

CITY OF MOUNTAIN VIEW  
RESOLUTION NO.  
SERIES 2014

A RESOLUTION AMENDING CITY COUNCIL POLICY H-4, USE OF CIVIC CENTER PLAZA; ADOPTING CITY COUNCIL POLICY – COMMERCIAL USE OF CITY PARKS; AND AMENDING THE CITY OF MOUNTAIN VIEW MASTER FEE SCHEDULE – COMMUNITY SERVICES

WHEREAS, on April 30, 2013, the City Council expressed an interest in allowing limited commercial use for private profit or gain, without a public or charitable purpose, of the City's plazas to increase utilization; and

WHEREAS, City Council Policy H-4 currently prohibits commercial use of the City Plaza; and

WHEREAS, staff recommends updating City Council Policy H-4 to allow limited commercial use of the City's plazas and revising for improved clarity; and

WHEREAS, on December 11, 2013, the Parks and Recreation Commission recommended the City Council adopt a commercial use permit fee for the use of the City's parks and trails for personal training, boot camps, dog training, and other outdoor professional services that is compatible with recreational uses; and

WHEREAS, staff has reviewed and analyzed the cost of providing various City services; and

WHEREAS, the City seeks to achieve and maintain financial stability through reasonable cost recovery, where appropriate, to allow the City to continue to provide cost-effective services;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Mountain View hereby take the following actions, effective July 1, 2014, if the City Code Chapter 38 amendments are adopted:

1. Amend City Council Policy H-4, Use of Civic Center Plaza, as set forth as Exhibit A.
2. Adopt City Council Policy – Commercial Use of City Parks, as set forth as Exhibit B.

3. Amend City of Mountain View Master Fee Schedule – Community Services, as set forth as Exhibit C.

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RK/5/RESO  
240-03-25-14r-E

CITY COUNCIL POLICY

SUBJECT: USE OF CIVIC CENTER CITY PLAZAS

NO.: H-4

PURPOSE:

To establish policies governing use of the Civic Center City's Plazas.

DEFINITIONS:

The following definitions, consistent with the definitions set forth in Mountain View City Code Chapter 38, shall apply.

"Commercial use" or "commercial activities" shall mean activities for private gain or profit. Private gain shall mean a use for the principal purposes of making a profit not pledged to be used for public or charitable purposes. Commercial use excludes fundraising.

"Community groups" shall mean a group or organization whose service area includes Mountain View and that operates for a public or charitable purpose. Community group does not include businesses that operate for private gain.

"Free speech/assembly/religious expression" shall mean any activity or event which is a noncommercial public assembly, the primary purpose of which is the exercise of the participants' constitutional rights of free speech, assembly, or religious expression.

"Nonprofit organizations" shall mean 501(c) organizations that have a letter of determination by the Internal Revenue Service and whose service area includes Mountain View.

"Plaza" shall mean the City Hall Plaza, Centennial Plaza, and Charleston Plaza.

POLICIES:

1. The City supports use of the Civic Center City's Plazas for activities which benefit the community.

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2. The City will facilitate use of the ~~P~~plazas as follows:

Events:

- a. ~~Organizations wishing~~In order to use any of the City plazas, an application must be submitted~~an application~~ to the Community Services Director or his/her designee at least sixty (60) days, but not more than one year, before the date of use. Free speech/assembly/religious expression special events should file an application as soon as practicable before the date, but at least five days prior to the use, unless, upon a showing of good cause, ~~such as a a~~ situation developed in which the use or purpose for the use arose after the application deadline.
- b. There is a nonrefundable use permit application and administration fee ~~of \$50~~ set by Council resolution, except that said fee shall be waived for free speech/assembly/religious expression and nonprofit organizations located in Mountain View, uses whose service area includes Mountain View, and an Internal Revenue Service (IRS) "Letter of Determination" can be provided along with necessary financial documentation, as determined by the Community Services Director or his/her designee, to verify compliance with the following requirements:
  - (1) The local nonprofit organization's service area is within Mountain View City limits or includes more than fifty percent (50%) of Mountain View residents as indicated in the organization's articles of incorporation and bylaws;
  - (2) The board of the local nonprofit organization is comprised of at least one Mountain View resident; and
  - (3) The local nonprofit organization has obtained a Mountain View business license.

