The City of San Diego

Staff Report

DATE ISSUED:	July 14, 2025	
TO:	City Council	
FROM:	Parks and Recreation Department	
SUBJECT:	A Resolution of the Council of the City of San Diego Adopting a Finding Pursuant to Public Resources Code Section 5386(B)(3) that Existing Permitting Requirements Apply to All Water-Based Instructional Activities and Are Necessary to Address City Liability.	
Primary Contact:	Karen Dennison	Phone: (619) 235-1188
Secondary Contact:	James Gartland	Phone: (619) 221-8832
Council District(s):	All	

OVERVIEW:

In January 2025, the final version of Assembly Bill (AB) 2939 (Rendon, 2024) (AB 2939), codified in California Public Resources Code (PRC) sections 5385 and 5386, took effect. The stated purpose of AB 2939 is to simplify access to parks and beaches owned, operated, or managed by a "local entity" (a city, county, or city *and* county that owns, maintains, or operates a local park) for an "eligible entity" (a qualified non-profit public benefit corporation with the mission of increasing equity in outdoor access; a federally recognized Native American tribe; or a California Native American tribe listed on the California Tribal Consultation List maintained by the Native American Heritage Commission) that offers "interpretive services" (activities and programs designed to connect people to the natural, cultural, and historic resources of a local park and beach) to groups of 30 or fewer participants.

To address the issue of access, AB 2939 equates eligible entities with the general public. This means that both can use a local park (a beach or park that is owned, maintained, or operated by a local entity and that is not part of the state or federal park systems) without being subject to any permitting requirements.

However, the California legislature allows the governing body of a "local entity" to adopt requirements for eligible entities if it first makes a finding that different requirements are necessary for eligible entities than for the general public. One of the findings that a "local entity" can adopt addresses the local entity's liability related to a visit to a "local park" by an "eligible entity". To limit liability associated with such a visit, as well as to protect the health and safety of park and beach users, City of San Diego (City) staff recommends the City Council adopt such a finding and requirements pursuant to PRC section 5386(b)(3).

Specifically, this finding would require eligible entities that also conduct water activities as part of their "interpretive services" (in this case, activities such as swimming, surfing, kayaking, and stand-up paddle boarding) to comply with existing requirements of the City's Non-Profit Surf Camp Program operated by the Parks and Recreation and Fire-Rescue departments.

PROPOSED ACTIONS:

Adopt a resolution of the Council of the City of San Diego that finds the existing requirements for non-profit surf camps and other eligible entities engaging in water-based instructional activities are necessary to address the local entity's liability related to a visit to a local park by an eligible entity that meets the requirements of PRC section 5386(a).

DISCUSSION OF ITEM:

About PRC Sections 5385 and 5386

PRC sections 5385 and 5386 address the use of local parks for "interpretive services". These sections allow an "eligible entity" to provide "interpretive services" to a limited number of park visitors (no more than 30 at once) without requiring special permits or fees, if the "eligible entity" is not given preferential treatment over the general public. Local entities can, however, establish requirements for such eligible entities if the governing body of the "local entity" makes specific findings based on substantial evidence. The findings are:

1) The requirements are necessary to ensure that public access to a "local park", or the protection of environmental resources, is not significantly negatively impaired by an "eligible entity" that meets the requirements of subdivision (a).
2) The requirements will further access to a "local park" by an "eligible entity" that meets the requirements of subdivision (a).
3) The requirements are necessary to address the local entity's liability related to a visit to a "local park" by an "eligible entity" that meets the requirements of subdivision (a).

The City seeks to establish additional requirements for eligible entities who provide "interpretive services" that include a water-based instructional activity under the third finding to address the local entity's (City of San Diego) liability stemming from water safety concerns.

To make this finding, the City Council must consider the evidence before them to be substantial.

If City Council does not make the finding mentioned above, the City must allow eligible entities to use City parks and beaches for their "interpretive services" that includes water-based instructional activity like that of any member of the general public (i.e., without the City's safety standards).

About Water-Based Instructional Activities and Programs

Pursuant to San Diego Municipal Code sections 63.0102 and 63.0103, the City manages the use of City beaches and bays for water-based instructional activities such as surfing, swimming, kayaking, and stand-up paddleboarding, via two programs – the Beach Concessionaires Program (for business entities) and the Non-Profit Surf Camp Program (for non-profit entities). The City does not allow commercial activity or any type of water activity (e.g., operation of a surf camp) to be unregulated on public property for members of the general public without a permit.

The Beach Concessionaires Program is housed in the Economic Development Department which utilizes an open Request for Proposals (RFP) process for concessionaires to compete for the opportunity to do business on San Diego's beaches, while the Non-Profit Surf Camp Program awards permits to eligible non-profit organizations wishing to conduct programs in City parks and beaches which includes water-based instructional programs in the waters adjacent to the San Diego beaches.

