

ORDINANCE NO. 9702 (N.S.)

AN ORDINANCE ADDING SECTIONS 812.201
THROUGH 812.214 TO THE SAN DIEGO
COUNTY CODE RELATING TO USE OF TRAILS

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. The Board of Supervisors finds and determines that there are County recreational trails throughout the unincorporated area of the County and that there will be more such trails in the future as a result of the County Trails Program. The Board further finds that the use of these trails should be regulated to maximize the public's use and enjoyment of the trails. The Board further finds that the County Code should be amended to include provisions that regulate the use of public recreational trails.

Section 2. The title of Division 12 in Title 8 of the San Diego County Code is hereby amended to read as follows:

DIVISION 12. TRAILS

Section 3. The title of Chapter 1 in Division 12 of Title 8 of the San Diego County Code is hereby amended to read as follows:

CHAPTER 1. DEFENSE AND INDEMNITY

Sections 812.101 through 812.104 [no change.]

Section 4. The title of Chapter 2 is hereby added to Title 8, Division 12 of the San Diego County Code to read as follows:

CHAPTER 2. GENERAL PROVISIONS

Section 5. Section 812.201 is hereby added to the San Diego County Code to read as follows:

SEC. 812.201. PURPOSE.

The purpose of this Chapter is to provide rules and regulations for the use of County trails and pathways to maximize the public's use and enjoyment of the trails.

Section 6. Section 812.202 is hereby added to the San Diego County Code to read as follows:

SEC. 812.202. APPLICABILITY.

This Chapter shall apply to all trails and pathways that have been dedicated to and accepted by the County.

Section 7. Section 812.203 is hereby added to the San Diego County Code to read as follows:

SEC. 812.203. VALIDITY.

If a court of competent jurisdiction determines that any section, subsection, sentence, clause, phrase or portion of this Chapter is for any reason invalid or unconstitutional, that determination shall not affect the validity of the remaining provisions of this Chapter.

Section 8. Section 812.204 is hereby added to the San Diego County Code to read as follows:

SEC. 812.204. DEFINITIONS.

As used in this Chapter, the following words have the following definitions:

- a. Trail: a right-of-way that has been dedicated to and accepted by the County and that is for non-motorized recreation and transportation, such as riding horses, bicycling, hiking and walking. A trail is usually located away from roads in a natural environment, such as an area preserved as open space, and may be located on either public, semi-public or private land.
- b. Pathway: a trail located in or adjacent to a public road right-of-way.
- c. Official trail sign: a sign approved by the Department of Parks and Recreation or Department of Public Works related to the trail or pathway.
- d. County Official: the Director of Parks and Recreation, the Director of Public Works or the Director of Planning and Land Use or their respective agents, deputies or designees.

Section 9. Section 812.205 is hereby added to the San Diego County Code to read as follows:

SEC. 812.205. ACQUISITION.

The County may acquire trails and pathways in several ways including, but not limited to, the following:

- a. Accept an irrevocable offer to dedicate a trail or pathway that is offered voluntarily or included as a condition of approval in a discretionary permit.
- b. Accept a trail or pathway easement that is dedicated on a recorded subdivision map or parcel map.
- c. Accept a voluntary grant of a trail or pathway easement.
- d. Purchase a trail or pathway easement.
- e. Enter into an agreement or license with a property owner that allows the public to use a trail on the property. The County Official is authorized to execute such agreements or licenses subject to County Counsel review and approval of the agreement.

Section 10. Section 812.206 is hereby added to the San Diego County Code to read as follows:

SEC. 812.206. USE OF TRAILS.

- a. Trails and pathways shall be used only for non-motorized recreation and transportation, such as riding or walking horses, bicycling, hiking, walking and running.
- b. The County Official is authorized to restrict the types of recreation and transportation uses that would otherwise be allowed on a trail or pathway if the County Official determines that to maintain the public safety and welfare or to prevent damage to a trail or pathway or the area along a trail or pathway, certain recreation and/or transportation uses should not be allowed on a trail or pathway or a segment thereof.

