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The Board of Supervisors of the San Bernardino County Flood Control District,
County of San Bernardino, State of California, ordains as follows:

SECTION 1. Ordinance No. 12-02 is repealed in its entirety.

Preamble.

¹ Unless otherwise specified herein, all references are to California law.

1 SECTION 32. Authorized Representatives.

2 For the purposes of enforcing this ~~Ordinance~~ordinance and
3 pursuant to the authority conferred under Section~~§~~ 43-3 of the Act regarding *ex officio*
4 officers, ~~The~~the Board of Supervisors of the District hereby designates the San
5 Bernardino County Sheriff's Department; the San Bernardino County Land Use
6 Services Department, Code Enforcement Division; any other division or department of
7 ~~the County of~~ San Bernardino County as designated by the Chief Executive Officer of
8 San Bernardino County (including the authorized deputies thereof); and the law
9 enforcement and code enforcement officers of adjoining jurisdictions, the territorial limits
10 of which include real property owned, operated, and/or maintained by the District or for
11 which the District has easements, and upon the effective date of a Memorandum of
12 Understanding ~~between the District and the applicable government agencies for such~~
13 jurisdictions.

14
15 SECTION 43. Definitions.

16 For the purposes of this ordinance, the following words shall be
17 defined as set forth herein:

18 "Equestrian" shall mean any person riding or walking with a horse
19 or any other animal reasonably suitable for riding; as the terms "horse" and "animal" are
20 commonly understood.

21 "Pedestrian" shall ~~mean any person who is "afoot"~~have the same
22 meaning within the meaning of as set forth in California Vehicle Code ("CVC") Section~~§~~
23 467, as may be amended by the California Legislature; ~~any person who is operating any~~
24 ~~form of conveyance as defined at CVC § 467; any person possessing or using in any~~
25 ~~manner any kind of skateboard, as that term is commonly understood;~~ and any person
26 ~~possessing or using,~~ in any manner, any a "bicycle," as defined at CVC Section ~~§~~231,
27 as may be amended by the California Legislature.

28 "Private vehicle" shall mean, without limitation, any vehicle, as

defined at ~~GVC~~ Section §670, as may be amended by the California Legislature; any motor vehicle, as defined at ~~GVC~~ Section §§ 415, as may be amended by the California Legislature; any off-highway motor vehicle as defined at ~~GVC~~ Section §-38006, as may be amended by the California Legislature; any other specific classification of vehicle or motor vehicle as defined at ~~GVC~~ Sections §§100-680, as may be amended by the California Legislature, inclusive; any form of aircraft (as that term is commonly understood and shall include without limitation, airplane, glider, hang-glider, ultra-light, gyrocopter, and helicopter); any form of watercraft (as that term is commonly understood and which shall include without limitation boat, canoe, kayak, body board, and surfboard); that is not owned or operated by any local, state, or federal government agency.

“Trespass” shall mean 1-) any entry by any unauthorized person, without District consent, onto District property for which entry is prohibited and notice of the prohibition is posted by reasonably conspicuous signage or communicated in any manner by a District employee or representative; 2-) a refusal to leave after any such entry and the failure or refusal to comply with such notice, including any demand or direction made by the District employee or representative to the person refusing to leave.

“Unauthorized person” shall mean any person who is not subject to the exemptions or exceptions provide in Section 76 of this ordinance.

SECTION 54. Applicability.

This ordinance applies to all property owned, operated and/or maintained by the District, including property over which the District holds easement rights.

SECTION 65. Trespass ~~on San Bernardino County Flood Control District Property~~ Prohibited.

1 It shall be unlawful at all times for any person, who is not otherwise
2 subject to the exemptions or exceptions provided in Section 76 of this ordinance, to
3 trespass on ~~San Bernardino County Flood Control~~ District property where access and
4 entry is prohibited; whether or not the person so doing is an equestrian, pedestrian, or
5 operator of a private vehicle.

6
7 SECTION 76. Exemptions and Exceptions.

8 A. All law enforcement, fire, state, and federal government agencies
9 are exempt from this ordinance.

10 B. All persons operating private vehicles pursuant to a valid permit
11 issued by the District for conducting activities on District property shall be granted an
12 exception to the enforcement of Section 65 of this ordinance, subject to the limitations of
13 the permit issued and only for the period of time the permit remains valid.

14 C. All persons possessing a valid permit issued by the District allowing
15 access and entry onto District property shall be granted an exception to the
16 enforcement of Section 65 of this ordinance, subject to the limitations of the permit
17 issued and only for the period of time the permit remains valid.

