

# AGENDA ITEM SUMMARY

January 16, 2018

City Council

**WITHDRAWN FROM CONSIDERATION**

## STAFF

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Rick Bachand, Environmental Program Manager  
Cyril Vidergar, Legal

## SUBJECT

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First Reading of Ordinance No. 015, 2018, Making Amendments to Chapter 23 of the Code of the City of Fort Collins Relating to Natural Area and Parks Permits, Slack Lining, Structures and Amateur Drone Operation in Natural Areas and City Parks.

## EXECUTIVE SUMMARY

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The purpose of this item is to update a number of provisions within Chapter 23, Articles IX (Natural Areas) and X (Parks) of the City Code. The Code changes are intended to more accurately reflect administrative responsibilities regarding permits, clarify various provisions, and provide additional consistency in provisions regulating activities in Natural Areas and Parks as stated in the City Code.

## STAFF RECOMMENDATION

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Staff recommends adoption of the Ordinance on First Reading.

## BACKGROUND / DISCUSSION

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City Code Articles IX and X of Chapter 23 (Public Property) establish prohibitions and outlines the special use permit systems for natural areas and parks, trails and recreation areas. The recommended Code changes will ensure consistency between the Natural Areas and Parks Departments where similar or overlapping regulations are present.

Various recreation activities have become more popular, such as slack lining and amateur drone operation. These updated provisions clarify that these activities are subject to regulation by the City in Parks and Natural Areas under the administration of the respective Department Director.

The proposed Code changes will:

- Transfer authority to issue special permits from the Service Area Director to the Natural Areas and Parks Directors;
- Update the name of the "Colorado Division of Wildlife" to its current name "Colorado Parks and Wildlife Division";
- Clarify that ropes, slack lines or other equipment may not be used in Natural Areas or Parks unless otherwise permitted;
  - Wikipedia describes Slacklining as "the act of walking or balancing along a suspended length of flat webbing that is tensioned between two anchors. Slacklining is similar to slack rope walking and tightrope walking".

- Expand Section 23-193(d) and 23-203(d) to include adding the restriction of:
  - (1) launching or landing “drones” (in addition to other types of aircraft) within or over natural areas and parks without permission; and,
  - (2) lowering the minimum altitude below which a drone or other type of aircraft (as defined in the section) cannot be flown over a natural area or park (from a minimum of no lower than 500 feet, to a minimum of no lower than "200 feet" above ground level) to reflect current policy and feedback provided by the Federal Aviation Administration (FAA).
- Clarify that tents (with the exception of a temporary shadecloth or sunshelter which may be erected during daylight hours in areas open for recreational use) are considered a “structure” that may not be erected without permission.

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#### **CITY FINANCIAL IMPACTS**

No financial impacted is expected with the recommended Code changes.

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#### **BOARD / COMMISSION RECOMMENDATION**

At its May 10, 2017 meeting, the Land Conservation and Stewardship Board voted 8-1 to recommend approval of the changes to Chapter 23, Article IX of City Code as proposed. The dissenting vote was concerned that the language as written would prohibit “green burials”. A “green burial” is the burial of ashes or full interments that have the body prepared by either the use of all natural substances or no substances at all. The body can be buried in a shroud or a casket made of all natural materials. There is no vault required. The member believed that green burial may be an appropriate activity within the natural area system.

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#### **PUBLIC OUTREACH**

Public outreach was not conducted as the recommended Code changes largely reflect administrative changes and updates.

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#### **ATTACHMENTS**

1. Land Conservation and Stewardship Board minutes, May 10, 2017 (PDF)

### **Communication and Board Matters**

**Joe Piesman** gave an update on the Bicycle Advisory Committee meeting. He reported the Master Transportation Plan should be completed by December of this year. Additionally, Joe reported that a law has passed by the Governor that defines what category e-bikes fall under and encourages local jurisdictions to take a stand on the issue versus the state. The Bicycle Advisory Committee will make recommendations about where e-bikes can be used and what the restrictions will be. John Stokes reminded the LCSB that ADA may be an exemption to the rule.

**David Tweedale** reported that he attended a program at Soapstone on Saturday. After the program was finished, some of the volunteers asked David to recognize education staff at the next LCSB and for their willingness to listen to recommended changes to existing programs. David thanked the education staff for their ideas and listening to ideas. David also announced that all volunteers have been requested to use the new database, Engage to record their volunteer times and that Charolette Boney, the City Volunteer Coordinator would be glad to come to a Board meeting and offer a training on how to use the new system. David has been working on a database for over a year and feels that training would be helpful. David requested NAD staff reschedule the Soapstone Prairie Tour. Daylan announced bison calves will soon be born and would reschedule at a time that avoids any interference with that process.

