

POLICY

The Department of Parks and Recreation, as steward of public park lands, is responsible for preserving and protecting Seattle's park system. In order to preserve the public character of park lands and assure their availability for public use and enjoyment, it is the policy of the Department to eliminate and prevent unauthorized non-park uses. Further, it is the policy of the Department of Parks and Recreation to limit authorized non-park uses to the fullest extent practicable.

PURPOSE

The Department of Parks and Recreation has established this written policy concerning non-park use of park lands for the purpose of assuring fair, reasonable, and consistent treatment for all in its management of Seattle's public park lands. Implementation guidelines, operating procedures, and landscaping and restoration guidelines further articulate and define actions the Department will take to implement the policy. They will provide for:

public information and education to enable better understanding of the Department's obligations and responsibilities to the public as custodian of park lands;

prevention of mis-use of park lands by identifying boundaries and encouraging community support and cooperation;

elimination of non-park uses and restoration of park lands by establishing a process, which includes notification, opportunity for voluntary compliance, enforcement tools, and standards;

documentation, regulation and control of allowable non-park uses by various fair, legal, and appropriate means.

The City Council has ultimate authority for decisions regarding the management or disposition of certain properties under the jurisdiction of the Department of Parks and Recreation. Nothing in the policy, implementation guidelines, operating procedures, or landscaping and restoration guidelines is intended to create a private right of action for violation of the policy, implementation guidelines, operating procedures, or landscaping and restoration guidelines.

IMPLEMENTATION GUIDELINES

1. PARK PROPERTY RECORDS, IDENTIFICATION OF NON-PARK USES, and PARK PLANS

- 1.1 The Department of Parks and Recreation will establish and maintain complete and reliable property records in order to identify non-park uses of park lands. Those means include, but are not limited to, computer technology including the City-wide Geographic Information System (GIS) data, maps, surveys, and public records.
- 1.2 The Department will systematically survey its properties to identify boundaries of park lands. The Department will maintain and record survey documentation in a manner consistent with standard survey practice and State law governing surveyors.
- 1.3 The Department will monument park property in accordance with standard survey practice.
- 1.4 The Department will cooperate with surveyors of private property but will not define or monument private property boundaries or corners, unless that monumentation is necessary for the definition of park boundaries.
- 1.5 The Department acknowledges that available historic survey information may produce differing boundary interpretations. The Department will determine criteria for resolving survey discrepancies, as necessary.
- 1.6 To the extent practicable, the Department will identify park boundaries by signs, fences, landscaping, or other visible markers.
- 1.7 The Department will develop general landscape guidelines that preserve the public character of park lands and assure their availability to the public. General landscape guidelines will include provisions acknowledging and accommodating the function of some park lands as public rights-of-way, as defined in Section 5.1. The Department will work with neighborhood groups, organizations, and interested citizens to establish design and maintenance standards that encourage private cooperation in eliminating non-park uses.

1.8 The Department will encourage development of master plans, landscape plans, or restoration plans for specific park properties. Such plans must conform to the Department's general landscape guidelines and include provisions acknowledging and accommodating the function of some park lands as public rights-of-way, as defined in Section 5.1. Community involvement, review and comment by the public, the Design Commission, and the Board of Parks Commissioners must be components of all such planning processes. Department adoption of master plans, landscape plans, or restoration plans for specific park properties will be subject to City Council oversight through review and approval of the Department's annual work plan.

2. ELIMINATION OF NON-PARK USES

2.1 The Department will encourage voluntary elimination of non-park uses and restoration and maintenance of park lands to a condition acceptable to the Department, consistent with the Department's general landscape guidelines.

Existing privately installed landscaping on certain boulevards that does not diminish the public character of park land or limit its availability to the public may remain, subject to voluntary maintenance agreements, unless that landscaping conflicts with specific Department master plans, landscape plans, or restoration plans.

2.2 If voluntary action is not taken to eliminate a non-park use, the Department will notify the responsible party(ies) and request elimination of the non-park use. If the responsible party does not comply within a reasonable time, the Department may take measures to eliminate the non-park use including, without limitation, initiation of an enforcement action against the responsible party.