Section 11. Section 812. 207 is hereby added to the San Diego County Code to read as follows:

SEC. 812.207. ACTS PROHIBITED ON TRAILS AND PATHWAYS.

It shall be unlawful for any person to engage in the following conduct on a trail or pathway:

- a. Drive a motorized vehicle including, but not limited to, a car, truck, motorcycle, motorbike, go-cart, all terrain vehicle, tractor or scooter with a motor;
- b. Dig or plow without the prior written authorization of the Director of Public Works;
- c. Start or maintain a fire or throw away any lighted tobacco or any other burning or combustible material that could set fire to grass, shrubs, leaves, trees and/or any structure;
- d. "Smoke" as defined in County Code section 32.802(a);
- e. Cause or allow a dog to be "At Large" as defined in County Code section 62.601(d);
- f. Place a sign or placard without the prior written approval of the County Official;
- g. Mark, deface, disfigure, destroy, damage, remove or tamper with any official trail sign;
- h. Plant any plant or seed without the prior written approval of the County Official;
- i. Obstruct or otherwise interfere with the use of any trail or pathway;
- j. Leave or deposit any "Litter" as defined in County Code section 68.501(b)(33);
- k. Use, transport, carry, fire, or discharge any fireworks, firearm, weapon, air gun, archery device, slingshot, paintball gun or explosive of any kind; or
- l. Transport or consume any alcoholic beverage.

The prohibition in subparagraph “a” above does not apply to emergency or law enforcement vehicles, trail maintenance vehicles and equipment, or motorized wheelchairs.

Section 12. Section 812.208 is hereby added to the San Diego County Code to read as follows:

SEC. 812.208. VOLUNTEER MAINTENANCE AGREEMENTS.

The County Official is authorized to enter into agreements between the County and an individual or entity whereby the individual or entity agrees to maintain a trail or trail segment for the County. The agreement shall not require the County to pay the individual or entity any money. The County Official shall submit the agreement to County Counsel for review and approval before executing the agreement.

Section 13. Section 812.209 is hereby added to the San Diego County Code to read as follows:

SEC. 812.209. ENFORCEMENT AUTHORITY OF COUNTY OFFICIAL.

- a. The County Official and each agent or deputy thereof whose duties include enforcing this Division, and any peace officer, are authorized to enforce the provisions of this Division.
- b. The County Official may issue Notices of Violation pursuant to this Chapter.
- c. The County Official may pursue Administrative Remedies set forth at Division 8 of Title 1 of this Code, including the issuance of Administrative Citations pursuant to Chapter 1 (commencing with section 18.101 of Division 8).
- d. The County Official shall have the power to make arrests for violations of this Chapter that he or she has a duty to enforce and to issue citations for such violations. Any person arrested who does not demand to be taken before a magistrate may instead be cited in the manner prescribed in Chapter 5C (commencing with section 853.5) of Title 3, Part 2 of the Penal Code. The County Official may arrest a person without a warrant whenever he or she has reasonable cause to believe that the person arrested has committed a violation of this Chapter, provided that the officer or

employee making the arrest shall have completed a course of training that meets the minimum standards prescribed by the Commission on Peace Officer Standards and Training as prescribed by Penal Code section 832(a). An officer or employee making an arrest under this section shall follow the citation-release procedures prescribed by the Penal Code.

Section 14. Section 812.210 is hereby added to the San Diego County Code to read as follows:

SEC. 812.210. VIOLATIONS – CRIMINAL PENALTIES.

