

**ORDINANCE NO. 2022-01**

**AN ORDINANCE OF THE PUENTE HILLS HABITAT PRESERVATION AUTHORITY ADOPTING BY REFERENCE THE MOUNTAINS RECREATION AND CONSERVATION AUTHORITY PARK ORDINANCE ESTABLISHING PARK RULES AND REGULATIONS AND PRESCRIBING THE PUNISHMENT FOR VIOLATION THEREOF, AS AMENDED, ADOPTING AMENDMENTS THERETO, AND ADOPTING THE PENALTY SECTIONS THERETO**

WHEREAS, the Puente Hills Habitat Preservation Authority (Authority) has contracted with the Mountains Recreation and Conservation Authority (MRCA) to provide certain management services including ranger services necessary to protect Habitat Authority owned and operated parkland and preserve the peace therein.

WHEREAS, the MRCA has adopted the Mountains Recreation and Conservation Authority Park Ordinance Establishing Park Rules and Regulations and Prescribing the Punishment for Violation Thereof (Park Regulations).

WHEREAS, the Park Regulations provide that the uniformed public officers employed by the MRCA are authorized to enforce the Park Regulations on parkland managed pursuant to contractual agreements to provide ranger services to other public entities.

WHEREAS, Authority owned and operated parkland is located within multiple jurisdictions and in order to avoid confusion to the public and ensure uniformity of park rules and regulations and enforcement thereof, the Authority adopted the Park Regulations by reference.

WHEREAS, the MRCA amended the Park Regulations on June 1, 2016, July 1, 2020, and September 7, 2022.

WHEREAS, Section 50022.2 of the Government Code provides the legal authority and procedures for adoption of codes by reference by public agencies.

WHEREAS, the Board finds that the Authority is not in a position to allow any type of e-bikes on the property it owns and manages because of limited resources and because the Authority's insurance does not cover such use, and therefore is amending the Park Regulations in this respect.

WHEREAS, on December 15, 2022, the Authority's Board of Directors (Board) introduced the Authority's ordinance adopting the Park Regulations, as amended, by reference, and waived reading of the ordinance on December 15, 2022.

WHEREAS, the Board held a duly noticed public hearing on January 19, 2023, considered all documentary and oral testimony, and adopted the ordinance, subject to the modifications provided herein.

**NOW THEREFORE, THE BOARD OF DIRECTORS OF THE PUENTE HILLS HABITAT PRESERVATION AUTHORITY DOES ORDAIN AS FOLLOWS:**

**Section 1.** The foregoing recitals are true and correct and are incorporated herein by this reference.

**Section 2.** The Puente Hills Habitat Preservation Authority hereby adopts the Mountains Recreation and Conservation Authority's Mountains Recreation and Conservation Authority Park Ordinance Establishing Park Rules and Regulations and Prescribing the Punishment for Violation Thereof, as amended (collectively, Park Regulations), except as provided below.

**Section 3.** Section 3.10(b) of the Park Regulations is amended to read:

No person shall operate a motor vehicle, motorcycle, motorized bicycle, electric bicycle, as defined in California Vehicle Code § 312.5, or motorized scooter anywhere other than on a paved roadway or parking lot unless specifically authorized by posted signage. Except as authorized by the Executive Officer or the Executive Officer's designee, no person shall operate any off-road vehicle, off-road motorcycle, or all terrain vehicle on parkland.

Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(3), provided that use of a Class 1 electric bicycle may be fined pursuant to § 6.2.1(b)(1).

**Section 4.** Chapter 5 of the Park Regulations, is hereby adopted in its entirety and shall read:

#### Chapter 5. Penalty for Violations

##### § 5.0. Violations.

(a) Unless otherwise specified, any violation of any provision of this Ordinance shall be a misdemeanor punishable by a maximum fine of one thousand dollars (\$1,000), or imprisonment in the county jail for six months, or both such fine and imprisonment, pursuant to Public Resources Code § 5786.17.

(b) Where indicated, certain violations of this Ordinance shall be an infraction punishable by: (1) a fine of not more than one hundred dollars (\$100); (2) a fine not exceeding two hundred dollars (\$200) for a second violation of the same section of this Ordinance within one year; (3) a fine not exceeding five hundred dollars (\$500) for each additional violation of the same section of this Ordinance within one year.

##### § 5.1. Traffic control violations.

(a) Except as otherwise provided, any violation of § 4.0 shall be punishable as infraction and is subject to penalties pursuant to § 5.0(b).

(b) Imposition of liability for violation of § 4.0 by automated motor vehicle enforcement shall not be considered a violation under the California Vehicle Code, shall not be deemed a conviction as an operator, and shall not be made part of the operating record upon whom such liability is imposed. No points authorized by the California Vehicle Code ("Point System for License Suspension") shall be assigned to the owner or driver of the vehicle for violation of § 4.0 enforced by means of automated motor vehicle enforcement. The fine for any violation of the § 4.0 enforced by automated motor vehicle

enforcement shall not exceed one hundred dollars (\$100).

§ 5.2. Parking violation fines.

(a) Violation of any parking sign as provided in § 4.1(a) of this Ordinance shall be subject to an administrative or civil penalty of not more than seventy three dollars (\$73).

