

Chapter 3
PARKS

ARTICLE I. IN GENERAL

- §3.1 Purpose of chapter
- §3.2 Definitions
- §3.3 General regulations
- §3.4 Dogs in parks
- §3.5 Tennis courts

ARTICLE II. PARK USE RESTRICTIONS

- §3.6 Crocker Park use restrictions
- §3.7 Dracena Park use restrictions
- §3.8 Linda-Beach Playfield use restrictions
- §3.9 Moraga Sports Field use restrictions
- §3.10 Piedmont Sports Field (Hampton Field) use restrictions
- §3.11 Piedmont Park Use Restrictions

ARTICLE III. TREES IN GENERAL

- §3.12 Trees obstructing sewers

ARTICLE IV. TREES ON PUBLIC PROPERTY

- §3.13 Under control of city
- §3.14 Authority of Park Commission
- §3.15 Designation of street trees
- §3.16 Application for tree planting
- §3.17 Unauthorized tree planting
- §3.18 Unauthorized pruning
- §3.19 Unauthorized treatment
- §3.20 Unauthorized removal

ARTICLE V. TREES ON PRIVATE PROPERTY

- §3.21 Removal of hazardous trees
- §3.22 Viewshed

ARTICLE V. ENFORCEMENT OF CHAPTER

- §3.23 Administration of regulations
- §3.24 Signs required
- §3.25 Amendments to chapter
- §3.26 Violations

ARTICLE I. IN GENERAL

SEC. 3.1 PURPOSE OF CHAPTER

This chapter is intended to regulate the use of municipal parks, playgrounds and other recreational facilities which are provided for the use and enjoyment of the residents of Piedmont and to ensure that residents of Piedmont shall have priority in the use of such facilities; and to regulate the planting, maintenance and removal of trees in the city.

SEC. 3.2 DEFINITIONS

For the purpose of this Chapter, unless otherwise apparent from the context, certain terms and words are defined as follows:

- a. At Large. A dog on or upon any public street, alley or other public place, or in or upon any unenclosed lot or premises within the city, or on private property not belonging to its owner, and not under restraint by leash, rope, or chain securely and continuously held by a competent person.
- b. Commercial Activity. Selling or offering for sale any goods or services for which a city business license is required under Chapter 10 of this code.
- c. Dog. Any member of the canine family and shall include female as well as male dogs.
- d. Director. The Recreation Director or such other person appointed by the Director to be his or her designee unless otherwise specified in this chapter.
- e. Park. All public open spaces such as planted median islands, parks, recreation areas and facilities owned and maintained by the City of Piedmont.
- f. Parking Strip. That portion of land within the public right-of-way lying between the curb and the sidewalk.
- g. Picnic Area. An area within a park which contains one or more picnic tables.
- h. Pruning. Removal of entire branches or portions of branches from a tree. Pruning also includes but is not limited to thinning and topping. (Ord. 617 N.S. 6/00)
- i. Public property. Property owned in fee by the City and property subject to easements, rights of way and other non-fee interests in real property belonging to, in favor of, or benefiting the City. Public property includes but is not limited to parking strips, medians and public parks. (Ord. 617 N.S. 6/00)
- j. Street Tree. Any tree growing within a parking strip.

- k. Topping. Elimination of the upper portion of a tree's trunk or main leader.
- l. Tree. Any woody perennial plant, usually with one main trunk, attaining a height of at least twelve feet at maturity.
- m. Trees on private property. Any tree existing within the legally described boundaries of a parcel of land which is not owned by the City of Piedmont, whether owned by an individual, partnership, corporation or other entity.
- n. Tree Removal. The destruction of any tree by cutting, girdling, interfering with the water supply, applying chemicals, inserting foreign materials into the body of the tree, or regrading around the base of the trunk.
- o. View Pruning. The selective removal of entire branches or portions of branches from a tree so as to improve visibility through the tree.
- p. View. A distant vista or panoramic range of sight of Piedmont, neighboring areas, or the San Francisco Bay that existed at the time a claimant acquired his/her property, if after 1980, or the view existing in 1980 if acquired before that date. Views include, but are not limited to, skylines, bridges, distant cities, geologic features, hillside terrains and wooded canyons or ridges.

SEC. 3.3 GENERAL PARK REGULATIONS

3.3.1 Alcoholic Beverages Prohibited. The possession, consumption or sale of alcoholic beverages shall be prohibited in all city recreation facilities with the exception of city sponsored events and other specific exemptions approved by the Director.

3.3.2 Amplified Sound. Except as otherwise specified, no one shall operate any exterior sound amplification equipment in any park without a valid permit issued by the Director. For the purposes of this section "sound amplification equipment" does not include radios or other equipment tuned so that the sound does not carry more than ten (10) feet.

3.3.3 Commercial Activities. No person shall practice, carry on, or conduct any business or profession or other commercial enterprise nor sell or offer for sale any service, merchandise, article or anything whatever in any park without the prior written permission of the Director, with the exception of commercial filming of all kinds which shall be regulated as set forth in Chapter 15 of the city code.

3.3.4 Fires. No person shall kindle or maintain in any park any outdoor fire except in picnic areas specifically equipped for such purpose. Persons using picnic facilities who have kindled a fire shall not leave the area where the fire is kindled or maintained until the fire has been extinguished and is cold to the touch.

3.3.5 Guns and Dangerous Devices Prohibited. No person, except those persons listed in Penal Code Section 12031(b) and 12031(c), shall have in his possession in any park any dangerous weapon, device, firearm, or destructive device as that term is defined in Section 12001 of the Penal Code.

3.3.6 Hours of Operation. Except as specified otherwise in this chapter, parks shall be closed between the hours of 10:00 p.m. and 5:00 a.m. daily, and no person shall be permitted to enter or remain within any Piedmont city park, playground or other recreational facility except as approved by the Director.

3.3.7 Injuring of Pets or Wildlife Prohibited. No person shall hunt, capture, or harm or attempt to hunt, capture or harm any land or water animal in any park. No person shall remove the young or the unhatched eggs of any wild animal found in any park.

3.3.8 Littering Prohibited. Littering is prohibited in all municipal parks as defined in Sec. 9.11 of the code.

3.3.9 Plants Protected. No person shall pick, damage, remove or destroy any tree, plant or plant material except as approved by the Director.

3.3.10 Priority Use Established. The use of recreation facilities shall be primarily for the enjoyment of Piedmont residents. The following priority system will be used in allocating facility resources.

- a. Recreation Department programs
- b. Piedmont Unified School District programs
- c. Non-profit Piedmont organizations
- d. Piedmont residents
- e. All others

3.3.11 Reservations Required. Groups or individuals wishing to use city park or recreation facilities shall submit a request to the Recreation Department and pay such fees as may be established from time to time by resolution of the City Council. This application shall be a written statement on the form provided by the Director.

