

ORDINANCE NO. 7458

AN ORDINANCE AMENDING THE BOULDER REVISED CODE TO IMPLEMENT THE OPEN SPACE AND MOUNTAIN PARKS VISITOR MASTER PLAN AS IT PERTAINS TO COMMERCIAL AND SPECIAL USE PERMITS, COMPETITIVE EVENTS AND RELATED MANAGEMENT ACTIONS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER,
COLORADO:

Section 1. Purpose and Findings.

- (a) The purpose of this ordinance is to implement the policies and recommendations approved by the city council on April 12, 2005 in the Open Space and Mountain Parks Visitor Master Plan. This ordinance covers matters of local concern.
- (b) The city council finds that this ordinance and the Open Space and Mountain Parks Visitor Master Plan are necessary to protect the health, safety and welfare of residents of the city of Boulder, and of any person that may use city of Boulder open space and mountain parks properties.
- (c) The city council finds that this ordinance is necessary to protect and further the purposes for which open space and mountain parks lands may be acquired as established by Charter Section 176, B.R.C. 1981, and this ordinance is further authorized and required by the powers granted to implement Article XII of the Charter, and specifically Section 176.
- (d) The city council finds and determines that the conduct of competitive events upon open space and mountain parks properties creates a threat to the health safety and welfare of all users of such properties because persons engaged in competition, such as foot or bicycle racing, or timed climbing exhibitions, are more likely than those engaged in passive recreation to injure themselves and others through carelessness or accident, and more likely to interfere with the visitor experience of other users.

Section 2. Section 4-20-60, "Voice and Sight Control Evidence Tag Fees," B.R.C. 1981, is amended to read:

- (a) An applicant for a Voice and Sight Control Evidence Tag who is a resident of the City of Boulder shall pay an application fee of \$15.00, and a non-resident shall pay an application fee of \$18.75. Additional Voice and Sight Control Evidence Tags may be provided to persons who reside in the same household as the applicant upon payment of a duplicate tag fee of \$5.00.

- (b) The supplemental fee pursuant to Section 6-13-5, "Revocation and Reinstatement of Voice and Sight Control Evidence Tags upon Violations," B.R.C. 1981, shall be \$50.00, regardless of residency.

Section 3. Chapter 4-20, "Fees," B.R.C. 1981, is amended by the addition of a new section to read:

4-20-61 Open Space and Mountain Parks Commercial and Limited Use Permit Fees.

- (a) An applicant for a Commercial Use Permit on Open Space and Mountain Parks properties shall pay an application fee of \$300.00.
- (b) An applicant for a Commercial Use Permit on Open Space and Mountain Parks properties that is a tax exempt organization described in Internal Revenue Code Section 501(c)(3) or a governmental agency shall pay an application fee of \$150.00.
- (c) An applicant for a Limited Use Permit on Open Space and Mountain Parks properties shall pay an application fee of \$50.00.

Section 4. Chapter 8-8, "Open Space and Mountain Parks Visitor Master Plan Implementation," B.R.C. 1981, is amended by the addition of a new section to read:

8-8-8 Permits for Special Uses on Open Space and Mountain Parks Lands.

- (a) No person shall organize, promote, or stage a recreational, athletic¹, or social event intended for or which can reasonably be expected to draw an attendance of twenty-five or more participants and spectators on any Open Space and Mountain Parks property without first obtaining a permit from the city manager under this section; provided however, that groups of between twenty-five and forty-nine participants from *bona fide* educational institutions need only notify the city manager.
- (b) No person who has obtained a permit from the city manager under this section shall organize, promote, or stage a recreational, athletic, or social event intended for or which can reasonably be expected to draw an attendance of twenty-five or more participants and spectators on any Open Space and Mountain Parks property without having the permit in their possession at all times during such event.
- (c) An applicant for a permit shall file an application at least fourteen (14) days before the requested day of the event. The application shall be signed by at least one adult and shall contain:
 - (1) The name and address of the individual or organization sponsoring the event;
 - (2) The name, address, and telephone number of the individual in charge of the event;

¹ Section 8-8-11 prohibits competitive events of any size or kind, including athletic events. Section 8-8-9 controls commercial uses.