(b) Any violation of §§ 4.1(b) or 4.1(c) of this Ordinance shall be subject to an administrative or civil penalty of not more than ninety three dollars (\$93).

§ 5.3. Reduction of misdemeanor to infraction. Any violation punishable as a misdemeanor shall be reduced to an infraction if the prosecuting attorney files a complaint in the superior court specifying that the offense is an infraction or if the prosecuting attorney makes a motion to reduce a misdemeanor charge to an infraction prior to trial on the matter. Any person convicted of the offense after a reduction shall be punished by: (1) a fine not exceeding one hundred dollars (\$100) for a first violation; (2) a fine not exceeding two hundred dollars (\$200) for a second violation of the same section of this Ordinance within one year, and (3) a fine not exceeding five hundred dollars (\$500) for each additional violation of the same section of this Ordinance within one year.

§ 5.4. Separate offense. Each person is guilty of a separate offense for each and every day during any portion of which any violation of this ordinance is committed, continued, maintained, or permitted by such person and shall be punished accordingly.

§ 5.5. Use of administrative remedies.

(a) In addition to all other remedies available to the Authority, the Authority may pursue administrative remedies pursuant to Chapter 6 for both misdemeanor and infraction violations of this Ordinance, as authorized pursuant to Government Code § 53069.4. Use of administrative remedies shall be at the sole discretion of the Authority and its authorized representatives. Payment of administrative penalties or administrative costs shall not bar criminal enforcement proceedings for any continuation or repeated occurrence of any violation.

(b) The penalty for any violation of this Ordinance that would otherwise be an infraction, and which is enforced through administrative remedies pursuant to Government Code § 53069.4, shall not exceed the maximum fine or penalty amounts for infractions set forth in § 5.0(b) and § 6.2.1(a).

(c) The penalty for any violation of this Ordinance that would otherwise be a misdemeanor, and which is enforced through administrative remedies pursuant to Government Code § 53069.4, shall be punishable as set forth in § 6.2.1(b) for each individual occurrence of said violation.

(d) In addition to the payment of any administrative penalties and costs imposed herein, violations enforced pursuant to Chapter 6 of this Ordinance may also require compliance with the conditions outlined in an administrative compliance order issued by the Authority and an administrative order issued by an administrative hearing officer.

§ 5.6. Remedies for injury to parkland. In addition to penalties and costs authorized

under this Ordinance, the measure of damages and the remedy for any violation of this Ordinance that results in an injury to parkland or any Authority property shall include the restoration of the parkland to its condition immediately prior to the violation or restitution payment of an amount equal to the actual cost of said restoration, including administrative costs.

§ 5.7. Remedies cumulative. Except as expressly stated in this Ordinance, the remedies provided in this Ordinance are cumulative and are in addition to any other remedies and penalties available under this Ordinance and the laws of the State of California and the United States.

**Section 5.** Chapter 6 of the Park Regulations, is hereby adopted in its entirety and shall read:

#### Chapter 6. Administrative Remedies

##### § 6.1. Parking citations.

(a) Authorization. This section provides for the issuance of administrative parking citations, as authorized pursuant to Government Code § 53069.4.

(b) Contents of administrative parking citation. Each administrative parking citation shall contain the following information: the date of the violation; the address or description of the location of the violation; the section or sections of this code violated and a description of the acts or omissions constituting the violation; the amount of the penalty for the code violation; a description of the penalty payment process, including a description of the time within which and the place to which the penalty shall be paid, and the name of the citing enforcement officer. A notice of a right to a hearing, including the time within which the administrative citation may be contested, and how to request a hearing, will be provided at the time of citation.

§ 6.1.2. Parking citation process – initial review. For a period of twenty one (21) calendar days from the issuance of a notice of parking violation or fourteen (14) calendar days from the mailing of a notice of delinquent parking violation, any person in receipt of a parking citation may request an initial review of the citation by the Authority and either in writing, in person, or telephonically. The Authority shall have the authority to dismiss citation, if, following the initial review, it is determined that a) the violation did not occur, or b) a dismissal is in the interest of justice. The results of the initial review will be mailed to the person contesting the citation.

##### § 6.1.3. Parking citation process – administrative review.

(a) If the person in receipt of a parking citation is dissatisfied with the results of the initial review, that person may make a written request for an administrative hearing of the violation within twenty one (21) calendar days following the mailing of the results of the Authority's initial review. All requests for administrative hearings must be accompanied by an advance deposit equal to the amount of the parking citation fine, payable as indicated by the citation or subsequent notices. An administrative hearing shall be held within sixty (60) days of receipt by the Authority of any valid request. The request for hearing will be considered complete only upon receipt of written request and advance deposit, or advance deposit hardship waiver pursuant to subsection (b).

(b) Advance deposit hardship waiver. In lieu of the advance deposit, any person who requests a hearing to contest an administrative parking citation may request in writing an advance deposit hardship waiver, including the reasons for the request. The Executive Officer or the Executive Officer's designee may issue an advance deposit hardship waiver if satisfied that the person is unable to deposit the full amount of the penalty in advance of the hearing. The Executive Officer or the Executive Officer's designee shall issue a written determination of whether to issue the advance deposit hardship waiver. The written determination shall be final, subject only to judicial review as provided by law. If the Executive Officer or the Executive Officer's designee determines not to issue an advance deposit hardship waiver, the person shall remit the deposit to the Authority within ten (10) calendar days of the date of that decision in order to secure the hearing.

