

RESOLUTION No. 29475

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Law Department


INDEXED

A RESOLUTION endorsing and supporting the Policy and Procedures on Non-Park Uses of Park Lands as developed by the Department of Parks and Recreation and recommending the Superintendent of Parks and Recreation adopt and enforce the same.

OK

10/9/96 Parks, Public Grounds and

Full Council vote

Introduced: OCT 14 1996	By: DONALDSON
Referred: OCT 14 1996	To: PARKS, PUBLIC GROUNDS AND RECREATION COMMITTEE
Reported: OCT 14 1996	ADOPTED
Passed: OCT 14 1996	Signed: OCT 14 1996
Filed: OCT 23 1996	Published: <i>John AAY</i> 

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INDEXED

Law Department

OK

10/9/96 Parks, Public Grounds and Recreation 1-0 Do Pass
as amended

Full Council vote 7-0

ALDSON

PARKS,
PUBLIC GROUNDS AND
RECREATION
COMMITTEE

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OCT 14 1996

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6 RESOLUTION 29475
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9 A RESOLUTION endorsing and supporting the Policy and Procedures on Non-Park Uses of
10 Park Lands as developed by the Department of Parks and Recreation and recommending the
11 Superintendent of Parks and Recreation adopt and enforce the same.
12

13 WHEREAS, the Department of Parks and Recreation has jurisdiction over property and
14 facilities acquired or held in trust for park, recreation, boulevard, and open space purposes; and

15 WHEREAS, those park lands and facilities are intended to be available for public use
16 and enjoyment; and
17

18 WHEREAS, the Superintendent has the responsibility under City Charter for the
19 management and control of the park and recreation system of the City; and
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21 WHEREAS, the Superintendent has the authority under Municipal Code to make rules
22 and regulations for the management, control and use of the park and recreation system of the
23 City; and
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25 WHEREAS, the Superintendent and the Board of Parks Commissioners have sought and
26 obtained the advice of the citizens through extensive public participation in the development of
27 the Policy and Procedures; and

28 WHEREAS, the Board of Parks Commissioners has endorsed the Policy and Procedures
29 on Non-Park Uses of Park Lands and has recommended the Superintendent request a resolution
30 of support for the Policy and Procedures from the City Council; and
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32 WHEREAS, the Seattle City Council will receive a yearly report of the Department's
33 activities to implement the Policy and Procedures and an annual work program; and

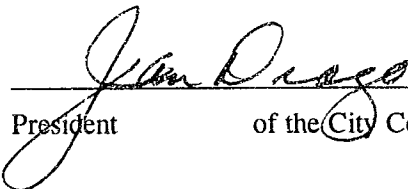
4
5 WHEREAS, the Seattle City Council will be exploring the possibilities of a Charter
6 Amendment that would enable the Hearing Examiner to hear appeals on permits for Non-Park
7 Use of Park Lands; now

8
9 THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEATTLE:

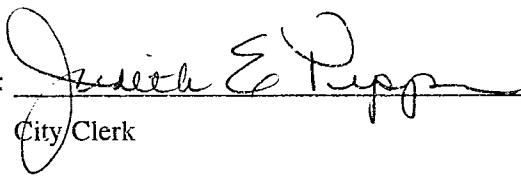
10
11 That the Policy and Procedures on Non-Park Uses of Park Lands as developed by the
12 Department of Parks and Recreation and as attached hereto as Exhibit A are endorsed and
13 supported by the City Council; and


14
15 That the City Council recommends the Superintendent adopt and enforce the Policy and
16 Procedures on Non-Park Uses of Park Lands for the benefit of the public.

17 ADOPTED by a majority of all members of the City Council the 14 day
18 of October, 1996, and signed by me in open session in authentication of its
19 passage this 14 day of October.


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22 
23 President of the City Council

24 FILED by me this 23 day of October, 1996.

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27 Attest: 
28 City Clerk

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31 By: 
32 Deputy

33 THE MAYOR CONCURRING:


Norman B. Rice, Mayor

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Exhibit A: Non-Park Uses of Park Lands, Policy and Procedures, dated 10/10/96

NON-PARK USES OF PARK LANDS

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:

- o public information and education to enable better understanding of the Department's obligations and responsibilities to the public as custodian of park lands;
- o prevention of mis-use of park lands by identifying boundaries and encouraging community support and cooperation;
- o 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;
- o 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
- (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.

