



**MEMORANDUM**

Community Services Department

**DATE:** December 11, 2013

**TO:** Parks and Recreation Commission

**FROM:** John Marchant, Acting Shoreline/Recreation Manager  
J.P.de la Montaigne, Community Services Director

**SUBJECT:** Commercial Use of City Parks Policy

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**RECOMMENDATION**

Recommend the City Council adopt the proposed Commercial Use of City Parks Policy and updates to the City's ordinance and policy, as needed, to allow commercial use of City parks.

**BACKGROUND**

On September 11, 2013, the Parks and Recreation Commission (PRC) requested that staff review the Mountain View City Code regarding commercial use in City parks. Commissioners stated they had noticed groups utilizing parks for several types of commercial use. The City of Mountain View City Code, Chapter 38.13, states that commercial use of City parks is prohibited.

The typical commercial use of parks found in Mountain View includes personal fitness training, boot camps, stroller fitness classes, tai chi, dog training, and martial arts. These types of activities support the Recreation Plan's goal of health and wellness programs in the community; however, staff wants to ensure that these activities are done in a safe and responsible manner. By requiring a permit, staff is able to ensure that the provider has insurance, is a licensed business within the City of Mountain View, and understands the rules regarding the appropriate use of the fields. Staff also has contact information should there be a problem or complaint. Staff is also aware that there can be a negative perception of public park use for private benefit. A permitting system will allow the City to have greater control of these activities and to respond to complaints from the public.

Instructors providing commercial activities are notified by Park Rangers or City staff that the activity is not permitted once it is identified. Once notified, the instructor is left

with limited options to continue their activity. The first choice is to no longer offer the activity in Mountain View parks. The second option is to work with the Recreation Division to become a contract class instructor. The latter is not always a valid option for instructors due to the City's current contract class cost structure and the instructor's desire to have a limited group size.

Recently, a number of the instructors that were told to cease commercial operations requested that a permit process be created to allow such activity. In an effort to meet the needs of the program providers and those they serve in the community, a policy to permit such activities has been prepared for review by the PRC.

### **Policy to Permit Commercial Use**

A draft of the proposed Commercial Use of City Parks Policy to permit commercial use is attached (Attachment 1). The purpose of the policy is to formalize a process for commercial use of City of Mountain View parks for personal training, boot camps, dog training, and other outdoor professional services that are compatible with recreational uses. A review of best practices found that similar permit processes are currently used locally and nationally.

The policy includes provisions that protect the public's use of parks and provides health and fitness consultants and other professional service providers reasonable access to open space.

The following are key elements of the proposed policy:

1. Permits will only be available to outdoor professional services, including, but not limited to, fitness groups, dog trainers, yoga instructors, tai chi leaders, martial arts instructors, and other outdoor professional services providing a community benefit and approved by the Community Services Department.
2. Permit applications must be complete and include a description of the program, specific dates of the program, requested location(s), as well as a copy of the provider's insurance and Mountain View business license.
3. A permit can be obtained a minimum of 14 days prior to the requested start date for a maximum period of six months.
4. Group sizes are limited based on location of the program. Park permits may be approved for groups of up to 50 people. Trail permits will be limited to a maximum of 20 people. Based on review of application, the Community Services

Department will evaluate each location for appropriate space allocation as well as timing of the program and may offer an alternate location or decline permit application.

5. Areas not available for permit include any area dedicated to a use that would reasonably conflict with any approved use, for example, using a child playground area or fields permitted to Youth Sports Organizations.
6. Equipment used by provider will be restricted – no use of equipment that could damage the park, trail, or pose a hazard to the general public.
7. Provider shall clean the park location at the end of every session of use under the permit.
8. In the case of inclement weather, permit holder shall not use the park if the area has been closed by the City or if the park is deemed too wet to use. The permit holder may reschedule for another day by contacting the Community Services Department.
9. Permit holders must be good neighbors while using parks by keeping noise levels to a minimum and parking in designated areas.
10. Fees shall be paid prior to application approval.

### **Proposed Fees**

Staff is recommending an hourly fee of \$10.00 for a commercial use permit. This fee is consistent with fees charged by neighboring cities.

The success of this policy is reliant upon instructors applying for permits to ensure appropriate class sizes, locations, and to review the instructor's business license and required insurance. If the fee is set too high, instructors may not go through the appropriate process. This fee would be in the Level 3 Cost Recovery due to its personal benefit, which has a cost recovery range of 100 percent to 122 percent. Because this is a new fee, staff based fees on market pricing. After one year of the policy being implemented, staff will review the fees and adjust based on level of demand, market conditions, and the associated staff time needed to implement the program.

### **FISCAL IMPACT**

Staff anticipates this permit program will generate approximately \$5,000 to \$8,000 per year in revenues.

### **ALTERNATIVES**

1. Do not permit commercial use in City parks.
2. Provide specific changes to the draft policy to recommend to City Council.

### **NEXT STEPS**

Should the PRC recommend that the City Council adopt the proposed Commercial Use of City Parks Policy, the next steps would be to update the City Code and Council Policy H-5, Use of City's Facilities, as needed, to allow commercial use of City parks. The anticipated time line for City Council review is March 2013.

JM-JPdIM/CV/7/CSD  
231-12-11-13M-E-2

Attachment: 1. Proposed Commercial Use of City Parks Policy

**CITY COUNCIL POLICY**SUBJECT: COMMERCIAL USE OF CITY PARKS POLICYNO.: \_\_\_\_PURPOSE:

To establish a permitting process for the commercial use of City of Mountain View parks and trails for personal training, boot camps, dog training, and other outdoor professional services that is compatible with recreational uses.