- (3) The site for which the permit is requested;
 - (4) The type of event and a complete description of the planned activities;
 - (5) The day and hours for which the permit is sought; and
 - (6) An estimate of the anticipated attendance.
- (d) Upon receiving an application, the city manager shall:
- (1) Verify the accuracy of the information;
 - (2) Determine whether there is a conflict with prior applications or scheduled city activities, which have priority. If there is a conflict, the manager will notify the applicant to permit amendment of the application to avoid the conflict;
 - (3) Review the requested site of the event to determine whether or not the available seating, parking, and sanitation facilities are adequate for the proposed use; whether or not the event would conflict with any law, ordinance, code, rule or regulation, resource management, or environmental policy; and whether or not the event would unduly interfere with the general public use of the site; and
 - (4) Review the proposed time of the event and the estimated attendance and consider other relevant circumstances to determine whether a security deposit or insurance is necessary to protect against possible damage to city property and defray costs of restoration of the premises to a neat and orderly condition. The manager may require a deposit or insurance of no less than \$100.00 and, if the manager determines that \$100.00 is insufficient, a larger deposit or insurance may be required. The manager may also return all or a portion of the security deposit upon the determination that it is not necessary to protect the interests of the city.
- (e) If the applicant fulfills the requirements prescribed by this section, the city manager may issue a permit if the event is appropriate for the site, the infrastructure of the site will support the event without environmental or resource damage, and the public benefit from the proposed event exceeds its detriments. Each permit is subject to the following conditions:
- (1) The applicant takes all reasonable steps to protect city facilities and property, including flora and fauna, against damage;
 - (2) The applicant cleans and restores the premises to a neat and orderly condition;
 - (3) The applicant charges no admission for the event unless it is a city sponsored event;

- (4) The applicant is responsible for assuring that the noise emanating from the event complies at all times with the standards prescribed by Chapter 5-9, "Noise," B.R.C. 1981;
 - (5) The applicant is responsible to assure that all participants and spectators comply with all applicable state and city laws; and
 - (6) The applicant advises all participants and spectators to comply with all applicable state and city laws.
- (f) The city manager may revoke a permit issued under this section at any time before or during the event for any reason, for no reason, or for breach of any of the conditions prescribed by subsection (d) of this section. Any permit issued pursuant to this section shall be deemed a revocable license that does not convey a property interest of any kind. If a permit is revoked before the event, any security deposit shall be promptly refunded to the permittee. If the manager revokes the permit, the event must cease immediately. No person shall continue an event after a permit has been revoked.
- (g) After the event and during working hours, each permittee under this section shall contact the city manager to inspect the area used in the event. If no damage has been done and the area has been properly cleaned, the manager shall return the security deposit. If the permittee has failed to meet the obligations prescribed by this section, the manager shall retain a sum from the deposit sufficient to cover the damage or restore the premises to a neat condition. If the security deposit does not completely indemnify the city for damage or cleaning costs necessary to restore the area, the permittee shall not fail to pay immediately to the city a sum to cover these extra costs.

Section 5. Chapter 8-8, "Open Space and Mountain Parks Visitor Master Plan Implementation," B.R.C. 1981, is amended by the addition of a new section to read:

8-8-9 Permits for Commercial Uses on Open Space and Mountain Parks Lands.