(c) Payment of administrative parking citation penalties. Any person who has not made a deposit pursuant to subsection (a) of this Section who is found liable for the underlying violation by the administrative hearing officer shall remit the balance of the full administrative penalties due within twenty (20) days following the mailing of the administrative order.

§ 6.1.4. Hearing officer. All hearings on administrative parking citations shall be heard and conducted by a hearing officer. The Executive Officer or the Executive Officer's designee shall designate a hearing officer for administrative hearings who shall not be the citing enforcement officer and who shall be an attorney licensed to practice law in the State of California or a retired judicial officer of the State of California. The employment, performance evaluation, compensation and benefits of the hearing officer shall not be directly or indirectly conditioned upon the amount of administrative penalties or the rulings upheld, revised or otherwise issued by the hearing officer.

§ 6.1.5. Notice and time of hearing for administrative parking citation hearings. Written notice of hearing shall be served on any person to whom the citation was addressed pursuant to § 6.1 and shall contain the date, time, and place at which the hearing shall be conducted. The hearing shall be set for a date that is not less than fifteen (15) calendar days from the date of the mailing of the notice of hearing. The hearing must be held within sixty (60) calendar days of the receipt by the Authority of the advance deposit and request of the hearing by recipient of an administrative parking citation. The hearing officer may approve a continuance of the hearing to any date for good cause.

§ 6.1.6. Hearing procedure.

(a) Evidence and testimony. All oral and written evidence presented at the hearing shall be presented under oath and under the penalty of perjury, except that the administrative citation and any additional report submitted by the park ranger, shall be admissible and shall constitute prima facie and presumptive evidence of the respective facts contained in those documents. At the hearing, the alleged responsible person shall have the opportunity to testify, present evidence, and to cross-examine witnesses concerning the administrative parking citation. The alleged responsible person may appear personally or through an attorney. Telephonic appearances may be allowed at the discretion of the hearing officer. Prehearing discovery is not authorized. The Authority and alleged responsible persons are authorized by this Ordinance to subpoena relevant witnesses and documents in accordance with policies and procedures established by the

Governing Board of the Authority. Disobedience of such subpoenas, or the refusal to testify (upon other than constitutional grounds), shall constitute a misdemeanor violation of this Ordinance. The hearing officer may conduct the hearing informally, both as to rules of procedure and admission of evidence, the hearing officer may consider and make findings in any manner which will provide a fair hearing, and may continue the hearing to obtain additional evidence. Unless otherwise required, the presence of the issuing ranger at the hearing is not mandatory.

(b) Hearing by written declaration. In lieu of personal appearance, any alleged responsible person subject to an administrative parking citation may elect to proceed with an administrative hearing by written declaration signed under penalty of perjury. The Executive Officer or the Executive Officer's designee shall prescribe the procedures to be followed when a hearing is conducted by written declaration.

(c) Failure to appear. The unexcused failure of any alleged responsible person to appear at the hearing after proper notice or, in the alternative, to present written or demonstrative evidence shall constitute an admission of the violation by the alleged responsible person and an exhaustion of administrative remedies that may bar judicial review. Refusal to participate in said hearing through one of the methods prescribed herein or engaging in behavior disruptive to the hearing may, at the sole discretion of the hearing officer, constitute failure to appear for the purposes of this section.

(d) Withdrawal of hearing request. Any person who has requested a hearing on the issuance of an administrative parking citation may withdraw said request upon written notice to the Authority. A withdrawal under this section shall constitute a forfeiture of any advance deposit of administrative penalty or costs and shall constitute a waiver of any right to challenge the underlying administrative citation. A withdrawal under this section shall also be a bar to judicial review of the administrative parking citation for failure to exhaust administrative remedies.

§ 6.1.7. Administrative order – administrative parking citations issued pursuant to § 6.1.

(a) Decision of the hearing officer. After considering all the testimony and evidence submitted at the hearing, the hearing officer shall determine if the responsible person is liable for the underlying violation by a preponderance of the evidence. The hearing officer shall issue a written administrative order, including findings regarding the existence of each violation and notice of the right to judicial review, at the hearing or within thirty (30) calendar days following completion of the hearing. The responsible person shall be served with a copy of the administrative order at the hearing or within ten (10) calendar days following its issuance. The administrative order shall be final upon service on the responsible person, subject only to judicial review as allowed by law.

(b) Penalty. If the hearing officer determines that the responsible person committed the violation alleged by a preponderance of the evidence, the hearing officer shall assess the administrative penalty specified on the citation pursuant to this Ordinance. In cases of extreme hardship or in the interest of justice the hearing officer may reduce or suspend the administrative parking citation penalty. The hearing officer shall set a date the penalty shall be due and payable, which date shall ordinarily be thirty

(30) calendar days from date of service of the administrative order, unless for good cause the hearing officer extends such date. If the hearing officer finds that the administrative citation should not be sustained or that the amount of the administrative penalty should be reduced, the Authority shall refund the amount within thirty (30) calendar days of the order.

