



TOWN OF FAIRFAX

STAFF REPORT

February 17, 2021

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager

SUBJECT: Introduce and read by title only an Ordinance Adding Sections 10.28.020, “Designated Skate Park Areas”, and 10.28.030, “Safety Equipment Required”, to Chapter 10.28 of the Fairfax Municipal Code, entitled “Skateboards”, Setting Forth Procedures for Authorizing Designated Public Areas as Skating Facilities and Requiring Use of Safety Equipment. Categorically exempt from CEQA under CEQA guidelines § 15303 (Class 3).

RECOMMENDATION

Introduce and read by title only an Ordinance Adding Sections 10.28.020, “Designated Skate Park Areas”, and 10.28.030, “Safety Equipment Required”, to Chapter 10.28 of the Fairfax Municipal Code, entitled “Skateboards”, Setting Forth Procedures for Authorizing Designated Public Areas as Skating Facilities and Requiring Use of Safety Equipment. Categorically exempt from CEQA under CEQA guidelines § 15303 (Class 3).

DISCUSSION

Earlier this evening, the Town Council will consider the location and creation of a temporary skate/scooter park (“Park”). Should the Council decide to proceed, amendments to the Town Code will be required to allow for such a use. The introduction of the attached ordinance provides the Council with the flexibility to ensure a timely opening of the temporary Park in the western portion of the Pavilion parking lot. (See map.)

The proposed ordinance clarifies that the Park is allowed in a public parking lot subject to the Council adoption of a resolution. In addition, the ordinance allows the Council to adopt the rules and regulations of the Park by resolution and includes a provision that requires helmets and pads to be worn by Park users. This provision is required to be adopted by ordinance under California Health and Safety code.

Should the Council introduce this ordinance tonight, the second reading and adoption of the ordinance will be placed on the March 3rd Council agenda for consideration. The ordinance would take effect 30 days from the adoption. The resolutions designating the area for the temporary Park and establishing the Park rules and regulations will also be on the March 3rd agenda for consideration. It is anticipated that these sample rules and regulations will be discussed as part of Item #5 on this evening’s agenda.

CEQA

This Ordinance is exempt from review under the California Environmental Quality Act (“CEQA”) (California Public Resources Code section 21000 et seq.). Pursuant to State CEQA Guidelines section 15303 (14 Cal. Code Regs., § 15303), this Ordinance is covered by the Class 3 CEQA Categorical Exemption for construction of new, small facilities or structures;

installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.

