



Natural Areas Commercial Use Policy

City of Fort Collins Natural Areas Department

Purpose & Authority

The purpose of the Natural Areas Commercial Use Policy (CUP) is to set forth policies and procedures governing commercial use activities on City of Fort Collins Natural Areas (NA). This policy is solely restricted to City natural areas and does not apply to permit requests for other lands owned or managed by the City of Fort Collins. **Please note that other permit requirements or legal restrictions may apply to the extent an activity or event will occur in part on other public properties or facilities.**

The City may at its sole discretion elect to deny or revoke any commercial use permit for failure to comply with the permit conditions or policies as outlined herein. A commercial use permit is a revocable license. The issuance of a permit does not in any way grant a property interest.

As a home rule municipal corporation, the City of Fort Collins has the general authority to regulate activities on City property. Section 23-193(d)(14) of Fort Collins Municipal Code (the Code) prohibits performing a service for commercial gain in a natural area except as authorized by a permit from the Natural Resources Director:

(d) "Except as authorized by a permit obtained for such use from the Service Area, it shall be unlawful to: (14) Perform a service for commercial gain or sell or offer to sell any item for commercial gain in a natural area".

Under section 23-194 (b) of Fort Collins Municipal Code, a party interested in performing a service for commercial gain or selling or offering to sell any item for commercial gain in a NA may apply for a permit to do so from the Natural Areas Director.

Definition of Commercial Use

Commercial use is defined as any activity on NA lands or facilities for which fees are charged to a third party by an entity other than the City. A fee can be a charge, purchase of goods or services, or a required donation for a service or as a condition of participation. Commercial uses may be provided by either for-profit or non-profit providers. Examples include but are not limited to guided activities (climbing, hiking, fishing, horseback and bicycle riding), and commercial filming.

Commercial use permits are revocable licenses for the use of Natural Area land or facilities. A permit for commercial use in no way grants or constitutes any property interest, nor would a permit grant exclusive use of a site. Any organization permitted for commercial use of NA lands or facilities (permittee) shall ensure that the rights and privileges of other visitors/users are recognized and not infringed upon.

Exemptions to the Commercial Use Policy:

Environmental and Science Education

In the interest of furthering the Natural Areas Department's education mission, as a matter of policy all activities that have education (science or environmental education) as a primary mission shall be exempt of commercial use fees. This includes but is not limited to field courses taught by universities, visits by elementary and secondary education institutions, field trips by daycare institutions and summer (child) daycare camps. Please note however, that in most instances while a commercial use permit is exempted, a general Natural Areas Special-Use Permit is required for any group activity that exceed 15 individuals.

Other Departments within City of Fort Collins

Fee-based programs offered by other departments within the City of Fort Collins may be exempt if they are not charging above and beyond the actual program costs (ie. transportation, guide, equipment), and if the program is providing a service to the community that increases awareness and support for natural areas. These programs are still required to apply for a Special Use Permit (if applicable) and will be considered on the same basis as any Special Use activity request.

Applicability

This CUP is intended to provide an instrument for entities or persons to legally conduct commercial activities within a permit system. This document provides general guidance to describe the types of proposed commercial activities considered to be compatible with the Natural Areas' mission. Further, the intent of this policy is to:

1. Avoid and/or minimize the impact of the approved activity on natural and cultural resources.
2. Ensure that commercial use operators comply with City Municipal Code, Natural Area Regulations, and other state and federal laws.
3. Avoid the impact of the approved activity on the safety and quality of other visitors' experience.
4. Direct commercial use to appropriate sites and at appropriate times in the interest of avoiding real or perceived impacts to visitors and resources.
5. Ensure that participants of commercial activities are outfitted/guided by qualified operators with appropriate insurance.
6. Promote practices related to Leave-No-Trace ethics, zero waste (recycling) and carbon neutrality ethics to permittees and activity participants.
7. Outline a fee system to recover full costs of permit processing, oversight, and management of commercial uses.

Commercial Use Application and Review Requirements Applications to conduct commercial activities on natural area lands or at natural area facilities will be administered by the NA Director and must be submitted to the City at least **10 business days prior to the proposed event**. Applications will be accepted year-round and processed within 10 business days. If the NA Director has concerns regarding details of the event or approval the

applicant will be contacted within 10 business days and to review the terms of the application. The City will review the application to ensure that the proposed activity is;

- compatible with the natural areas mission,
- that insurance requirements are met, and
- ensure the terms of the commercial use permit meet visitor and resource protection standards (see Natural Areas Permit Conditions Table).