2.3 Certain properties have rights to non-park use of park land (for example, access from the roadway portion of a park boulevard to abutting private property if access is not available from any other right-of-way.) The Department acknowledges such rights and will accommodate such uses. See subsections 3.2, 4.1, and 4.2(c).

2.4 Certain public non-park uses of park land may be allowed to remain by existing use arrangements, such as specified in subsection 4.2(b), or may be authorized by the City Council. See also subsections 4.2(a) and (c).

3. ISSUANCE OF PERMITS

3.1 The Superintendent of the Department of Parks and Recreation has the authority to allow limited non-park use of park lands by means of Revocable Use Permits. All such permits are temporary, vest no permanent rights, and do not attach to the land. Permits may be revoked upon thirty (30) days notice, unless a shorter notice period is either specified in the permit or justified by an imminent or substantial risk of harm to persons or property.

3.2 Permits may be issued for the following purposes:

- (a) to regulate access to private property, if the law requires the City to allow such access;
- (b) to allow utility service across park property;
- (c) to mitigate or avoid hazardous conditions;
- (d) to allow installation of improvements consistent with Department landscape guidelines or specific master plans, landscape plans, or restoration plans;
- (e) to eliminate non-park uses and restore park property;
- (f) to regulate and control an existing non-park use until it is eliminated;
- (g) to meet the legal obligations of the City.

Except for subsections 3.2(a) and (g), the ability to satisfy one or more of the above criteria does not create a right to a permit.

Existing privately installed landscaping on certain boulevards that does not diminish the public character of park land or limit its availability to the public is not considered a non-park use and does not require a permit. It may be allowed to remain, subject to voluntary maintenance agreements, unless that landscaping conflicts with specific Department master plans, landscape plans, or restoration plans.

3.3 Each permit shall:

- (a) define and limit the duration of non-park use to minimize the time park land is unavailable to the public; and
- (b) define and limit the extent of non-park use to minimize impact to the park (for example, driveway access should not exceed a single, minimum width driveway in accordance with City land use regulations and street improvement standards); and
- (c) contain conditions to minimize damage to park lands and, if appropriate, require restoration; and
- (d) establish the Permittee's legal liability for non-park use of park lands; and
- (e) require compliance with all applicable laws and regulations; and
- (f) charge fees related to the value of the land lost to public use, enjoyment or recreational opportunity; and/or
- (g) charge fees to defray the cost of a property management system to monitor compliance with permit requirements and control non-park use of park lands.

3.4 Requests for permits anticipated to have a significant impact on public use of park land or anticipated to continue for sixty (60) days or more will be presented to the Board of Parks Commissioners for review and recommendation to the Superintendent.

3.5 All permits issued pursuant to the Superintendent's authority will be documented at the time of issuance and reported to the Board of Parks Commissioners at its next regularly scheduled meeting.

4. NON-PARK USE OF PARK LANDS BY CITY COUNCIL ACTION

4.1 Permanent or long-term non-park use of park lands, such as by conveyance of an easement to another public entity, individual, or corporate body, or by Transfer of Jurisdiction or Partial Transfer of Jurisdiction to another City department, may only be authorized by action of the City Council unless ordered by Court action or established by other legal instrument or authority.

4.2 The Department of Parks and Recreation, fulfilling its responsibility to preserve and protect the parks system, will not advocate efforts to transfer park property or park facilities or any portion thereof for non-park use, or establish non-park uses therein including water-related or other utility-related non-park uses, unless:

- (a) such transfer or use can be shown to provide substantial long-term benefit to the parks system; or
- (b) such use was in existence prior to the adoption of this policy and serves a clear public purpose, such as existing use arrangements with other City departments, Seattle School District, King County METRO, or Seattle Housing Authority, that may or may not be established by formal transfer of rights; or
- (c) the non-park use meets a legal obligation of the City, such as to allow access to private property or to allow certain utility service across park property.

4.3 Requests to the City Council for transfer or use of park property or park facilities for non-park use that were not already in existence prior to adoption of this policy, such as noted in subsection 4.2 above, must be initiated by the City department or other party to benefit from such transfer or use. All alternatives to non-park use of park property or park facilities should be considered prior to making a request to City Council.

