

December 22, 2022

MEMORANDUM TO: Honorable Mayor and City Council

THRU: Charles P. Potucek, City Manager  
Victoria Yarbrough, Assistant City Manager

FROM: Laura Wilson, Director  
Parks, Recreation & Library

SUBJECT: REQUEST FOR AGENDA ITEM PLACEMENT  
RESOLUTION 2023-002, Amendments to City Ordinance  
Chapters 94 & 90

RECOMMENDATION:

The Director of Parks, Recreation and Library recommends approval.  
The Parks and Recreation Commission recommends approval.

INITIATED BY:

Parks and Recreation Commission

BACKGROUND:

The Park and Recreation Commission is recommending edits and additions to Chapters 94 and 96 of the City Ordinance in order to better serve the public.

The additions recommended to Chapter 94 include definitions for athletic fields/courts and types of parks within our parks system. These definitions allow for more clarity on the purposes and intended uses of such facilities. Specifically defining the purposes, uses, and restrictions of athletic fields is particularly important given their increased usage demand and specific upkeep and maintenance requirements as compared to other public park facilities.

The original recommended change to Chapter 94 by the Parks and Recreation Commission would have set a speed limit for people who may use electrical bicycles (e-bikes) on the city's trail systems. The original language recommended read: "(I) It shall be unlawful to operate any kind of vehicle within the confines of any park trail at a speed greater than 15 Miles Per Hour."

Upon staff's further research and analysis, A.R.S. § 28-819 states that a person riding an e-bike or electric standup scooter is granted all the rights and privileges of a person riding a bicycle, therefore wherever bicycles are allowed, so must e-bikes or standup scooters. A.R.S. § 28-819 also allows for the use of class 1 and class 2 electric bicycles and electric standup scooters on bicycle and Multi-Use Paths but restricts class 3 electric bicycles from utilizing the same unless the path is within or adjacent to a road.

Class 1 e-bikes are defined as pedal-assist bikes with a top assisted speed of 20mph. Class 2 e-bikes are throttle-assist bikes but still only have a top assisted speed of 20mph. Class 3 e-bikes are pedal-assist bikes with a motor assist speed up to 28mph. Class 1 and class 2 e-bikes do not have speedometers, so riders would also not know their speed and could not follow a speed limit making this unenforceable.

Therefore, the commission's recommendation is revised to adhere to state law and simply specify class 3 e-bikes and scooters are not permitted on park trails.

A minor language edit to Chapter 90 is recommended to change the sanctioning of events from the Commission to the Department Head as the Commission does not sanction events. Events are permitted through the city's Special Event Permit process and approved by the Director of Parks, Leisure & Library.

This is being submitted to Council for approval prior to the 30-day public comment period.

BUDGET APPROPRIATION:

Not applicable.

RESOLUTION 2023-002

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA; DECLARING AS PUBLIC RECORD AMENDMENTS TO CHAPTER 94 SECTION 94.01, 94.04, PARK GROUNDS/PARK PROPERTIES, AND CHAPTER 90 SECTION 90.06, IMPOUNDMENT, NOTIFICATION AND PROPER CARE, OF THE "CODE OF ORDINANCES OF THE CITY OF SIERRA VISTA," AUTHORIZING AND DIRECTING THE CITY MANAGER, CITY CLERK, CITY ATTORNEY OR THEIR DULY AUTHORIZED OFFICERS AND AGENTS TO TAKE ALL STEPS NECESSARY TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION.

WHEREAS; the City of Sierra Vista periodically enacts laws to help govern the municipality and provide for the orderly operations, maintenance, and development of the City; and

WHEREAS; periodically changes need to be made to clarify an existing ordinance in order to preserve the rights of the public; and

WHEREAS; it is the policy of the City to ensure free access to public spaces continue to enhance the quality of life of the residents of the Greater Sierra Vista area; and

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VSITA, ARIZONA AS FOLLOWS:

SECTION 1

The policy of the City of Sierra Vista relating to declaring a public record for purposes of making changes to the City Code of Ordinances, be, and hereby is, reaffirmed.

SECTION 2

Chapter 94, Sections 94.01 and 94.04 and Chapter 90, Section 90.06, of the Code of Ordinances for the City of Sierra Vista shall be amended as set forth in Exhibit A and is hereby declared to be a public record.

SECTION 3

The City Manager, City Clerk, City Attorney, or their duly authorized officers and agents are hereby authorized and directed to take all steps necessary to carry out the purposes and intent of this Resolution.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, THIS 12<sup>th</sup> DAY OF JANUARY 2023.

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CLEA McCaa II  
Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
NATHAN WILLIAMS  
City Attorney

\_\_\_\_\_  
JILL ADAMS  
City Clerk

PREPARED BY:  
Laura Wilson, Director  
Parks, Recreation & Library

**§ 94.01 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ADULT.** Any person over 18 years of age, and of legal drinking age for beer permits.