3.3.12 Temporary Closure of Parks. A park or any portion thereof may be closed to the public on a temporary basis when it is determined by the Director, the Chief of Police or the City Administrator that such closing is necessary to protect public safety or public property. A temporary closure shall be defined as thirty (30) days or less. No person shall enter or remain in any park or portion thereof which has been ordered closed. Any such actions by the Director, Chief of Police or City Administrator shall be temporary in nature unless ratified by the City Council at its meeting immediately following the taking of such actions. (Ord. No. 329 N.S., ●1)

3.3.13 Wheeled Vehicles Prohibited. With the exception of bicycles, which are restricted to paved pathways in the parks, and motorized wheelchairs, wheeled vehicles shall be prohibited. Wheeled vehicles used for park maintenance by municipal employees shall be specifically exempted from this provision of the code.

SEC. 3.4 DOGS IN PARKS

3.4.1 Running at Large Prohibited in Parks. Dogs running at large, as defined in section 3.2 of the municipal code, shall be prohibited in all parks, playfields, and recreational facilities except as set forth in section 3.4.2.

3.4.2 Off Lease Area Established. The following areas are designated as “off leash areas” for dogs, and dogs under the control of a competent person shall be exempt from the provisions of Section 4.13 of the City Code when in these areas.

- a. Blair Park in its entirety.
- b. Piedmont Park creek area (designated by signs) in the rear of the Community Hall to the Piedmont Unified School District property line.
- c. Dracena Park pathway (designated by signs) from Dracena Avenue to Artuna Avenue.
- d. Linda Park (within fenced off leash area).

3.4.3. Off Leash Area Signs Required. The Department of Public Works shall be responsible for installation and maintenance of signs in all off leash areas which clearly designate the area to be used by dogs off leash and the rules for off leash areas as established in Section 3.4.4 of this Code.

3.4.4 Off Leash Area Rules Established. The following rules shall apply to all off leash areas in the City, except as otherwise noted:

- a. Off leash areas in Linda Park shall be open from 7:00 a.m. to 8:00 p.m. weekdays and from 8:00 a.m. to 8:00 p.m. on weekends
- b. No smoking is allowed in established off leash areas.
- c. Dogs must have current vaccinations, a license issued by the city of residence and have a valid Off-Leash License from the City of Piedmont for a fee established from time to time by the City Council.

- d. Dogs under 4 months of age and female dogs in season are prohibited.
- e. Dogs must be on leash when arriving and leaving the off leash area and owners must carry a leash for each dog while in the off leash area and must have their animals under voice control.
- f. No more than three (3) dogs may accompany the owner in the off leash area, and owners must remain with and have their dogs in sight at all times.
- g. Dogs which become aggressive, unruly or play roughly must be leashed and removed from the off leash area immediately.
- h. Dogs which have been declared dangerous and/or vicious pursuant to Section 4.14(2) of this Code or a similar code in another jurisdiction shall be prohibited from off leash areas.
- i. Owners are legally responsible for all injuries and/or property damage caused by their dogs.
- j. Owners must remove dog defecation pursuant to Section 4.34 of this Code.
- k. Pursuant to Sec. 3.3.3 of this Code, commercial use of off leash areas by professional dog trainers or walkers is prohibited.
- l. Children under 8 years of age are prohibited from using an off leash area unless accompanied by an adult..

3.4.5 Off Leash License Required. Every person who uses the designated off leash areas must have a current Off Leash License attached to the collar of each dog.

3.4.6 Violations an Infraction. Violations of Section 3.4.4 of this Code are an infraction. Violators are subject to removal from the off leash areas, suspension or revocation of off leash license, and/or issuance of a citation. The fine for such infractions shall be as established from time to time by resolution of the City Council. (Ord. 619 N.S. 12/00)

SEC. 3.5 TENNIS COURTS

3.5.1 Rules Established by Commission. All tennis courts located in city parks shall be operated by the Recreation Department in accordance with rules established by the Recreation Commission (which shall be ratified by the city council).

3.5.2 Permit System Established In order to allocate tennis court use in an equitable manner, a permit system as approved by the Recreation Commission shall be in effect at all city tennis facilities. Permits shall be purchased on an annual basis for a fee as may be established from time to time by resolution of the City Council.

3.5.3 Youth Priority at Hampton Field Courts. The tennis courts at Hampton Field shall be youth priority facilities and permitted youth shall have automatic, immediate and absolute priority over adult players unless the adult has a valid written reservation issued by the Recreation Department.

ARTICLE II PARK USE RESTRICTIONS

SEC. 3.6 CROCKER PARK USE RESTRICTIONS

In recognition of the passive nature of Crocker Park and the fact that no sports fields exist at this city facility scheduled use, as defined in Section 3.7.2(b), shall be prohibited, unless approved by resolution of the City Council.

SEC. 3.7 DRACENA PARK USE RESTRICTIONS

3.7.1 Administration The Recreation Director shall administer the use of Dracena Park subject to the provisions of this article. The Recreation Director shall establish such procedures as are necessary to administer and supervise use of the Dracena Park in its entirety, including but not limited to the Quarry, the Children's Play Area and "Panhandle" turf area bordered by Artuna and El Cerrito Avenues. (Ord. 693 N.S. 05/10)

3.7.2 Definitions

- a. Informal Use. The term "informal use" shall mean use of the park for purposes without benefit of a reservation or formal application. Any sports team activity, including informal practice sessions, shall be considered scheduled use, not informal use.
- b. Scheduled Use. The term "scheduled use" shall mean use of the park on a formal basis with an approved application and reservation. Such authorized use shall be limited to supervised activities or events sponsored by Piedmont based, non-profit sports organizations, for sports practices for youth age 9 and under, or other uses approved by the Recreation Department. City sponsored events may be held at the discretion of the City. (Ord. 693 N.S. 05/10)

3.7.3 Restrictions

- a. Days of the Week. The park will be open daily for informal use. No scheduled use shall take place on Saturdays or Sundays. City or Recreation Department sponsored events or activities may be held on any day of the week.
- b. Hours of Use. Informal use may occur from 8:00 a.m. to dark. No scheduled use shall occur before 9:00 a.m. or after 7:00 p.m.
- c. Lighting. Lighting shall be provided for security. No nighttime illumination shall be provided for any other purpose, including but not limited to sports or other

recreational activities.

- d. Sound Amplification. Use of sound amplification of any kind is prohibited at all times except by specific permission and approval of the City Council. (Ord. 566 N.S. 6/95, 611 N.S. 10/99)
- e. Private Equipment/Caterers. Inflatable (or otherwise) “Jumpers”, bounce houses, astrojumps, use of generators, and on-premises caterers are prohibited. The use of portable furniture shall be limited to senior citizens and persons with disabilities. Users of the park shall not be required to prove a disability (Ord. 693 N.S. 05/10)

SEC. 3.8 LINDA BEACH PLAYFIELD USE RESTRICTIONS

3.8.1 Administration. The Recreation Director shall have the authority to regulate the use of the Linda Beach Playfield, subject to the provisions of this Section. The Recreation Director or the Director's designee shall make such rules and regulations and establish such procedures as are necessary to administer and supervise the use of the Linda Beach Playfield in order to provide a field for the use of Piedmont community youth sports teams and Recreation Department programs and events in accordance with the terms and conditions set forth below

3.8.2 Definitions.

- a. “Group” means 12 or more persons 21 years of age or older concurrently participating in the same activity(ies) or game(s) including substitutes or alternates but excluding coaches or spectators.
- b. “Scheduled Use” means any use authorized and scheduled by written permit issued by the City of Piedmont Recreation Department including but not limited to the activity of the Piedmont soccer Club and the Piedmont Baseball Foundation. This term excludes special events sponsored by that Department from time to time.
- c. "Special Events" means an occasional event scheduled by the City Recreation Department from time to time, such as Kite Day, Penny Carnival, a holiday play day, and other such one-time short-term events.

