

BEFORE THE CITY COUNCIL OF THE CITY OF LAFAYETTE

IN THE MATTER OF:

An Ordinance of the City Council of the City of)
Lafayette Re-ordering, Re-titling and Amending)
Various Provisions of Chapter 8-22 of the Lafayette)
Municipal Code, Entitled "Trail Easement Restrictions") Ordinance No. 602

WHEREAS, on November 27, 2006, the City Council of the City of Lafayette adopted Resolution No. 2006-08 adopting the Lafayette Trails Master Plan prepared for the City by the Lafayette Parks, Trails and Recreation Commission ("Commission");

WHEREAS, the Commission has now requested that the Council codify certain rules and regulations for the use of the trails, including trail use etiquette, consistent with the Trails Master Plan, so that those rules and regulations can be better enforced; and

WHEREAS, the City Council desires to do so by amending Chapter 8-22 of the Lafayette Municipal Code, as set forth below.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAFAYETTE DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Amendments. Chapter 8-22 of the Lafayette Municipal Code, entitled "Trail Easement Restrictions," is hereby re-titled to read as follows:

"Chapter 8-22 – TRAIL AND TRAIL EASEMENT RULES, RESTRICTIONS AND REGULATIONS"

Section 2. Amendments. Article 1, entitled "General," is hereby added to Chapter 8-22 of the Lafayette Municipal Code, entitled "Trail and Trail Easement Rules, Restrictions and Regulations," to read as follows:

"Article 1. – General"

Section 3. Amendments. Sections 8-2201, entitled "Findings and purpose," and 8-2202, entitled "Definitions," are hereby added to Article 1 of Chapter 8-22 of the Lafayette Municipal Code, entitled "General," and hereby amended to read as follows:

"8-2201 - Findings and purpose.

(a) This chapter is based on the following findings:

(1) The city of Lafayette has established trails and trail easements for public passage and enjoyment as set forth in the Lafayette Trails Master Plan.

(2) The goal of preserving trails and trail easements and protecting the enjoyment and safe passage upon trails is a legitimate governmental objective.

(3) This goal will be served by enabling the city to enforce the trail and trail easement restrictions and use regulations set forth in this chapter pursuant to all available mechanisms for enforcement in this code, including, without limitation, its administrative citation ordinance set forth in chapter 1-9 of this code and its code enforcement ordinance set forth in chapter 8-21 of this code.

(b) The purpose of this chapter is to preserve the city's trails and trail easements and to protect the health, safety and welfare of persons passing upon and otherwise using the trails.

8-2202 - Definitions.

For purposes of this chapter, the following definitions shall apply:

(a) "Code enforcement officer" or "officer" shall mean the city employee or employees designated by the city manager to implement the provisions of this chapter.

(b) "Developer" shall mean a person or persons contracted to improve or develop a certain parcel of real property.

(c) "Director" shall mean the director of the parks and recreation department of the city or the director's authorized representative or designee.

(d) "Owner" shall mean the owner or owners of record of real property as shown on the latest county equalized assessment roll; the lessee, tenant or other person having control or possession of real property that contains, includes, abuts or is adjacent to a trail or trail easement; the mortgagee under a recorded deed of trust; and any other person having a recorded beneficial or legal interest in such real property.

(e) "Other power-driven mobility devices" shall mean any mobility device powered by batteries, fuel, or other engines – whether or not designed primarily for use by individuals with mobility disabilities as defined by the Americans with Disabilities Act of 1990 ("ADA"), for the purpose of locomotion, including golf cars, electronic personal assistance mobility devices, such as the Segway PT, or any mobility device designed to operate in areas without defined pedestrian routes, but that is not a wheelchair within the meaning of the ADA.

(f) "Person" shall mean any individual, group, firm, partnership, corporation, joint venture, company, club, association, society, league, and any other organization.

(g) "Trail easement" or "trails" shall mean an easement, or any portion of an easement, belonging to the city upon which the city intends to develop a trail consistent with the Lafayette Trails Master Plan." (h) "Trail" shall mean all public trails or portions thereof developed by the city of Lafayette on property owned by the city, whether in fee or as an easement.