Due to the limited number of parks and trails available for the community, the City has established criteria for permitting commercial uses in order to preserve multiple uses of existing facilities.

A permit policy and associated fee has been developed for commercial use of City parks for scheduled activities in Mountain View parks. This program includes provisions that protect the public's use and provides health and fitness consultants, tai chi leaders, martial arts instructors, dog trainers, and other professional service providers reasonable access to Mountain View parks and trails.

Permits will only be issued to groups who will not disrupt the general public's use and enjoyment of the park.

POLICY:

The City's Community Services Department may permit commercial use of parks based on the following process and consistent with Chapter 38 of the Mountain View City Code.

Parks shall be defined as set forth in the City Code Section 38.1.

1. Commercial Use Permit Application and Fees

- a. Application

A complete Commercial Use Permit application must be submitted to the City's Community Services Department to be eligible for a permit. Commercial Use Permit applications, along with a City of Mountain View business license and proof of insurance, as required by the City, must be submitted for each permit. Applications must provide requested dates, times, and locations of use. Permit applications must be submitted at least 14 days

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prior to the requested start date. Permits may be issued for a period not to exceed six months. All applicants must be over 18 years of age.

b. Payment of Fees

All fees are due at time of application submittal. Fees shall be set and approved by City Council. Permits will not be approved prior to payment being received and processed.

2. Permit Review and Issuance

a. Permit Review

Upon submission, permit applications will be reviewed for completeness and proposed activity compliance with the following regulations and restrictions.

**Approved Commercial Use**—Outdoor professional services, including, but not limited to, fitness groups, dog trainers, yoga instructors, tai chi leaders, martial arts instructors, and other outdoor professional services providing a community benefit and approved by the Community Services Department.

**Maximum Length of Permit**—Permits may be approved for a duration of up to six months.

**Group Size Limits**—Under no circumstances shall a permit be approved for any group over 50 participants within a park or for a group over 20 participants on any trail. Based on the group size, the Community Services Department will evaluate each location requested for appropriate space allocation and may decline permit applications or offer alternate locations. Depending on the requested location, groups may be limited in size to less than the above-mentioned maximum.

**Excluded Areas**—Any location specifically dedicated to a use or reserved for a preexisting use that would reasonably conflict with the proposed commercial use is excluded. For example, holding fitness classes in an area dedicated as a children's play area or in a permitted field used by youth

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sports organizations would be prohibited. See Council Policy H-7 for the City's Athletic Field Use Policy.

### 3. Grounds for Issuance or Denial

- a. Permits shall be issued by the Recreation Manager or his/her designee so long as the location is not an excluded area, group size is appropriate for requested location, activity is an allowed commercial use under this policy and the City Code, and applicant has not had a permit revoked within the last six months.
- b. Applications may be denied, in writing, if these requirements are not met.
- c. If an applicant is denied, an appeal may be submitted in writing to the Community Services Director. The appeal must be submitted within 15 days of the denial. The Community Services Director will issue a final determination, in writing, within seven days of receipt of the appeal.

### 4. Commercial Use Regulations

All permittees shall comply with the following.

- Permittee shall clean the park location at the end of every session of use under this permit.
- Permittee shall not sell equipment or other items in the park. Permittee is required to have the permit with them when conducting business on City property.
- Inspection of Permit. The City has the right to inspect the permit at any time. Any Mountain View employee may request the permittee present the permit as proof thereof.
- Permittee shall not use the park location if the area has been closed by the City due to inclement weather or other reason. If it rains on the date of reservation or the park is deemed too wet for use, the group may reschedule for another day. To request another date due to rain, permittee must contact

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the Community Services Department prior to scheduled use. Additional permit date(s) shall be approved if space at the requested location is available and the location is appropriate for the group size.

- Many of Mountain View's athletic fields are located on school property and in residential neighborhoods. Groups that use these fields will be expected to be respectful of the schools and neighbors by keeping noise levels to an appropriate volume, following speed limits on residential streets, and parking in appropriate or designated parking areas.
- Impact on Public Use and Priority of the Permit. A preexisting use prevails. Permittee shall not interrupt existing use of an area by the general public and the public must always have access to park entrances. Blocking of public access is prohibited. If a permitted commercial use has already begun and is in process, the general public may not interrupt an ongoing permitted use.
- Permittee may not bring equipment to parks that could damage the park, trail, or pose a hazard to the general public. These items include, but are not limited to, the following:
  - Tractor tires, kettle bells, and other heavy equipment which may impact or damage the park or trail.
  - Martial art weapons or targets of any kind (fighting sticks, boards, bricks, etc.).
  - Public address systems, megaphones, or amplified music systems.
  - Cables or railroad ties.
  - Permittee shall not attach equipment to trees, handrails, or other fixed items.

### 5. Enforcement

- a. Revocation. Violations of this policy, the issued permit, or Mountain View City Code Chapter 38 may result in the revocation of the permit by the



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Recreation Manager or his/her designee. Three or more violations by any permit holder shall result in permanent removal from the program. If a permit is revoked, permittee shall not be issued a new permit pursuant to this policy for a period of at least six months.

- b. Appeal of Revocation. If a permit is revoked, a permittee may file a written appeal with the Community Services Director. The appeal must be submitted within 15 days of the revocation. The Community Service Director will issue a final determination, in writing, within seven days of receipt of the appeal.
  
- c. Other Administrative Remedies. All other administrative, civil, and criminal remedies pursuant to the City Code and State law are available to the City in enforcement of the commercial use permit and regulations thereof.

Effective Date: \_\_\_\_\_, Resolution No. \_\_\_\_\_

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