3.8.3 Use Restrictions.

- a. Hours of Use
 - (i) On weekdays, Linda Beach Playfield shall be open from 7:00 a.m. until 8:00 p.m. or dusk, whichever occurs later except as permitted by City Council resolution 18-04 which allows use of field lighting for soccer until 9:00 p.m. on Mondays, Tuesdays, Wednesday, and Thursdays for no more than 16 weeks in the fall.

- (ii). On Saturdays, Linda Beach Playfield shall be open from 9:00 a.m. until 8:00 p.m. or dusk, whichever occurs later. No baseball or softball game shall begin before 10:00 am nor start a new inning after 4:00 p m. No soccer game shall begin before 9:00 a.m. or after 4:00 p.m. Player warm-ups and field set-up may not start before 8:30 a.m.
 - (iii). On Sundays, Linda Beach Playfield shall be open from 9:00 a.m. until 7:00 p.m.
 - (iv). Linda Beach Playfield shall be closed to use by the public during Beach School hours[regular or summer session] or any period when Recreation Department programs are being operated at Linda Beach Playfield.
- b. Field Lighting. As originally adopted in City Council Resolution 141-88, the following use restrictions are established for Linda-Beach Playfield.
- (i) Field lighting cannot operate past 8:00 p.m.
 - (ii) Field lighting cannot exceed an average of 10 footcandles of intensity
 - (iii). Field lighting can be operated no more than sixteen (16) weeks per year for soccer only.
 - (iv). Field lighting cannot be operated on Fridays, Saturdays or Sundays
 - (v) Field lighting standards cannot exceed 50' in height.
- c. Group Use. There shall be no group use without a written permit.
- (i.) Permits shall not be issued for Sunday use except for special events.
 - (ii) Use under a permit has priority over any other use.
- d. Additional Restrictions. The following additional restrictions apply to Linda-Beach Playfield.
- (i). Saturday use of the field for scheduled baseball/softball shall be between the hours of 10:00 a.m. and 4:00 p.m.
 - (ii) There will be no scheduled sports use of the field on Sundays.

3.8.4 Locked Facility. Linda Beach Playfield may be fenced and operated, on a short term or permanent basis, as an open/closed park that is locked during hours when the park is closed.

3.8.5 Notice of Change in Restrictions. Any changes in field lighting restrictions will require written notice to the immediate neighborhood at least 10 days prior to consideration of any proposed changes by the City Council.

3.8.6 Infraction for Willful Violation Any willful violation of the provisions of this Section 3.8.3 et seq. shall be an infraction pursuant to Section 3.24 herein with the fine for such infractions established by Resolution of the City Council. (Ord. 646 N.S. 4/04; Ord. 673 N.S. 11/07)

SEC. 3.9 COACHES PLAYFIELD USE RESTRICTIONS

3.9.1 Administration The Recreation Director shall have the authority to regulate the use of the Moraga Sports Field, subject to the provisions of this Section. The Recreation Director or the director's designee shall make such rules and regulations and establish such procedures as are necessary to administer and supervise organized use of the Moraga Sports Field in accordance with the terms and conditions set forth below. (Ord. No. 470 N.S. 12/16/85; 538 N.S. 10/92)

3.9.2 Definitions

- a. Permitted Use - The term "permitted use" means use for sports and other recreational activities. "Permitted use" shall exclude organized adult sports. (Ord. No. 538 N.S.)
- b. Organized Use - The term "organized use" means any use authorized and scheduled by the City of Piedmont Recreation Department including but not limited to the activity of the Piedmont Soccer Club and the Piedmont Baseball Foundation. This term excludes special events sponsored by that Department from time to time. (Ord. No. 470 N.S. 12/16/85, 538 N.S.)
- c. Special Event - The term "special events" means an occasional event scheduled by the City Recreation Department from time to time, such as Kite Day, Penny Carnival, a holiday play day, and other such one-time short-term events. (Ord. No. 470 N.S. 12/16/85, 538 N.S.)

3.9.3 Use Restrictions

- a. Organized Sports and Games. Organized use of Coaches Field shall be governed by the following regulations:

- i. Hours of play and practice. Monday through Friday, games and practices shall begin no earlier than 8:00 a.m. nor end later than 8:00 p.m. On Saturday, games and practices shall begin no earlier than 9:00 a.m. On Sunday, games and practices shall begin no earlier than 12:00 noon. Games and practices shall end at 7:00 p.m. or dusk whichever comes first on Saturday and at 6:00 p.m. or dusk whichever comes first on Sundays. On all days, any baseball or softball inning started before closing time shall be permitted to finish. . (Ord. No. 538 N.S., 553 N.S.)
- ii. Player preparation. Players may warm up on Saturday no earlier than 8:30 a.m. and no earlier than 11:30 a.m. on Sunday.
- iii. Field preparation. Field preparation on Saturday shall begin no earlier than 8:00 a.m.; on Sunday, field preparation shall begin no earlier than 11:00 a.m.
- b. Lighting - Lighting shall be provided as necessary for security. No nighttime illumination shall be provided for any other purpose, including but not limited to sports and other recreational activities. (Ord. No. 470 N.S., 538 N.S.)
- c. Sound Amplification - Use of sound amplification instruments is prohibited at all times except by permission of the City Council.
- d. Bicycles - Bicycles are not permitted anywhere inside the fence of the sports field. (Ord. 636 N.S. 2/03)

3.9.4 Exceptions

- a. Scout Christmas Tree Lot - The provisions of this article shall not apply to the operation of the Scout Christmas tree lot.
- b. Pumpkin Patch Exemption - Notwithstanding any other provision of Section 3.9, the Wildwood School Dad's Club Pumpkin Patch fund raising event shall be allowed use of the Moraga Sports Field for up to three Sundays each October upon written permission of the City Administrator, as an exception to the normal restriction on special events for use of Moraga Sports Field on Sundays.
- c. Hours of Use/Days of the Week - Use for Piedmont Recreation Department 7th-8th Grade Flag Football on weekday mornings from 6:30 a.m. to 8:00 a.m. shall be permitted in September and October. Use for Piedmont Soccer Club 1996 and 1997 practice sessions only on ten Sundays from 12:00 noon to 6:00 p.m. shall be permitted in September, October and November. Use for 1998 Piedmont Baseball/Softball Foundation and Piedmont-Oakland Little League on fourteen (14) Sundays in the month of March, April, May and June excluding Easter Sunday and Memorial Day to be determined at the discretion of the Director of Recreation. (Ord. No. 581 N.S. 11/96; Ord. 595 N.S.)