Section 4. Amendments. Section 8-2203 of the Lafayette Municipal Code, entitled "Trail easement restrictions," is hereby re-numbered Section 8-2211; re-titled "Trail and Trail Easement restrictions;" and amended as set forth in Section 8 of this ordinance.

Section 5. Amendments. Section 8-2203 of the Lafayette Municipal Code, entitled "Applicability," is hereby added to Article 1 of Chapter 8-22 of the Lafayette Municipal Code, entitled "General," to read as follows:

"8-2203 - Applicability.

This chapter shall apply to all trails and trail easements."

Section 6. Amendments. Section 8-2204 of the Lafayette Municipal Code, entitled "Violations and enforcement; abatement of violations," is hereby amended to read as follows:

"8-2204 - Violations and enforcement; abatement of violations.

(a) A violation of this chapter constitutes a public nuisance. The city may enforce any violation of this chapter in accordance with chapters 1-9 and/or 8-21 of this code, including by abatement of the violation pursuant to the procedures set forth in chapter 8-21.

(b) The remedies set forth above shall be in addition to all other legal remedies available to the city to address a violation of this chapter or this code, in the city's sole discretion.”

Section 7. Amendments. Article 2, entitled “Trail and Trail Easement Restrictions; Owners and Developers,” is hereby added to Chapter 8-22 of the Lafayette Municipal Code, entitled “Trail and Trail Easement Rules, Restrictions and Regulations” to read as follows:

“Article 2. - Trail and Trail Easement Restrictions; Owners and Developers”

Section 8. Amendments. Section 8-2211 of the Lafayette Municipal Code, entitled “Trail restrictions” is hereby added to Article 2 of Chapter 8-22, entitled “Trail and Trail Easement Restrictions; Owners and Developers,” and hereby amended to read as follows:

8-2211 - Trail and Trail Easement restrictions.

The following trail and trail easement restrictions shall apply at all times:

(a) An owner or developer shall not restrict or obstruct public passage over a trail or trail easement in any manner.

(b) A trail or trail easement shall not be used by an owner, developer or any other person for access to real property while such property is being developed or improved unless such access has been previously approved by the planning services division of the city. Any damage to a trail or trail easement caused by an owner, developer or any other person shall be repaired by such person as specified and approved by the planning services division of the city of Lafayette, in its sole discretion. The person responsible for such damage shall also be responsible for all costs to repair such trail or trail easement.

(c) Any vegetation planted on property that contains, includes, abuts, or is adjacent to a trail or trail easement shall be planted and maintained in a manner that ensures such vegetation does not obstruct, interfere with or pose a hazard to the trail or trail easement or the public’s current or future use of the trail. If the city determines that vegetation obstructs, interferes with or poses a hazard to a trail or trail easement or the public’s current or future use of a trail, and the owner responsible for such vegetation fails to remove such vegetation after the city has provided the owner with notice to do so, the city shall have the right to remove such vegetation and to charge the owner for the cost of removal.

(d) If a trail runs over a privately owned road, driveway or other private property which the owner wishes to mark with signs indicating “private property,” then signs shall also be posted by the parks, trails and recreation department of the city of Lafayette displaying the city of Lafayette logo and identifying and showing the direction of the trail. The owner wishing to install signage shall notify the parks, trails and recreation department in writing of its desire to install such signage prior to installing such signage.

(e) All trail easements shall be marked by the owner or developer with permanent survey markers subject to review and approval by the city.”

Section 9. Amendments. Article 3, entitled “Trail Rules and Etiquette; All Persons,” is hereby added to Chapter 8-22 of the Lafayette Municipal Code, entitled “Trail Rules, Restrictions and Regulations,” to read as follows:

“Article 3. – Trail Rules and Etiquette; All Persons.”

Section 10. Amendments. Sections 8-2221 through 8-2224 are hereby added to Article 3 of Chapter 8-22 of the Lafayette Municipal Code, entitled “Trail Rules and Etiquette; All Persons,” to read as follows:

“8-2221 - Hours of use.

