

**Agenda Date:** 11/15/2016

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**TO:**

Honorable Mayor and Members of the City Council

**THROUGH:**

Mark Danaj, City Manager

**FROM:**

Quinn Barrow, City Attorney

Mark Leyman, Parks and Recreation Director

**SUBJECT:**

First Reading and Introduction of Ordinance Requiring Riders of Skateboards and Other Wheeled Recreational Devices to Wear a Helmet, Elbow Pads, and Knee Pads at the Skate Park (Parks and Recreation Director Leyman).

**INTRODUCE ORDINANCE NO. 16-0033**

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**RECOMMENDATION:**

Staff recommends that the City Council introduce Ordinance 16-0033, requiring riders of skateboards and other wheeled recreational devices to wear a helmet, elbow pads and knee pads at skate parks and skate spots.

**FISCAL IMPLICATIONS:**

There is no fiscal impact associated with the adoption of the attached Ordinance 16-0033. However, it will provide the City with the hazardous recreational immunity provided in Government Code Section 831.7.

**BACKGROUND:**

The City Council approved the construction of the Marine Avenue Skate Spot with completion scheduled for the end of the calendar year. The Council previously approved staff's recommendation that the Skate Spot be unstaffed and open to the public during park hours with proper signage mandating the proper use of safety equipment. The Ordinance establishes safety regulations for the use of skate parks, including skate spots, and provides for posting signage informing the public of such requirements.

**DISCUSSION:**

California Health & Safety Code Section 115800 provides immunity to public agencies that

adopt ordinances regulating skateboard parks which comply with the requirements of Section 115800. Effective January 1, 2016, Assembly Bill 1146 (AB 1146) relating to skateboard parks, expanded the immunity previously applicable to skateboard riders to include skate park users operating “other wheeled recreational devices” such as non-motorized bicycles, inline skates, roller skates, scooters, and wheel chairs. Government Code Section 831.7 provides that a public entity is not liable to a person who participates in a hazardous recreational activity for injury or damage to property or persons. AB 1146 amended previous law (Health and Safety Code Section 115800) to include riders of “wheeled recreational devices” in addition to skateboard riders as engaging in a hazardous recreational activity in certain circumstances.

Section 115800(a) requires that the operator of a skateboard park prohibit a person from riding a skateboard or other wheeled recreational device in the skateboard park, unless that person is wearing a helmet, elbow pads, and knee pads.

Section 115800(b) provides that, for a skateboard facility owned or operated by a local public agency that is not supervised on a regular basis, the requirements of Section 115800(a) may be satisfied if the public agency:

- Adopts an ordinance requiring riders of skateboards and other wheeled recreational devices to wear a helmet, elbow pads, and knee pads at the skate park; and
- Posts signs at the skate park facility which affords reasonable notice that a person riding a skateboard or other wheeled recreational device must wear a helmet, elbow pads, and knee pads, and that failing to do so will subject the skateboard or wheeled recreational device rider to citation under the ordinance.

Staff recommends adoption of the Ordinance prior to the opening of the Marine Avenue Skate Spot to reduce liability for the City.

## **LEGAL REVIEW**

California Health & Safety Code Section 115800 makes skateboard riding a “hazardous recreational activity” for purposes of the hazardous recreational immunity provided in Government Code Section 831.7. To qualify for that immunity, the City must:

1. Adopt an ordinance requiring any person riding a skateboard or other wheeled recreational device at the facility to wear a helmet, elbow pads and knee pads; and
2. Post signs at the facility providing reasonable notice that any person riding a skateboard or other wheeled recreational device in the facility must wear a helmet, elbow pads, and knee pads and that any person failing to do so will be subject to citation under the local agency’s ordinance.

## **Attachments**

1. Ordinance No. 16-0033
2. Health and Safety Section 115800