NON-PARK USES OF PARK LANDS

PROCEDURES

1.0 PURPOSE

- 1.1 To establish written operating procedures the Department of Parks and Recreation will follow to effectuate the Implementation Guidelines for the Policy on Non-Park Uses of Park Lands.

2.0 PARTIES AFFECTED

- 2.1 Department of Parks and Recreation, other public or private agencies, parties who use or wish to use park property for non-park uses, owners of property adjacent to park property, park users, and the general public.

3.0 PARK PROPERTY RECORDS, IDENTIFICATION OF NON-PARK USES, and PARK PLANS

- 3.1 The Department will review park property files and research other information sources, including King County records, City Clerk's records, City Council proceedings, Board of Park Commissioners' minutes, and records/documentation from other City departments, to establish a complete property history for each park facility. A complete property file should include:
 - a) acquisition/jurisdiction information (when and how the City acquired the property; i.e., transfer instrument, date, fund source);
 - b) tax and/or other assessment data, encumbrances, property/use/maintenance agreements, maps;
 - c) legislative history (ordinances or resolutions affecting the property);
 - d) information regarding non-park uses, including records of permitted uses and encroachments;
 - e) correspondence/documentation regarding capital improvements or maintenance activities;
 - f) correspondence regarding other issues.
- 3.2 The Department will identify park lands which have abutting property owners, using available resources including commercially-prepared maps, King County Assessor's data, Seattle Engineering Department (SED) quarter section maps, and plat maps. These park lands will be

considered for selection as areas for comprehensive efforts to eliminate non-park uses. Parks bordered by unopened but unvacated street rights-of-way will be noted. SED records will be checked for valid Street Use Permits to include that information with Parks files, as appropriate.

- 3.3 The Department will check existing park permit records against current ownership data to confirm if the non-park use is now or was ever permitted by the Department.
- 3.4 The Department will utilize computer technology, including Geographic Information System (GIS) technology, to develop means of identifying and notifying owners of property adjacent to parks to enable communication with park neighbors as a group and to monitor changes of ownership to aid in eliminating non-park uses .
- 3.5 [reserved for Survey procedures]
- 3.6 [reserved for Signage/Marking/Identifying Park Lands procedures] (e.g., standardized signs on developed parks; marking property boundaries at regular intervals; unobtrusive but identifiable markers on the ground; other manmade means such as fences, bollards, retaining walls; natural features such as hedges, shrubs, other plantings)
- 3.7 [reserved for General Landscape Guidelines; refer to Policy Implementation Guideline 1.7]

4.0 ELIMINATION OF NON-PARK USES

- 4.1 Non-park uses which may require Department action to eliminate include, but are not limited to, the following:
 - a) improvements or uses that create a public safety hazard or may increase the City's liability;
 - b) any non-park use or improvement that impedes or restricts a planned or approved Department improvement;
 - c) structures or obstructions as per Seattle Municipal Code (SMC) 18.12.070, which includes fences;
 - d) other private improvements or uses, such as unauthorized driveways, parking areas, patios, and play areas or play equipment;
 - e) landscaping, including but not limited to hedges, gardens, plantings, rockeries or retaining walls;

