

ID #	BRD-015
Rev	02
Date	2/22/2018
Reso	18-10

Access and Use Regulations

1.01.01 Scope and Purpose

These regulations shall be known as “Santa Clara County Open Space Authority Access and Use Regulations”. These regulations are adopted to assure appropriate control, operation, use, protection and management of Santa Clara County Open Space Authority Land.

1.01.02 Authority

Regulations enacted are authorized by Section 35156 of the Public Resources Code of the State of California.

1.01.03 Definitions

- (A) “Authority” means the Santa Clara County Open Space Authority.
- (B) “Authority Land” means all lands, waters and other Facilities owned, maintained or otherwise managed by the Authority.
- (C) “Board” means the Board of Directors of the Authority.
- (D) “General Manager” means the General Manager of the Authority.
- (E) “Permit” means permission, granted in writing, by the General Manager or an authorized representative of the Authority.
- (F) “Person” means any individual, firm, corporation, club, municipality, district, or public agency, and all associations or combinations of persons whenever acting for themselves
- (G) “Unmanned aerial system (UAS)” means a device that is used or intended to be used for flight in the air without the possibility of direct human intervention from within or on the device, and the associated operational elements and components that are required for the pilot or system operator in command to operate or control the device (such as cameras, sensors, communication links.) This definition includes all types of devices that meet this definition (e.g., model aircraft, quadcopters, drones) that are used for any purpose, including for recreation or commerce.
- (H) Authority Airspace means the air space below the navigable airspace regulated by the Federal Aviation Administration and above any Authority Land.

2.01.01 Entering Authority Land

Any person entering upon Authority Land shall abide by any regulations adopted by the Authority, the laws of the State of California, the Santa Clara County Code, any applicable municipal codes, the regulations, prohibitions, directions or provisions of any sign or posted notice, the conditions of any permit, and the lawful order or other instruction of any Authority staff, contract police officer or peace officer.

Santa Clara Valley Open Space Authority

2.01.02 Employee and Officials of the Authority

The provisions of these Regulations shall not apply to employees and officials of the Authority acting within the scope of their authorized duties. However, Authority employees and officials shall abide by the laws of the State of California, the Santa Clara Code and any applicable municipal codes.

2.01.03 Lessees, Contractors, and Consultants

All Authority lessees, independent contractors, and consultants shall abide by all provisions of these regulations unless authorized or necessary to fulfill a written contract or agreement with the Authority. However, lessees, independent contractors, and consultants shall at all times abide by the laws of the State of California, the Santa Clara Code, any applicable municipal codes, and the lawful order or other instructions of any Authority staff, contract police officer or peace officer.

3.01.01 Violations of Regulations-Infraction

Any violations of these Regulations adopted by the Authority, is an infraction.

3.01.02 Severability

If any chapter, section, subsection, paragraph, subparagraph, sentence, or clause of these Regulations is, for any reason, held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity of the remaining portions of these regulations. The Board declares that these Regulations, and each chapter, section, subsection, paragraph, sentence, and clause thereof, would have been adopted regardless of such possible finding of invalidity or unconstitutionality and, to that end the provisions of these Regulations are hereby declared to be severable.

3.01.03 Amendments or Repeal

When a section or Regulation is amended or repealed, acts and commissions occurring before the amendment or repeal may be prosecuted as though such section, rule, or Regulation had not been amended or repealed.

4.01.01 Closed Areas and Natural Resource Protection Closure

No person shall enter, use, or occupy Authority Land declared as sensitive areas or habitats or wildlife protection areas or designated as closed, prohibited, or limited by the Board, General Manager or an authorized agent, except when authorized by a permit.

4.01.02 Curfew

No person shall enter, use, occupy or park any vehicle on any Authority Land from sunset to sunrise, except when authorized by a permit

5.01.01 Plants

No person shall damage, injure, take, place, plant, collect, or remove any plant or portion thereof, whether living or dead, including, but not limited to flowers, mushrooms, shrubs, vines, grass, seeds, and down wood located on Authority Land, except when authorized by a permit.