Members requested a field trip to the Homestead Natural Area and agreed to meet at the NIX Farm at 4:00 pm, prior to a scheduled Board meeting to view the restoration work there.

### **Action Items**

#### **Municipal Code Changes**

**Rick Bachand, Environmental Program Manager**, reviewed the suggested changes to the current code and asked Board members if they had any concerns. He explained that there are no new regulations proposed, and the changes are intended to clean up the current language to address some NAD concerns.

#### **Discussion:**

**Marcia** – So when you mentioned the slack lines, I thought about all the people I've seen with hammocks along the Poudre River, the Natural Areas, so are hammocks allowed but slack lines not?

**Rick** – Well you can't affix anything to any natural structure or natural feature in a natural area, so I think technically that would be prohibited.

**Marcia** – So do they need to be called out? It's the same issue when injuring the tree by tying the rope around the tree, damaging the bark.

**Rick** – I wouldn't be directing my rangers to insist people get off those that same day or same hour. Now if they left, and then they're coming back, like a transient camp, that's a different story. If someone just goes out and hangs a hammock for a while to relax in a natural area I'd probably ask the rangers to pass by that, come back and check on it again later.

**Kelly** – Why would you not want to write it in for the grievous examples or is that already covered?

**Rick** – I'm sorry?

**Kelly** – You just gave an example of how, which I agree, how somebody might not know, that might not be doing any harm with a hammock. But there's judgement in all laws, including with the police. You've already covered that if you want to get the hammocks gone for those that are living there.

**Rick** – We've already listed language that covers that.

**Ed** – Not in this document?

**Rick** – No there's other natural areas regulations.

**Ed** – Any other comments

**Mike** – Will signage, flyers, brochures be updated to show that? I was just in Moab and there were signs in every city park "no slack lines".

**Rick** – The way we do regulatory signs, outside of a parking lot, is every legal access has a mini kiosk where the most frequently offenses are listed. We also state "see other "and direct them how to locate the Natural Area regulations. All this will be update.

**Mike** - I just think drones and slack lines are easy to get in and folks might not know the new regulations.

**Joe** – Weren't there a few swing ropes over the Poudre River where people used to swing across the river near Lee Martinez? Are those gone now?

**Rick** – I don't know about the one right over the bridge. We were taking them down for a long time but one of the trees that were most frequently used for that was taken out as part of the restoration. That solved that problem. I think there's a technicality that we take it down, it goes back up, we take it down, and it goes back up. It's kind of a mouse and cat game.

**Kelly** – So the swings, swing ropes are technically not appropriate?

**Rick** – Not in a natural area

**Kelly** – Alright because I understand we don't book people and fingerprint them. The whole idea is compliance, but some of the ropes hung up for years without us taking them down. I'm assuming that now you have more rangers and stuff, we do take them down then?

**Rick** – No, we're not actively taking them down day to day.

**Kelly** - I'm not a moran; I don't mean send someone out every day if they're there. If it's illegal, why wouldn't we take them down? These are the kinds of things in bureaucracy that drive me insane. If we don't want them and we're passing by and our goal is not to send someone to jail, then why are we not taking them down? I'm missing something.

**John** – So there's hardly any left. Most of the trees that they were on are already gone. The one big tree near Hickory Street Bridge still has a rope on it. We made a conscious decision not to

take it down because people are having a lot of fun. We talked about liability issues, we talked about resource issues, and we talked about the fact that if we take them down and they put them back up, so we're kind of wasting our time. The fact that it's a really nominal problem for us that's only happening in one or two places and so you have to pick your battles. That is one we think is not worth fighting. We think there's a component of accessibility and enjoyment there for people who are generally under the age of 18 so we've adopted a "live and let live" approach on those ropes. I think there's only one left.

**Kelly** – That makes more sense to me. I guess you want to have it in case there's one or two that you want to enforce, for a variety of reasons, habitat or otherwise. So you want it in order to do it, but you made a judgement call in a net game versus a net loss.

**John** – Yea, basically.

**Kelly** – I understand the burying thing. I don't want people coming to my private land burying things, so I understand not burying cremated remains. So what is the law, federal or state, because I'll be breaking this law other than the party favor give away of my ashes? What is the harm of all the things that are of harm, I'm not referring to people in this room, what is the harm of some scattering ashes in a natural area? I'm not going to make this an issue of the month, since I'm going to just ignore it, I don't get.

**Rick** – This is not only a natural area regulation it applies to all city property. I personally don't think there's an ecological issue.

**Kelly** – That's what I want to know.

**Rick** – There's other issues that we might have. Even if we allowed it and someone buried remains and we had to close it for wildlife reasons and then that person comes back and says they want to visit their uncle or something.