- d. Revocation - Section 3.9.4(c) shall be permanently revoked upon the opening of the renovated Piedmont School District Witter Field or December 31, 1997, whichever comes first. (Ord. No. 577 N.S. 7/96)

3.9.5 Locked Facility The facility shall be operated as an open/closed park. The facility will be completely fenced and will be locked during those hours when the park is closed. (Ord. 569 N.S. 10/95)

SEC. 3.9A SKATE PARK RULES AND USE RESTRICTIONS

- a. In any skateboard park operated by the City, any person riding a skateboard, in-line skates, or similar devices shall wear a fastened helmet, elbow pads and knee pads.
- b. The City shall cause a sign or signs to be posed at all such parks or facilities providing reasonable notice of Subsection (a) of this Section, as well as of other rules and use restrictions that may apply, and stating that any person failing to comply with subsection (a) of this Section will be guilty of an infraction and subject to citation.
- c. The City Council may from time to time adopt such other rules, regulations and/or use restrictions as the City Council may deem appropriate by City Council Resolution; provided that pursuant to Section 3.21 hereof, the Recreation Director may also make rules and regulations and establish procedures in connection with any skateboard park operated by the City, including but not limited to establishing, changing or modifying hours of operation.
- d. Any person who fails or refuses to comply with the provisions of this Section and who is injured while using the park or facility shall be deemed negligent.
- e. Any willful violation of the provisions of this Section 3.9A shall be an infraction pursuant to Section 3.24 hereof, and the fine for such infractions shall be established from time to time by resolution of the City Council. (Ord. 623 N.S. 6/18/01)

SEC. 3.10 PIEDMONT SPORTS FIELD (HAMPTON FIELD) USE RESTRICTIONS

3.10.1 Definition. The term **organized use** for purposes of this section 3.10 shall mean any use authorized and scheduled by the City of Piedmont Recreation Department including but not limited to the activity of the Piedmont Soccer Club and the Piedmont Baseball and Softball Foundation. This term excludes special events sponsored by the Recreation Department from time to time.

3.10.2 Hours of Use - Piedmont Sports Field.

- a. General. No person shall use Piedmont sports Field before dawn or after dark.
- b. Basketball Court. No person shall use the basketball court before 8 a.m. or after 8 p.m. weekdays. On Saturday and Sunday, no person shall use the basketball court before 9 a.m. or after 7 p.m.
- c. Tennis Courts. No person shall use the tennis courts before 8 a.m. and after 8 p.m., except that any set starting before 8 p.m. may finish.
- d. Tennis Backstop. No person shall use the tennis backstop before 8 a.m. and after 8 p.m. weekdays. On Saturday and Sunday, no person shall use the tennis backstop before 9 a.m. or after 7 p.m.
- e. Organized Sports and Games. Organized use of Piedmont Sports Field shall be governed by the following regulations.
 - i. Hours of play and practice. Monday through Friday, games and practices shall begin no earlier than 8 a.m. nor end later than 8 p.m. On Saturday, games and practices shall begin no earlier than 9 a.m. On Sunday, games and practices shall begin no earlier than noon. Games and practices shall end at 7 p.m. on Saturday and at 6 p.m. on Sunday. On all days, any baseball or softball inning started before closing time shall be permitted to finish.
 - ii. Player preparation. Players may warm up on Saturday no earlier than 8:30 a.m. and no earlier than 11:30 a.m. on Sunday.
 - iii. Field preparation. Field preparation on Saturday shall begin no earlier than 8 a.m.; on Sunday, field preparation shall begin no earlier than 11 a.m.

3.10.3 Basketball Court Monitor. An adult appointed by the City shall from time to time supervise use of the basketball court to enforce permitted hours of use and to eliminate unnecessary noise and inappropriate behavior.

3.10.4 Use - Playschool-City Building. Use of the Playschool-City building shall be governed by the following regulations.

- a. Childcare Use. Piedmont Playschool, the City Department of Recreation, and youth groups authorized by the City, but no other person or organization, may use the building which is proposed to be built for joint Playschool/City purposes. The building shall not be used for childcare before 9 a.m. or after 6 p.m. The fenced area adjacent to the building shall be used exclusively for Playschool purposes during Playschool hours. At all other times, the fenced area shall be available for use by the general public.
- b. Evening Use. Piedmont Playschool may use the building after 6 p.m. no more than four times a calendar year, in coordination with the City. The City may use the building after 6 p.m. as necessary for emergency preparedness purposes and as otherwise approved by the City Council by resolution. Prior notice for uses approved by Council resolution shall be given under section 13.10.7 below.
- c. Limitation - Number and Age of Children. Use of the new building shall be limited to a maximum of twenty-two children, 12 years of age or younger at any one time.
- d. Use by General Public Prohibited. Leasing, renting and other use of the Playschool/City building by the general public is prohibited, except that restrooms in the building may be used by the general public.
- e. Concurrent Uses. Rights to exclusive use of the Playschool/city building and the adjacent fenced area shall not extend to the rest of the park, which shall be available to members of the public in accordance with these rules and regulations.
- f. Outdoor Lighting. Lighting on and around the building shall be at a low level, for security purposes only, and shall exclude overhead lighting.

3.10.5 Sound Amplification. Artificial sound amplification is prohibited at all times and places at Piedmont Sports Field, with the exceptions listed in this paragraph. Sound amplification includes but it not limited to megaphones, bullhorns (electrified or not), electronic equipment, radios, CD and tape players, boom boxes, and the like. The following are exceptions to this prohibition.

- a. Whistles. Sound amplification shall exclude whistles used reasonably by coaches during practices and by referees during games.
- b. Disaster Preparedness. City disaster preparedness operations, including drills, are not subject to the restriction on amplified noise.

- c. City Council Approval. Sound amplification may be used with prior City Council approval, after a public hearing. Notice shall be given under section 3.10.7 below.

3.10.6 Maintenance. There shall be no maintenance activities at the park before 8 a.m.

3.10.7 Notice. Notice required in this section 3.10 shall be given in writing at least 10 calendar days in advance to all those requesting notice in writing and to all residents whose properties are at any point within 300 feet of any point on the boundary of Piedmont Sports field.

3.10.8 Posting Requirement. The City will post a summary of the applicable use restrictions in prominent places at Piedmont Sports Field. From time to time the City will also publish these restrictions.