Santa Clara Valley Open Space Authority

5.01.02 Geological Features

No person shall damage, take, collect, remove, or attempt to damage, take, collect, or remove earth, rocks, sand, gravel, fossils, minerals, or any item of geologic interest or value located on Authority Land, except when authorized by a person.

5.01.03 Archaeological Features

No person shall damage, take, collect, remove, or attempt to damage, take, collect, or remove earth, rocks, sand, gravel, fossils, minerals, or any item of archaeological interest or value located on Authority Land, except when authorized by a permit.

5.01.04 Wildlife

No person shall harass, chase, harm, capture, kill, maim, or possess any wildlife including animals, birds, reptiles, amphibians, and fish on Authority Land, except when authorized by a permit issued by the Authority.

5.01.05 Animal Removal and Releasing

No person shall remove from or release any wildlife or domesticated animal on Authority Land, except when authorized by a permit issued by the Authority.

5.01.06 Destruction of Wildlife Habitat

No person shall alter, damage, destroy, remove or any way vandalize wildlife habitat features on Authority Land including but not limited to animal dens, burrows, dwellings, or nests.

6.01.01 Fires

No person shall build, start, light or maintain any fire of any nature on any Authority Land.

6.01.02 Smoking

Smoking and the use of any kind of electronic smoking device containing a heating element are strictly prohibited on any Authority property.

7.01.01 Firearms

No person shall possess, discharge, or use firearms, B-B guns, pellet guns or guns, cross bows, long bows, paintball guns or slingshots while on Authority Land, except when authorized by a permit.

8.01.01 Use of Motorized Vehicles

No person shall operate any motorized vehicle on any Authority Land except on designated public roadways, except when authorized by a permit.

9.01.01 Trail Use

All hikers, equestrians, and bicyclists must stay on trails and roadways designated for each uses.

Santa Clara Valley Open Space Authority

9.01.02 Right of Way

All persons operating vehicles or bicycles on Authority Land shall yield the right-of way to hikers and equestrians. Hikers shall yield the right-of-way to equestrians.

9.01.03 Gates

All persons opening a gate shall securely close the same after passing through said gates.

10.01.01 Dogs and Other Animals

No person shall allow or have a dog or other animal on Authority Land except in those areas designated by the Authority. Guide and service dogs under physical control are exempt.

11.01.01 Regulation of Model Aircraft and Drones

This policy is necessary to preserve Authority Land in its natural state, protect wildlife and natural resources, provide peace, tranquility and enjoyment for visitors to Authority Land, reduce the risk of fire, prevent conflicts in uses of Authority Land, and foster public safety.

11.01.02 Prohibited Conduct

- (A) Launching, landing, or operating UAS from or on Authority Land is prohibited unless a Permit is granted by the Authority.
- (B) Operating UAS within Authority Airspace is prohibited unless a Permit is granted by the Authority.
- (C) Using UAS to intentionally or unintentionally touch, tease, frighten, disturb, harass, chase, harm, capture, kill, or maim birds and wildlife is strictly prohibited and is a violation of the Authority's Access and Use Regulations, as well as California and federal law. See, for example, Authority's Access and Use Regulations § 5.01.04; Bald Eagle Protection Act (16 U.S.C. § 668); Migratory Bird Treaty Act (16 U.S.C. Act § 703); California Endangered Species Act (Fish and Game Code §2080); 14 Cal. Code Regs. § 251.1.
- (D) Harassing, following or intimidating another member of the public.

11.01.03 Exceptions

UAS for search and rescue operations, fire protection, and law enforcement by any federal, state or local agency are not prohibited by this policy or subject to Permit requirements. If any provision of this policy is preempted by federal or California law, federal or California law will supersede the provision of this policy that is preempted. Nothing in this Policy will be construed as modifying any requirement imposed by the FAA on the use or operation of UAS in the National Airspace System.

