



# AGENDA REPORT

BEACHES, PARKS & RECREATION COMMISSION  
Meeting Date: November 11, 2015

Agenda Item 4.A.  
**Approvals:**  
Dept. Head [Signature]  
Manager \_\_\_\_\_  
Admin. Assistant MS

**Department:** Beaches, Parks & Recreation  
**Prepared By:** Pamela Passow, Assistant Beaches, Parks and Recreation Director  
George Blair, Recreation Supervisor

**Subject:** *CONSIDERATION TO PROHIBIT UNAUTHORIZED COMMERCIAL, ORGANIZED OR INSTRUCTIONAL ACTIVITIES ON PUBLIC BEACHES, PARKS, AND TRAILS*

**Fiscal Impact:** There is a potential for increased revenue through proper permitting of facilities and addition of independent contractors through the City's Beaches, Parks and Recreation Department. There is a potential for increased expenditures related to oversight and enforcement of facility permits.

**Summary:** Staff recommends the modification of section 12.28.010 of the San Clemente Municipal Code to prohibit any commercial, organized or instructional activities on public, beaches, parks and trails without a permit or agreement with the City.

**Background:** The City of San Clemente is fortunate enough to have a wide variety of beaches, trails, parks, ball fields, courts, and other facilities available for public use. The City's amenities are available for numerous City programs, public use on a first-come, first served basis, as well as for private rentals.

Along with these permitted uses, a growing number of commercial businesses are offering unauthorized programs and for profit activities in City facilities. This raises concerns with safety of the public and program participants, facility management and availability of facilities to the public, liability from unauthorized activities, and other concerns. Some businesses are operating without business licenses and without proper permits from the City.

**Discussion:** At the October 13, 2015 Beaches, Parks and Recreation Commission meeting, the commissioners recommended staff return with a code that addressed their concerns. Staff met with the City Attorney and revised the draft municipal code that strengthened the verbiage to make it more enforceable.

In terms of use, City parks, beaches and trails were created for recreational activity to be enjoyed by residents and visitors of San Clemente. Staff's recommendation is to modify Section 12.28.010 of the San Clemente Municipal Code to prohibit the use of City owned beaches, parks, and recreation facilities for unauthorized, commercial, organized, or instructional use without the required permit.

**Recommended Action:** STAFF RECOMMENDS THAT THE BEACHES, PARKS & RECREATION COMMISSION recommend the City Council modify section 12.28.010 of the San Clemente Municipal Code to

require a permit to use any City-owned Beaches, Parks and Recreation facility with the City.

**Attachments:** 1. Draft ordinance

**Notification:** None.

## 12.28.010 – Use of City-owned facilities.

Any person wishing to use any City-owned facility, including but not limited to buildings, parks, beaches, and trails, for the purpose of practicing, carrying on, or conducting any commercial business, occupation, or profession, shall apply for a permit to do so by submitting a completed “application for permit to use recreational facilities” form prescribed by the City of San Clemente Department of Beaches, Parks and Recreation. The application for permit to use recreational facilities shall be submitted along with the required fees to the City of San Clemente Department of Beaches, Parks and Recreation. The City may charge a fee in connection with the processing of such application. In considering a permit application, the Department of Beaches, Parks and Recreation may evaluate the types of goods proposed to be sold, the applicant’s ability to comply with applicable laws and regulations in the sale of the proposed goods, including but not limited to requirements pertaining to food handling, and any other factors and criteria as may be useful in considering the application.

Except for a person holding a permit as described in this section, no person shall practice, carry on, or conduct any commercial business, occupation, or profession in any City-owned facility, including but not limited to buildings, parks, beaches, and trails, or sell or offer for sale any food, beverage, merchandise, article, or anything whatsoever in any such City-owned facility. This prohibition shall apply to the use of any park, beach, or other City-owned facility by a camp or other group that has charged tuition or other fees to participants covering the period during which participants are present at the City-owned facility with the camp or group. This prohibition shall also include the sale or vending of goods or services of any kind, including but not limited to food and beverage, at any City-owned facility or in connection with any City-sponsored or City-approved event.

Approval of applications, fee schedules, and rules and regulations for the use of all City-owned facilities shall be as prescribed by resolution of the City Council. All City-owned facilities, including but not limited to buildings, parks, beaches, and trails, shall be subject to the permit requirement in this section.