

MARIPOSA COUNTY ORDINANCE NO. 948
AN ORDINANCE REGARDING PUBLIC USE OF
LAKE McCLURE AND LAKE McSWAIN RECREATION AREAS

WHEREAS, the Board of Supervisors has agreed to work with the Merced Irrigation District to ensure Lake McClure and Lake McSwain are safe for the public's use, and

WHEREAS, the Board believes it is necessary to adopt an Ordinance to enforce the changes to those existing sections of the Code pertaining to Lake McClure and Lake McSwain Recreation Areas, and

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, a political subdivision of the State of California, does ordain as follows:

Sections:

12.16.010	Definitions.
12.16.015	Police protection and enforcement of regulations.
12.16.020	Permit—Required.
12.16.030	Lake use regulations.
12.16.040	Vehicle use regulations.
12.16.045	Yield right-of-way to emergency vessel.
12.16.046	Evading a peace officer.
12.16.050	Camping and picnicking regulations.
12.16.060	Prohibited acts.
12.16.070	(Repealed).
12.16.080	White water regulations.
12.16.090	Closure of county parks.
12.16.101	Sale of alcoholic beverages on county-owned or lease property.
12.16.111	Recreational use of Bureau of Land Management and National forest sections of the Merced River area downstream of Briceburg.
12.16.121	Violation—Penalty.

"12.16.010 Definitions.

A. As used in this chapter unless otherwise apparent from the context:

1. Words used in the present tense include the future as well as the present; words used in the masculine gender include the feminine and neuter; the singular number includes the plural, and the plural, the singular.

2. **"Aquaplane"** means any device used for transportation of one or more persons upon the surface of the water and which is pulled or towed by any boat, vehicle or other motive power.

3. **"Boat"** means any vessel or device, except an aquaplane, in or upon which persons or property may be transported upon, under and over the surface of the water.

4. **"District"** means the Merced Irrigation District, an irrigation district organized and existing under and by virtue of the laws of the state.

5. **"Lake", "Lake McClure Recreation Area" and "Lake McSwain Recreation Area"** mean all that property as delineated on those certain maps designated as "Exhibit K," Federal Power Commission License No. 2179 and filed in the offices of the Merced Irrigation District, together with the water surfaces of Lake McClure and Lake McSwain.

6. **"Parks Manager"** means the Parks Manager appointed by the District and shall

include such assistants, deputies, and subordinates of the Parks Manager as he may have specifically authorized in writing as having power to exercise all or certain designated functions under this chapter.

7. "Vehicle" means a device by which any person or property may be propelled, moved or drawn upon a highway, including devices moved by human power.

8. "Pet" means any domestic animal, especially a mammal, such as dogs, cats, horses, etc).

9. "Dredge" means any mechanized equipment which may be used for mining.

10. "Nighttime" is from sunset to sunrise. (As published in local newspapers).

B. Section headings, when contained in this chapter, shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any section."

"12.16.015 Police Protection and Enforcement of Regulations.

A. The County of Mariposa shall provide, through the Sheriff's Department, police protection and service to enforce state and federal laws and county rules and regulations as the same come within the knowledge and notice of the members of the Sheriff's Department.

1. The Mariposa County Sheriff's Department or Parks Manager shall have the authority to close the lake to all usage at their discretion during hazardous and unusual weather conditions.

B. The District shall have the authority to designate park rangers who shall have limited authority to issue citations for violations of the provision of this chapter.

1. All such rangers shall have law enforcement training which shall, at a minimum, meet the level II reserve requirements as described in the training standards of the California commission on peace officers standards and training.

C. The Mariposa County Sheriff's Department and the District shall enter into a written memorandum of understanding which shall establish procedures for the issuance of citations by District Park Rangers and other matters related to the functions and responsibilities of the District and rangers to the functions and responsibilities of the District and rangers appointed pursuant to this chapter.

1. Said memorandum of understanding shall be reviewed and updated each three years or as needed."

"12.16.020 Permit--Required.

A. No person shall enter the Lake McClure or Lake McSwain Recreation Area, operate any boat, dredge, or vehicle therein, or camp or picnic therein, participate in any airborne activity, or bring a pet, without first having obtained from the District, directly or by self-registration, a permit to do so and paying therefore any fee established from time to time by the board of directors of the District. Failure to obtain a permit before entry shall result in a citation. Unless defined in a permit or special use agreement with the District, access shall only be permitted through designated entrance stations. This section shall also apply to pedestrians and equestrians. This section shall not apply to exclusive non-motorized access on the trail from Briceberg to Bagby.

B. The permit may be revoked by the District at any time without refund for any violation of this chapter and state law.

C. No person shall leave the Lake McClure Recreation Area or the Lake McSwain Recreation Area without exhibiting, if so required by any authorized employee of the District, evidence of payment of the required fees."

