



Natural Areas Commercial Use Policy

City of Fort Collins Natural Areas Department

Purpose

The purpose of the Natural Areas Commercial Use Policy (CUP) is to describe the policies and procedures of the City of Fort Collins Natural Areas Department (NAD) with respect to requests for commercial use activities that occur within publicly city-owned Natural Areas (NA) managed by the (NAD). This policy does not address or apply to commercial use permit requests for activities on other lands owned (such as City streets, parks, etc.) or managed by the City of Fort Collins. **Please note that other permit requirements or legal restrictions may apply to the extent an event will impact or occur in part in other public properties or facilities.**

The (NAD) 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 grant any interest in property.

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 Areas 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 Commercial Use Permit to do so from the Natural Areas Department.

Definition of Commercial Use

Commercial use is defined as any activity on NA lands or facilities for which fees or donations are charged to a third party by an entity other than the NAD. 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.

Applicability

The intent of this Commercial Use Policy (“CUP”) is to develop formal, transparent, and uniform policies to guide the oversight of for-profit business conducted on publicly-owned, City managed natural areas. The Code prohibits an entity or person from conducting commercial activity on natural areas unless otherwise permitted. See §23-193(d)(14) 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, this document outlines ways 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 another visitors’ experience.
4. Direct commercial use to appropriate sites and at appropriate times in the interest of avoiding real or perceived impacts to users and resources.
5. Ensure that participants of commercial activities are outfitted/guided by qualified operators with appropriate insurance.
6. Promote the Leave-No-Trace, Zero Waste (recycling) and Carbon Neutral (buy carbon offsets if applicable) ethic 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 Natural Areas Department and must be submitted to the Natural Areas Department at least 15 calendar days before the proposed event. Applications will be accepted year-round on an as needed basis. The NAD will process any applications as expeditiously as possible and within 15 days. The NAD will review the application to ensure that the proposed activity is compatible with the natural areas mission, to ensure insurance requirements are met, and to permit time to negotiate the terms of the commercial use permit if necessary.

Permit Conditions

Permit Level and Visitor Days

1. There are four permit levels. Each permit level has associated Visitor Days. A Visitor Day is defined as *one customer visiting one natural area property in one day*. Limited Use: 1- 15 people. Total group size is 1- 15 people including guide or permittee. Visitor Days are not to exceed 25 in a calendar year.
2. Moderate Use: 16 – 50 people. Total group size is 16 – 50 people including guide or permittee. Visitor Days are not to exceed 50 in a calendar year.
3. High Use: 51 – 200+ people. Total group size is 51 – 200+ people including guide or permittee. Commercial Filming and Photography: Total group size and visitor days are conditional based on staff approval.

Groups larger than 15 persons may be asked to divide up into small groups when using natural area trails. Guided events will generally be limited to 8 – 10 clients per guide with a maximum number of 16 to 20 clients. All horseback events must comply with the “twelve heartbeat” rule, i.e., the rider/horse combination is “two heartbeat” and each group of riders clustered together cannot exceed twelve heartbeats.

Fees and Costs

Fees are imposed to recover the costs of permit processing, oversight, and management. Fees include a non-refundable \$50.00 administrative fee due upon submitting an application and a fee associated with each Permit Level. Additional fees may be imposed for High Use and Commercial Filming. Please see fee chart below.

| Permit Level | Group Size | Fee |
|------------------------------------|---|---|
| Limited Use | 1-15 people Visitor days not to exceed 25 in calendar year. Total group size includes guide or leader. A visitor is one customer visiting one natural area property in one day. | \$50 \$25 Non-profit |
| Moderate Use | 16-50 people Visitor days not to exceed 50 in calendar year. A visitor is one customer visiting one natural area property in one day. | \$250.00 \$125.00 Non-profit |
| High Use | 51+ people Visitor days will be greater than 200 in calendar year. | \$500.00 |
| Commercial Filming and Photography | Conditional – staff discretion. Use fee based on number of days filming, size of film crew, amount and type of equipment present. Recovery fee is for administrative and personnel costs. | TBD based on use fee and costs recovery fee |

Timing and Cancellation

The Natural Areas Program reserves the right to cancel or reschedule events due to weather, site, or trail conditions to avoid resource damage.

Deposits

A damage deposit in the form of a letter of credit or refundable payment of \$500 may be required as a permit condition at the discretion of NAD to enable the NAD to repair resource damage attributable to an Operator as that would provide 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 NAD may elect to require a higher damage deposit amount than that referenced above. The damage deposit may be required to be submitted to the NAD prior to the issuance of the permit document.

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 NAD property or during such time as an applicant holds a permit to conduct commercial activity, whichever is longer, and to name the City of Fort Collins as an additional insured on the certificate of insurance. The minimum insurance requirements are as follows:

- Commercial general liability (broad form) insurance with a combined single limit 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 where the activity or event takes place at Soapstone Prairie
- Operator's statutory liability under the workers' compensation laws of the state of Colorado.

Where warranted, the NAD 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.

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

Certification

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.

Reporting

Reporting enables the NAD to better understand visitation and related issues, to anticipate needs and future permit requirements, and to modify permitting requirements. Prior reporting includes anticipated date(s), location(s), and expected number of users per day. Post-event reporting information includes event date(s), location(s), and number of visits for each day, total number of user days, and activity. Post-event reports are due two weeks from end of event date for one-time event permits and quarterly for annual permits. These requirements constitute permit conditions, and failure to report may result in revocation or denial of the permit. If no activity occurred in the quarter, then reporting is not necessary.

Permittees 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 concern by the public.

Fines and Revocations

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.

Visitor Conflicts and Resource Issues

Permits do not allow exclusive use of site. Permitted activities must co-exist with and not impair normal public use of the natural area. Conflicts and issues should be reported to Natural Areas Ranger staff (970-416-2147) who will address incidents on a case-by-case basis.