**GLASS CONTAINER.** Any bottle, glass, tumbler, jug, jar, mug, cup, or other vessel or container made of glass, and designed or used to contain liquid beverages for drinking purposes.

**INTENTIONALLY.** A result or conduct described by an ordinance or this code defining an offense, that a person's objective is to cause that result or to engage in that conduct.

**KNOWINGLY.** Conduct or circumstance described by an ordinance or this code defining an offense, that a person is aware or believes that his or her conduct is of that nature or that the circumstance exists. It does not require any knowledge of the unlawfulness of the act.

**MOBILE FOOD VENDOR.** A person who sells, serves, or offers for sale, or gives away, only food from a mobile food vending unit. This term does not include a person who operates a mobile food vending unit at a location for no more than two hours at a time.

**MOTOR VEHICLE.** Any vehicle licensed for use on public highways, such as cars, trucks, sport utility vehicles, tractors, motorcycles, and scooters, along with unlicensed motorized vehicles, e.g., quad-runners and other off-road vehicles, karts, and other powered vehicles.

**PARK.** An area of land, usually in a largely natural state, for the enjoyment of the public, having facilities for rest and recreation, often owned, set apart, and managed by a city, state, or nation.

**ATHLETIC COURTS/FIELDS.** Built and designed to support a specific activity. Pets are not permitted on these Courts/Fields. Reservations and Fees are required to use at certain times and any deviation for unrelated activities must be approved by the Director of Parks, Recreation, and Library.

**LINEAR PARKS.** Designed to be scenic walking/Resting parks and are not reservable.

**COMMUNITY PARKS.** Parks designed to support larger activities and have areas that can be reserved.

**NEIGHBORHOOD PARKS.** Smaller parks designed to support the neighborhoods in which they are located IAW The Comprehensive Parks Master Plan. They are not reservable.

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***SPECIAL USE PARKS.*** *Designed to support a specific purpose.*

***RECKLESSLY.*** A result or a circumstance described by an ordinance or this code defining an offense, that a person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of a nature and degree that disregard of the risk constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. A person who creates a risk but is unaware of the risk solely by reason of voluntary intoxication also acts ***RECKLESSLY*** with respect to the risk.

***SMOKING.*** Inhaling, exhaling, burning, or carrying or possessing any lighted tobacco product, including cigars, cigarettes, pipe tobacco and any other lighted tobacco product.

***SPIRITUOUS LIQUOR.*** Alcohol, brandy, whiskey, rum, tequila, mescal, gin, wine, porter, ale, beer, any malt liquor or malt beverage, absinthe, a compound or mixture of any of them or of any of them with any vegetable or other substance, alcohol bitters, bitters containing alcohol, any liquid mixture or preparation, whether patented or otherwise, which produces intoxication, fruits preserved in ardent spirits, and beverages containing more than one half of one per cent of alcohol by volume.

***UNMANNED AIRCRAFT.*** An aircraft, including an aircraft commonly known as a drone that is operated without the possibility of direct human intervention from within or on the aircraft.

***VAPOR PRODUCT.*** A noncombustible tobacco-derived product containing nicotine that employs a mechanical heating element, battery or circuit, regardless of shape or size, that can be used to heat a liquid nicotine solution contained in cartridges. Vapor product does not include any product that is regulated by the United States food and drug administration under chapter V of the federal food, drug and cosmetic act.

***WILDLIFE.*** Any wild animal or vegetation, especially such animals that are living in a natural, undomesticated state.

('76 Code, § 10-1-12) (Ord. 651, passed 9-22-83; Am. Ord. 890, passed 10-10-91; Am. Ord. 2004-006, passed 5-13-04; Am. Ord. 2009-002, passed 4-9-09; Am. Ord. 2014-001, passed 1-9-14; Am. Res. 2017-054, passed 7-13-17; Am. Ord. 2017-006, passed 9-14-17) Penalty, see § [94.99](#)

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#### **§ 94.04 PARK GROUNDS AND PROPERTIES.**

(A) *Disfigure or remove buildings, structures or facilities.* No person shall disfigure or remove buildings, structures or facilities, damage, destroy, tamper with, displace or remove any building, marker, sign, art work, table, bench, fireplace, railing, paving or paving material or other public utility, equipment, facility or park property or appurtenances whatsoever, either real or personal.

(B) *Erect structures, install utility services.* No person shall construct or erect any building, structure, sign, banner, emblem or display, or enclosure of whatever kind, whether permanent or temporary in character, or run or string any public utility into, upon or across parkland. Permit users and those who rent temporary play structures that have the written permission from the Director or their designee may be exempt from all or a portion of these restrictions subject to blue staking and a safety evaluation. A canopy 20' x 20' or smaller may not be staked in turf areas, and may only use weights to anchor the canopy. Any canopy larger than 20' x 20' requires Blue Stake marking no less than 3 days prior to installation. Also exempt are historic and traditional community displays approved by the Director of Leisure & Library Services.