"12.16.030 Lake Use Regulation.

No person shall, within the Lake McClure Recreation Area or the Lake McSwain Recreation Area:

- A. Operate any boat equipped with a sink, fixed shower or toilet unless such devices are connected to a properly self-contained system acceptable to the District.
- B. Launch, moor or beach any boat, houseboat, dredge, or equipment except in designated areas. Nor shall such activity be undertaken in such a manner as to block or restrict access, including coves or channels. Boats left unattended in areas not designated, or in any other areas without permission, or improperly moored, may be cited and/or towed away and stored by the District. All towing shall conform to the requirements of the California Vehicle Code.
- C. Operate any boat while towing or carrying passengers for hire, or rent or lease any boat for hire, without authorization by the District.
- D. Operate any boat or aquaplane in any pattern except a counter-clockwise pattern or operate any boat except to the right of the center of the lake channels.
- E. Operate a boat or aquaplane except in compliance with the language or symbols on all regulatory buoys or markers.
- F. Climb on, mutilate, tie any object to or in any other way harm, disturb or remove any buoy or marker.
- G. Engage in boat races or fix or utilize slalom courses without special permission of the District and the County Sheriff's Office; special permission may include provisions, the non-compliance with which shall be grounds for relocation of the permit without refund.
- H. Sleep overnight in any boat except with the written permission of the District. No such permission shall be granted unless such boats are equipped with an approved toilet.
- I. Swim, float or use any air mattress, inner tube, or nonmotorized raft further than one hundred feet from the shoreline, except while engaging in aquaplaning.
- J. Use any hard or sharp objects while swimming or floating in the designated areas.
- K. Land any airplane except in an emergency and except as set forth in this chapter.
- L. Pull any airborne kite, parachute or hangglider, except as set forth in this chapter.
- M. During daylight hours, operate a boat or aquaplane at a speed in excess of a posted speed limit; during nighttime, operate any boat or aquaplane at a speed in excess of ten miles per hour.
- N. Transport or dispense fuel or toxic materials in containers not approved by the Department of Transportation, or in systems not approved by the State Fire Marshall."

"12.16.035 Airborne Activity Regulation.

Except as set forth herein, no person shall operate a parakite, parasail, hangglider, ultralite or other aircraft within the Lake McClure Recreation Area or the Lake McSwain Recreation Area:

- A. Parakite and parasail activities are permitted in all areas except: the channel from Hunter's Point to the headwaters of Lake McClure, or any water course area less than 300 feet in width; and except as prohibited by regulatory buoys.
- B. Hangglider activities are permitted only under the provisions of a special use permit issued by the District prior to such activity.
- C. All of the activities described herein are permitted only during daylight hours, and must be terminated at any time when so instructed by law enforcement officers.
- D. All group activities and races involving the activities described in this section require an Assembly permit, which must be applied for at the Sheriff's Office 30 days prior to the event.
- E. Violation of the areas and activity regulations as set forth herein shall result in the impounding of the craft in violations and/or the issuance of a citation to the violator. serious offenses and activities creating danger to other persons may result in the arrest of the violator.
- F. Fees must be paid to the District by persons participating in airborne activities."

"12.16.040 Vehicle Use Regulations.

No person shall within the Lake McClure Recreation Area or the Lake McSwain Recreation Area:

- A. Operate any vehicle at a speed in excess of the limit posted by the District or in violation of the California Vehicle Code or local ordinances, or operate any vehicle except upon District roads and parking lots unless otherwise approved by the District.
- B. Park and leave unattended, any vehicle in areas other than those designated for parking; vehicles left unattended in areas not so designated or in any other areas without permission, may be cited and/or towed away and stored by the sheriff's department or the District and the removal and storage costs shall be charged to and paid by the owner prior to release; violation of these parking provisions shall be punishable as an infraction. All towing shall conform to the requirements of the California Vehicle Code.
- C. Operate any motor vehicle without a muffler system conforming to the provisions of the California Vehicle Code.
- D. Operate an unlicensed vehicle unless otherwise approved by the District.
- E. Operate skateboards, skates, or similar devices of this type.
- F. "Cruise" or drive a vehicle repeatedly through the same area.

Note: California Vehicle Code addresses driving with open containers, motorcycle helmets, bicycle lights/helmets, passengers riding in the back of pickups, towed boats, etc."

"12.16.045 Yield Right-Of-Way to Emergency Vessel.

