
Policy name:**Parks Designation Policy****Effective:** 10/___/16**Supersedes:** New

Approved by Deputy Executive Director: Scott GilmoreApproved by Executive Director: Allegra “Happy” Haynes

Introduction & Purpose:

Understanding how the Denver City Charter, City ordinances, and other applicable laws classify and protect Denver parks is not always a simple matter. This Policy is adopted by the Denver Department of Parks and Recreation (“DPR”) for the purpose of providing some clarity as to the designation status of and the protections afforded to Denver parks under the existing legal framework and to set forth the public process with respect to designation of Denver parks in accordance with the City Charter and City procedures. This Policy is formatted in a Q&A format to assist in comprehension.

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1. What is a Park?

- 1.1. Appearances: A Park is typically recognized by certain common characteristics such as playgrounds, playing fields, basketball and tennis courts, golf courses, public swimming pools, picnic tables and shelters, pavilions, public restrooms, or other amenities intended to promote public recreational and outdoor activities. Often, a Park includes characteristics that may be shared by other publicly owned property that are not parks, such as open space, landscaping, natural areas, sidewalks, trails and paths, plazas, water features, and the like. Appearances can frequently inform one as to what is a Park, but not always.
- 1.2. Legal Classification: Under Denver’s historic practices and the legal framework existing under the City Charter and through State law, a Park can be identified. What follows is a listing of the key legal classifications of Parks in Denver.

- 1.2.1. Designated Park: A Park which has been or will be designated as a Park in accordance with section 2.4.5 of the City Charter. A Designated Park can also be a Dedicated Park. Once classified as a Designated Park, the classification cannot be changed without a vote of the Denver electorate. (See Section 3 below).
- 1.2.2. Dedicated Park: A type of Park which is regarded as a Park by common law or was or will be acquired or improved subject to certain written legal assurances provided by Denver that the property would be continually and consistently used for park purposes. These legally recognized types of Parks are collectively classified, for convenience's sake in this Policy, as Dedicated Parks. A Dedicated Park can be designated by ordinance to become a Designated Park while retaining its status as a Dedicated Park. (See Section 4 below).
- 1.2.3. Unclassified Park: Any Park developed, operated and maintained by DPR that is not classified as a Designated Park or a Dedicated Park. However, not all land developed, operated and maintained by DPR is a Park. (See Section 2 below).

2. What is not a Park?

- 2.1. Basics: While DPR is often involved in the development, maintenance and/or public-use regulation of landscaping, trails, sidewalks, open space, natural areas, and other features located on City-owned property, not all of that property is a Park. The most common examples of this non-park property are listed below.
- 2.2. Parkways and boulevards listed in section 49-16 of the Denver Revised Municipal Code and all rights of way dedicated by ordinance for street or alley uses.
- 2.3. Man-made open drainageways, detention or water quality ponds, and wetland channels which may incidentally provide open space, natural areas, and some public access but are not located in a Designated Park or a Dedicated Park; HOWEVER, there are situations where a natural or even man-made stream, creek, irrigation or drainage ditch, lake, pond, reservoir, or flood control facility is located in a Park and this location in a Park does not affect the property's classification as a Park.
- 2.4. Utility corridors which may incidentally provide open space, natural areas, and some public access but are not located in a Designated Park or a Dedicated Park; HOWEVER, there are situations where utilities are located in a Park and this location in a Park does not affect the property's classification as a Park.
- 2.5. Public buildings and their exterior grounds which may incidentally provide plazas, gardens, landscaped areas, open space, and some public access but are not located in a Designated Park or a Dedicated Park; HOWEVER, there are situations where a public building is located in a Park and this location in a Park does not affect the property's classification as a Park.

3. What is a Designated Park and why designate a Park?

3.1. Designated Park: Park designations are unique to Denver and arise under the City Charter. Under section 2.4.5 of the City Charter, a Park is regarded as being a Designated Park if one of the two following is true:

3.1.1. The Park belonged to Denver on or before December 31, 1955. The test applicable here is whether the property in question was developed or being used as a Park on the effective date or had been legally dedicated as a Park, even if not yet developed or used as a Park, on the effective date. These types of Designated Parks will be referred to in this Policy as “**De Facto Designated Parks**”.

3.1.2. The Park was formally designated by ordinance to be a Park. The ordinance must expressly state that its purpose is to designate (or, in a few cases, to “dedicate”) the Park. Naming ordinances, ordinances authorizing the purchase or condemnation of property for park purposes, and ordinances zoning property as “open space” do not, in themselves, designate a Park. These types of Designated Parks will be referred to in this Policy as “**De Jure Designated Parks**”.

3.1.3. A Park designation ordinance is required in order to designate, under section 2.4.5 of the City Charter, any Park that is not already a De Facto Designated Park. (See Section 5 for additional information on Park designation factors and process).