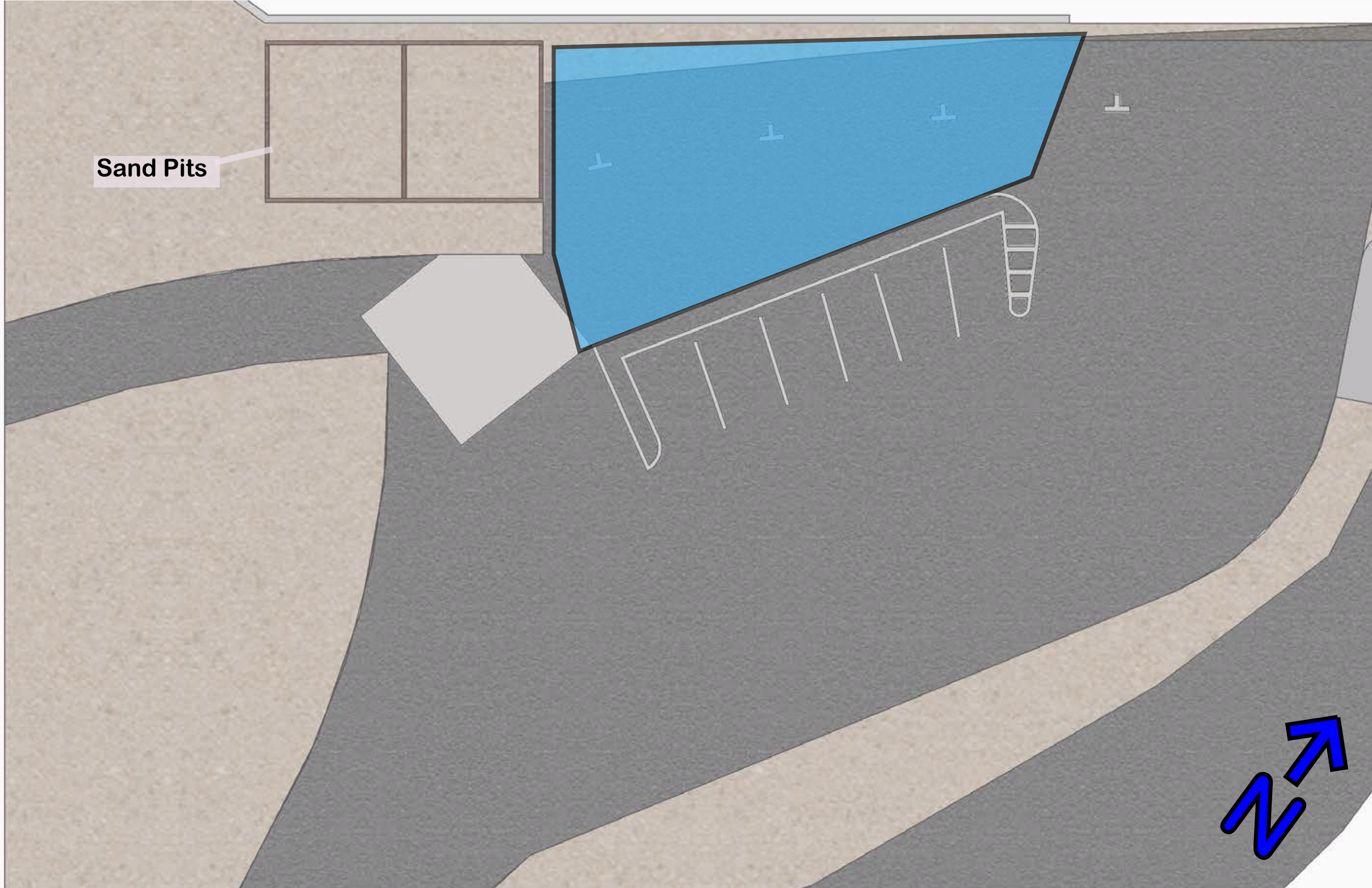
FISCAL IMPACT

n/a

ATTACHMENTS

- A. Proposed location map
- B. Proposed ordinance

Proposed space designation



ORDINANCE NO. ____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX ADDING SECTIONS 10.28.020, “DESIGNATED SKATE PARK AREAS”, AND 10.28.030, “SAFETY EQUIPMENT REQUIRED”, TO CHAPTER 10.28 OF THE FAIRFAX MUNICIPAL CODE, ENTITLED “SKATEBOARDS”, SETTING FORTH PROCEDURES FOR AUTHORIZING DESIGNATED PUBLIC AREAS AS SKATING FACILITIES AND REQUIRING USE OF SAFETY EQUIPMENT

WHEREAS, the Town Council desires, from time to time, to adopt resolutions designating all or a portion of a public parking lot for the use of skateboards or other wheeled recreational devices, and wishes to comply with all applicable laws and regulations; and

WHEREAS, California Health & Safety Code section 115800 provides that an operator of a skateboard park shall not permit a person to ride a skateboard or other wheeled recreational device in the park unless that person is wearing a helmet, elbow pads, and knee pads; and

WHEREAS, if the operator of a facility designed and maintained for the purpose of riding a recreational skateboard or other wheeled recreational device is a local public agency, and the public agency will not supervise the facility on a regular basis, the requirement to ensure riders wear safety equipment may be satisfied by the public agency adopting an ordinance requiring (1) use of such safety equipment and (2) the posting of signs at the facility to afford reasonable notice that (a) safety equipment must be worn by any person riding a skateboard or other wheeled recreational device and (b) failure to do so will subject that person to citation by the public agency; and

WHEREAS, riding a skateboard or other wheeled recreational device at a facility or park owned or operated by a public entity as a public skateboard park is deemed a hazardous recreational activity within the meaning of section 831.7 of the Government Code if all of the following conditions exist: (1) the person riding the skateboard or other recreational device is 12 years of age or older; (2) the riding of the skateboard or other wheeled recreational device that caused the injury was stunt, trick, or luge riding; and (3) the skateboard park is on public property that meets the safety equipment and sign-posting requirements as set forth in the preceding paragraphs; and

WHEREAS, for purposes of this Ordinance “other wheeled recreational device” may include, but is not limited to, nonmotorized bicycles, scooters, inline skates, roller skates, or wheelchairs being used for recreational purposes; and

WHEREAS, proper notice of this public hearing was given in all respects as required by law; and

WHEREAS, the Fairfax Town Council has reviewed all written evidence and oral testimony presented to date on this matter.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF FAIRFAX DOES ORDAIN AS FOLLOWS:

Section 1. The above recitals are true and correct and are hereby incorporated into this Ordinance.

Section 2. Sections 10.28.020, entitled “Designated Skate Park Areas”, and 10.28.030, entitled “Safety Equipment Required”, are hereby added to Chapter 10.28 of the Fairfax Municipal Code, which shall read as follows:

“§ 10.28.020: DESIGNATED SKATE PARK AREAS

The Town Council may, from time to time, adopt resolutions designating all or a portion of a public parking lot for the use of skateboards or other wheeled recreational devices. “Wheeled recreational devices” may include, but is not limited to, nonmotorized bicycles, scooters, inline skates, roller skates, or wheelchairs being used for recreational purposes.

The Town Council may, from time to time, adopt resolutions establishing the rules and regulations for the skate park areas.

§ 10.28.030: SAFETY EQUIPMENT REQUIRED

(a) In any skateboard park or facility owned or operated by the Town, any person riding a skateboard or other approved wheeled recreational device shall wear a helmet, elbow pads, and knee pads, pursuant to Health and Safety Code section 115800.

(b) The Town shall cause a sign or signs to be posted at all such parks or facilities providing reasonable notice of subsection (a) of this section, stating that any person failing to comply with subsection (a) of this section will be guilty of an infraction and subject to citation, and making all parties who may use such parks or facilities aware of the language of Government Code section 831.7 concerning hazardous recreational activities.

(c) Any person who fails or refuses to comply with the provisions of this Section and who is injured while using the skateboard park or facility shall be deemed negligent.”

Section 3. CEQA. The Town Council hereby determines that this Ordinance is exempt from review under the California Environmental Quality Act (“CEQA”) (California Public Resources Code section 21000 et seq.). Pursuant to State CEQA Guidelines section 15303 (14 Cal. Code Regs., § 15303), this Ordinance is covered by the Class 3 CEQA Categorical Exemption for construction of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The adoption of this Ordinance may result in the designation, from time to time, of small portions of publicly owned parking lots or other facilities as areas in which skateboards or other approved wheeled

recreational devices may be used. The Town Council hereby directs the Town Manager or his/her designee to prepare and file a Notice of Exemption within five business days following adoption of this Ordinance.

Section 4. Severability. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The Town Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one (1) or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.

Section 5. Effective Date and Posting. This Ordinance shall be effective 30 days following its adoption by the Town Council. Copies of this Ordinance shall, within fifteen days after its passage and adoption, be posted in three public places in the Town of Fairfax, to wit: 1. Bulletin Board, Town Hall Offices; 2. Bulletin Board, Fairfax Post Office; and 3. Bulletin Board, Fairfax Women’s Club.

The foregoing Ordinance was introduced at a meeting of the Town Council on the ___ day of _____ 2021, and duly adopted at the next regular meeting of the Town Council on the ___ day of _____, 2021, by the following vote, to wit:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

Bruce Ackerman, Mayor

Attest: _____
Michele Gardner, Town Clerk