Upon the immediate approach of an authorized emergency vessel sounding a siren and having at least one lighted lamp exhibiting blue/red light, to the front of such vessel, except as otherwise directed by a law enforcement officer:

- A. The driver of every other vessel shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right hand side of any channel, river or lake and thereupon stop and remain in such position until the authorized emergency vessel has passed.
- B. All swimmers, bathers and divers upon the waters, shall remain in place of safety or proceed to the nearest land or place of safety until the authorized emergency vessel has passed.
- C. This ordinance shall apply to, but not be limited to, all sailboats, motorboats, windsailers, surface boards, rubber boats, houseboats, sail kites, ultralite craft, all types of jet skis and bikes, and all floating devices using the water and or waterways of Mariposa County.
- D. Every person who willfully disregards or otherwise fails to yield right-of-way to an emergency vessel exhibiting at least one lighted blue/red light, and sounding a siren, is guilty of a misdemeanor."

"12.16.046 Evading a Peace Officer.

Every person who, while operating a vessel of any type or class, willfully disregards a siren and at least one lighted lamp exhibiting a blue/red light emanating from a vessel which is distinctively marked and operated by a peace officer wearing a distinctive uniform, and who does so with intent to evade the officer, and who flees or otherwise attempts to elude a pursuing peace officer's vessel, is guilty of a misdemeanor. This ordinance shall apply to, but not be limited to, swimmers, bathers, divers, sailboats, motorboats, windsailers, surface boards, rubber boats, houseboats, sailkites, ultralite craft, all types of jet skis and bikes, and all floating or motor driven devices using the waterways of Mariposa County."

"12.16.050 Camping and Picnicking Regulations.

No person shall, within the Lake McClure Recreation Area or the Lake McSwain Recreation Area:

- A. Camp or picnic, except in designated sites, and then only with a permit from the District. A campsite is considered occupied when it has been reserved or is being used for purposes

of camping by a person or persons who have paid the appropriate fee within the applicable time limits and the campsite is officially designated, either at the campsite or entrance station.

B. Permit the occupancy of a campsite or pad overnight with more than eight occupants and two motor vehicles without District approval.

C. Camp or occupy a campsite or pad for more than fourteen consecutive days without special permission from the District.

D. Quiet time will be enforced from eleven p.m. to seven a.m. This applied to loud parties, generators and other activities distracting to neighboring campers, residents, or houseboaters. Additionally, during non-nighttime hours, public disturbance, excessive noise, loud and/or offensive behavior, etc. is prohibited."

"12.16.060 Prohibited Acts.

No person shall, without permission of the District, within the Lake McClure Recreation Area or Lake McSwain Recreation Area:

A. Pick flowers, foliage, berries or fruit, or cut, break, climb, dig up or in any way, mutilate or injure any tree, shrub, plant fern, grass, turf, fence, rock, structure or any other object.

B. Cut, carve, paint, mark, paste or fasten to any tree, fence, wall, building, monument or other object any bill, sign, advertisement or inscription, especially when such action would destroy or deface property, real or personal, owned or controlled by the County or District or would otherwise be contrary to the public health, safety, morals or general welfare.

C. Dig up or remove any dirt, stones, rocks or other substances whatever, make any excavation, quarry any stone, or lay or set off any blast or cause or assist in doing any of said things.

D. Molest, injure or kill any bird or mammal, or disturb its habitat.

E. Despoil, place or leave any broken glass, ashes, wastepaper, cans or other rubbish or polluted matter except in a receptacle provided for that purpose; scavenge, import and deposit any litter or household refuse.

F. Possess, discharge or set off, over, onto, from, or through the recreation area any firearms, firecrackers, torpedoes, rockets, or other explosives or fireworks.

G. Permit or allow any domestic animal to be within the Lake McClure Recreation Area or the Lake McSwain Recreation Area unless same are at all times under the immediate, actual and physical control of the owner or person having custody of the animal. Animals shall be on a leash no longer than 6 feet in length. Animals are not allowed on marinas, picnic areas, beaches or in swimming or houseboat repair areas. No person shall keep a noisy, vicious, or dangerous dog or animal or one which is disturbing to other persons, in any area and remain therein after being asked by a peace officer or park ranger to leave. Animal's owners are responsible for the pickup and removal and disposal of animal waste. Ride, herd or allow to roam at will, any pets, domestic animals or livestock in restricted areas.

H. Engage in soliciting, posting, selling or peddling any goods or services or distribute any circulars which would endanger or violate the public health, safety, morals or general welfare.

I. Fish or swim within fifty feet of a marina or boat launching dock. No swimming or loitering will be allowed at swimming lagoons between dusk and sunrise.

J. All those under eighteen years of age must be in their campsites from eleven p.m. to seven a.m. unless accompanied by a responsible adult. No persons under the age of eighteen years of age will be permitted to camp or stay overnight unless accompanied by a responsible adult. The District may from time to time by order declare curfew in any area or portion thereof upon a finding that conditions therein are such as to warrant special measures for the safety and/or welfare of the general public.