SEC. 3.11 PIEDMONT PARK USE RESTRICTIONS

3.11.1 Definitions

- a. BMX Bikes – short, wide wheeled bicycles with raised handlebars which are substantially similar to motocross bikes but without an engine.
- b. Community Hall – the washed aggregate and brick plaza in front of the Community Hall building; all adjacent raised brick work and walls; and all wood decking and seating which are part of the Tea House structure.
- c. Exedra Plaza – the paved areas in front of and to the rear of the monument including all washed aggregate, brick, stone, concrete and asphalt; all adjacent walls, stairs, planters, and seating areas but not including the public sidewalk on Magnolia or Highland Avenue.
- d. In-line Skates - skates with rows of wheels attached all in one single line to the bottom of the skate boot on each foot.
- e. Skateboard - a small light vehicle, normally consisting of a board and four wheels, on which the operator stands with one or both feet, and which is propelled by the operator.
- f. Skates - any shoe or other device worn on the foot which has wheels attached or incorporated and which is intended to propel an individual.

3.11.2 Use Restrictions. The use or operation of BMX bikes, skates, in-line skates and skateboards is hereby prohibited at the Community Hall and Exedra Plaza in Piedmont Park.

3.11.3 Violations an Infraction Violations of Section 3.11.2 of this Code are an infraction and subject to a fine of \$25.

ARTICLE III TREES IN GENERAL

SEC. 3.12 TREES OBSTRUCTING SEWERS

3.12.1 Declared a Public Nuisance. Any tree planted, growing or maintained in the City which interferes with, obstructs, or damages in any manner any public sewer, drain or pipe and is determined by the Director of Public Works or his designee to have a substantial effect on the public health, safety and welfare, is hereby declared to be a public nuisance.

3.12.2 Notice to Property Owner The Director of Public Works shall notify in writing the owner of the premises upon which such tree(s) is planted or grown of the determination of a nuisance, of the right of the owner to respond to the finding of a nuisance caused by trees on his property, and of the alternative as set forth hereafter to removing any tree(s) involved. The owner shall have the right to respond in writing or in person to the Director of Public Works within thirty (30) days from the date such notice is delivered to the property in question.

3.12.3 Removal by Owner. If the owner responds within the required period, desires to retain the tree(s), and is willing to execute a maintenance agreement, then subsection 3.10.5. hereafter shall apply. If the owner does not respond within such thirty (30) day period, or does respond, but in the reasonable opinion of the Director of Public Works is unable to refute the facts and circumstances upon which the finding of a nuisance is based, the Director of Public Works shall then require the owner to remove the offending tree(s) within ten (10) days after service upon the owner of written notice to do so, signed by the Director of Public Works. Any refusal or neglect to remove such tree(s) so situated shall be deemed a misdemeanor. The term "remove" as used in this Section 3.10.4 shall mean removal of the entire tree(s) above the ground and all parts of the tree(s) down to one foot below the ground level.

3.12.4 Removal by City. Upon such refusal or neglect of such person to remove such tree(s) within the time aforesaid, the Director of Public Works or his designee(s) may enter upon the premises where such tree(s) is grown, planted or being maintained, and may remove it, and the owner of the premises from which such tree(s) is removed shall be liable to the City for the cost of such tree removal. City may contract for such tree removal with a private party or company, if in the opinion of the Director of Public Works or his designee this is appropriate, and the cost of such tree removal shall be treated the same as if City staff had performed the removal.

3.12.5 Maintenance Agreement. If the owner of the premises upon which such tree is planted or grown executes an agreement in a form to be determined by the City, which agreement may be recorded at the option of the City and at the expense of owner, then the owner may be allowed at the discretion of the City to retain such tree(s). Any such agreement shall bind the owner to perform or for the City to perform or contract to be performed any maintenance and repair to a sewer, drain or pipe which is required in the opinion of the Director of Public Works or his designee due to damage by such tree(s), and further shall bind the owner to be fully responsible for and to hold the City harmless against any damage whatsoever to private or public property due to such tree(s).

3.12.6 Lien. The City is authorized to place a lien against the property of the owner to cover all costs of such maintenance and repair, as well as all damages and expenses whatsoever related to such sewer at any time after a forty-five (45) day period has elapsed from the date an invoice setting forth such costs, expenses and damages has been mailed to the owner by City, to the extent such costs, damages and expenses have not been paid within such forty-five (45) day period. Such lien shall follow the procedures set forth in Sections 10.12.1-4 of the City Code, except that such lien may be placed and/or recorded at any time after such forty-five (45) day period has elapsed without any other time limitations. (Ord. No. 483 N.S., 8/3/87)

ARTICLE IV TREES ON PUBLIC PROPERTY

SEC. 3.13 INTENT

The street trees of Piedmont provide multiple benefits to the residents and to the public at large. The trees are a verdant urban canopy, providing beauty, shade and privacy. The uniformity and maturity of the street trees in Piedmont distinguish the city from vacant suburban subdivisions and add significant aesthetic and economic value to the city's residential housing stock. As a matter of public policy, the overwhelming benefit of the city's urban forest to the city's residents and to the general public outweighs the occasional regulatory limitations on individual properties, taking into consideration that there is an established process in Section 3.213(b) for individuals to obtain city review of view claims relating to city street trees. It is therefore in the public interest to regulate street trees and to provide penalties for noncompliance.

SEC. 3.14 CITY APPROVAL REQUIRED.

The vegetation on public property is owned by the City of Piedmont. No person other than a City employee or other contractual agent of the City may plant, prune, treat, or remove vegetation on public property. A property owner may request that the City plant, prune, treat or remove a tree in a parking strip or other City right-of-way as provided in this Article IV.

SEC. 3.15 DESIGNATION OF APPROPRIATE TREES.

The Park Commission shall have the authority to designate the species of tree to be planted on public property, including but not limited to parking strips. No planting of alternative species shall be allowed on a street for which one or more species have been designated by the Park Commission. A list comprised of the designated species for each street shall be maintained by the Public Works Department.

SEC. 3.16 PLANTING TREES IN PARKING STRIPS.

A tree may be planted in a parking strip or other City right-of-way in compliance with the following requirements.

3.16.1 Planting Responsibility. No tree may be planted on public property except by the City or the City's agent.

3.16.2 City Permission Required. Residents wishing to have a street tree planted by the City shall file an application with the Public Works Department, which shall inspect the site, determine the appropriateness of a street tree on the site, and plant a tree designated under section 3.14 at no cost to the resident, providing funds are available in the department budget for that fiscal year.

(a) Funds Unavailable. This section shall not apply if the Director of Public Works determines that funds are unavailable for this purpose.

(b) No Designated Street Tree. If the applicant resides on a street for which no street tree has been designated under section 3.14, the applicant may request any variety contained in the approved list maintained by the Department of Public Works.

3.16.3 Unauthorized Planting in Parking Strips. In any case where a street tree has been planted without the proper permit in a parking strip, the owner of the property abutting the parking strip shall remove the tree or shrub in a parking strip or within any street right-of-way no later than 30 days after written notice is mailed to the address by the City. If the tree or shrub has not been removed at the conclusions of the thirty (30) day period, the City may remove the tree or shrub, and the cost of removal shall be filled to and shall become the obligation of the resident.

SEC. 3.17 PRUNING TREES IN PARKING STRIPS.

No person shall prune a tree in a parking strip or in another city right-of-way. Only City personnel or agents of the City may trim or prune street trees and other trees on public property.