3.2. Purpose of Designation: Park designation is a legal process to preserve and conserve park property and associated significant geological features, structures, and recreation sites as a means of enhancing the quality of life and enjoyment for present and future generations. Under the City Charter, Park designation serves two purposes:

3.2.1. Primary Restriction: A Designated Park may not be sold, leased (except as provided below), or otherwise disposed of without the approval of a majority of the registered voters voting in an election held by the City and County of Denver. The only exception is that the federal and state governments typically have the power of dominant eminent domain which entitles them to condemn a Designated Park for non-park uses.

3.2.2. Allowed Uses: A Designated Park may only be leased for park purposes under section 2.4.5 of the City Charter. Concession licenses and privileges to sell goods services in parks and recreational facilities can be granted in accordance with section 2.4.4(C) of the City Charter, and cooperative agreements under section 2.4.4(F) of the City Charter may be entered with charitable and nonprofit entities or governmental entities with respect to development of parks and recreational facilities and programs and activities. Other lawful uses of Parks may be authorized by revocable permits issued in accordance with policies and/or rules and regulations adopted by DPR.

3.3. Collection of Parks: Currently, there are approximately 260 Designated Parks, including Parks located within Denver, Mountain Parks, and certain special facilities in Parks.

3.3.1. Mountain Parks: Parks owned by Denver outside of its city boundaries in nearby counties are known as Mountain Parks.

3.3.2. Special Facilities: Certain notable facilities are located in Designated Parks, including:

- The Denver Zoological Gardens;
- The Denver Botanic Gardens;
- The Museum of Nature and Science;
- Four Mile House Historic Park;
- Gates Tennis Center;
- Denver-owned golf courses (except Park Hill Golf Course);
- Denver-owned recreation centers;
- Washington Park Boathouse;
- Montclair Civic Center;
- The Fleming Mansion;
- City Park Pavilion;
- Central Park Pavilion;
- The Levitt Pavilion;
- Chief Hosa Lodge and Campground;
- Red Rocks Amphitheatre and Trading Post (operated by Arts and Venues);
- The Buffalo Bill Museum, Buffalo Bill grave, and Pahaska Tepee;
- Echo Lake Lodge.

4. What is a Dedicated Park and what restrictions are imposed through dedication?

4.1. Dedicated Parks: A Park is regarded as being dedicated under this Policy when the Park is legally required to be a Park either under common law or by legal documents agreed to or accepted by Denver. A Dedicated Park can be or can become a Designated Park. The following is a non-exclusive list of the types of Dedicated Parks typically created by legal documents:

4.1.1. Parks that were or will be dedicated and accepted by subdivision or other plat;

4.1.2. Parks acquired or will be acquired as Parks subject to deed or covenant restrictions, deeds for conservation easements, or similar legal mechanisms as a condition of conveyance to and/or acceptance by Denver; and

4.1.3. Parks acquired or will be acquired and/or improved or will be improved as Parks by means of grants, bonds, or other sources of funding that impose covenant

restrictions, conservation easements, or similar legal mechanisms as a condition of the grant, bond, or funding.

4.2. Restrictions Imposed by Dedication: As noted above, park designation serves only two purposes, but a Dedicated Park can be subject to any number and types of restrictions, depending on the legal terms and conditions of the documents that created the Dedicated Park. These dedication restrictions are often as inviolable as park designations and can strictly limit specific uses, public access rights, land leasing or disposal, and rights retained by the dedicator or grantor. A Dedicated Park may not be sold, leased, or used in violation of the terms and conditions of the legal documents that make the Park a Dedicated Park or any common law dedication. Consequently, Dedicated Parks can be more or less restricted than Designated Parks.

4.2.1. Allowed Uses: Unless otherwise not allowed or limited under the legal documents restricting a Dedicated Park, a Dedicated Park may be used for the same purposes as a Designated Park. See Sub-section 3.2.2 above.

5. How does a Park become a Designated Park?

5.1. Classification Decision: Upon undertaking a proposal to designate a Park, the DPR Executive Director will consider the factors and follow the process set forth in this Section 5 in order to make one of the following decisions with respect to the proposal:

5.1.1. Leave the Park in its existing classification as a Dedicated Park or Unclassified Park;

5.1.2. Initiate the Park designation ordinance process to obtain City Council and Mayor approval to make the Dedicated Park or Unclassified Park into a Designated Park.

5.2. Positive Factors for Designation: In deciding what action to take under Sub-section 5.1, the DPR Executive Director will consider the extent to which the proposed designation as a Park furthers or supports the following:

5.2.1. The Denver Comprehensive Plan, Game Plan, or other pertinent master plan.

5.2.2. The restrictions imposed by the terms and conditions of the legal documents that make a Park a Dedicated Park.

5.2.3. The elimination, reduction or mitigation of any negative factors previously identified which prevented the designation of the Park.