11.01.04 Permits to Land, Launch or Operate UAS

Any person may apply to the Authority for a Permit to launch, land, or operate UAS on Authority Land, or to operate within Authority Airspace. The granting of the application will be at the discretion of the Authority. The application will be evaluated based on a number of factors including, but not limited to, whether the requested use and purpose of the application:

- (A) is compatible with the Authority's use of Authority Land;
- (B) is for scientific research or fosters knowledge about the resources on Authority Land;
- (C) will result in unacceptable impacts to resources and values, or cause injury or damage to resources;
- (D) is contrary to the purpose for which the preserve was established or unacceptably impact the atmosphere of peace and tranquility maintained for the public;

Santa Clara Valley Open Space Authority

- (E) interferes with the Authority’s interpretive, visitor services, management. or other program or administrative activities;
- (F) presents any danger to public health and safety; or
- (G) results in significant conflict with other uses.

All Permits will include the following conditions:

- (A) operators shall report immediately all accidents involving injury (even if minor first aid) and any resource or property damage;
- (B) UAS shall be within visual sight of the operator at all times during flight of the UAS;
- (C) operators shall have sufficient liability insurance or proof of membership in an organization, such as the Academy of Model Aeronautics (AMA), which includes insurance coverage with membership.
- (D) inexperienced UAS operators must be accompanied and assisted by an experienced operator;
- (E) the duration of the permit, hours of operation, and the specific area of launch, landing and operation shall be specified.
- (F) UAS shall not disturb or harass wildlife or violate Section 11.01.02(C) of the Access and Use Regulations;
- (G) UAS shall not interfere with search and rescue, law enforcement, or other emergency operations;
- (H) Operators shall not fly UAS in a reckless manner or outside of the designated area(s);
- (I) UAS shall not be operated while the operator is under the influence of alcohol or drugs;
- (J) UAS shall not be flown directly over people, vessels, vehicles or structures, or endanger the life and property of others;
- (K) UAS shall be registered or licensed if required by federal or California law.

The Authority may, in its discretion, impose additional conditions on any approved application, and for any reason revoke a permit.

Policy Approval History

Policy #	Revision	Date	Reso	Action
BRD-015	01	11/12/2015	15-57	Update
	00	9/26/2002	02-37	Approved

RESOLUTION 18-10

**A RESOLUTION OF THE GOVERNING BOARD OF THE
SANTA CLARA VALLEY OPEN SPACE AUTHORITY
AUTHORIZING THE GENERAL MANAGER TO AMEND THE AUTHORITY'S ACCESS
AND USE REGULATIONS**

WHEREAS, the Authority adopted Access and Use Regulations to assure appropriate control, operation, use, protection and management of its lands; and,

WHEREAS, Staff is aware of an increase in the number and severity of fires within natural lands; and,

WHEREAS, rules prohibiting smoking in regional parks can reduce potential fire risks; and

WHEREAS, Authority Staff has proposed an amendment to the Access and Use Regulations to prohibit smoking and the use of electronic smoking devices on Authority property; and

WHEREAS, Authority Legal Counsel has reviewed the proposed amendment to the Access and Use Policy.

NOW, THEREFORE, BE IT RESOLVED, the Board of the Open Space Authority approves an amendment to the Access and Use Regulations to add Section 6.01.02 to prohibit smoking and the use of any kind of electronic smoking device containing a heating element on any Authority property, attached hereto as Exhibit B;

BE IT FURTHER RESOLVED, that the Governing Board of the Authority further directs that the General Manager is hereby authorized and directed, on behalf of the Authority and in its name, to execute and deliver such other documents and to do such acts as may be deemed necessary or appropriate to accomplish the intentions of the above resolution.

PASSED, APPROVED AND ADOPTED this 22nd day of February, 2018, by the following vote:

AYES: A. Kennett, D. Moore, M. Flaughner, V. Holtz, M. Potter, K. Gill
NOES: None
ABSENT: S. Hall
ABSTENTION: None


Mike Flaughner, Chairperson
Santa Clara Valley Open Space Authority




Santa Clara Valley Open Space Authority

APPROVED AS TO FORM:

ATTEST:



Natalie Kirkish, Legal Counsel



Kellie Guerra, Clerk of the Board