§ 6.1.8. Failure to pay administrative parking citation penalties and failure to comply with administrative order.

(a) Administrative parking citation penalties shall be due by the date specified in an administrative order issued pursuant to § 6.1.7. Failure to pay the assessed penalties by the date specified in the citation will result in a notice of delinquency. Failure to pay the fine by the date specified in the notice of delinquency will result in a doubling of the citation amount. Unpaid fines may be enforced as a personal obligation of the responsible person, which shall remain in effect until all of the administrative penalties, interest and all other applicable costs are paid in full and shall be collectable by the Authority by all lawful means of collection, including the utilization of third party collections providers. Unpaid administrative penalties and costs may be reported to appropriate credit reporting agencies.

(b) Lien procedure. Upon the responsible person's failure to pay administrative parking citation penalties as ordered by the hearing officer or by the superior court, the Authority may record a judgment lien against responsible person's real property pursuant to Code of Civil Procedure §§ 674 and 697.310, et seq.

§ 6.1.9. Judicial review. Any person subject to a decision of the hearing officer may obtain judicial review of the decision in the superior court pursuant to the provisions of California Government Code § 53069.4.

§ 6.2. Administrative citations.

(a) Authority. This section provides for the issuance of administrative citations, as authorized pursuant to Government Code § 53069.4. As an alternative enforcement method, a park ranger may issue an administrative citation for any violation of this Ordinance. The administrative penalties and costs prescribed herein may be sought in addition to any other legal remedies, including, but not limited to, criminal penalties, injunctive relief, specific performance, civil damages, and any other remedy which may be pursued by the Authority to address any violation of this Ordinance. The issuance of administrative citations and administrative compliance orders shall not be deemed a waiver of any other enforcement remedies available at law to the Authority. The use of the remedies and procedures of this section shall be at the sole discretion of the Authority.

(b) Contents of administrative citation. Each administrative citation shall contain the following information: the date of the violation; the address or description of the location of the violation; the section or sections of this code violated and a description of the acts or omissions constituting the violation; the amount of the penalty for the code violation; a description of the penalty payment process, including a description of the time within which and the place to which the penalty shall be paid, and the name of the citing enforcement officer. A notice of a right to a hearing, including the time within which the administrative citation may be contested, and how to request a hearing, will be provided

at the time of citation.

§ 6.2.1. Administrative citation penalty.

(a) **Infractions.** The amount of the administrative penalty for each violation of a section of this Ordinance otherwise punishable as an infraction shall be (1) a fine of not more than one hundred dollars (\$100); (2) a fine not exceeding two hundred dollars (\$200) for a second violation of the same section of this Ordinance within one year; (3) a fine not exceeding five hundred dollars (\$500) for each additional violation of the same section of this Ordinance within one year. Each person is guilty of a separate offense for each and every day during any portion of which any violation of this Ordinance is committed, continued, maintained, or permitted by such person and shall be punished accordingly. Failure to pay the assessed administrative penalties specified in the citation may be enforced as a personal obligation of the person responsible for payment and shall be collectable by the Authority by all lawful means of collection, including the utilization of third party collections providers.

(b) **Misdemeanors.**

(1) The amount of the administrative penalty for each violation of this Ordinance otherwise punishable as a misdemeanor under this subdivision shall be one hundred seventy five dollars (\$175), a fine not exceeding two hundred fifty dollars (\$250) for a second violation of the same section of this Ordinance within one year, and a fine not exceeding five hundred dollars (\$500) for each additional violation within one year;

(2) The amount of the administrative penalty for each violation of this Ordinance punishable under this subdivision shall be two hundred fifty dollars (\$250), a fine not exceeding five hundred dollars (\$500) for a second violation of the same section of this Ordinance within one year, and a fine not exceeding one thousand dollars (\$1000) for each additional violation within one year;

(3) The amount of the administrative penalty for each violation of this Ordinance punishable under this subdivision shall be five hundred dollars (\$500), and a fine not exceeding one thousand dollars (\$1000) for each additional violation within one year;

(4) The amount of the administrative penalty for each violation of this Ordinance punishable under this subdivision shall be one thousand dollars (\$1000);

(c) Each person is guilty of a separate offense for each and every day during any portion of which any violation of this Ordinance is committed, continued, maintained, or permitted by such person and shall be punished accordingly. Failure to pay the assessed administrative penalties specified in the citation may be enforced as a personal obligation of the person responsible for payment and shall be collectable by the Authority by all lawful means of collection, including the utilization of third party collections providers.

(d) **Reduction of misdemeanors.** Notwithstanding anything contained herein, in the interest of justice, any violation of this Ordinance otherwise punishable as a misdemeanor may be subject to a reduced administrative penalty pursuant to § 6.2.1(a) at the sole discretion of the Authority.



§ 6.2.2. Administrative citation hearing.