- f) any other use or improvement that diminishes the public character of park lands or limits their availability for public use and enjoyment.
- 4.2 The Department will identify specific parks, boulevards, or portions or areas of park lands in its annual work plan for *comprehensive efforts* to eliminate non-park uses.
- a) Primary consideration for selection as an area for *comprehensive efforts* will be park lands with abutting owners, as identified in Section 3.2 above. Computer-generated maps, digital orthographic photography, and field inspection will be used to confirm existence of unauthorized non-park uses. Additional selection criteria will include extent and visibility of problem, budget and other resource availability, type of ownership interest City holds in park, planned City capital improvements or maintenance projects, available survey data or other mapping data, community support, existence of written agreements with abutting property owners, neighborhood planning activity or matching funds, volunteer activity.
 - b) The annual work plan identifying the areas for *comprehensive efforts* will be reviewed by the Board of Park Commissioners for recommendation to the Superintendent prior to adoption.
 - c) The Department will use a variety of means to provide general public notification of areas of *comprehensive efforts*. Those means may include press releases through major daily newspapers and local weekly or monthly newspapers or newsletters, neighborhood flyers, and signs posted on the property (similar to Department of Construction and Land Use notices). Parks staff will be available to attend meetings of neighborhood organizations, community clubs, or other organized groups of interested citizens to discuss issues regarding elimination of unauthorized non-park uses.
- 4.3 The Department will investigate individual *complaints, inquiries, or requests* concerning non-park use of park lands. Requests concerning non-park use of park lands include applications submitted to other agencies, such as Department of Construction and Land Use or Seattle Engineering Department, which are reviewed by Department of Parks and Recreation. Complaints, inquiries, and requests will be verified through property file review, computer-generated maps, digital orthographic photography, and field inspection.
- 4.4 The Department will develop means to monitor *changes of ownership* of private property abutting park lands in order to eliminate non-park-uses of park lands at the time of transfer of property ownership.

- 4.5 The Department will notify, by first class mail, the property owner of record where unpermitted, non-park use has been identified. The letter will specify the nature of the non-park use, request voluntary elimination of the non-park use within thirty (30) days, and direct the owner to contact the Department within fifteen (15) days of receipt of the letter to discuss restoration of the park land. If there is no response from the owner within the fifteen (15) day period, a second letter will be sent by certified, return receipt requested mail.
- 4.6 Upon contact from the owner or other responsible party, the Department will:
- a) establish a time frame for elimination of the non-park use and restoration of the park land, and will issue a permit to authorize occupancy during such activity; or,
 - b) if the non-park use is eligible for a permit in accordance with Policy Section 3.2, the property owner may make application for a permit.
- 4.7 If the owner or other responsible party previously notified in accordance with subsection 4.5 above does not comply within the established time frame, the Department will take action as provided by SMC 18.30 to:
- a) remove the encroachment or eliminate the non-park use and bill the owner for the costs; or
 - b) refer the case to the City Attorney for legal action; or
 - c) take other such actions as may be deemed appropriate.

5.0 ISSUANCE OF PERMITS

- 5.1 The Superintendent of Parks and Recreation may authorize limited non-park use of park land through issuance 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.
- 5.2 Revocable Use Permits may be issued for the purposes as specified in Section 3.2 of the Implementation Guidelines of the Policy for Non-Park Use of Park Lands, which are:
- 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.

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.

5.3 Requests for Revocable Use Permits must be made by application to the Property Management unit of the Department of Parks and Recreation. A Revocable Use Permit may require an application fee and an issuance fee (see Section 6.0).

5.4 The application must include:

- a) applicant name, address/phone, contact name/phone;
- b) location of proposed permit activity;
- c) detailed description of requested use and duration of use;
- d) adequate support documentation such as site drawings/inaps, diagrams, photographs, etc.

5.5 Upon receipt of the application, Property Management staff will process the application as follows:

- a) submit application fee to accounting;
- b) review application to determine compliance with Section 3 of the Policy for Non-Park Use of Park Land. If requested use does not comply with Section 3, notify applicant in writing and file request and supporting documentation in Property Management files.
- c) if requested use does comply with Section 3, review materials submitted for adequacy, contact applicant/contact person to verify that permit applicant has the authority to act (property owner, corporate officer, Power of Attorney, etc.); request additional information as necessary, conduct site inspection, assemble additional supporting materials as appropriate (e.g., photographs, maps, orthophotos, etc.)
- d) review/consult/inspect with other Department or City staff, as appropriate;