18 D. All persons who are lawfully and properly using the designated
19 recreation trails and who, while so doing, remain at all times within the designated trail
20 area and within trail boundaries as identified in or referenced to in the applicable
21 agreements between the District and applicable government entities, in compliance with
22 the applicable trail regulations, shall be granted an exception to the enforcement of
23 Section 65 of this ordinance, subject to the extent of their compliance with the
24 applicable trail regulations and this subsection.

25 E. All fee owners of property for which the District has been granted
26 an easement are exempt from this ordinance.

27 F. All persons to whom the District has granted an easement are
28 exempt from this ordinance.

1 G. All persons authorized access and entry pursuant to a written
2 agreement with the District are exempt from this ordinance.

3
4 SECTION ~~87~~. Enforcement; Criminal Actions.

5 A. Criminal Penalties for Violations. It is unlawful for any person to
6 violate any provision of this ordinance. Any person committing such violation shall be
7 deemed guilty of ~~an infraction or a public offense punishable as either a~~ misdemeanor;
8 ~~as herein provided or an infraction.~~

9 B. Misdemeanor Violations. Upon conviction of a misdemeanor,
10 including upon a plea of nolo contendere (commonly called “no contest”), the penalty
11 shall be a base base fine of not less than \$500.00 fine up to and not more than
12 \$24,000.00, or by imprisonment in the County jail for a period of not more than six
13 months, or by both such base fine and imprisonment. Any court costs that the court may
14 otherwise be required to impose pursuant to applicable State law or local ordinance
15 shall be imposed in addition to the base fine. The court, or judge thereof, in the order
16 granting probation, may suspend the imposing or the execution of the sentence and
17 may direct that the suspension may continue for a period of time not exceeding three
18 years, and upon those terms and conditions as it shall determine. The court, or judge
19 thereof, in the order granting probation and as a condition thereof, may imprison the
20 defendant in a county jail for a period not exceeding the maximum time fixed by law in
21 the case.

22 C. Infraction Violations. Notwithstanding the foregoing, a
23 misdemeanor violation may be cited, charged and prosecuted as an infraction at the
24 discretion of the enforcing officer and/or the prosecuting attorney. Where so prosecuted
25 as an infraction, each such violation shall be punishable, except as otherwise provided
26 herein, upon conviction including a plea of nolo contendere (commonly called “no
27 contest”), by a base fine not exceeding \$100 .00 for a first violation; a base fine not
28 exceeding \$200.00 for a second violation of this ordinance within one year; and a base

1 fine not exceeding \$500.00- for each additional violation of this ordinance within one
2 year of the first violation. Any court-costs that the court may otherwise be required to
3 impose pursuant to applicable State law or local ordinance shall be imposed in addition
4 to the base fine.

5 D. The maximum fines for infraction violations of this ordinance
6 imposed pursuant to this Section are based upon the provisions of Government Code
7 Section§ 25132 and will be increased automatically and without amendment to this
8 Section upon any amendment to Government Code Section §25132 increasing the
9 amount of fines permitted.

10 E. If any person is arrested by a peace officer or any other officer
11 authorized to enforce this ordinance for a violation of this ordinance (hereinafter
12 “arresting officer”), whether punishable as a misdemeanor or as an infraction, the
13 arresting officer shall issue a notice to appear (the “citation”) to such person, pursuant to
14 Penal Code §§Sections 853.5 and 853.6, and request that the person sign the notice to
15 appear, which shall constitute the person’s written promise to appear in court. After
16 obtaining the written promise to appear, the arresting officer must immediately release
17 the person.

18 If the person cited refuses to sign the notice to appear, the arresting
19 officer, unless the arresting officer is a sworn peace officer, must immediately release
20 the person and refer the matter to the Office of County Counsel or other appropriate
21 agency for appropriate action.

22
23 SECTION 98. Enforcement; Civil Actions.

24 All violations of this ordinance may be subject to enforcement through the
25 initiation of a civil action in accordance with this section and in the same manner as
26 provided by the San Bernardino County Code Title 1: Government and Administration;
27 Division 1: General Provisions; Chapter 2: Violations and Enforcement; Section 11.0207
28 Civil Actions, the terms of which, are incorporated herein by this reference as though

1 fully set forth herein and which are hereby deemed adopted by the District for the
2 purpose of this ordinance.

3
4 SECTION ~~109~~. Enforcement; Administrative Citation Actions.