5.2.4. The historical, cultural, ecological, scientific, and educational significance of the Park, including sites designated by the Landmark Commission or the National Historic Registry, wildlife habitat, natural landmarks, environmental conservation areas, and areas utilized for outdoor educational experiences for children or adults.

- 5.2.5. The Park facilities that have been constructed or are planned to be constructed on site, including recreation centers, playgrounds, playing fields, basketball and tennis courts, golf courses, trails and paths, public swimming pools, picnic shelters, pavilions, public restrooms, or other amenities intended to promote public recreational and leisure activities.
 - 5.2.6. The preservation of critical wildlife habitat, natural landmarks and environmental conservation areas or the preservation of key visual corridors or scenic vistas.
 - 5.2.7. The needs and desires of the affected community.
 - 5.2.8. The need to assure that adequate Parks are equitably distributed to serve all of the communities within Denver.
- 5.3. Negative Factors for Classification: In deciding what action to take under Sub-section 5.1, the DPR Executive Director will consider the extent to which the following are factors which could complicate or advise against proposed designation of a Park:
- 5.3.1. The surrounding neighborhood is the process of being developed or re-developed which could result in certain impacts on or potential changes in the Park.
 - 5.3.2. The Park is or will be in the process of being developed or re-developed, or being re-configured or expanded or reduced in size, or being relocated.
 - 5.3.3. Area infrastructure and land development is or will be in a state of flux so that right of way, drainage/flood control/water quality systems, and utility locations or replacements may result in impacts on or potential changes in the Park.
 - 5.3.4. Located near or within the Park are major utility corridors or facilities, large or potentially dangerous storm water or flood control facilities, heavily used transportation corridors, or predominating buildings or other structures used for non-park uses.
 - 5.3.5. Pending or anticipated plans for making or expanding lawful but non-compatible, non-park uses of the Park.
 - 5.3.6. Severe title problems with or third-party rights or claims to the Park that cast a cloud over the City's title or right to unqualified possession or use of the Park.
 - 5.3.7. Valid objections from the community to the proposed designation.
- 5.4. Process: The DPR Executive Director will set a timetable and goals for completing the review and receiving input on the proposed designation of a Park, which shall include at a minimum:

- 5.4.1. Notification (by DPR or caused by DPR) to all City Council members, the Mayor's Office, the Registered Neighborhood Groups, and persons, entities, and other City or other governmental agencies expressing an interest in the proposed designation as to which Park is being considered for designation and the projected timetable and goals set by the DPR Executive Director.
- 5.4.2. At least one presentation to the Parks and Recreation Advisory Board which will lead to a recommendation by that Board.
- 5.4.3. An opportunity for notified parties to submit written comments.
- 5.4.4. Delivery of information to the appropriate City Council committee as to the recommendation of the Parks and Recreation Advisory Board, comments received from notified parties, and the recommendation of the DPR Executive Director with respect to the proposed designation of the Park by ordinance.
- 5.4.5. Follow-Up: If the process set above results in general support by the public and the entities identified above for Park designation, the following actions will be taken:
 - 5.4.5.1. A request for ordinance will be prepared, submitted and processed in accordance with established City procedures.
 - 5.4.5.2. A Park designation bill for ordinance will be prepared by the City Attorney's Office that includes a sufficient legal description of the property, to be provided by DPR, and that addresses any exceptions or conditions to the designation which are agreed to between DPR and other City agencies, other governmental entities, or utilities or which appear appropriate based on the state of the title for the property. A Park may also be named or re-named in the Park designation process.
 - 5.4.5.3. The bill for ordinance will be filed after Mayor/Council, and the matter will proceed to two readings before City Council. A courtesy public hearing may be held if so requested by a Council member.
 - 5.4.5.4. If approved by City Council and the Mayor, the Park shall become a Designated Park on the effective date contained in the bill for ordinance.

This Policy on Parks Designation has been duly adopted in accordance with the rule-making requirements of section 39-2 of the Denver Revised Municipal Code and is in accordance with the authority of the Executive Director of the Denver Department of Parks and Recreation under section 2.4.4 of the Denver City Charter and the authority delegated by the Mayor of the City and County of Denver to the Executive Director of Parks and Recreation.

This Policy is effective this ____ day of _____, 2016.

In accordance with section 39-2(e), D.R.M.C., copies of this Policy were filed with the Denver Clerk and Recorder and the Denver City Attorney within seven (7) days of the effective date set out above, and a notice of the adoption of this Policy was published in _____ on the ____ day of _____, 2016. The notice included a statement that a copy of the Policy is on file with the Executive Director of Parks and Recreation and is available for public inspection.

APPROVED AND ADOPTED:

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APPROVED FOR LEGALITY:

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