4.4. The Department will cooperate with the requesting department or other party by supplying information and/or staff time on a cost-reimbursable basis. All costs associated with request, transfer, and replacement of public park lands or park facilities or compensation and/or mitigation for same shall be the responsibility of the requesting department or party except in those cases as noted in 4.2 above, in which cases costs shall be shared between the parties, as specified in Procedures, Section 7.

4.5 The Department of Parks and Recreation will request compensation and mitigation, based on an appraisal, for any loss of public park land, park facility, and/or recreational opportunity as a result of a transfer or authorization of non-park use. The Department will recommend as compensation, at minimum, equivalent replacement of all lands, facilities, improvements and amenities, such replacement to be in a location generally serving the same service area or population.

4.6 If transfer of park land, park facilities, or rights to park land is authorized by City Council action, the Council will determine compensation and/or mitigation to be made to the Department.

5. DEFINITIONS

5.1 Boulevard - a linear park, established by Ordinance, usually an extension or expansion of a dedicated street(s) which continues to serve as a right-of-way in addition to being park land.

5.2 Boundary survey - a determination of the division of ownership from the measurement and location of lines, bearings, and distances.

5.3 License - permission, either expressed or implied, that is temporary and does not constitute an interest in real property.

5.4 Monument - a visible, permanent object marking an established point;
Monumentation - the placement of visible, permanent objects to define points established by a survey.

5.5 Non-park use - any use or treatment of park land by private parties or other public agencies that limits or diminishes the ability of the public to use or enjoy public park property.

5.6 Park, park land, park property - real property under the jurisdiction of the Department of Parks and Recreation by virtue of ownership, lease, agreement, or other device.

5.7 Park facilities - constructed improvements that are included as part of the parks system that may or may not be located on City-owned property or on property formally under the jurisdiction of the Superintendent of Parks and Recreation.

5.8 Parks system - includes real property under the jurisdiction of the Department of Parks and Recreation by virtue of ownership, lease, agreement, or other device *and* constructed improvements that may or may not be located on City-owned property or on property formally under the jurisdiction of the Superintendent of Parks and Recreation.

5.9 Revocable Use Permit - a temporary, personal (individual or corporate) license to use or occupy park land for non-park purposes. A Revocable Use Permit is not transferable or assignable by the Permittee to any other party.

5.10 Utilities - water, sewer, natural gas, electricity, telephone, cable television, or other use defined as Utilities by State regulation.

6. OTHER PROVISIONS

6.1 This policy supersedes and replaces Department Policy & Procedure:

- (a) 060-P 3.9.2, Revocable Use Permit;
- (b) 060-P 3.9.3, Solar Access Permits;
- (c) 060-P 2.15.1, Parkland Usage by Public and Private Utilities.

6.2 Procedures will be developed, that may be revised from time to time, to implement the provisions of this policy.

6.3 A report of the Department's activities to implement the Policy and Procedures during the previous year will be included in the Department's annual work plan for review by the Board of Parks Commissioners and the City Council.

7. REFERENCES

7.1 Washington State Constitution, Article VIII, ss 7; Article XI, ss 11;

7.2 Revised Code of Washington (RCW) 35.21.020, 35.21.190, 35.21.278, 35.22.280, 35.22.570, 35.23.010, 43.09.210, 67.20.010, 70.93.060

7.3 Seattle Charter, Article IV, Section 14; Article XI;

7.4 Seattle Municipal Code (SMC) Title 15, Title 18;

7.5 Ordinance #117388 (Fees and Charges ordinance);

7.6 Seattle City Council Resolution #19689;

7.7 Legal conditions and restriction in instruments conveying or dedicating property to the City of Seattle for park use;

7.8 Common law, law of equity, i.e., decisions of courts pertaining to acquisition, use and disposition of park property.

7.9 References 7.1 through 7.8 above do not constitute an exclusive list of legal references. The absence of any source of authority from this list shall not be construed as a waiver or limitation of any legal rights and remedies that the Department of Parks and Recreation possesses. Moreover, all laws listed are subject to change.