- e) determine appropriate, specific conditions for issuance of permit, assuring minimum use of park land; define physical limits, scope of activity, duration, safety precautions, restoration and/or mitigation requirements, and insurance/liability provisions as required by City Risk Manager (e.g., Waiver & Agreement to Indemnify, Hold Harmless Agreement, Release of Liability, Certificate of General Liability Insurance);
- f) if permit is anticipated to have a significant impact on public use of park land or anticipated to continue for sixty (60) days or more, schedule permit application for review by the Board of Parks Commissioners at their next meeting, as required by Policy 3.4; notice shall be published in the official city newspaper and made available to other daily and community newspapers.
- g) determine permit fee based on established Fees and Charges (see Section 6.0);
- h) prepare permit and appropriate attachments for applicant's acceptance by signature;
- i) submit permit and attachments signed by applicant to Superintendent with recommendation of Board, if required;
- j) if approved by Superintendent, issue permit upon applicant's satisfaction of pre-issuance conditions (e.g., liability requirements, payment of permit fee);
- k) submit permit fee to accounting, log issuance of permit for Property Management files and report to Board of Park Commissioners, record documentation or memorandum of permit, if appropriate, with King County records, set up permit monitoring schedule, as appropriate.

6.0 PERMIT FEES

6.1 Permit fees are established annually by action of the City Council through approval of a Fees and Charges Ordinance.

6.2 Application Fee

- a) Review or consideration of any permit application requires payment of a permit application fee, unless City action to a public right-of-way resulted in inaccessibility from other than park property.
- b) The application fee is non-refundable.

6.3 Limited Term Permit Fee

- a) Limited term permit fees shall be charged for uses expected not to extend beyond thirty (30) days (e.g., construction staging, temporary access, removal of encroachments).
- b) The limited term permit fee will be charged at a daily rate set by the applicable Fees and Charges Ordinance from the date permit is issued until authorized activity is completed and all conditions of the permit, including restoration of any damage to park land, have been satisfied.
- c) If upon inspection it is determined that the permit conditions have not been satisfied, notice will be given the permittee that an additional daily charge at the same rate will be charged until conditions have been met.

6.4 Continuing Use Permit Fee

- a) Continuing use permit fees shall be charged for uses expected to extend beyond thirty (30) days.
- b) Continuing use permit fees shall be based on the Value of the property, on a square footage basis, as determined by the Department utilizing assessed value of nearby, comparable property(ies), times the Area of park property used, times an acceptable Rate of return ($V \times A \times R$) or a minimum annual amount established by the fees and charges ordinance, whichever is greater.
- c) Continuing use permit fees will be prorated, as necessary, and annualized July 1 to June 30, billed and payable not later than June 30 of each calendar year.
- d) If a permit is revoked, fees paid in advance shall be prorated for the time used and over-payment shall be refunded, except in the case of revocation due to permittee's failure to comply with the terms and conditions of the permit, in which case no refund shall be given.
- e) Owners of properties that may have certain rights to non-park use of park land (such as access from the roadway portion of a park boulevard to abutting private property if access is not available from any other right-of-way) will be exempt from continuing use permit fees.

6.5 Failure to pay any permit fee in full by June 30 of each year may result in revocation of the permit.

7.0 NON-PARK USE OF PARK LANDS BY CITY COUNCIL ACTION

7.1 City Council action is required to transfer park land or to transfer permanent rights for non-park use of park land. City Council action may

be requested for authorization of long term non-park use of park land, particularly long term uses expected to continue for years. Authorization for permanent or long term uses will generally be accomplished by grant of easement, except in the case of other departments of the City, in which case authorization will be by Transfer of Jurisdiction or Partial Transfer of Jurisdiction.

- 7.2 Grants of easement may be requested for properties with previously established but undefined rights to non-park use of park land (generally such rights are for access, utilities, drainage or slope retention.)
- a) Department and other City staff, including City Attorney's office, will review records to determine the existence of rights to non-park use of park land.
 - b) All costs associated with the grant of easement, including staff time, review, environmental due diligence, negotiation, preparation of documents, recording, or any other matter associated with the transfer or acquisition of replacement property, will be billed to the requesting party.
 - c) All proposals for grant of easement will be reviewed by appropriate City staff, to consider environmental concerns, impact on operations or maintenance of the parks system or on other City departments.
 - d) Written notification of proposed grants of easement will be sent by first class mail to owners of property within 300 feet of the proposed easement area, a minimum of 30 days prior to date of anticipated City Council action.
 - e) Requests to the City Council to adopt an ordinance authorizing the Superintendent to grant an easement will include: identification of the park land by name and general location; a property description identifying the easement area; a map showing the location of the proposed easement; a description of the interest to be conveyed; an explanation of the presumed existing right; proposed ordinance language and proposed grant of easement including complete legal description; and any such additional information as necessary or requested by the Council.
 - f) Upon adoption of the ordinance, the Superintendent may grant the easement, record the document, and bill the requesting party as specified in subsection 7.2b) above.