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- c. Applications will be considered by the Community Services Director or his/her designee and shall be approved or denied based on the following standards:
- Is the application complete and timely filed?
  - Would the use provide cultural, social, recreational, or educational benefits/activities for Mountain View residents or local businesses?
  - What benefits and impacts will the event create for businesses and residents in Mountain View?
  - Will the use conflict with other activities planned for the area on the same day? (Priority will be given to events that have annually been held on a particular date(s).)
  - Will the use benefit charitable causes that provide services to Mountain View residents?
  - Will the use generate interest in the City of Mountain View and cause visitors from out of town to come to Mountain View?
  - Will the use cause traffic or parking problems?
  - Is the activity free to the public (i.e., no admission charge)?
- d. Purely commercial, for-profit use of the City Plazas is ~~not~~ allowed if it benefits the residents and/or businesses within the community and is approved by the Community Services Director.
- e. Events whose primary purpose is the exercise of free speech, assembly, or religious expression are expressly permitted.
- f. ~~Other than events covered in Section e, Plaza use shall be awarded only to nonprofit or civic organizations which provide service to residents of Mountain View. An event producer may be retained by the nonprofit to organize and coordinate the use of the Plaza; however, the nonprofit~~

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- ~~organization will be considered the Plaza applicant and will be responsible for all costs, permits, etc. Plaza use is limited to the following users and shall be awarded on a first-come, first-served basis. However, if more than one application is pending for a particular plaza at the same event date and time, the plaza shall be awarded on the following priority basis:~~
- ~~(1) Nonprofit organization and/or community group whose service area includes Mountain View and is located in Mountain View.~~
  - ~~(2) Nonprofit organization and/or community group whose service area includes Mountain View and is not located in Mountain View.~~
  - ~~(3) Users engaging in free speech/assembly/religious expression.~~
  - ~~(4) Commercial use by businesses located in Mountain View.~~
  - ~~(5) Commercial use by businesses not located in Mountain View that benefits the residents and/or businesses in Mountain View.~~
- g. An event producer may be retained by a nonprofit organization, community group, or commercial business to coordinate the use of the plaza; however, the nonprofit organization, community group, or commercial business will be considered the plaza applicant and responsible for all costs, permits, etc.
- h. Organization Users will be charged fees for services based on actual cost, as set by Council resolution. Cost recovery fees for services shall be waived for free speech/assembly/religious expression uses if the sponsoring ~~organization-user~~ certifies that the cost recovery fees would impose a financial hardship on the ~~organization-user~~ or would interfere with its ability to use the ~~P~~plaza. Upon approval of the City Manager or his/her designee, the City may modify the cost of administrative support (excluding overtime or nonbudgeted costs) for first-time events, excluding commercial use or activities.

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- hi. If the use of the City Hall Plaza is in conjunction with an event held at the Mountain View Center for the Performing Arts and/or City Hall, policies relating to use of those facilities will also apply.
- hj. Users must provide a certificate of general liability insurance naming the City as additional insured, as required by and acceptable to the City's Risk Manager, four weeks prior to the use. Users engaging in free speech/assembly/religious expression must provide a certificate of general liability insurance as soon as practicable before the event, but at least five (5) days prior to the event, unless, upon showing good cause, a situation developed in which the event or purpose for the event or activity arose after the five (5) day deadline.
- jk. Users are required to pay one-half of all applicable estimated City cost recovery fees for City services to be provided, in amounts as established by Council resolution, four weeks prior to the use. Users engaging in free speech/assembly/religious expression will be billed full cost recovery for City services in amounts as established by Council resolution post event or activity, unless user qualifies for a fee waiver as provided in Section 2.h.
- kl. Within 90 days of the conclusion of the event, the ~~organization-user~~ must submit a post-event financial statement showing the amount of revenue collected, expenses, and net profit/loss to the ~~organization-user~~ using the financial form provided by the City (Exhibit 1). The City auditor may require additional information and/or an audited financial statement as he/she may determine necessary to verify the accuracy and reliability of the information. Failure to fully comply with the requirements of this section shall be grounds for denial of future applications. This requirement excludes free speech/assembly/religious expression.

### Holiday Displays:

- lm. Multi-day, end-of-calendar-year, holiday-season displays are permitted for up to a 30-day period, within the time period from November 15 of each year and January 15 of the following year.

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- ~~mn.~~ Only recognized nonreligious multi-day holiday displays are allowed. Requests for displays will be reviewed by the City Manager or his/her designee to confirm that they are decorative and commemorative in nature and do not endorse or promote any religious expression.
- ~~no.~~ Up to five (5) displays will be allowed simultaneously in designated spaces in the ~~P~~plaza. Attachment 1 shows the general locations of these spaces. These are spaces designated that are not likely to interfere with permitted events or public assemblage in the ~~P~~plaza.
- ~~op.~~ Applications for holiday displays must be received at least sixty (60) days, but not more than one (1) year, before the first day of the display. If more than five (5) applications are received for the same time period, the five (5) displays to be permitted will be chosen by lottery. Those that are not chosen may be given priority in the following year should they wish to apply.
- ~~pq.~~ Events relating to any of the displays will be permitted according to the existing provisions in this policy.
- ~~qr.~~ For every display, insurance coverage must be provided to the City and the City named as an additional insured.
- ~~rs.~~ Displays must be entirely self-contained, no larger than 10' x 10' x 10' high, and, if requiring power, must be powered by battery or solar power. Noise, dust, fumes, chemicals, vehicles, extension cords, or other nuisances are not to be used in conjunction with the displays.
- ~~st.~~ There is a nonrefundable use permit application and administrative fee ~~of \$50.~~ set by Council resolution.