A Commercial Use Permit Application is available either online at <http://www.fcgov.com/naturalareas/plans-policies.php> or a hard copy of the application is attached at the end of this document.

Permit Conditions

Permit Terms

1. Commercial use permits are issued per event/activity or up to 365 days for reoccurring events.
2. Commercial Use Permits are not transferrable.
3. The Natural Areas Department reserves the right to cancel, modify, or reschedule events due to weather, site, or trail conditions in the interest of public safety or to avoid resource damage.

Fees and Costs

Fees are imposed to recover the costs of permit processing, oversight, and site management. Fee structure is based on the number of visitor days, impact to the site and to other users. The fee structure is a three-tiered structure based on extent of use. For all categories a visitor day is calculated as a one-person per day (any duration) visiting one or several natural areas. (For example, 10 people with one leader for one day counts as 11 total visitor days).

1. Limited Use Permit: Limited use permits may be issued to operators who agree to specific conditions of operation on City Natural Areas while not exceeding 50 total visitor days in any one calendar year.

Limited Use permit conditions list:

1. Group size will always be 15 or fewer (no exceptions); total number of visitor days will not exceed 50 in any calendar year.
2. Dogs will always be on leash (if permitted at the area visited).
3. No signs or markers of any kind will be used.
4. Structures of any kind will not be used or created.
5. Activity will not congest or obstruct trails or trailheads.
6. Activity will not obstruct or restrict parking from other visitors.
7. Sales of goods or services are not permitted.
8. Amplified sound or generators are not permitted.
9. All trash will be packed out.

2. Moderate Use: Event does not comply with all conditions of a Limited Use permit; and total number of visitor days will be less than 200 in any calendar year.

3. Heavy Use: Total number of visitor days will be greater than 200 in any calendar year.

For limited use events or activities complying with the list of conditions stated above for the limited use permit a \$50 fee will be assessed. For moderate uses, a \$250 fee will be assessed. For heavy use, large group events involving greater than 200 visitor days, a \$500 fee will be charged.

*****Please note that having a Commercial Use Permit does not guarantee parking.*****

Group Limits

[Note: If the activity does not meet the definition of commercial use as defined above and is a “group event” as defined by the Code at §23-192, the event organizer must comply with the Code as described in §23-193 (d) and apply for a natural areas permit for the group event.]

Group size limits for commercial use activities will depend on the particular location and nature of the activity. City staff will review the specific circumstances and make a determination on a case-by-case basis regarding a proposed event the appropriate size limitation. Generally, a guided event (horseback, bicycle, etc.) should have a lower participant level than a sponsored event (trail run, bouldering festival, etc.). Guided events will generally be limited to 8 – 10 clients per guide with a maximum number of 16 to 20 clients depending on the nature of the activity. Horseback events must comply with the “twelve heartbeat” rule. Contact staff at 416-2815 for more details.

Additional Review Requirements

In addition to commercial activities, Section 23-193(d)(14) of Fort Collins Municipal Code (the Code) also prohibits specific other activities or uses of Natural Areas. The Commercial Use Permit Application serves as an opportunity for identifying and requesting special permission for activities in other categories. Examples of other activities requiring special permission are:

- Research
- Collect or deposit material from a Natural Area
- Off-trail use at on-trail site
- Operate motorized equipment within a Natural Area
- Enter a Natural Area from 11p.m. to 5 a.m.
- Requires access beyond a locked gate or closed area

Please refer to the Conditions Table for a comprehensive list of activities that may be permitted via a Special-Use or Commercial Use Permit.

Deposits

A damage deposit in the form of a letter of credit or refundable payment of \$500 may be required at the discretion of staff to enable the City to repair resource damage attributable to an operator. In general this provides a more easily obtained remedy than negotiation or legal action. Where warranted due to the location, extent or character of the activity or other related circumstances, the City may elect to require a higher damage deposit amount than that referenced above. The damage deposit must be submitted to the City prior to the issuance of the permit document.

Reporting

Reporting enables the City to better understand visitor use and related issues, to anticipate needs and future permit requirements, and to modify/adjust permitting requirements.

Advance notification is required two weeks prior to the event date. Prior reporting includes anticipated date(s), location(s), and expected number of users per day. Post-event reporting should follow the guidelines listed below:

For limited or single events, report within two weeks from end of event/activity.

For moderate or large reoccurring events quarterly reporting is required (March 30, June 30, Sept 30, December 31)

If no activity occurs within a quarter for a recurring event, then the permittee should report “no activity”.