Trails shall be open and available for public use only between the hours of dawn and dusk. No person may enter or remain in or on a trail during the hours a trail is closed.

8-2222 - Trail use etiquette.

(a) All persons using trails shall respect private property adjacent to trails and use trails so as to minimize the disturbance of and impact on the privacy of such property.

(b) All persons using trails shall be considerate of persons living on private property adjacent to trails and fellow trail users by keeping noise down.

(c) Bicycles shall be operated in a safe manner at a speed not in excess of 15 mph on straightaways and 5 mph around corners and on hills.

(d) Bicyclists using trails shall call out to pedestrian trail users before passing such pedestrian trail users so that the pedestrian trail users have adequate time to move to the side of the trail.

8-2223 - Dogs.

Dogs on trails shall be securely leashed at all times and any person using a trail when accompanied by a dog or any other animal shall immediately remove all waste left by such dog or animal on a trail.

8-2224 - Prohibitions.

The following activities shall be prohibited on trails at all times:

(a) Any activity that restricts or obstructs public passage over a trail.

(b) Picking, removing, tampering with, injuring or destroying any naturally occurring or city created feature of a trail, including without limitation, trees, plants, wildlife or geological features of any kind.

(c) Use of motorized vehicles of all types, with the exception of other power-driven mobility aid devices used by an individual with a mobility disability as defined by the ADA on trails that the department has designated for such use in accordance with a policy for designation adopted by resolution of the city council.

(d) The possession or use of a loaded firearm, dangerous weapon, or other destructive device, as those terms are defined in the California Penal Code, except for those persons listed in Penal Code Sections 12031(b) and 12031(c).

(e) Consumption of alcoholic beverages.

(f) Smoking of any substance.

(g) Ignition, maintenance or use of fire of any type, including matches.

(h) Use of a bicycle on unpaved trails that have been designated as unsafe for bicycle travel and are posted with signs or other marking installed by the city prohibiting the use of bicycles.

(i) Cutting, breaking, injuring, defacing or disturbing a sign, fence, bench, improvement or other city property located on trails.

(j) Making or placing a rope, wire, mark, writing, printing, sign, card, display, or similar inscription device on a tree, plant, city-owned building or city property, without city approval.

(k) Depositing rubbish, waste or any substance of any kind or nature on trails.

(l) Encroachment onto a trail by any object, including, without limitation, fences, vegetation, earth mounds, drainage ditches, sheds, animal housing or structures of any kind.”

Section 11. CEQA. The City Council finds that adoption of this Ordinance is not a "project," as defined in the California Environmental Quality Act because it does not have a potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and concerns general policy and procedure making.

Section 12. Notice of Exemption. The City Council directs staff to prepare and file a Notice of Exemption no more than five (5) working days after adoption of this Ordinance.

Section 13. Effective Date. This Ordinance becomes effective thirty (30) days after its adoption.

Section 14. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof is for any reason held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not effect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the fact that one or more sections, subsections, subdivision, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective. To this end the provisions of this Ordinance are declared to be severable.

Section 15. Publication. The City Clerk shall either (a) have this Ordinance published in a newspaper of general circulation once within fifteen (15) days after its adoption, or (b) have a summary of this Ordinance published twice in a newspaper of general circulation, once five (5) days before its adoption and again within fifteen (15) days after adoption, including the names of the council members who voted for and against its passage.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Lafayette held on January 9, 2012 and was adopted at a meeting of the City Council held on March 12, 2012 by the following vote:

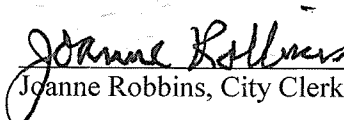
AYES: Federighi, M. Anderson, B. Andersson, Anduri and Tatzin

NOES: None


ABSTAIN: None

ABSENT: None

ATTEST:


Joanne Robbins, City Clerk

APPROVED:


Carol Federighi, Mayor