(a) Request for administrative citation hearing. Any recipient of an administrative citation pursuant to § 6.2 may contest it before the hearing officer by requesting a hearing in writing and submitting an advance deposit of the administrative penalty within thirty (30) calendar days from the date the administrative citation is served. The request for hearing will be considered complete only upon receipt of written request and advance deposit, or advance deposit hardship waiver pursuant to subsection (b).

(b) Advance deposit – traffic control violations. Notwithstanding subsection (a) above, the advance deposit required to secure a hearing on any administrative citation issued for a violation of § 4.0 shall not exceed twenty five percent (25%) of the total administrative penalty.

(c) Advance deposit hardship waiver. In lieu of the advance deposit, any person who requests a hearing to contest an administrative citation may request in writing an advance deposit hardship waiver, including the reasons for the request. The Executive Officer or the Executive Officer's designee may issue an advance deposit hardship waiver if satisfied that the person is unable to deposit the full amount of the penalty in advance of the hearing. The Executive Officer or the Executive Officer's designee shall issue a written determination of whether to issue the advance deposit hardship waiver. The written determination shall be final, subject only to judicial review as provided by law. If the Executive Officer or the Executive Officer's designee determines not to issue an advance deposit hardship waiver, the person shall remit the deposit to the Authority within ten (10) calendar days of the date of that decision in order to secure the hearing.

(d) Payment of administrative penalties. Any person who has made a partial deposit pursuant to subsection (b) of this Section or has received an advance deposit hardship waiver pursuant to subsection (c) of this Section who is found liable for the underlying violation by the administrative hearing officer shall remit the balance of the full administrative penalties pursuant to the administrative Order.

§ 6.2.3. Hearing officer. All hearings on administrative citations shall be heard and conducted by a hearing officer. The Executive Officer or the Executive Officer's designee shall designate a hearing officer for administrative hearings who shall not be the citing enforcement officer and who shall be an attorney licensed to practice law in the State of California or a retired judicial officer of the State of California. The employment, performance evaluation, compensation and benefits of the hearing officer shall not be directly or indirectly conditioned upon the amount of administrative penalties or the rulings upheld, revised or otherwise issued by the hearing officer.

§ 6.2.4. Notice and time of hearing –administrative citation hearings. Written notice of hearing shall be served on any person to whom the citation was addressed pursuant to §

6.2 and shall contain the date, time, and place at which the hearing shall be conducted. The hearing shall be set for a date that is not less than fifteen (15) calendar days from the date of the mailing of the notice of hearing. The hearing must be held within sixty (60) calendar days of the request of the hearing by recipient of an administrative citation. The hearing officer may approve a continuance of the hearing to any date for

good cause.

§ 6.2.5. Hearing procedure.

(a) Evidence and testimony. All oral and written evidence presented at the hearing shall be presented under oath and under the penalty of perjury, except that the administrative citation and any additional report submitted by the park ranger, shall be admissible and shall constitute prima facie and presumptive evidence of the respective facts contained in those documents. At the hearing, the alleged responsible person shall have the opportunity to testify, present evidence, and to cross-examine witnesses concerning the administrative citation. The alleged responsible person may appear personally or through an attorney. Telephonic appearances may be allowed at the discretion of the hearing officer. Prehearing discovery is not authorized. The Authority and alleged responsible persons are authorized by this Ordinance to subpoena relevant witnesses and documents in accordance with policies and procedures established by the Governing Board of the Authority. Disobedience of such subpoenas, or the refusal to testify (upon other than constitutional grounds), shall constitute a misdemeanor violation of this Ordinance. The hearing officer may conduct the hearing informally, both as to rules of procedure and admission of evidence. The hearing officer may consider and make findings in any manner which will provide a fair hearing, and may continue the hearing to obtain additional evidence. Unless otherwise required, the presence of the issuing ranger at the hearing is not mandatory.

(b) Hearing by written declaration. In lieu of personal appearance, any alleged responsible person subject to an administrative citation may elect to proceed with an administrative hearing by written declaration signed under penalty of perjury. The Executive Officer or the Executive Officer's designee shall prescribe the procedures to be followed when a hearing is conducted by written declaration.

(c) Failure to appear. The unexcused failure of any alleged responsible person to appear at the hearing after proper notice or, in the alternative, to present written or demonstrative evidence shall constitute an admission of the violation by the alleged responsible person and an exhaustion of administrative remedies that may bar judicial review. Refusal to participate in said hearing through one of the methods prescribed herein or engaging in behavior disruptive to the hearing may, at the sole discretion of the hearing officer, constitute failure to appear for the purposes of this section.

(d) Withdrawal of hearing request. Any person who has requested a hearing on the issuance of an administrative citation may withdraw said request upon written notice to the Authority. A withdrawal under this section shall constitute a forfeiture of any advance deposit of administrative penalty and costs and shall constitute a waiver of any right to challenge the underlying administrative citation. A withdrawal under this section shall also be a bar to judicial review of the administrative citation for failure to exhaust administrative remedies.

§ 6.2.6. Administrative order – administrative citations issued pursuant to § 6.2.

