles, such as bicycles; and

WHEREAS, City parks and recreation staff has found that bicycles and other pedestrian vehicles are disturbing the Salt Marsh Park habitat because they move at a faster speed and degrade the park's surfaces more rapidly than ordinary pedestrians movement; and

WHEREAS, the City parks and recreation staff has found that the trails in the Salt Marsh Park are narrow in width, have blind corners and little or no shoulder space and therefore do not allow bicycle riding to occur safely; and

WHEREAS, it is unlawful for a dog to run at large within the City and under Chapter 6.04.240 it is unlawful for a dog to be on the public beach between Linden Avenue and Ash Avenue whether leashed or unleashed, but the code currently allows dogs to be within the Salt Marsh Park if they are restrained by an appropriate leash; and

WHEREAS, City parks and recreation staff have found that dogs, both leashed and unleashed, are disturbing the Salt Marsh Park habitat because of their tendency to trample upon, dig up, urinate and defecate on the park grounds and to bark at and chase after wildlife; and

WHEREAS, city staff and the City Council have received requests from members of the public for establishment of regulations to prohibit the riding of bicycles and similar wheeled devices and dogs within the Carpinteria Salt Marsh Park due to its unique coastal resources;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARPINTERIA DOES ORDAIN AS FOLLOWS:

SECTION 1. CODE AMENDMENT. §12.24.21 of the Carpinteria Municipal Code is hereby amended by adding §12.24.21 B. that reads as follows:

§12.24.21 B. Within the boundaries of the Carpinteria Salt Marsh Nature Park, it is unlawful for any person or persons to ride a bicycle, skateboard, rollerblades or other similar device. Bicycles, skateboard, rollerblades or other similar devices may be walked or carried in the park in an orderly manner. This prohibition does not apply to safe use of wheelchairs or other devices used for the mobility of the disabled.

SECTION 2. CODE AMENDMENT. §6.04.240 of the Carpinteria Municipal Code is hereby amended in its entirety to read as follows:

6.04.240 Dogs Prohibited

A. It is unlawful for any person to permit any dog owned, harbored or controlled by him to be on the public beach between Linden Avenue and Ash Avenue or within the boundaries of the Carpinteria Salt Marsh Nature Park whether leashed or unleashed.

SECTION 3: EFFECTIVE DATE

This Ordinance shall take effect and be in force and effect thirty (30) days from and after its passage; and before the expiration of fifteen (15) days of its passage shall be published once with the names of the members of the City Council voting for and against the same in the Coastal View, a newspaper of general circulation, published in the City of Carpinteria, County of Santa Barbara adoption pursuant to California Government Code section 36937.

SECTION 4: SEVERABILITY

If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decisions shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed and adopted this Ordinance, and each and all provisions hereof, irrespective of the fact that one or more provisions may be declared invalid.

SECTION 5: CEQA Exemption

The City Council finds that this Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines §15060(c)(3) (this activity is not a "project" as defined in §15378), and or §15307(actions taken by regulatory agencies for protection of natural resources) and 15308(actions taken by regulatory agencies for protection for the environment).

SECTION 6. CERTIFICATION. The City Clerk shall certify to the passage and adoption of this Ordinance.

PASSED, APPROVED AND ADOPTED this 28th day of February, 2011, by the following called vote:

AYES: COUNCILMEMBER:

NOES: COUNCILMEMBER:

ABSENT: COUNCILMEMBER:

MAYOR, CITY OF CARPINTERIA

ATTEST:

City Clerk, City of Carpinteria

I hereby certify that the foregoing Ordinance was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of Carpinteria held the 28th day of February, 2011

City Clerk, City of Carpinteria

APPROVED AS TO FORM:

Peter Brown, City of Carpinteria

ORDINANCE NO. 649
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
CARPINTERIA AMENDING THE CARPINTERIA
MUNICIPAL CODE TO
PROHIBIT USE OF POWERED MODELS IN CARPINTERIA CITY
PARKS AND BEACHES

WHEREAS, the City's parks and beaches provide open, natural places, which are available to the public for quiet enjoyment; and

WHEREAS, many of the City's parks and beaches contain environmentally sensitive habitat and unique coastal resources which can easily be disturbed, such as; the Carpinteria Bluffs that contain white tail kite habitat; the Salt Marsh Park, which contains wetland species; and Carpinteria City Beach that contains harbor seal territory; and

WHEREAS, pursuant to the City's police powers, the City may regulate activities which disturb the quiet enjoyment of these parks or endanger the environment; and

WHEREAS, the City currently prohibits the use and operation of motor-powered vehicles, the parking of automobiles and also restricts the use of power amplified sound equipment and other equipment without a permit within the parks and beaches but does not expressly regulate the use of powered models, such as toy aircraft and watercraft; and

WHEREAS, the City has received reports from citizens that activities involving powered models have disturbed sensitive species such as the white tailed kite and the harbor seals and have disrupted the quiet enjoyment of other park and beachgoers; and

WHEREAS, the City staff and City Council have received requests from the public to regulate the use of powered toy models within the City's parks and beaches due to the noise they emit and the capacity of such toys to disturb wildlife and habitat within the parks; and

WHEREAS, the City Council desires to supplement its existing policies by regulating the use of powered models in order to protect the environment of the parks and beaches and to enhance the public's quiet enjoyment thereof.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARPINTERIA DOES ORDAIN AS FOLLOWS:

SECTION 1. CODE AMENDMENT. CMC §12.24.020 is hereby amended by the addition of 12.24.020 (27) Public Parks and Beaches – Prohibited Acts and Exceptions as follows:

§12.24.020 (27). To use or operate any model airplane, boat, rocket, car or other similar device that is motorized or powered except in an area, at such times, and in a manner as designated by the City Manager. The City Manager shall designate with on site signage and

post such an area only when the powered models are limited to “park flyer qualified” or an equivalent designation and he has found that the time, place and manner of operation will not conflict with other park use or wildlife habitat. The City Manager shall have the power to promulgate rules and regulations not in conflict with the provision of this section for the purpose of enforcing and implementing this section. A copy of such rules and regulations shall be on file in the city clerk’s office.

SECTION 2. EFFECTIVE DATE

This Ordinance shall take effect and be in force and effect thirty (30) days from and after its passage; and before the expiration of fifteen (15) days of its passage shall be published once with the names of the members of the City Council voting for and against the same in the Coastal View, a newspaper of general circulation, published in the City of Carpinteria, County of Santa Barbara adoption pursuant to California Government Code section 36937.

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PASSED, APPROVED AND ADOPTED this 28th day of February, 2011, by the following called vote:

AYES: COUNCILMEMBER:

NOES: COUNCILMEMBER:

ABSENT: COUNCILMEMBER:

MAYOR, CITY OF CARPINTERIA

ATTEST:

City Clerk, City of Carpinteria

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City Clerk, City of Carpinteria

APPROVED AS TO FORM:

Peter Brown, City of Carpinteria