SEC. 3.18 REMOVAL OF TREES IN PARKING STRIPS.

3.18.1 City Approval Required. No person shall remove a tree in a parking strip or other city right-of-way without the prior approval of the Park Commission after a hearing on the request as provided in this Section 3.17. This prohibition includes but is not limited to the proposed removal of a tree for sidewalk repairs or for the clearing of sanitary sewer and storm drain easements. A tree on public property may be removed without Park Commission approval only after a tree is declared an imminent hazard to public safety by the City Administrator or Public Works Director.

3.18.2 Application for Removal of Trees. A request to remove a tree must be filed a minimum of twenty (20) working days prior to the Park Commission meeting, on a form furnished by City. The Public Works Department shall notify adjacent neighbors of the proposed tree removal in accordance with Section 7.28.2 of the Municipal Code. In addition to the notice provided by the city under this section, the resident shall be required to circulate a petition to adjacent neighbors in the form determined by the Public Works Department. Such petition must be returned to the Public Works Department at least five (5) days prior to the date of the Park Commission hearing.

3.18.3 Action by Park Commission. At its hearing on the application for tree removal, the Park Commission shall consider the information and testimony of the applicant, the report and any recommendation of City staff, and the information and testimony of neighbors and others, and shall make its ruling on the application based on its determination of what is in the best interest of the neighborhood and the City as a whole, and specifically after reviewing any dangerous or hazardous conditions which may be caused by the tree proposed for removal. The Commission may attach reasonable conditions to the

3.18.4 Appeal of Park Commission Decision. Any person aggrieved by the final decision of the Park Commission may appeal to the City Council in writing within ten (10) working days following the Park Commission action, specifying the reasons for the appeal. The Council shall hear the appeal at the next regular City Council meeting that occurs after ten (10) working days from the date of filing an appeal with the City Clerk. This hearing shall be de novo and the City Council shall approve, approve with conditions or deny the request after reviewing all of the evidence and testimony, and the determination of the City Council shall be final.

SEC. 3.19 UNAUTHORIZED TREATMENT

It shall be unlawful for any person to use any fertilizer, insecticide, fungicide, or other chemical on city street trees including application to soil, spraying and injecting of chemical substances without the express written authorization of the Public Works Director.

SEC. 3.20 VIOLATIONS AND PENALTIES.

3.20.1 Violation Civil Penalty. It is unlawful to perform unauthorized treatment, to prune or to remove a tree on public property in violation of the terms of this Article IV> It is also unlawful to damage vegetation on public property. A violation of this Article shall be subject to the imposition of a fine under either subsection (a) or (b).

- a. Civil Fine. The unauthorized treatment, removal of a tree or pruning one or more parts of a tree, or damage to a tree, shall be subject to a fine of \$1,000 per violation. The pruning of any single tree branch in excess of one (1) inch in diameter at the site of the cut shall be considered a separate violation, even if it occurs concurrently with the removal of other branches on the same tree.
- b. Treble Damages. Unauthorized treatment, pruning, damage to or removal of a tree on public property shall be a wrongful injury to city trees under Civil Code 3346 and Code of Civil Procedure 733, and damages three times the amount that would compensate for the actual detriment shall be paid to the City. In addition, the person responsible for the violation shall pay to the City all expenses incurred by the city in connection with the violation, including but not limited to attorneys' fees, all personnel costs relating to the violation (including costs to investigate the violation), and the costs of replacing a removed tree or restoring to health and reasonable shape a pruned or treated tree. (Ord. 617 N.S. 6/00)

ARTICLE V TREES ON PRIVATE PROPERTYSEC. 3.21 REMOVAL OF HAZARDOUS TREES

3.21.1 Determination of Hazard: Notice Period. Any tree on private property determined to be an imminent hazard to persons on public property or to property owned or controlled by the City, including but not limited to public streets and sidewalks, may be removed without further delay or public notice after written notice is provided at least twenty-four hours prior to removal to the property owner on whose property the hazardous tree is located . A copy of such notice and an affidavit of delivery shall be maintained by the Public Works Department.

3.21.2 Removal by Property Owner. Upon receiving notice from the City, the owner of the property upon which the hazardous tree is located shall have the option of promptly arranging for the removal of the hazardous tree at property owner's sole expense, so long as the hazardous tree is removed within twenty-four hours after the receipt of notice from the City. If such hazardous tree cannot be reasonably removed within twenty-four hours of receipt of notice from the City, but can definitely be removed within forty-eight hours from receipt of such notice, property owner may request prior written permission from City to remove the tree within such forty-eight hour period, which permission may be given at the discretion of the City. If such written permission is given by the City, the property owner shall carry out the removal of such hazardous tree within such forty-eight hour period.

3.21.3 Responsibility of Property Owner. Whenever a property owner removes a hazardous tree, the property owner shall be responsible for carrying out such removal, personally or through agents, in a safe manner and at the sole expense of the property owner, and the property owner shall be liable for any damages caused by such removal, except to the extent that such damages are paid by insurance and/or by the agents of property owner.

3.21.4 Removal by City. If the property owner does not remove the hazardous tree within twenty-four hours or in the event of prior written permission from the city, within forty-eight hours, then City may proceed to remove the hazardous tree by City or by hired agents of the City.

3.21.5 Expense of Property Owner. The costs of any removal of a hazardous tree under Section 3.19.4 shall be reimbursed to the City by the property owner. City shall provide property owner with written notice of the amount charged to or incurred by City under Section 3.19.4 for removal , together with a copy of any invoice owed by City. Property owner shall reimburse the City the entire amount charged or incurred by the city for removal of the tree within twenty-one days of the date property owner receives such written notice from the City of the amount due.

3.21.6 Immediate Removal. Notwithstanding any other provision of Section 3.19, if the City Administrator or the Public Works Director determines that a tree located on private property creates such an imminent hazard to persons or property located on property owned or controlled by the City, including but not limited to public streets and sidewalks, that it is in the public interest that such hazardous tree shall be removed immediately, then the City may immediately take action to remove such tree, in which case every reasonable effort will be made to promptly notify the property owner of such action, including a written notice to be delivered to the property owner or to be attached to the front door of the residence on such property, with a copy of such notice and an affidavit of delivery to be maintained by the Public Work Department. In the event of such immediate removal, the provisions of Section 3.19.5 shall still apply. (Ord. No. 428 N.S., ●2)

SEC. 3.22 VIEWSHED

3.22.1 Purpose. This section is enacted in recognition of the following facts and for the following reasons:

- a. Among the features that contribute to the attractiveness and livability of the City of Piedmont are its trees, both native and introduced, and its views of the San Francisco Bay area, obtained from the variety of elevations found throughout the City.