5 A. ~~All~~ violations of this ordinance may be subject to enforcement
6 through the initiation of an administrative citation action in accordance with this section,
7 ~~and Government Code Section 53069.4, with the exception of the administrative penalty~~
8 ~~amounts in Section 11.0208, subdivision (e)(1), and~~ in the same manner as provided
9 by the San Bernardino County Code Title 1: Government and Administration; Division 1:
10 General Provisions; Chapter 2: Violations and Enforcement; Section 11.0208
11 Administrative Citation Actions, the terms of which, ~~and any amendments thereto,~~ are
12 incorporated herein by this reference as though fully set forth herein and which are
13 hereby deemed adopted by the District for the purpose of this ordinance.

14 B. ~~For purposes of this ordinance, the amount of penalty imposed for~~
15 ~~a violation of this ordinance and assessed by means of an administrative citation shall~~
16 ~~be:~~

17 ~~(1) For violations that would be criminally charged as an infraction, \$100~~
18 ~~for the first violation, \$200 for the second violation within one year of the first violation,~~
19 ~~and \$500 for the third and each subsequent violation within one year of the first~~
20 ~~violation.~~

21 ~~(2) For violations that would be criminally charged as a misdemeanor,~~
22 ~~\$500 for the first violation, \$1,500 for the second violation within one year of the~~
23 ~~first violation, and \$2,000 for the third and each subsequent violation within one year of~~
24 ~~the first violation.~~

25 #

26 #

27 SECTION ~~110~~. Enforcement Remedies and Penalties are Cumulative and
28 Discretionary; Not Exclusive; Declaration of Public Nuisance.

1 All remedies and penalties provided for by this ordinance shall be
2 cumulative and discretionary and not exclusive of other applicable provisions of this
3 ordinance, any other ordinance of the District or other applicable State or Federal law.
4 Each and every violation of this ordinance is hereby declared unlawful and a public
5 nuisance. The use of ~~this~~ the enforcement remedies provided by this ordinance shall be
6 at the sole discretion of the District. In the exercise of such discretion in selecting an
7 appropriate enforcement remedy, the District shall not be required to institute available
8 enforcement remedies in any particular order, or to prefer the application of one remedy
9 to another.

10
11 SECTION ~~12~~ 14. Declaration of San Bernardino County Flood Control District
12 Property As Not Constituting A Public Forum.

13 All District property that is the site of District-~~operated~~ and maintained
14 facilities, ~~or~~ infrastructure or equipment and which is directly related to its operations in
15 controlling, managing, directing, conserving, spreading, retaining, or storing flood and
16 storm waters and run-off, is hereby declared to not constitute a public forum for any
17 First Amendment purpose.

18
19 SECTION ~~13~~ 2. Severability.

20 The Board of Supervisors of the San Bernardino County Flood Control
21 District declares ~~s~~ that it would have adopted this ordinance and each section, sentence,
22 clause, phrase, or portion of it irrespective of the fact that any one or more sections,
23 subsections, clauses, phrases or portions of it be declared invalid or unconstitutional. If
24 for any reason any portion of this ordinance is declared invalid or unconstitutional, then
25 all other provisions of it shall remain valid and enforceable.

26 #

27 #

28 #

SECTION 143. This ordinance shall take effect thirty (30) days from the date of adoption.

CURT HAGMAN, Chairman
Board of Supervisors
San Bernardino County Flood Control District

SIGNED AND CERTIFIED THAT A COPY
OF THIS DOCUMENT HAS BEEN DELIVERED
TO THE CHAIRMAN OF THE BOARD

LYNNA MONELL, Clerk of the
Board of Supervisors

1 STATE OF CALIFORNIA)
2) ss.
3 SAN BERNARDINO COUNTY)

4 I, LYNNA MONELL, Clerk of the Board of Supervisors of the San Bernardino
5 County Flood Control District of San Bernardino County, State of California, hereby
6 certify that at a regular meeting of the Board of Supervisors of said County and State,
held on the _____ day of _____, 2022, at which meeting were present
Supervisors: _____

7 _____,
8 and the Clerk, the foregoing ordinance was passed and adopted by the following vote,
to wit:

9 AYES: SUPERVISORS:
10 NOES: SUPERVISORS:
11 ABSENT: SUPERVISORS:
12

13 IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official
14 seal of the Board of Supervisors this _____ day of _____, 2022.

15 LYNNA MONELL, Clerk of the
16 Board of Supervisors of the
17 San Bernardino County Flood Control District of
18 San Bernardino County,
19 State of California

20 _____
Deputy

21 Approved as to Form:

22 TOM BUNTON
23 County Counsel

24
25 By: _____
26 JOLENA E. GRIDER
27 Deputy County Counsel

28 Date: _____