



TOWN OF FAIRFAX

STAFF REPORT

March 3, 2021

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager

SUBJECT: Second reading by title only and adoption of Ordinance Adding Sections 10.28.020, "Designated Skate Park Area", and 10.28.030, "Safety Equipment Required", to Chapter 10.28 of the Fairfax Municipal Code, entitled "Skateboards", Setting Forth Procedures for Authorizing a Portion of the Pavilion/Bank Street Public Parking Lot as a Skating Facility and Requiring Use of Safety Equipment. Categorically exempt from CEQA under CEQA guidelines § 15303 (Class 3).

RECOMMENDATION

Waive second reading, read by title only and adopt an "Ordinance Adding Sections 10.28.020, "Designated Skate Park Area", and 10.28.030, "Safety Equipment Required", to Chapter 10.28 of the Fairfax Municipal Code, entitled "Skateboards", Setting Forth Procedures for Authorizing a Portion of the Pavilion/Bank Street Public Parking Lot as a Skating Facility and Requiring Use of Safety Equipment".

DISCUSSION

The Town Council introduced the attached ordinance at a special meeting on February 17, 2021. This is the second reading and adoption of the ordinance. If adopted, it would take effect 30 days from the date of adoption.

The ordinance allows the Council, by resolution, to designate a portion of the Pavilion/Bank Street parking lot as a skatepark area and to establish rules and regulations for the area. The ordinance also includes a requirement for certain safety equipment and signage.

The resolution designating the skatepark area and establishing rules and regulations is also on this evening's agenda for the Council's consideration.

FISCAL IMPACT

None

ATTACHMENT

Proposed Ordinance

ORDINANCE NO. ____

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
ADDING SECTIONS 10.28.020, “DESIGNATED SKATE PARK AREA”, AND
10.28.030, “SAFETY EQUIPMENT REQUIRED”, TO CHAPTER 10.28 OF THE
FAIRFAX MUNICIPAL CODE, ENTITLED “SKATEBOARDS”, SETTING FORTH
PROCEDURES FOR AUTHORIZING A PORTION OF THE PAVILION/BANK STREET
PUBLIC PARKING LOT AS A SKATING FACILITY AND REQUIRING USE OF
SAFETY EQUIPMENT**

WHEREAS, the Town Council desires to adopt a resolution designating a portion of the Pavilion/Bank Street public parking lot for the use of non-motorized skateboards, scooters, inline skates, or roller skates, 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 non-motorized skateboard, scooter, inline skates, or roller skates 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 non-motorized skateboard, scooter, inline skates, or roller skates 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 non-motorized skateboard, scooter, inline skates, or roller skates and (b) failure to do so will subject that person to citation by the public agency; and

WHEREAS, riding a non-motorized skateboard, scooter, inline skates, or roller skates 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 non-motorized skateboard, scooter, inline skates, or roller skates is 12 years of age or older; (2) the riding of the non-motorized skateboard, scooter, inline skates, or roller skates 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, 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 Area”, 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 AREA

The Town Council may adopt a resolution designating a portion of the Pavilion/Bank Street public parking lot as a skate park area for the use of non-motorized skateboards, scooters, inline skates, and roller skates.

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

§ 10.28.030: SAFETY EQUIPMENT REQUIRED

(a) In any skateboard park or facility owned or operated by the Town, any person riding a non-motorized skateboard, scooter, inline skates, or roller skates 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 any such park or facility 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 park or facility 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 of a small portion of the Pavilion/Bank Street public parking lot or other facility as an area in which non-motorized skateboards, scooters, inline skates, and roller skates 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.

Section 6. Sunset Date. This Ordinance shall terminate and be of no further force and effect at midnight on April 3, 2023.

The foregoing Ordinance was introduced at a meeting of the Town Council on the 17th day of February 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