- b. Trees, whether growing singly, in clusters, or in woodland situations, produce a wide variety of significant psychological and tangible benefits for both residents and visitors to the City. Trees contribute to the natural environment of the City by modifying temperatures and winds, replenishing oxygen to the atmosphere and water to the soil, controlling soil erosion, and providing wildlife habitat. Trees contribute to the visual environment of the City by providing scale, color, silhouette and mass, and by creating visual screens and buffers to separate land uses, and promote individual privacy. Trees contribute to the economic environment of the City by stabilizing property values and reducing the need for surface drainage systems. Trees contribute to the cultural environment of the City by becoming living landmarks of the City's history and providing a critical element of nature in the midst of urban congestion and settlement.
- c. Views, whether of the San Francisco Bay with its vistas of the City of San Francisco, the varied bridges of the Bay Area, numerous islands and ships, or of the Piedmont Hills with its vistas of trees and the hills themselves, also produce a variety of significant and tangible benefits for both residents and visitors to the City. Views contribute to the economic environment of the City by substantially enhancing property values. Views contribute to the visual environment of the City by providing inspiring panoramic vistas, and creating distinctive supplements to architectural design. Views contribute to the cultural environment of the City by providing a unifying effect, allowing individuals to relate different areas of the City to each other in space and time.
- d. It is recognized that trees and views, and the benefits derived from each, may come into conflict. Tree planting locations and species selections may produce both intended beneficial effects on the property where they are planted, and unintended deleterious effects on neighboring properties of equal or higher elevations. It is therefore in the interest of the public welfare, health and safety to establish standards for the resolution of view obstruction claims so as to provide a reasonable balance between tree and view related values.
- e. An objective of the Design Review Element of the 1984 Piedmont General Plan is to "preserve and enhance the aesthetic character of Piedmont". The policy for implementing this objective is to "encourage cooperation between property owners and/or the City to prevent vegetation from obstructing views". (Piedmont General Plan, 1984, p. 148)

3.22.2 Definitions For the purposes of this Section, the meaning and construction of words and phrases hereinafter set forth shall apply:

- a. Claimant: Any individual who files a bona fide claim as required by the terms and provisions of this Section.
- b. Obstruction: Any blocking or diminishment of a view required by the terms and provisions of this Section.

- c. Public Agency: Any City, County, district, other local authority or public body of or within this State.
- d. Public Utility: Any person or entity supplying power, light, communications, water, sewage or similar or associated services to the public or any portion thereof.
- e. Restorative Action: Any specific requirement to resolve a view claim.
- f. Tree Owner: Any individual owning real property in the City upon whose land is (are) located the tree(s) that form the basis for the filing of a view claim.
- g. View Arbitrator: Any landscape architect registered and licensed by the State of California, or any arborists registered and certified by the International Society of Arboriculture.
- h. View Claim: The written basis for arbitration or court action under the terms and conditions of this Section, submitted by the claimant, which clearly establishes the following:
 1. The precise nature and extent of the alleged view obstruction, including all pertinent and corroborating physical evidence available. Such evidence may include, but is not limited to, photographic prints, negatives or slides.
 2. The exact location of all trees alleged to cause a view obstruction, the address of the property upon which the trees are located, and the present tree owner's name and address. This requirement may be satisfied by the inclusion of tree location, property address and tree owner information on a valid property survey or plot plan submitted with the view claim.
 3. Any mitigating actions proposed by the parties involved to resolve the alleged view claim.
 4. The failure of personal communication between the claimant and the tree owner to resolve the alleged view obstruction as set forth in Section 3.20.12. The claimant must provide physical evidence that written attempts at conciliation have been made and failed. Such evidence may include, but is not limited to, copies of and receipts for certified or registered mail correspondence.

3.22.3 Exemptions The following classes of trees are categorically exempted from the provisions of this Chapter:

- a. Quercus agrifolia (California or Coast Live Oak)
Umbellularia californica (Bay California Laurel)
Acer negundo (Box Elder)

Aesculus californica (California Buckeye)

Arbutus menziesii (Madrone)

Lithocarpus densifloris (Tan Bark Oak)

- b. All trees located on property owned or leased by a Public Agency or a Public Utility. View claims relating to trees located on property owned or leased by the City of Piedmont, while exempt from the provisions of this section, shall be subject to the review of the Park Commission acting pursuant to procedures, standards and conditions approved from time to time by City Council resolution. Decisions of the Park Commission may be appealed to the City Council by the view claimant or any interested party filing a written appeal stating specifically the reasons therefore with the City Clerk within ten (10) days of the decision of the Park Commission, and the determination of the City Council on such appeal shall be final and non-appealable.

3.22.4 View Protection A person owning property in Piedmont shall have the right to establish a view claim and obtain restorative action according to the terms of this Section.

3.22.5 Standards for Resolution of Claims The following standards shall apply to measure the quality of the view and the character of the view obstruction for the purposes of determining what, if any, restorative action is necessary.

- a. The view claimant shall have no right greater than that which existed in 1980 or at the time of the claimant's subsequent acquisition of the property involved in the view claim, whichever is later, and shall provide evidence documenting the extent of said view.
- b. The character of the view shall be determined by evaluating:
1. The vantage point(s) from which the view is obtained.
 2. The existence of landmarks or other unique features in the view.
 3. The extent to which the view is diminished by factors other than the trees involved in the claim.
- c. The character of the view obstruction shall be determined by evaluating:
1. The amount of the alleged view obstruction, measured to arrive at a percentage of the total view. Measurement of the alleged view obstruction shall be calculated by means of a surveyor's transit, or by photography, or both.
 2. The quality of the view which is allegedly being obstructed. The quality of the view obstructed shall be determined by comparing the items within the scope of the view with the types of factors listed in the definitions of View set forth above.

d. The extent of benefits derived from the tree(s) in question shall be determined with consideration given to the following factors:

1. Visual screening provided by the tree(s).
2. Wildlife habitat provided by the tree(s).
3. Soil stability provided by the tree(s), as measured by soil structure, degree of slope and extent of tree(s) root system.
4. Energy conservation and/or climate control provided by the tree(s).
5. Visual quality for the tree, including but not limited to species characteristics, size, growth, form, vigor, and location.
6. The economic value of the tree(s) as measured by the criteria developed by the International Society of Arboriculture.
7. Other tree-related factors, including but not limited to: Indigenous tree species, specific tree quality, rare tree species, and/or historic value

e. Where present due to natural regeneration, the trees listed below shall be specifically identified and be given special consideration in the resolution of the view claim:

Acer macrophyllum (Bigleaf Maple)
Alnus rhombifolia (White Alder)
Fagus sylvatica (Copper Beech)
Heteromeles arbutifolia (Toyon)
Salix lasiandra (Yellow Willow)
Salix lasiolepis (Black Willow)
Sambucus caerulea (Blue Elderberry)
Sequoia sempervirens (Redwood)

3.22.6 Restorative Action. Restorative action shall be limited to: pruning, thinning, minor topping, or tree removal with or without replacement plantings. Each type of restorative action shall be evaluated based on the above findings and with consideration given to the following factors:

1. The effectiveness of the restorative action in reducing the view obstruction.
2. Any adverse impact of the restorative action on the benefits derived from the tree(s) in question
3. The structural and biological effects of the restorative action on the tree(s) in question.
4. The cost of the restorative action, as determined by consultation with a certified arborist.