These requirements constitute permit conditions, and failure to report may result in revocation or denial of the permit. In the case of revocation fees will not be refunded. Operators may be required to post contact information and a copy of a signed permit on site during the event or activity in case to address public awareness or direct public concern.

Insurance

As a condition of the permit, operators will be required, at their sole cost and expense, to procure and maintain liability insurance during the time that a permitted event or activity occurs on a natural areas property or during such time as an applicant holds a permit to conduct commercial activity, whichever is longer. In some cases, the City reserves the right to require additional comprehensive insurance based on the nature or duration of the event/activity. In those instances the insurance requirements are as follows:

Commercial general liability (broad form) insurance with combined single limits of \$1,000,000 each occurrence and an aggregate limit of at least \$2,000,000. Coverage must include coverage for the following:

- Bodily injury and property damage
- Personal injury and advertising injury
- Fire legal liability
- Products and completed operations

Business automobile insurance shall contain a combined single limit of \$1,000,000 per occurrence when the activity or event takes place at Soapstone Prairie

Operator’s statutory liability under the workers’ compensation laws of the state of Colorado.

City may require applicant to list City as co-insured.

Where warranted, the City may elect to require more extensive insurance coverage than the minimum amount described above due to the location, extent or character of the activity or other related circumstances. As stated above in some cases the City may require that the City be named as co-insured.

Operators must provide certificates of insurance consistent with City requirements to the NAD administrator prior to issuance of the permit by the City.

Certifications

Guide certification allows for greater protection of the clients in the event of an emergency. Sponsored events will be handled on a case by case basis to determine the appropriate level protection for participants, based on the location, extent or character of the activity or other related circumstances. Guides licensed or certified by an accredited authority may be required to provide proof.

Municipal Code Violations & Revocations

Violations of Natural Areas rules or regulations will be subject to enforcement at the natural area ranger's discretion either as a Natural Areas violation or a violation of the permit terms or conditions or both. Code Violations may result in revocation of permit for a two year period.

Permit Limitations

Permits do not allow exclusive use of site. Permitted activities must co-exist with and not impair normal public use of the natural area. "Leave no Trace" awareness workshop is strongly recommended for all permit applicants as it provides for a nationally recognized consistent message for resource protection. Conflicts and issues should be reported to Natural Areas Ranger staff (416-2147) that are available 7 days a week excluding Thanksgiving and Christmas holidays.



Policy Summary

<p>Application Fees and Costs (2011) <i>rates may be adjusted annually</i></p>	<p><u>Permit category</u> Limited Use Moderate Use Large Groups</p>	<p><u>2010 Fee</u> \$ 50 \$250 \$500</p>
<p>Additional charges for specific support activities may be required to assist or monitor activity. This fee is billed at the rate of \$75 per hour. Fees are waived for legitimate environmental education activities and may be waived if event/activity results in volunteer work accomplished on behalf of City.</p>		
<p>Group Limits</p>	<p>Set by NA staff and determined in permit by type of activity.</p>	
<p>Deposits</p>	<p>A minimum \$500 damage deposit or letter of credit <u>may be</u> required. (Deposits may be higher than listed based on the nature of the request as appropriate).</p>	
<p>Reporting</p>	<p>For limited or single events, report within two weeks from end of event/activity. For moderate or large reoccurring events quarterly reporting is required. In either case event dates, locations and # of single users need to be reported.</p>	
<p>Insurance Requirements</p>	<p><u>Minimum requirement:</u> Proof of professional practice/liability insurance.</p> <p>Comprehensive Insurance (may be required depending nature and duration of activity/event) \$1,000,000 per occurrence \$2,000,000 aggregate insurance \$1,000,000 Automobile insurance for driving on a NA property (Soapstone Prairie) Must meet all State of Colorado requirement for Workman’s Compensation City may require applicant to list City as co-insured.</p>	
<p>Certifications</p>	<p>First Aid and CPR certifications are strongly recommended. May be required if activities occur in backcountry areas.</p>	
<p>Municipal Code Violations & Revocations</p>	<p>Violations of Natural Areas rules or regulations will be subject to enforcement at the ranger’s discretion either as a Natural Areas violation or a violation of the permit terms or conditions or both. Revocation of permit for a minimum two year period.</p>	
<p>Permit Limitations</p>	<p>Permits do not grant exclusive use of site. Permitted activities must co-exist with and not impair normal public use of the natural area.</p>	