(a) Decision of the hearing officer. After considering all the testimony and evidence submitted at the hearing, the hearing officer shall determine if the responsible person is liable for the underlying violation by a preponderance of the evidence. The

hearing officer shall issue a written administrative order, including findings regarding the existence of each violation and notice of the right to judicial review, at the hearing or within thirty (30) calendar days following completion of the hearing. The responsible person shall be served with a copy of the administrative order at the hearing or within ten (10) calendar days following its issuance. The administrative order shall be final upon service on the responsible person, subject only to judicial review as allowed by law.

(b) Penalty. If the hearing officer determines that the responsible person committed the violation alleged by a preponderance of the evidence, the hearing officer shall assess the administrative penalty specified in § 6.2.1 and any administrative costs established pursuant to subdivision (c) of this section. In cases of extreme hardship or in the interest of justice the hearing officer may reduce or suspend the administrative penalty specified in §

6.2.1. The hearing officer shall set a date the balance of the penalty and any administrative costs shall be due and payable, which date shall ordinarily be thirty (30) calendar days from date of service of the administrative order, unless for good cause the hearing officer extends such date. If the hearing officer finds that the administrative citation should not be sustained or that the amount of the administrative penalty should be reduced, the Authority shall refund the amount within thirty (30) calendar days of the service of the order.

(c) Administrative costs. The hearing officer may impose administrative costs, including any and all costs incurred by the Authority in connection with the matter before the hearing officer, including, but not limited to, investigation, staffing costs incurred in preparation for the hearing and for the hearing itself. In no case shall the cost of the hearing officer himself or herself be included in any costs assessed against the responsible person.

§ 6.2.7. Failure to pay administrative penalties and costs, and failure to comply with administrative order.

(a) Administrative penalties and costs assessed by the hearing officer shall be due by the date specified in an administrative order issued pursuant to § 6.2.6. Failure to pay the assessed administrative penalties or administrative costs specified in the administrative order may be enforced as a personal obligation of the responsible person, which shall remain in effect until all of the administrative penalties, interest and administrative costs are paid in full and shall be collectable by the Authority by all lawful means of collection, including the utilization of third party collections providers. Unpaid administrative penalties and costs may be reported to appropriate credit reporting agencies. In addition to all other means of enforcement, if the violation is in connection with real property, the Authority may place a lien on the real property which shall remain in effect until all the administrative penalties and costs, plus interest, are paid in full, and until responsible person achieves full compliance with any and all conditions in the administrative order.

(b) Late payment charges. Late payment charges of ten percent (10%) per month, simple interest on the delinquent amount, shall accrue and are payable. If the delinquent amount has not been paid within sixty (60) calendar days of the date set for

payment then a twenty five percent (25%) nonpayment penalty shall be added to the principal amount due, and thereafter interest shall accrue on the delinquent amount plus the nonpayment penalty.

(c) Failure to pay administrative costs within the time allowed under this chapter shall constitute a violation of this code punishable as a misdemeanor and shall further be subject to collection as otherwise provided for administrative penalties herein.

(d) Lien procedure. Upon the responsible person's failure to pay administrative penalties and costs as ordered by the hearing officer or by the superior court, the Authority may record a judgment lien against responsible person's real property pursuant to Code of Civil Procedure §§ 674 and 697.310, et seq.

§ 6.2.8. Judicial review. Any person subject to a decision of the hearing officer may obtain judicial review of the decision in the superior court pursuant to the provisions of California Government Code § 53069.4.

### § 6.3. Administrative compliance orders.

(a) Authorization. This section provides for the issuance of administrative compliance orders, as authorized pursuant to Government Code § 53069.4. In addition to any other legal remedies, including, but not limited to, criminal penalties, injunctive relief, specific performance, civil damages, and any other remedy which may be pursued by the Authority to address any violation of this Ordinance, the Chief Ranger, enforcement officer, or any park ranger, or other employee designated by the Chief Ranger, may issue a written compliance order for any violation of this Ordinance. Administrative penalties may accrue immediately upon issuance of a compliance order, subject to the provisions of Government Code § 53069.4(a)(2).

(b) Contents of administrative compliance order. A compliance order issued pursuant to this section shall contain the following information: the date and location of the violation; the section of this Ordinance violated and a description of the violation; all actions required to correct the violation; and the amount of the administrative penalty or penalties. At the discretion of the Chief Ranger or enforcement officer, or as required by Government Code § 53069.4(a)(2), the compliance order shall also indicate a reasonable time period after which administrative penalties will begin to accrue if compliance with the order has not been achieved. The responsible person shall remain liable for and shall pay all administrative costs associated with the compliance order. Correction of underlying violation shall not absolve responsible person from this obligation.

(c) Willful violations. If the Chief Ranger or enforcement officer determines that a violation of this Ordinance giving rise to issuance of an administrative compliance order was done so willfully, daily administrative penalties shall begin to accrue upon issuance of compliance order.

(d) Compliance and failure to comply. If the Chief Ranger or the designated park ranger or enforcement officer determines that all violations have been corrected within the time specified in the compliance order or within any amended orders, the ranger shall so advise each party to whom the compliance order was addressed. If full compliance is not achieved within the time specified in the compliance order or within any

amended orders, the Chief Ranger or the designated park ranger or employee shall schedule a hearing before the hearing officer.