3.22.7 Mitigation of Action. All restorative actions shall be undertaken with consideration given to the following factors:

1. Restorative actions shall be limited to the pruning or thinning of branches, or both, where possible.
2. When pruning or thinning of branches, or both, is not a feasible solution, minor topping shall be preferable to tree removal if it is determined that the impact of topping does not destroy the visual proportions of the tree, adversely affect the tree's growth pattern or health, or otherwise constitute a detriment to the tree(s) in question.
3. Tree removal shall only be considered when all other restorative actions are judged to be ineffective and may, at the tree owner's option, be accompanied by replacement plantings of appropriate plant materials to restore the maximum level of benefits lost due to tree removal. Replacement plantings, if used, may be on the tree owner's or the claimant's property in
4. In those cases where tree removal eliminates or significantly reduces the tree owner's benefits of visual screening or privacy, replacement screen plantings shall, at the tree owner's option, be established prior to tree removal; notwithstanding the provisions of (3) hereinabove, the tree owner may elect tree removal with replacement plantings as an alternative to trimming, thinning or topping.
5. All trimming, topping, thinning and tree removal required under this Section must be performed by a certified arborist.

3.22.8 Resolution Without Action. A view claim may be resolved by the determination that no restorative actions are required.

3.22.9 Apportionment of Costs The cost of all restorative actions, replacement plantings, and arbitration shall be apportioned between the view claimant and the tree owner as follows:

- a. The view claimant and tree owner shall each pay 50% of such costs in those cases involving any tree planted by the tree owner subsequent to the effective date of this Section (October 3, 1988).
- b. The tree owner shall pay 100% of such costs in those cases where:

1. The tree owner has refused to participate in good faith in the initial reconciliation (Section 3.20.12) or voluntary arbitration processes (Section 3.20.13) and where the view claimant has prevailed at trial or judicial arbitration, or
 2. In any subsequent dispute between the same parties, to restore any view obstructed by the same tree or trees or any of the plantings substituted for the original offending tree or trees described in Section 3.20.9(a).
- c. In all other cases, the view claimant shall pay 100% of such costs.

3.22.10 Attorney's Fees. Each party shall pay his/her own costs and attorneys' fees except in the case where the dispute goes to trial or judicial arbitration. In the event that an action under this Section is resolved after trial or judicial arbitration in Municipal or Superior Court, the prevailing party shall be entitled to reasonable attorneys' fees and costs of suit.

3.22.11 Civil Penalty. A tree owner shall be deemed to have violated the provisions of this Section if judgment in favor of a view claimant is obtained after trial or judicial arbitration in either the Municipal or Superior Court. The civil penalty for each violation of the ordinance, which shall be paid to the City, shall be \$1,000.00.

3.22.12 Initial reconciliation. A claimant who believes in good faith that the growth, maintenance, or location of trees situated on the property of another diminishes the beneficial use, economic value and enjoyment of views naturally accruing to the claimant's property may notify the tree owner in writing of such concerns. The submission of said notification to the tree owner should be accompanied by personal discussions, if possible, to enable the claimant and the tree owner to attempt to reach a mutually agreeable solution to the alleged view obstruction under the terms and conditions of this Section.

3.22.13 Arbitration. In those cases where the initial reconciliation process fails, the claimant and the tree owner may elect binding arbitration to resolve the alleged view obstruction. The view arbitrator shall be fully qualified under the terms and conditions of this Section and shall be agreed to by both the claimant and the tree owner, who shall indicate such agreement in writing. The arbitration agreement may provide for employment of experts representing the parties or may be limited to an investigation of the view claim conducted by the arbitrator. The view arbitrator shall follow the terms and conditions of this Section to reach a fair resolution of the view claim. The view arbitrator shall submit a complete written report to the claimant, the tree owner and the City, which shall make copies of all view arbitrator reports available to any person who so requests and pays for the costs of reproduction. Said report shall include the view arbitrator's findings with respect to all standards listed in Section 3.9.5 of this Chapter, a complete listing of all mandated restorative actions, and at least three (3) price bids for said restorative actions received from certified arborists. All mandated restorative actions shall be implemented within thirty (30) days of the filing of an arbitration report to the claimant and the tree owner. The findings of the view arbitrator shall be final.

3.22.14 Litigation. In those cases where the initial reconciliation process fails to resolve the view claim and binding arbitration is not elected by the parties, civil action may be pursued by a private party for resolution of a view claim under the terms and conditions of this Section. The claimant shall have the burden of proving the alleged view obstruction and the suitability of the proposed restorative actions. The party bringing any civil action under this Section must promptly notify the City of Piedmont Public Works Department in writing of such action.

3.22.15 Liabilities. The issuance of an arbitration report and decision pursuant to this to this Chapter shall not be deemed to establish any public use or access not already in existence with regard to the property for which the arbitration report and decision are issued. The issuance of an arbitration report and decision pursuant to this Section shall not create any liability of the City with regard to restorative actions to be performed.

3.22.16 Enforcement. A violation of this Section is not a misdemeanor or an infraction, and the enforcement of this Section shall be by the private parties involved. The claimant shall have the right to bring injunctive action to enforce any restorative action mandated pursuant to this Section. In the event that this Chapter is enforced by separate legal action other than the issuance of citations, the cost of removing, replacing or treating such tree(s), as well as attorney's fees, other City staff costs, and all other costs and expenses of enforcement shall be deemed damages reimbursable to the City by the violating party. (Ord. No. 510 N.S., 7/89)

ARTICLE IV. ENFORCEMENT OF CHAPTER**SEC. 3.23 ADMINISTRATION OF REGULATIONS.**

The Recreation Director or his designee shall make such rules and regulations and establish such procedures as are necessary to administer and supervise organized use of the city's recreational facilities and parks in accordance with the provisions of this chapter. Such regulations shall be posted on the City Hall bulletin board for at least thirty days after their adoption and shall be posted at specific parks, as specified in Sec. 3.22. (Ord. No. 378-78 N.S.)

SEC. 3.24 SIGNS REQUIRED

Whenever any activity is restricted or prohibited in specified areas of any park, or whenever the use of a specified area is restricted or prohibited, the Director may cause signs to be posted notifying the public of such restrictions or prohibitions. Failure to obey the restrictions stated in any properly posted sign shall be an infraction.

SEC. 3.25 AMENDMENTS TO CHAPTER

The City Council may from time to time amend portions of this code by resolution or by ordinance, and such revised regulations shall be posted on the City Hall bulletin board for at least thirty (30) days after their adoption and shall be published at least once in a newspaper of general circulation within the City within thirty (30) days after their adoption.

SEC. 3.26 VIOLATIONS OF CHAPTER AN INFRACTION

Unless otherwise specified in this chapter, it shall be a violation of the law, to wit an infraction, for any person to willfully violate the provisions of this chapter, and the fine for such infractions shall be as established from time to time by resolution of the City Council.