




**EAST BAY REGIONAL PARK DISTRICT
BOARD OF DIRECTORS MEETING
AGENDA STAFF REPORT**

DATE	December 19, 2023
TITLE	Authorization to Establish a Fine Schedule for Administrative Citations and Nuisance Abatement Citations
DIVISION	Operations
FROM	Lisa Goorjian, AGM of Operations Joseph Kreins, AGM, Interim Public Safety and Chief of Police
APPROVED	Sabrina Landreth, General Manager 

RECOMMENDATION

The General Manager recommends that the Board of Directors authorize the adoption of a resolution to establish a fine schedule, and interest rate for unpaid fines, for administrative citations and nuisance abatement citations issued pursuant to Chapter 10 of the East Bay Regional Park District Ordinance 38.

BACKGROUND

AB 959 (Mullin), which as signed by Governor Newsom on September 23, 2021, added Public Resources Code Section 5558.5. This legislation gave the East Bay Regional Park District (Park District) the ability to adopt an ordinance establishing that an encroachment onto district lands constitutes a nuisance. With this new statutory authority, the Board of Directors adopted an ordinance on October 4, 2022, adding Chapter 10 to Ordinance 38.

Additionally, the California Legislature authorizes local public agencies to make violation of ordinances enacted by the Park District subject to an administrative fine. (Cal. Gov. Code §53069.4(a)(1).) The Park District adopted Chapter 10 of Ordinance 38 setting forth procedures that govern the imposition, enforcement, collection and administrative review of such administrative fines and penalties. This chapter cannot be implemented until the Board adopts a resolution establishing the civil fines, late charges, and interest amounts.

Section 1001.5(a) provides that administrative fines shall be established by Board resolution and allows escalating fines for repeat offenses of the same violation within 12 months of the initial administrative citation. Accordingly, staff has established a list of Ordinance 38 violations suitable for issuance of an administrative citation, along with a recommended fine amount. Pursuant to state law, where a violation would otherwise be an infraction, the administrative fine may not exceed the maximum fine or penalty for infractions set forth in Government Code Section 36900(b). For violations that would otherwise be a misdemeanor, Government Code Section 36901 limits the fine amount to \$1,000.

Pursuant to Government Code §36900(b), every violation determined to be an infraction is punishable by the following:

1. A fine not exceeding \$100 for a first violation.
2. A fine not exceeding \$200 for a second violation of the same ordinance within one year.
3. A fine not exceeding \$500 for each additional violation of the same ordinance within one year.

Except for violations that constitute a nuisance under Chapter 10 of Ordinance 38 (Section 1002 et. seq.), staff recommends that the fine amount for Ordinance 38 violations be set at \$100. For nuisance violations, such as encroachments, staff recommends an initial fine of \$100, a fine of \$200 for a second violation within one year, and a fine of \$500 for each additional violation within one year. The escalating fines for nuisances will provide an additional tool for staff to enforce Ordinance 38 against repeat or ongoing offenders.

The Park District's administrative citation ordinance establishes that the penalty for failure to timely pay an administrative citation is 100% of the total fine owed if not paid within 30 days of issuance of an administrative citation. It also allows imposition of interest on unpaid charges so long as the interest rate is established by resolution. The proposed resolution would establish that interest on the principal amount of unpaid fines (not including the late fees) would commence 30 days after issuance of the administrative citation at the current Local Agency Investment Fund (LAIF) rates.

On November 14, 2023, the Board Operations Committee voted unanimously to recommend this fine schedule to the Board of Directors. If approved, staff will provide a follow-up at the Board Operations Committee after a year of implementation. Park District staff are in the process of finalizing the nuisance abatement procedures, which will be adopted administratively and are anticipated to go into effect beginning in January 2024. The final board action necessary to implement this nuisance abatement and administrative citation policy is for the board to adopt a fine schedule for administrative citations and nuisance abatement citations, and to set the interest rate to be applied to unpaid fines.

ANALYSIS

The administrative citation ordinance is an enforcement tool that outlines procedures for imposing administrative fines for certain violations of Ordinance 38. In conjunction with that process, and as provided in the ordinance, the fines to be imposed by the administrative citation ordinance shall be established by Board of Directors resolution, and may include an administrative late fee, as well as a daily interest charge, which shall be imposed if the fines are not paid within 30 days.

In addition to now being able to establish that an encroachment onto district lands constitutes a nuisance, the newly adopted Chapter 10 gave the Park District the ability to enforce Ordinance 38's park use rules by means of administrative citations. Prior to adoption of Chapter 10, Park District police officers could respond to violations of Ordinance 38 rules, such as those applicable to dog-walking, bicycles, or campground curfew, by issuing an informal warning or a criminal citation when necessary. Now, the Park District has the additional tool of issuing an administrative citation, akin to a parking ticket, for such violations, instead of a criminal citation.

FISCAL IMPACT

This administrative citation process, and resulting fines and charges, are expected to incentivize greater compliance from would be violators, as well as recover administrative costs. Fiscal impact may be realized in encroachment removal cost recovery.

ATTACHMENTS

Administrative Citation and Nuisance Abatement Citation Fine Schedule



**EAST BAY REGIONAL PARK DISTRICT
RESOLUTION NO. 2023-12-
DECEMBER 19, 2023**

**AUTHORIZATION TO ESTABLISH A FINE SCHEDULE FOR ADMINISTRATIVE
CITATIONS AND NUISANCE ABATEMENT CITATIONS**

WHEREAS, AB 959 (Mullin) added Public Resources Code Section 5558 that gives the Park District statutory authority, through the adoption of Chapter 10 to Ordinance 38, to adopt an ordinance establishing that an encroachment onto district lands constitutes a nuisance and to make violation of ordinances enacted by the Park District subject to an administrative fine. (Cal. Gov. Code §53069.4(a)(1).); and

WHEREAS, Chapter 10 of Ordinance 38 sets forth procedures that govern the imposition, enforcement, collection and administrative review of such administrative fines and penalties; and

WHEREAS, Chapter 10 of Ordinance 38 cannot be implemented until the Board adopts a resolution establishing the civil fines, late charges, and interest amounts; and

WHEREAS, Section 1001.5(a) provides that administrative fines shall be established by Board resolution and allows escalating fines for repeat offenses of the same violation within 12 months of the initial administrative citation; and

WHEREAS, staff has established an Administrative Citation and Nuisance Abatement Citation Fine Schedule (see Attachment) of Ordinance 38 violations suitable for issuance of an administrative citation along with a recommended fine amount and interest on unpaid charges; and

WHEREAS, this administrative citation process, and resulting fines and charges, are expected to incentivize greater compliance from would be violators, as well as recover administrative costs;

NOW, THEREFORE BE IT RESOLVED, that the Board of Directors of the East Bay Regional Park District hereby adopt a resolution establishing the fine schedule, and interest rate for unpaid fines, for administrative citations and nuisance abatement citations issued pursuant to Chapter 10 of the East Bay Regional Park District Ordinance 38 as presented to the Board on December 19, 2023; and

BE IT FURTHER RESOLVED, that the General Manager is hereby authorized and directed, on behalf of the Park District and in its name, to execute and deliver such documents and to do such acts as may be deemed necessary or appropriate to accomplish the intentions of this resolution.

Moved by Director _____, and seconded by Director _____, and
adopted December 19, 2023, by the following vote:

FOR:

AGAINST:

ABSTAIN:

ABSENT: