



## Legislation Text

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**File #:** ORD 16-0033, **Version:** 2

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**TO:**

Honorable Mayor and Members of the City Council

**THROUGH:**

Mark Danaj, City Manager

**FROM:**

Mark Leyman, Parks and Recreation Director  
Quinn Barrow, City Attorney

**SUBJECT:**

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

**ADOPT ORDINANCE NO. 16-0033**

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**RECOMMENDATION:**

Staff recommends that the City Council adopt 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; and the posting of signage.

**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 facilities, and provides for posting signage informing the public of such requirements. On November 15, 2016, the City Council introduced Ordinance No. 16-0033.

**DISCUSSION:**

At the November 15, 2016 City Council meeting, City Council discussed supervision at the Skate Spot. As noted in the November 15 staff report, state law (Health & Safety Code Section 115800(b) and Government Code Section 831.7) provides immunity from liability for hazardous recreational

activity injuries at an unsupervised skateboard facility owned or operated by a local public agency if the 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.

Accordingly, a key element for immunity is that the facility is “not supervised on a regular basis.” The Skate Spot will not be supervised or staffed. Nevertheless, it will be monitored by Parks and Recreation staff in the same manner as are all of the City’s public facilities and parks. Such monitoring does not constitute “supervision on a regular basis” within the meaning of Section 115800 (a).

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 provides immunity to public agencies that adopt ordinances regulating unsupervised skateboard parks which comply with the requirements of Section 115800. Effective January 1, 2016, Assembly Bill 1146 (AB 1146), 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.

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
3. November 15, 2016 Staff Report (First Reading)