(e) Administrative order by hearing officer. Upon consideration of evidence presented at the administrative hearing, the hearing officer shall issue a written administrative order, pursuant to this section. The administrative order of the hearing officer shall be final, subject only to judicial review as authorized by law. The hearing officer shall have continuing jurisdiction over administrative compliance orders until the underlying violation has been remedied or the matter has been otherwise resolved.

§ 6.3.1. Hearing officer. All hearings on administrative compliance orders shall be heard and conducted by a hearing officer. The Executive Officer or the Executive Officer's designee shall designate a hearing officer for administrative hearings who shall not be the citing enforcement officer and who shall be an attorney licensed to practice law in the State of California or a retired judicial officer of the State of California. The employment, performance evaluation, compensation or benefits of the hearing officer shall not be directly or indirectly conditioned upon the amount of administrative penalties or the rulings upheld, revised or otherwise issued by the hearing officer.

§ 6.3.2. Notice and time of hearing –administrative compliance order hearings. Written notice of hearing shall be served on any person or persons to whom the order was addressed pursuant to § 6.3 and shall contain the date, time, and place at which the hearing shall be conducted. The hearing shall be set for a date that is not less than fifteen (15) calendar days from the date of the notice of hearing. The hearing officer may approve a continuance of the hearing to any date for good cause.

§ 6.3.3. Hearing procedure.

(a) Evidence and testimony. All oral and written evidence presented at the hearing shall be presented under oath and under the penalty of perjury except that the administrative citation and any additional report submitted by the park ranger shall be admissible and shall constitute prima facie and presumptive evidence of the respective facts contained in those documents. At the hearing, the alleged responsible person shall have the opportunity to testify, present evidence, and to cross-examine witnesses concerning the administrative compliance order. The alleged responsible person may appear personally or through an attorney. Telephonic appearances may be allowed at the discretion of the hearing officer. Prehearing discovery is not authorized. The Authority and alleged responsible persons are authorized by this Ordinance to subpoena relevant witnesses and documents in accordance with policies and procedures established by the Governing Board of the Authority. Disobedience of such subpoenas, or the refusal to testify (upon other than constitutional grounds), shall constitute a misdemeanor violation of this Ordinance. The hearing officer may conduct the hearing informally, both as to rules of procedure and admission of evidence, the hearing officer may consider and make findings in any manner which will provide a fair hearing, and may continue the hearing to obtain additional evidence. Unless otherwise required, the presence of the issuing ranger at the hearing is not mandatory.

(b) Hearing by written declaration. In lieu of personal appearance, any alleged

responsible person subject to an administrative compliance order may elect to proceed with an administrative hearing by written declaration signed under penalty of perjury. The Executive Officer or the Executive Officer's designee shall prescribe the procedures to be followed when a hearing is conducted by written declaration.

(c) Failure to appear. The unexcused failure of any alleged responsible person to appear at the hearing after proper notice or, in the alternative, to present written or demonstrative evidence shall constitute an admission of the violation by the alleged responsible person and an exhaustion of administrative remedies that may bar judicial review. Refusal to participate in said hearing through one of the methods prescribed herein or engaging in behavior disruptive to the hearing may, at the sole discretion of the hearing officer, constitute failure to appear for the purposes of this section.

(d) Withdrawal of hearing request. Any person who has requested a hearing on the issuance of an administrative compliance order may withdraw said request upon written notice to the Authority. A withdrawal under this section shall constitute a forfeiture of any advance deposit of administrative penalty or costs and shall constitute a waiver of any right to challenge the underlying administrative compliance order. A withdrawal under this section shall also be a bar to judicial review of the administrative citation for failure to exhaust administrative remedies.

#### § 6.3.4. Decision and administrative order of the hearing officer.

(a) Decision of the hearing officer. The hearing officer shall consider any written or oral evidence consistent with ascertainment of the facts regarding the violation and compliance with the order. Within a reasonable time following the conclusion of the hearing, the hearing officer shall decide the issues at question, based on a preponderance of the evidence presented at the hearing, and make findings and issue a decision regarding the existence of the violations, the extent of compliance with the compliance orders issued by the Authority, and the amount of applicable administrative penalties, costs, and further action required.

(b) Findings – violations. The hearing officer shall issue written findings on each violation of this Ordinance alleged by the Authority. The findings shall be supported by evidence received at the hearing. If the hearing officer finds by a preponderance of the evidence that a violation has occurred and that the violation was not corrected within any applicable time period specified in the compliance order, those findings shall be included in the administrative order. If the hearing officer finds that no violation has occurred or that the violation was corrected within the time period specified in the compliance order, the hearing officer shall issue a finding of those facts in the administrative order.

(c) Findings – penalties, costs and corrections. If the hearing officer determines that a violation occurred which was not corrected within the time specified in the compliance order, the administrative order shall impose on the responsible persons all of the following, if applicable:

- (1) Administrative penalties as provided in § 6.3.6, and
- (2) Administrative costs as provided in § 6.3.7.