For more information, please refer to the following links, respectively:

https://www.sandiego.gov/lifeguards/beaches/beach-concessionaires
https://www.sandiego.gov/park-and-recreation/parks/permits

The Non-Profit Surf Program (Program) is housed in the Parks and Recreation Department (Department), specifically, the Department's Permit Center which provides permits for Balboa Park, Mission Bay, and Shoreline Parks that stretch from La Jolla to Ocean Beach. The Department works with the Fire-Rescue Department (specifically, the Lifeguard Division) in the administration, oversight, and enforcement of the Program through functions such as the intake, review, and issuance of permits; monitoring of safety conditions; and compliance with permit conditions.

The Program runs from Memorial Day to Labor Day each year. Permit applications are reviewed in the order they are received. Approval is based on site availability, timeframe, and event logistics involved. Applications are accepted via email at SDPRpermitcenter@sandiego.gov all year up until 10 days before the last day of the Program.

Applicants can choose from six permittable sites located in North Pacific Beach, La Jolla Shores, and South Mission Beach. These sites were identified and assessed for safety, access, and impacts to both the environment and public space. They are strategically located near staffed lifeguard towers and safe swim zones (i.e., away from known rip currents). A total of 25 participants are permitted for each site.

1. "EMERALD A" (Ocean Blvd and Emerald Street)
2. "EMERALD B" (Ocean Blvd and Emerald Street)
3. "LA JOLLA A" (north of La Jolla Shores Park, along El Paseo Grande, before intersecting with Paseo Del Ocaso)
4. "LA JOLLA B" (north of La Jolla Shores Park, along El Paseo Grande, before intersecting with Paseo Del Ocaso)
5. "SOUTH MISSION A" (between South Mission Beach Lifeguard Station and N Jetty Road parking lot)
6. "SOUTH MISSION B" (between South Mission Beach Lifeguard Station and N Jetty Road parking lot)

Please refer to the following link for a map of these locations:

https://www.sandiego.gov/sites/default/files/2024-04/nonprofit-surf-camp-sites-overview-map.pdf.

About the Permit Process

To participate in the Non-Profit Surf Camp Program and utilize any of the sites listed above, eligible non-profit entities must meet requirements in the following areas:

- Permit application and fees
- Liability insurance
- CPR, first aid, and water safety certifications
- Adequate staffing

Eligible non-profit entities must also agree to comply with the requirements for Non-Profit Surf Camp Program found here:

https://www.sandiego.gov/sites/default/files/2024-04/non-profit-surf-camp-active-net-disclaimer.pdf.

Permit Application

To start the permitting process, a permit application ("Facility and Park Use Permit Application") must be completed. In addition, each organization must provide a 501(c)(3) letter as proof of non-profit status.

Once the permit application and required documentation is received by the Department's Permit Center staff, it is a two-week review process from the time of submission to permit issuance (assuming all required documentation is submitted and valid).

Permits are issued in increments of two- and five-hour durations. This equates to an availability of 426 days [71 days * 6 permittable sites] for non-profit organization to submit applications for at the start of the season (Memorial Day). The Department's Permit Center will issue one permit, per site, per day regardless of duration.

- **Two-Hour Permits (Maximum: 10):** Organizations are limited to a maximum total of10 days of 2.0 hours per day, per summer (considered to be from Memorial Day and Labor Day), between the hours of 9:00am to 2:00pm from Monday to Friday at each site. This maximum limit is cumulative between all sites.

- **Five-Hour Permits (Maximum: 10):** Organizations are limited to a maximum total of10 days of 5.0 hours per day, per summer (considered to be from Memorial Day and Labor Day), between the hours of 9:00am to 2:00pm from Monday to Friday at each site. This maximum limit is cumulative between all sites.

Permit Fees
Instructional camps on parks and beaches are charged the following fees:

- **Permit Application Fee:** $38.32 (per quarter)
- **Opportunity Fund Fee:** $1.04 (per hour)

The Opportunity Fund fees fund the Parks and Recreation Department's equity-based recreation programs. The fee is applied to all permitted events/activities, room and pool rentals, and on-going recreation-based business operations by commercial and non-profit entities. Fees only apply to event days and games hours for leagues. These fees are non-refundable and cannot be prorated.

These guidelines were developed to ensure that all non-profits are treated equitably and fairly by preventing any one organization from monopolizing a particular location.

Currently, for the 2025 season, there are a total of six organizations who are participating in the Program. They include the following:

1. Autism Society San Diego
2. Dan McKinney YMCA
3. Fellowship of Christian Athletes
4. Mission Valley YMCA
5. Peninsula Surf Club
6. Ryan Family YMCA

Insurance
When applying for a permit, organizations are asked to provide a Certificate of Liability Insurance which is required for a park use permit to be valid. Liability insurance requirements are $1.0 million per occurrence and $2.0 million general aggregate. The City also requires an additional endorsement accompany each certificate of insurance also naming the City of San Diego, its officers, employees and agents as an additional insured.