- 7.3 Grants of easement may be requested where prior rights do not exist.
- a) All provisions of subsection 7.2 above shall apply to this subsection except 7.2a) and 7.2b) above.

- b) All requests for easements will be reviewed to determine that no other reasonable alternative to use of park land exists and that the proposed easement serves a valid public purpose. Public purpose shall include needs of other public agencies, publicly regulated utilities, or such uses as may benefit the parks system.
- c) Property lost to park use shall be replaced by property equivalent in area, value, and utility. The Department shall determine equivalency.
- d) Value of the easement area shall be determined by an appraisal prepared by or under the direction of the City Appraiser. All costs of the appraisal, including City review, shall be billed to the requesting party. Appraisers will be selected from a pool deemed to be satisfactory in qualification by the City Appraiser.
- e) Compensation for property interests will be in the form of replacement property. Replacement property will also be appraised as in subsection 7.3d) above.
- f) Costs associated with the grant of easement, as noted in subsection 7.2b), shall be billed to the requesting party.
- g) The Department shall review all ordinances and potential documents of conveyance with the City Attorney's office prior to submittal for action by the City Council.
- h) In addition to the material contained in 7.2e) above, the Department will provide City Council with a statement describing the public purpose accomplished by the proposed easement, a description of the replacement property, and a description of any and all mitigation related to the proposed easement.

7.4 Transfers of Jurisdiction or Partial Transfers of Jurisdiction should follow the same process and requirements defined in subsection 7.2 and 7.3 above except regarding compensation and/or mitigation to be made to the Department. The Department will comply with Policy Implementation Guidelines 4.5 and 4.6.

7.5 Costs associated with a Transfer of Jurisdiction or Partial Transfer of Jurisdiction shall be billed to the requesting department except that eight (8) hours of staff time shall be provided by the Department at no cost to the requesting department. Costs in excess of the value of eight (8) hours of staff time shall be billed to the requesting department.

7.6 The Department will establish an account for funds applicable to purchase of replacement property where circumstances prohibit the immediate replacement of property transferred for non-park use. Such funds shall be used for no other purpose.

Seattle
Department of
Parks and Recreation



Kenneth R. Bounds, Acting Superintendent
Norman B. Rice, Mayor

October 4, 1996

The City Council
City of Seattle

Via: The Honorable Jan Drago
President, Seattle City Council

RE: A resolution endorsing and supporting the Policy and Procedures on Non-Park Uses of Park Lands as developed by the Department of Parks and Recreation and recommending the Superintendent of Parks and Recreation adopt and enforce the same.

Honorable Members:

We request your favorable consideration and adoption of the attached resolution regarding a policy on the use of park lands for non-park purposes and procedures by which the Superintendent of Parks and Recreation may regulate and eliminate such uses.

The Department of Parks and Recreation has worked for more than two years to develop and refine an explicit policy statement and operating procedures that reflect the Department's role as steward of park resources. This role was articulated in May 1993 in the Department's Comprehensive Plan - to protect and conserve parks for public use and enjoyment.

Efforts during the second quarter of 1994, including several public meetings and a public hearing before the Board of Parks Commissioners, resulted in a property management work plan that was approved and funded for \$190,000 by the Council in September 1994. A major component of the work plan was development of written policy and procedures. Since that time, the Department has held many additional community meetings, workshops, and open houses, and the Board has held two more public hearings to explain the purpose, share information, and solicit public input regarding the policy and procedures. The Parks and Public Grounds Committee of the Council was briefed on the policy and procedures on August 14th and held a public hearing on the matter on September 10, 1996.