- a. Any person who violates section 812.207 a, b, c, g or i shall be guilty of a misdemeanor, unless, in the discretion of the prosecutor, it is charged as an infraction. Any person who violates section 812.207 d, e, f, h, j, k or l shall be guilty of an infraction. A person convicted of a third or subsequent infraction within two years from the date of the first conviction shall be deemed guilty of a misdemeanor.
- b. Any person convicted of an infraction under this Chapter shall be punished by a fine not exceeding \$100 for the first violation, \$200 for the second violation within one year, and \$500 for each subsequent violation within one year. Any person convicted of a misdemeanor under this Chapter shall be punished by imprisonment in the County jail for a term not exceeding six months, or by a fine not exceeding \$1,000, or both.
- c. Each day or any portion of a day that any person violates or continues to violate any provision of this Chapter constitutes a separate offense and may be charged and punished separately without awaiting conviction on any prior offense. The penalties imposed by this section are in addition to penalties imposed under other provisions of this Code.
- d. Paying a fine or serving a jail sentence shall not relieve any person from the responsibility to correct any condition that violates any provision of this Chapter.
- e. All fines paid for conviction of a misdemeanor or an infraction shall be deposited into a fund for maintenance of trails.

Section 15. Section 812.211 is hereby added to the San Diego County Code to read as follows:

SEC. 812.211. VIOLATIONS – INJUNCTIVE OR DECLARATORY RELIEF.

In addition to or in lieu of other remedies specified in this Chapter, a violation of section 812.207i may be enforced by a judicial action for injunctive or declaratory relief.

Section 16. Section 812. 212 is hereby added to the San Diego County Code to read as follows:

SEC. 812.212. VIOLATIONS – CIVIL PENALTIES.

- a. As part of a civil action filed by the County to enforce section 812.207i, a court may assess a maximum civil penalty of \$1,000 for each day during which a violation of section 812.207i is committed, continued, permitted or maintained by such person(s).
- b. In determining the amount of the civil penalty to be imposed pursuant to this division, the superior court shall take into consideration the nature, circumstances, extent, and gravity of the violation or violations, the extent of any voluntary efforts to correct the violation, any history of prior violations, the degree of culpability, the violator’s ability to pay, and such other matters as justice may require.
- c. All civil penalties paid shall be deposited into a fund for trail maintenance.

Section 17. Section 812. 213 is hereby added to the San Diego County Code to read as follows:

SEC. 812.213. VIOLATIONS – COST RECOVERY.

In addition to other penalties and remedies permitted in this Chapter for a violation of section 812.207i, the following costs may be awarded without monetary limitations in any civil action:

- a. Costs to investigate, inspect, monitor, survey or litigate;

- b. Costs to remove any thing or obstacle from a trail or pathway; costs to correct the violation of section 812.207i; and costs to repair any damage to a trail or pathway; or
- c. Compensatory damages for losses to the County or any other plaintiff caused by the violation of section 812.207i.

Section 18. Section 812. 214 is hereby added to the San Diego County Code to read as follows:

SEC. 812. 214. AUTHORITY TO CLOSE TRAIL.

The County Official may close any trail or pathway if the County Official determines that conditions exist that may present a hazard to those who may use the trail or pathway. The County Official may also close any trail or pathway if the County Official determines that use of the trail results in damage to the area along the trail.

In addition, the County Agricultural Commissioner (Commissioner) is authorized to determine that any trail or pathway should be closed for a limited time if the trail or pathway is on or adjacent to land in active agricultural production and the Commissioner determines that use of the trail or pathway could harm the agriculture or be harmful to those who may use the trail or pathway. If the Commissioner determines that a trail should be closed temporarily, the Commissioner shall notify the Director of Parks and Recreation of the trail segment that should be temporarily closed, the reason for the closure and the duration of the temporary closure. The Director of Parks and Recreation shall close the trail segment for the time specified by the Commissioner.

Section 19. This ordinance shall take effect and be in force 30 days after its passage, and before the expiration of 15 days after its passage, a summary hereof shall be published once with the names of the members of the Board voting for and against it in the San Diego Commerce, a newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED AND ADOPTED this 2nd day of February 2005.