#### § 6.3.5. Administrative penalties.

(a) The hearing officer shall impose administrative penalties for each day during which a violation is maintained after the date when compliance was ordered to be achieved. The amount of the daily administrative penalty shall be determined pursuant to

§ 6.2.1. The hearing officer may take any or all of the following factors into consideration:

- (1) The duration of the violation;
- (2) The frequency, recurrence, and number of violations, related or unrelated, by the same responsible person;
- (3) The seriousness of the violation;
- (4) The good faith efforts of the responsible person to come into compliance;
- (5) The economic impact of the violation on the community, and
- (6) Such other factors as justice may require.

(b) Administrative penalties imposed by the hearing officer shall accrue from the date specified in the compliance order and shall cease to accrue on the date the violation is corrected as determined by the enforcement officer. Administrative penalties assessed by the hearing officer shall be due by the date specified in the administrative order. The Chief Ranger or enforcement officer may suspend the imposition of applicable penalties for any period of time during which:

- (1) The responsible person has filed for necessary permits;
- (2) Such permits are required to achieve compliance, and
- (3) Such permit applications are actively pending before the city, state, or other appropriate governmental agency.

(c) Willful violations. Pursuant to § 6.3(c), if the hearing officer determines, on a preponderance of the evidence, that a violation of this Ordinance giving rise to a compliance order under this chapter was a willful act, the daily administrative penalties shall be deemed to have begun to accrue as of the date of the compliance order.

(d) Failure to correct. If the violation is not corrected as specified in the administrative order, administrative penalties shall continue to accrue on a daily basis until the violation is corrected.

(e) Compliance with administrative order. If the responsible person gives written notice to the enforcement officer that the violation has been corrected and if the enforcement officer finds that compliance has been achieved, the enforcement officer shall deem the date of that final inspection to be the date on which the enforcement officer finds that the violation was corrected.

§ 6.3.6. Administrative costs. In addition to any administrative penalties imposed, the hearing officer shall also assess appropriate administrative costs against the responsible person. Administrative costs may include any and all costs incurred by the Authority in connection with the compliance order and the administrative hearing, including, but not limited to costs of investigation, staffing costs incurred in preparation

for the hearing and for the hearing itself, and costs for all re-inspections necessary to enforce the compliance order. Failure to pay administrative costs within the time allowed under this Chapter shall constitute a violation of this Ordinance punishable as a misdemeanor and shall further be subject to collection as otherwise provided for administrative penalties herein.

§ 6.3.7. Failure to pay administrative penalties and costs and failure to comply with administrative order.

(a) Administrative penalties and costs assessed by the hearing officer shall be due by the date specified in an administrative order. Failure to pay the assessed administrative penalties and administrative costs specified in the administrative order may be enforced as a personal obligation of the responsible person, which shall remain in effect until all of the administrative penalties, administrative costs, and interest are paid in full and shall be collectable by the Authority by all lawful means of collection, including the utilization of third party collections providers. Unpaid administrative penalties and costs may be reported to appropriate credit reporting agencies. In addition to all other means of enforcement, if the violation is in connection with real property, the Authority may place a lien on the real property, which shall remain in effect until all the administrative penalties and costs, plus interest, are paid in full, and until responsible person achieves full compliance with any and all conditions in the administrative order.

(b) Late payment charges. Late payment charges of ten percent (10%) per month, simple interest on the delinquent amount, shall accrue and are payable. If the delinquent amount has not been paid within sixty (60) calendar days of the date set for payment then a twenty five percent (25%) nonpayment penalty shall be added to the principal amount due, and thereafter interest shall accrue on the delinquent amount plus the nonpayment penalty.

(c) Failure to pay administrative costs within the time allowed under this chapter shall constitute a violation of this code punishable as a misdemeanor and shall further be subject to collection as otherwise provided for administrative penalties herein.

(d) Lien procedure. Upon the responsible person's failure to pay administrative penalties and costs as ordered by the hearing officer or by the superior court, the Authority may record a judgment lien against responsible person's real property pursuant to Code of Civil Procedure §§ 674 and 697.310, et seq.

§ 6.4. Failure to comply with subpoena. Pursuant to any provision of this Chapter, no person shall fail to comply with a subpoena issued for the purposes of an administrative hearing. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(2).

§ 6.5. Judicial review. Any person subject to a decision of the hearing officer under this Chapter may obtain judicial review of the decision in the superior court pursuant to the provisions of California Government Code § 53069.4.

**Section 6. Severability.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the decision of any court of



competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance. The City Council hereby declares that it would have adopted this ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

**Section 6.** Except as otherwise specifically provided in this Ordinance, all other provisions of the Park Regulations remain the same.

**Section 7.** The Authority's Executive Director shall cause this ordinance to be posted in three (3) public places in the Authority's jurisdiction within fifteen (15) days after its passage, in accordance with the provisions of Section 36933 of the Government Code.

**Section 8. Effective Date.** This ordinance shall take effect on the 31<sup>st</sup> day after its adoption.

PASSED, APPROVED and ADOPTED this 19th day of January 2023 by the following vote:

AYES: Yip, Martinez, Ferrante, Sulic  
NOES: None  
ABSENT: None  
ABSTAIN: None

  
\_\_\_\_\_  
Chair, Board of Directors

ATTEST:  
  
\_\_\_\_\_

Acting Secretary, Andrea Gullo