The Policy and Procedures on Non-Park Uses of Park Lands, as presented to you today, reflect the City's obligations under law, the Superintendent's responsibilities as dictated by Charter, and the will and desire of most of the community that the Department manage the City's park lands in a fair and consistent manner for the benefit of the public.

October 4, 1996
Page 2

The procedures provide for active oversight by the Board of Parks Commissioners, opportunity for public review and comment, and Council action for permanent or long-term uses of park land. Fees for issuance of Revocable Use Permits, which allow temporary non-park use of park property, are approved annually by the City Council through the Fees and Charges Ordinance. Additionally, a report of the Department's activities to implement the Policy and Procedures will be included in the Department's annual work plan for review by the Parks Commissioners and the Council.

The Board of Parks Commissioners has endorsed the policy and procedures and has recommended that I request a resolution of support from the Council. Your adoption of this resolution will clarify and reinforce the City's commitment to protecting and conserving our valuable park lands and the quality of life they afford all of Seattle's citizens.

Sincerely,



Kenneth R. Bounds
Acting Superintendent

attachment

c: Norman B. Rice, Mayor
Anne Levinson, Deputy Mayor
Board of Parks Commissioners

TIME AND DATE STAMP

SPONSORSHIP

THE ATTACHED DOCUMENT IS SPONSORED FOR FILING WITH THE CITY COUNCIL BY THE MEMBER(S) OF THE CITY COUNCIL WHOSE SIGNATURE(S) ARE SHOWN BELOW:

Justin Amalton

FOR CITY COUNCIL PRESIDENT USE ONLY

COMMITTEE(S) REFERRED TO:

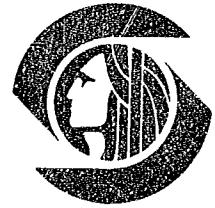
PRESIDENT'S SIGNATURE

96R-098

City of Seattle

Executive Department—Office of Management and Planning

Thomas M. Tierney, Director
Norman B. Rice, Mayor



October 7 1996

The Honorable Mark Sidran
City Attorney
City of Seattle

OK
JBB
10-8-96

Dear Mr. Sidran:

The Mayor is proposing to the City Council that the enclosed legislation be adopted.

REQUESTING DEPARTMENT: Parks and Recreation

SUBJECT: A RESOLUTION endorsing and supporting the Policy and Procedures on Non-Park Uses of Park Lands as developed by the Department of Parks and Recreation and recommending the Superintendant of Parks and Recreation adopt and enforce same

COPY REPRODUCTION
96 OCT - 8 PM 8:14
CITY ATTORNEY


Pursuant to the City Council's S.O.P. 100-014, the Executive Department is forwarding this request for legislation to your office for review and drafting.

After reviewing this request and any necessary redrafting of the enclosed legislation, return the legislation to OMP. Any specific questions regarding the legislation can be directed to Celia Grether at 684-8048.

Sincerely,

Norman B. Rice
Mayor

by

 TOM TIERNEY
Director

Enclosure

legis\greth51

STATE OF WASHINGTON - KING COUNTY

73727
City of Seattle, City Clerk

—SS.

No. RES. TITLE ON

Affidavit of Publication

The undersigned, on oath, states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CTRT: 29475

was published on

11/01/96

The amount of the fee charged for the foregoing publication is the sum of \$ _____, which amount has been paid in full.

Subscribed and sworn to before me on

11/01/96

Notary Public for the State of Washington,
residing in Seattle

City of Seattle
TITLE-ONLY PUBLICATION
The full text of the following resolution, passed by the City Council on October 14, 1996, and published here by title only, will be mailed, at no cost, upon request for two months after this publication. For further information, contact the Seattle City Clerk at 684-8344.
RESOLUTION NO. 29475
A RESOLUTION endorsing and supporting the Policy and Procedures on Non-Park Uses of Park Lands as developed by the Department of Parks and Recreation and recommending the Superintendent of Parks and Recreation adopt and enforce the same.
Publication ordered by JUDITH PIP-PIN, City Clerk.
Date of official publication in the Daily Journal of Commerce, Seattle, November 1, 1996. 11/1(73727)