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3. Consumption, sale, or service of alcohol other than beer and wine requires Council approval.

Revised: \_\_\_\_\_, Resolution No. \_\_\_\_\_

Revised: January 13, 2009, Resolution No. 17376

Revised: November 27, 2007, Resolution No. 17258

Revised: November 23, 1993, Resolution No. 15639

Revised: February 11, 1992

Effective Date: January 22, 1991

CNLPOL

H04-201CP-so

CITY COUNCIL POLICY

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SUBJECT: COMMERCIAL USE OF CITY PARKS

NO.: \_\_\_\_

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PURPOSE:

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

Permits will only be issued for activities that will not disrupt the general public's use and enjoyment of the park.

Due to the limited number of parks available for the community, the City has established criteria for permitting commercial uses in order to allow multiple recreational uses of existing parks.

A permit policy and associated fee have 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, and other professional service providers reasonable access to Mountain View parks.

DEFINITIONS

"Commercial use" or "commercial activities" shall mean activities for private gain or profit. Private gain shall mean a use for the principal purposes of making a profit not pledged to be used for public or charitable purposes. Commercial use excludes fundraising.

"Parks" shall mean a park, playground, open space, athletic field, creek corridor, environmental preservation area, wildlife area, and/or trail under control of, owned by, or used by the City and devoted to active or passive recreation and/or environmental preservation as defined in the City Code Section 38.1.

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.

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Commercial use of City of Mountain View parks is not a special event within Council Policy K-14 if the use complies with City Code Chapter 38 and this policy.

### 1. Commercial Use Permit Application and Fees

#### a. Application

A complete Commercial Use Permit application must be submitted by, including but not limited to, the instructor, teacher, activity leader, or employing organization thereof 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 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 Council resolution. 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, yoga, tai chi, martial arts, and other outdoor professional services providing a community benefit and approved by the Community Services Director.

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

Participant Size Limits. Under no circumstances shall a permit be approved for any activity involving more than 50 participants within a park or for more than 20 participants on any trail. Based on the number of participants, 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 sports organizations would be prohibited. See Council Policy H-7 for the City's Athletic Field Use Policy.

b. Grounds for Issuance or Denial and Appeal Process

- Permits shall be issued by the Community Services Director consistent with Mountain View City Code Section 38.3 provided that the location is not an excluded area, the number of participants are appropriate for the 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.
- Applications may be denied, in writing, within 14 days of application submission if these requirements are not met, unless the time for granting or denying of the permit has been waived by the applicant in writing.
- If an applicant is denied, an applicant may appeal the decision pursuant to Mountain View City Code Section 38.3.

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### 3. 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.
- Permittee shall be responsible for permittee's employees, agents, customers, and/or clients use of the park pursuant to the permit issued and shall advise same of the applicable City Code, policy, and permit requirements.
- The City has the right to inspect the permit at any time. Any City employee or City contractor may request the permittee to 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 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. Activities must be conducted in a manner 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.
- 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

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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. Revocation

- a. Revocation. Violations of this policy, the issued permit, or Mountain View City Code Chapter 38 may result in the revocation of the permit, consistent with Mountain View City Code Section 38.3. 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 and no portion of the permit fee will be refunded.
- b. Appeal of Revocation. If a permit is revoked, a permittee may file a written appeal consistent with Mountain View City Code Section 38.3.

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

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FEE SCHEDULE – COMMUNITY SERVICES

State Code § (if any)	MVCC §§/ Council Policy	Title of Fee	Current Fee	Proposed Fee	Fee Basis	Effective Date
		<b><u>Commercial Use Permit</u></b>				
N/A	38.3/CP__	Parks: 1-20 participants	N/A	\$10 <sup>1</sup>	Hour	07/01/2014
N/A	38.3/CP__	21-40 participants	N/A	\$20 <sup>1</sup>	Hour	07/01/2014
N/A	38.3/CP__	41-50 participants (max)	N/A	\$25 <sup>1</sup>	Hour	07/01/2014
N/A	38.3/CP__	Trails: 1-20 participants (max)	N/A	\$10 <sup>1</sup>	Hour	07/01/2014
		<b><u>Plaza Use Permit</u></b>				
N/A	38.104/CP H-4	Application Fee: MV-Based Nonprofit <sup>2</sup>	\$135	\$0	Fixed	07/01/2014
N/A	38.104/CP H-4	MV-Serving Nonprofit/ Community Group	\$135	\$50	Fixed	07/01/2014
N/A	38.104/CP H-4	Commercial	N/A	\$270 <sup>1</sup>	Fixed	07/01/2014

CP = Council Policy

<sup>1</sup> New fee.

<sup>2</sup> A 501(c) nonprofit organization.