- (a) No person shall organize, promote, or stage a commercial event on any open space and mountain parks property without first obtaining a permit from the city manager under this section.
- (b) No person who has obtained a permit from the city manager under this section shall organize, promote, or stage a commercial event on any open space and mountain parks property without having the permit in their possession at all times during such event.
- (c) No person who has obtained a permit from the city manager under this section shall assert or attempt to assert an exclusive right to use a particular place, site or area, nor shall any such person remove or exclude, or attempt to remove or exclude, any other person from a particular place, site or area.
- (d) For the purposes of this section, "commercial event" shall mean either:

- (1) Any activity for which a fee, charge, purchase of goods or services, or donation is required for the provision of a service or as a condition of attendance or participation, including but not limited to dog walking, outdoor guide services, environmental education, or;
 - (2) Photography, videography, or filmmaking for compensation or hire that involves human or animal subjects.
- (e) The city manager may issue single event commercial use permits or annual commercial use permits for groups of not more than sixteen (16) persons without conducting a special review of the application. The city manager may also issue triennial commercial use permits to such annual permittees who have three consecutive years of successful compliance with all requirements of the annual permit.
 - (f) The city manager may issue single event commercial use permits or annual commercial use permits for groups of more than sixteen (16) persons upon conducting a special review of the application. "Special review" shall mean a thorough examination of the proposed use, and imposition of conditions of approval, to assure mitigation of large group impacts. The city manager shall prescribe the requirements for special review through rule issued under Section 8-3-3 "City Manager May Issue Rules," B.R.C. 1981. The city manager may also issue triennial commercial use permits to such annual permittees who have three consecutive years of successful compliance with all requirements of the annual permit.
 - (g) The city manager may issue limited use permits for groups of not more than sixteen (16). "Limited use permit" shall mean an annual permit for which the commercial use is restricted to not more than fifty visitor days (number of persons x number of days, including the leader) of designated trail use with groups of sixteen (16) or fewer.
 - (h) An applicant for a permit shall file an application at least fourteen (14) days before the requested event or annual permit application period. If an application is denied, the applicant may request a statement of the reasons for the denial. The city manager shall require applicants to provide insurance naming the city as an additional insured in such amounts as may be required to cover the maximum possible municipal liability exposure under state law. The city manager may prescribe such additional requirements and restrictions as may be necessary to minimize and mitigate use impacts, and as may be necessary or desirable for the implementation and enforcement of this section.
 - (i) The city manager shall prescribe by rule issued under section 8-3-3, "City Manager May Issue Rules," B.R.C. 1981, such additional requirements as may be deemed necessary for the implementation and enforcement of this section.
 - (j) The city manager may revoke a permit issued under this section at any time before or during the permit period for any reason, for no reason, or for breach of any of the conditions prescribed by subsection (d) of this section. Any permit issued pursuant to this section shall be deemed a revocable license that does not convey a property interest

of any kind. If a permit is revoked before the event, any security deposit shall be promptly refunded to the permittee. If the manager revokes the permit, the event must cease immediately. No person shall continue an event after a permit has been revoked.

- (k) No person shall fail to comply with each term and condition of a permit issued under this section.

Section 6. Chapter 8-8, "Open Space and Mountain Parks Visitor Master Plan Implementation," B.R.C. 1981, is amended by the addition of a new section to read:

8-8-11 Competitive Events Prohibited.

No person shall organize, promote, conduct or participate in a competitive event upon open space and mountain parks properties. For the purposes of this section, "competitive event" shall mean any event or activity in which four or more persons try to exceed the performance of each other or another person in a physical activity.

Section 7. Section 8-8-4, "Model Glider Flying," B.R.C. 1981, is amended to read:

8-8-4 Model Glider Flying.

No person shall fly a model glider ~~Model gliders may not be flown~~ upon open space and mountain parks properties unless permitted by signs posted in designated posted areas.

Section 9. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city, and covers matters of local concern.

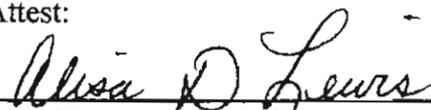
Section 10. The city council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
TITLE ONLY this 4th day of April, 2006.



Mayor

Attest:



City Clerk on behalf of the
Director of Finance and Record

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED
PUBLISHED BY TITLE ONLY this 18th day of April, 2006.

Mayor 

Attest:



City Clerk on behalf of the
Director of Finance and Record