(C) *Commercial or vending activities.*

(1) No person in a park shall utilize any park property for any commercial purposes, including but not limited to, food preparation and vending, sale of motor or non-motorized vehicles, art or craft items, wares, peddling, offering for sale, any article or thing whether new or used, or placing any stand, cart or vehicle for the transportation, sale or display of sale items thereof. Advertising goods and services and the distribution of handbills, business or commercial literature in person or by placing them on vehicles is also prohibited.

(2) A licensed concessionaire, contracted community event, or mobile food vendor, acting under the authority and regulation of the Director of Leisure & Library Services, may be exempted from this provision.

(D) *Natural resources.* No person shall dig, remove or damage soil, rock, stones, trees, shrubs or plants, down timber or other wood or materials, or make excavation by tool, equipment, blasting or other means or agency.

(E) *Metal detecting.* Surface only metal detection equipment may be used in public parks. Any attempt to retrieve detected objects by digging and/or excavating is strictly prohibited.

(F) *Sanitation.* No person in a park shall dump, deposit or leave any bottles, broken glass, paper, boxes, cans, dirt, rubbish, waste, garbage or refuse or other noxious materials, unless placed in proper receptacles where provided. These receptacles are not to be used for residential trash disposal.

(G) *Bottled water.* Users of public parks shall be permitted any type of bottle containing water in the parks, except for glass.

(H) *Smoking.* Smoking and use of vapor products shall not be permitted within 50 feet of any outdoor sports field or playground.

(I) In accordance with Arizona State Law, it shall be unlawful to operate class 3 electrical bicycles and/or scooters within the confines of any park trail.

(Ord. 2004-006, passed 5-13-04; Am. Ord. 2009-002, passed 4-9-09; Am. Ord. 2010-005, passed 5-27-10; Am. Ord. 2014-001, passed 1-9-14; Am. Res. 2017-054, passed 7-13-17; Am. Ord. 2017-006, passed 9-14-17; Am. Ord. 2018-012, passed 9-13-18)  
Penalty, see § [94.99](#)

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## § 90.06 IMPOUNDMENT, NOTIFICATION AND PROPER CARE.

(A) *Maintenance of nuisance animals unlawful.* It is unlawful for any person to maintain an animal in such a manner that it constitutes a public nuisance, as defined in § [90.01](#) of this chapter.

(B) *Citation of owner.* When a dog is found unconfined or at large, and ownership is known to the Animal Control Officer, the dog need not be impounded to have court action initiated against the owner.

(C) *Stray dogs.* A stray dog found at large may be seized by the Animal Control Officer and impounded in the Animal Shelter for not less than 72 hours, or 120 hours for a dog wearing a license, unless reclaimed or surrendered by the owner.

(D) *Stray cats.* Any stray cat found at large may be impounded at the Animal Shelter for not less than 72 hours, unless reclaimed or surrendered by the owner.

(E) *Notification of impoundment.* Immediately upon impounding a stray animal, the Animal Control Officer shall make every reasonable effort to check for tattoos or microchip and notify the owner of the impounded animal, and to inform the owner of the conditions whereby they may regain custody of the animal. If an animal owner is known, the animal will be maintained for seven days awaiting reclamation by the owner. All animals impounded will be given proper care and maintenance.

(F) *Owner requesting pick up.* Any owner requesting the Animal Control Officer to pick up their animal(s) shall be charged a fee based on the established fee schedule.

(G) *Animals at public events prohibited; exceptions.* Except as provided in this section, animals shall not be allowed in that portion of a city park in which an event, open to the general public and sanctioned by the [Park and Recreation Commission](#) [Director of Parks, Recreation and Library](#), is being held. Signs to this effect shall be posted in conspicuous places throughout that area of the park by the organizers of the event. This prohibition applies only during hours scheduled for attendance by the public and only in that portion of the particular city park in which the event is being held. These hours shall be posted on the signs specified above. Exempted from the provisions of this division are specially trained dogs for public safety, the visually impaired, or otherwise handicapped persons and animals involved in events pertaining to animals. It shall be the responsibility of the organizers of the events to notify all participants and exhibitors, if any, of this requirement and to post the above-mentioned signs.

(H) *Feeding, maintaining, or harboring of stray or feral animals.* The feeding, maintaining, or harboring of stray and/or feral animals on public or private property without the permission of the property owner shall be prohibited. Any person(s) found feeding, maintaining, or harboring such animals will be in violation of this section. This violator will be responsible for the humane removal of such animals.

(I) *Animal disposal fees.* There will be a fee assessed for each dead animal brought to the animal shelter by the owner for disposal. The amount of the fee is established by the Animal Control Fee Schedule.

('76 Code, § 6-1-7) (Ord. 786, passed 9-24-87; Am. Ord. 936, passed 10-28-93; Am. Ord. 938, passed 2-24-94; Am. Ord. 1030, passed 3-27-97; Am. Ord. 1077, passed 10-8-98; Am. Ord. 2005-022, passed 11-11-05; Am. Ord. 2010-001, passed 1-14-10) [Penalty, see § 90.99](#)