K. Open fires are prohibited unless authorized by park manager.

L. Operate a dredge for mining purpose without a valid permit issued by the Department of Fish and Game and District."

12.16.070 (Repealed).

“12.16.080 White Water Regulations.

A. It is unlawful for any person to traverse the waters within the County on an inner tube, air mattress or any other device capable of transporting a person on the water without wearing a Coast Guard-approved wearable Type I, II, or III personal floatation device; provided, however, that this section shall not apply if state law or administrative regulations otherwise required the carrying or exempts the carrying on board of the device in question or other personal floatation devices.

B. This section shall not apply from August 1 through December 1 of any year, subject to the further condition of “low river water” during said period of time.”

“12.16.090 Closure of County Parks.

All Mariposa County parks shall be closed to the public during the months of October through March 10:00 p.m. until 8:00 a.m., during the months of April through September from 11:00 p.m. until 7:00 a.m.”

“12.16.100 Sale of Alcoholic Beverages on County-Owned or Leased Property.

It shall be unlawful for any person, business, association, or any other legal entity to sell any alcoholic beverage on real property owned by the County of Mariposa or on real property leased by the County of Mariposa, unless the person, business, association, or any other legal entity provides general liability insurance, with sale of liquor coverage, satisfactory to County, naming the County as an additional insured, in a minimum amount of five hundred thousand dollars (\$500,000). The activity to be conducted, and the insurance policy must be approved by the Board of Supervisors prior to the event taking place. Prior to approval by the Board of Supervisors the applicant must provide proof of a temporary license from the state of California permitting the sale of alcoholic beverages. There shall be no liquor sold at any youth event held on County property or property leased by the County.

This section shall not permit liquor to be sold or consumed at any County approved event at the Masonic Lodge in Mariposa.”

“12.16.110 Recreational Use of Bureau of Land Management and National Forest Sections of the Merced River Area Downstream of Briceburg.

A. No person shall camp or park any vehicle overnight upon the roadbed, and/or shoulders of the road, or associated pullouts along the Merced River access road between Briceburg, California, Mariposa County, and McCabe Flats Campground on land administered by the Bureau of Land Management.

B. No person shall camp or stay overnight on the upslope side of the Merced River access road, down stream from Briceburg, on lands administered by the Bureau of Land Management, except in a campground designated by the Bureau of Land Management.

C. No person shall discharge a firearm or ignite any type of fireworks within ½ mile of the center of the Merced River on lands administered by the Bureau of Land Management.

D. Camping is limited to 14 days within any 90-day period on Bureau of Land.”


“12.16.120 Violation—Penalty.

Except as otherwise provided in this chapter, any person who violates any of the provisions of this chapter is guilty of an infraction and, upon conviction thereof, shall be punishable by a fine of not more than two hundred-fifty dollars, This section shall not apply to misdemeanor and/or felony violations of the California Penal Code which take place at the Lake McClure and/or Lake McSwain Recreation Areas. This section shall be subject to the application of California Penal Code Sections 19.6 and 19.8.”

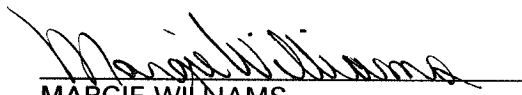
This Ordinance shall become effective thirty (30) days after final passage pursuant to Government Code § 25123.

PASSED AND ADOPTED by the Board of Supervisors of Mariposa County this 9th day of May, 2000 by the following vote:


AYES: Reilly, Balmain, Stewart, Parker, Pickard
NOES: none
ABSENT: none
ABSTAINED: none


GARRY R. PARKER, Chairman
Mariposa County Board of Supervisors

ATTEST:


MARGIE WILLIAMS
Clerk of the Board

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:


JEFFREY G. GREEN
County Counsel

ACKNOWLEDGMENT
RE NEWSPAPER PUBLICATION

[Instructions: Please have a representative with the GAZETTE complete the following acknowledgment of receipt regarding legal publications and fax to (209) 966-5147. Please forward the billing request to the Mariposa County Board of Supervisors, Post Office Box 784, Mariposa, California 95338. Should you have any questions, please contact our office (attention: Donna) at (209) 966-3222. Thank you.]

I, *Jill Ballinger* hereby acknowledge receipt of the
(Print Name)

following document (s) for legal publication in the May 18, 2000, issue of the "Mariposa Gazette," on this 11th day of May, 2000.

MARIPOSA COUNTY ORDINANCE NO. 948

AN ORDINANCE REGARDING PUBLIC USE OF
LAKE McCLURE AND LAKE McSWAIN RECREATION AREAS

By: *Jill Ballinger*
(Representative)