Required Health and Safety Certifications
Because swimming and water activities are inherently high-risk activities and drastically differ from activities on a beach or in a park, the City requires both for-profit and non-profit surf camp entities to follow established safety and emergency protocols and have the necessary training and professional certifications that meet City of San Diego lifeguard standards. These requirements are designed to ensure that all operators, regardless of non-profit status, meet the same rigorous standards necessary to protect participants, instructors, and the public. The requirements are found here:

https://www.sandiego.gov/sites/default/files/2024-04/non-profit-surf-camp-active-net-disclaimer.pdf

All instructors must possess at least one of the following certifications in each of the three categories:

Water Safety	CPR	Emergency/First Aid
1. American Red Cross "Lifeguarding" 2. Miramar College "Introduction to Open Water Lifeguard" 3. Water Safety Specialist "Surfing Instructor Safety Training"	1. American Red Cross 2. American Heart Association 3. Any other nationally recognized basic CPR training with certification	1. Emergency Medical Technician (EMT) 2. American Red Cross First Aid Basic 3. Any other national recognized first aid course with certification

Certain certifications may not be accepted by the City because they may lack equivalency in scope, rigor, or relevance to the unique aquatic conditions of San Diego's coastline.

Adequate Staffing

Adequate staffing refers to the need for a lifeguard, appropriate student-instructor ratios, as well as student limits. Drowning deaths peak in summer (May–August), with two-thirds of fatal drownings occurring during these months, aligning with the Non-Profit Surf Camp Program season. Lack of supervision is a major factor with 88% of drownings in children under 14 occur with an adult nearby.

The existing Non-Profit Surf Camp Program mandates the following:

- A maximum of 25 students per site may be on the beach or water at any one time.
- For every five students in the water, one instructor must be present. Any time students are in the water, at least one American Red Cross-certified instructor must be present and supervising the class.

Since its inception, the City's Non-Profit Surf Camp Program has successfully ensured participant safety, with zero water-related fatalities reported. Enhanced supervision, swimming lessons, and safety measures are critical to reducing the risk that a drowning may occur.

Summary

The City has safely operated both the Beach Concessionaires and Non-Profit Surf Camp programs collectively for nearly 20 years. The City has made improvements to both programs over time to accommodate the needs of the organizations while preserving the health and safety of program participants and the general public.

Despite the absence of specific judicial interpretation of Public Resources Code section 5386 (AB2939), certain non-profit organizations are asserting that water-based instructional activities, such as surf camps, fall under their umbrella and are therefore exempt from City permitting requirements. Unregulated water-based instructional programs pose a demonstrable risk to participants and the general public due to inconsistent safety practices and lack of coordination with City lifeguards. Continued compliance with the existing requirements governing the non-profit surf camps and other eligible entities engaging in water-based instructional activities is imperative to limit the City's potential liability associated with AB 2939, as well as to protect the health and safety of park and beach users.

For the reasons described above, the City requests Council adopt a finding under PRC section 5386(b)(3) that the existing permitting requirements for non-profit surf camps and other eligible entities engaging in

water-based instructional activities are necessary to address the local entity's potential liability stemming from water safety concerns.

The substantial evidence supporting the finding required by PRC section 5386(b)(3) is provided in this staff report.

Recommendation

Adopt a resolution of the Council of the City of San Diego that finds the existing requirements for non-profit surf camps and other eligible entities engaging in water-based instructional activities are necessary to address the local entity's liability related to a visit to a local park by an eligible entity that meets the requirements of PRC section 5386(a).

City of San Diego Strategic Plan:
This action relates to Strategic Plan Priority Area "Protect & Enrich Every Neighborhood" by helping achieve the outcome of providing San Diegans with safe recreational spaces in their communities through the maintenance of the existing requirements pertaining to health and safety that form the framework for the City's Non-Profit Surf Camp Program.

Fiscal Considerations:
There is no significant fiscal impact associated with this action. However, if the resolution is adopted, then it would continue to allow the City to collect permit fees for non-profit instructional camps' use of City parks and beaches. In 2024, the City collected fees in the amount of $1,286.

Charter Section 225 Disclosure of Business Interests:
N/A

Environmental Impact:
This activity is not a "Project" pursuant to CEQA Guidelines Section 15378(b)(5) as it is an organizational or administrative activity of government that will not result in direct or reasonably foreseeable indirect physical changes in the environment. Thus, this activity is not subject to CEQA pursuant to CEQA Guidelines Section 15060(c)(3).

Climate Action Plan Implementation:
N/A – Does not have a connection to the CAP.

Equal Opportunity Contracting Information (if applicable):
N/A

Previous Council and/or Committee Actions:
N/A

Planning Commission Action:
N/A

Key Stakeholders and Community Outreach Efforts:
Key stakeholders include both past and current City of San Diego Non-Profit Surf Camp Program permit holders; Outdoor Outreach and other non-profit organizations who provide water-based instructional camps; for-profit entities who participate in the City of San Diego Beach Concessionaires Program; users of and visitors to San Diego beaches, as well as Mission Bay Park; and the California Coastal Commission (CCC).

Outreach efforts have included various meetings and correspondence with both the CCC and different non-profit organizations since 2023. On April 18, 2024, the City held a meeting to discuss both short- and

long-term options for helping improve the City's Non-Profit Surf Camp Program. This meeting included representatives from the CCC, the Office of the Mayor, the Lifeguard Division of the San Diego Fire-Rescue Department, the Parks and Recreation Department, as well as various non-profit organizations.

Andy Field	Kristina Peralta
Department Director	Deputy Chief Operating Officer