**Kelly** – I get the bury thing. It doesn't make any sense to me, but it's not my fight. We ought to be regulating the use of water and land, God forbid they spread their ashes in a natural area.

**Ed** - We got these proposed changes in front of us. Are there any other questions? If not, is there a motion? What we're doing is recommending these to City Council.

***Vicky McLane made a motion that City Council approve changes to Chapter 23, Article IX of the City's Municipal Code as proposed.***

***Kelly Ohlson voted no.***

***Marcia Patton-Mallory seconded the motion.***

***The vote passed 8-1***

ORDINANCE NO. 015, 2018  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
MAKING AMENDMENTS TO CHAPTER 23 OF THE CODE OF THE  
CITY OF FORT COLLINS RELATING TO NATURAL AREA AND PARKS  
PERMITS, SLACK LINING, STRUCTURES AND AMATEUR DRONE  
OPERATION IN NATURAL AREAS AND CITY PARKS

WHEREAS, Articles IX and X of Chapter 23 of the City Code (the “Code”) regulate behavior on City natural areas and recreation area properties, including parks and trails; and

WHEREAS, the City is responsible for managing its public lands, including natural areas and recreation areas, in a manner that protects the natural features and functions for which the sites were acquired; and

WHEREAS, the City desires to manage human use of natural areas and recreation areas so that visitor enjoyment, safety, wildlife, habitat, and the areas themselves are appropriately protected; and

WHEREAS, Chapter 23, Articles IX and X of the Code establish and outline the special use permit system applicable to certain activities in natural areas and recreation areas; and

WHEREAS, staff has identified formatting and substantive updates to Chapter 23 of the Code necessary to improve the clarity with which the special use permit process and regulations of certain activities on and over public lands are stated, as well as their currency; and

WHEREAS, staff recommends that City Council amend Chapter 23 of the Code to reflect current administration responsibilities, clarify various provisions, increase review time necessary to process special use permits, and to harmonize Natural Areas and Parks Department operations on similar or overlapping lands; and

WHEREAS, staff further recommends to the City Council that amendments to Chapter 23 of the Code described herein are necessary to serve and maintain the public health, safety and welfare of the Natural Areas, Parks and the users and habitat assets of public lands in the City; and

WHEREAS, the City Council wishes to amend various provisions of Chapter 23, Articles IX and X in order to update language describing administrative responsibilities, harmonize management of public lands, and state the authority of City Natural Area and Parks rangers, consistent with current City practices.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That Section 23-192 of the Code of the City of Fort Collins is hereby amended to read as follows:

...

*Department* shall mean the City of Fort Collins Natural Areas Department.

...

*Director* shall mean the Director of ~~Community Services~~ of the City of Fort Collins Natural Areas Department.

...

~~*Service Unit* shall mean Community Services of the City.~~

...

Section 3. That Section 23-193 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 23-193 - Prohibited acts, permits.**

(a) It shall be unlawful to:

...

(12) Fish in a natural area without a valid license as required by ~~the Colorado Division of Wildlife~~ Parks and Wildlife Division, or in violation of any requirements of ~~the Colorado Division of Wildlife~~ Parks and Wildlife Division, or possess a fish taken in violation thereof.

...

(b) Unless a sign has been posted by the ~~Service Unit~~ department that the particular natural area or a portion thereof is open for such use, it shall be unlawful to:

...

(5) Affix ropes, slack lines, or other attachments to trees, or climb rocks or boulders with or without ropes, fixtures or other apparatus.

...

(c) It shall be unlawful to engage in any activity within or upon a natural area when a sign has been posted by the ~~Service Unit~~department that the particular area or a portion of the area is closed for such use, based upon a determination by the ~~Service Unit~~department that such prohibition is appropriate to protect the safety or well-being of persons or animals; the natural area, related facilities or any other City property or facility; the use and enjoyment of said areas or facilities by the general public; the needs and objectives of the City in maintaining and operating the same; and/or the natural environment in general.

(d) Except as authorized by a permit obtained for such use from the ~~Service Area~~department, it shall be unlawful to:

(1) Enter a natural area during the hours of 11:00 p.m. to 5:00 a.m., except:

a. As otherwise permitted by a sign posted by the ~~Service Unit~~department opening or closing the particular area or a portion of the area for public use for a specified time or during specified hours; or

...

(3) Land or launch in a natural area, or fly lower than ~~five~~two hundred (200) feet above a natural area, any type of aircraft, including ~~unmanned aircraft systems (UAS) or drones~~, hot air balloons and hang gliders, except within takeoff or landing airways of a commercial airport or in ~~the event of emergencies situations~~an emergency.

...

(8) Construct ~~or erect~~ a structure, tent, or shelter, for any duration of time, in a natural area, ~~with the exception of a temporary shadecloth or sunshelter which may be erected during daylight hours in areas open for recreational use.~~

...

(17) Deposit or scatter ~~in a natural area~~ any cremated remains of ~~any~~ human or animal origin ~~on or within a natural area.~~

...

(e) Research or public safety related training activities involving any of the activities prohibited in this Article, including without limitation the training of search and rescue dogs off-leash, may be authorized by the ~~Service Unit~~department by permit in accordance with the procedures and standards set forth in § 23-194.

Section 4. That Section 23-194 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 23-194 - Natural areas permit process.**

(a) Any person or organization seeking a permit for the purposes set forth in this Article shall apply for a natural area permit by filing a verified application with the ~~Service Unit~~department on a form supplied by the ~~Service Unit~~department, except that permit applications for which a routine permit process has been established by the Director under § 23-195 below shall be governed by and processed in accordance with the routine permit process. A fully completed application must be filed with the Director not less than seven (7) business days nor more than ninety (90) business days before the date on which a permitted activity is to commence; provided, however, that the ~~Service Unit~~department may accept and process an application that is filed after the filing deadline if, in the judgment of the Director, there are sufficient time and sufficient resources for the ~~Service Unit~~department to process and investigate the application and make any preparations necessary for the activity.

...

Section 5. That the definition “Director” contained in Section 23-202 of the Code of the City of Fort Collins is hereby amended to read as follows:

*Director* shall mean the Director of ~~Community Services~~ the City of Fort Collins Parks Department.

Section 6. That Section 23-203 of the Code of the City of Fort Collins is hereby amended to read as follows:

...

*Department* shall mean the City of Fort Collins Parks Department.

...

~~*Service Unit* shall mean Community Services.~~

...

Section 7. That Section 23-203 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Section 23-203 - Prohibited acts; permits.**

(a) It shall be unlawful to:

...

(9) Fish in a recreation area without a valid license as required by ~~the Colorado Division of Wildlife~~ Parks and Wildlife Division, or in violation of any requirements of ~~the Colorado Division of Wildlife~~ Parks and Wildlife Division, or possess a fish taken in violation thereof.

...

(b) Unless a sign has been posted by the ~~Service Unit~~ department that the particular recreation area or a portion thereof is open for such use, it shall be unlawful to:

...

(c) No person shall engage in any conduct or activity within or upon a recreation area when a sign has been posted by the ~~Service Unit~~ department that such conduct or activity is not allowed in the recreation area or a portion of the area, based on a determination by the ~~Service Unit~~ department that such prohibition is appropriate to protect the safety or well-being of persons, or animals, or to protect or preserve the recreation area and related facilities, or any other City property or facility, the use and enjoyment of the same by the general public, or the needs and objectives of the City in maintaining and operating the same.

(d) Except as authorized by a permit obtained for such use from the ~~Service Unit~~ department, it shall be unlawful to:

...

(3) Land or launch in a recreation area, or fly lower than ~~five~~two hundred (5200) feet above a recreation area, any type of aircraft, including ~~unmanned aircraft systems (UAS) or drones~~, hot air balloons and hang gliders, except within takeoff or landing airways of a commercial airport or ~~in the event of an emergency situation~~.

...

(7) Construct or erect a structure, tent or shelter, for any duration of time, in a recreation area, with the exception of a temporary shadecloth or sunshelter which may be erected during daylight hours in areas open for recreational use.

...

(e) Research or public safety related training activities involving any of the activities prohibited in this Article, including without limitation the training of search and rescue dogs off-leash, may be authorized by the ~~Service Unit~~ department by permit in accordance with the procedures and standards set forth in § 23-204.

Section 8. That Section 23-204 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 23-204. - Recreation area permit process.**

(a) Any person or organization seeking a permit for the purposes set forth in this Article shall apply for a recreation area permit by filing a verified application with the ~~Service Unit~~ department on a form supplied by the ~~Service Unit~~ department. An application must be submitted and completed not less than ten (10) business days before the date on which a permitted activity is to commence; provided, however, that the ~~Service Unit~~ department may accept and process an application that is filed after the filing deadline if, in the judgment of the Director, there are sufficient time and sufficient resources to process and investigate the application and make any preparations necessary for the activity.

...

Introduced, considered favorably on first reading, and ordered published this 16th day of January, A.D. 2018, and to be presented for final passage on the 6th day of February, A.D. 2018.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Passed and adopted on final reading on the 6th day of February, A.D. 2018.

\_\_\_\_\_  
Mayor

ATTEST:

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City Clerk