ORDINANCE NO. 17-O-2722

AN ORDINANCE OF THE CITY OF BEVERLY HILLS
AMENDING THE BEVERLY HILLS MUNICIPAL CODE
REGARDING COMMERCIAL OR PROFESSIONAL
INSTRUCTION IN CITY PARKS

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS DOES HEREBY
ORDAIN AS FOLLOWS:

Section 1. The City Council hereby adds Article 1 ("General Parks and Recreational
Facilities Provisions") to Chapter 1 ("PARKS AND RECREATIONAL FACILITIES") of
Title 8 ("PARKS, STREETS, AND OTHER PUBLIC PROPERTY") of the Beverly Hills
Municipal Code, and renumbers Sections 8-1-1 through 8-1-7 to be Sections 8-1-101 through
8-1-107 of Article 1. All references in the Beverly Hills Municipal Code to such old section
numbers (such as in Section 5-6-1501 and in Title 8, Chapter 1) shall be changed to the new
section numbers.

Section 2. The City Council hereby adds Article 2 ("USE OF PUBLIC
RECREATIONAL PROPERTY FOR PROFESSIONAL INSTRUCTION") to Chapter 1
("PARKS AND RECREATIONAL FACILITIES") of Title 8 ("PARKS, STREETS, AND
OTHER PUBLIC PROPERTY") of the Beverly Hills Municipal Code to read as follows:

Article 2. USE OF PUBLIC RECREATIONAL PROPERTY FOR PROFESSIONAL
INSTRUCTION

8-1-201: DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the
meanings ascribed to them in this section, except where the context clearly indicates a
different meaning:

"Commercial or Professional Instruction" shall mean instruction performed in whole
or in part for salability or profit or for any form of consideration, such as time or money.

"Director" shall mean the Director of Community Services or his or her designee.

"Public Recreational Property" shall mean all City parks as designated in Section 8-1-101 of
this code, and City-owned or Parking Authority-owned facilities.

8-1-202: PERMIT REQUIRED.

No person shall conduct any Commercial or Professional Instruction such as boot
camps, fitness instruction, day camps, yoga classes, youth sports camps, dog training or
similar activities on Public Recreational Property without first obtaining a permit pursuant to
the provisions of this article. No person shall bring onto any Public Recreational Property
any equipment to be used for Commercial or Professional Instruction except as authorized by a permit issued pursuant to this Article.

8-1-203: CONTENTS OF THE APPLICATION.

(a) An application for a permit shall be on forms as prescribed by the Director. The application shall include:

(1) The name and address of the applicant, and if the applicant is a corporation, the names of its principal officers, or if the applicant is a partnership, association, limited liability company, organization or fictitious company, the names of the partners or persons comprising the association, organization or company with the address and telephone number of each;

(2) The proposed dates, hours, and location where the Commercial or Professional Instruction is to be held;

(3) The number of participants anticipated to participate in the Commercial or Professional Instruction; and

(4) A list of the number and type of equipment and the weight of the equipment to be used by the applicant.

(b) The application shall be signed by the applicant under penalty of perjury and shall contain an agreement whereby the applicant agrees to defend, indemnify and hold harmless the City and its employees from and against any claims arising from the actions or omissions of the applicant or the applicant’s client(s). The agreement shall also require the applicant to fully compensate the City for any damage to public property, as well as to clean and otherwise restore any Public Recreational Property to the condition in which it was found prior to the conduct of the Commercial or Professional instruction.

8-1-204: INSURANCE REQUIRED.

The permittee shall be responsible to carry, maintain, and keep in full force and effect, a policy or policies of comprehensive general and/or professional liability insurance with minimum limits of one million dollars ($1,000,000.00) per occurrence, combined single limit coverage and two million dollars ($2,000,000.00) in the aggregate against any injury, death, loss or damage as a result of wrongful or negligent acts or omissions by the permittee, with an endorsement naming the city as an additional insured. In addition, permittee is required to carry workers’ compensation and automobile coverage sufficient to meet requirements of the State of California. The insurance shall comply with the provisions of title 3, chapter 4 of this code.

8-1-205: PERMIT ISSUANCE OR DENIAL.

An application for a permit may be denied by the Director for any of the following grounds:
(1) The applicant fails to include all of the information required by section 8-1-203.

(2) The Director determines that the instructional activity or equipment proposed by the applicant will unreasonably interfere with the public’s use and enjoyment of the Public Recreational Property.

(3) The instruction proposed in the application is prohibited by other provisions of this Code.

(4) The proposed instruction or equipment will unreasonably interfere with the activities authorized by another permit.

(5) The proposed equipment is greater than 25 pounds.

(6) The proposed instruction equipment will interfere with normal operation of the Public Recreational Property.

(7) The proposed instruction equipment will damage Public Recreational Property.

(8) The applicant has not provided evidence of an insurance policy that complies with subsection 8-1-204 of this article.

The Director may impose reasonable terms and conditions concerning the Commercial or Professional Instruction or the equipment authorized by the permit, including the time and location of the activity, the maximum number of participants, the type and number of equipment, the duration of the activity.

8-1-206: REVOCATION OR SUSPENSION OF PERMIT:

A permit issued under this article may be revoked or suspended for any of the following reasons:

A. Permittee or permittee’s client damages public property;

B. A material false statement contained in the application;

C. Failure to comply with federal, state or local laws and regulations;

D. Loss of insurance;

E. Failure to comply with any conditions imposed by the City on the issuance of the permit;

F. Conduct of the business or activity in a manner which endangers the public health, welfare or safety.

8-1-207: PROCEDURE FOR SUSPENSION OR REVOCATION:
A. Except as provided in Section 8-1-208, no permit shall be suspended or revoked prior to providing a ten (10) calendar day written notice to the holder of the permit and an opportunity to be heard before the officer considering revocation or suspension of the permit. On determining that grounds for permit suspension or revocation exist, the Director shall furnish written notice of the proposed suspension or revocation to the permittee. Such notice shall set forth the time and place of a hearing, and the grounds upon which the proposed suspension or revocation is based. The notice shall be mailed, postage prepaid, addressed to the last known address of the permittee, or shall be personally delivered to the permittee, at least ten (10) days prior to the hearing date.

B. Hearings shall be conducted in accordance with procedures established by the Director. All parties involved shall have a right to: 1) offer testimonial, documentary and tangible evidence bearing on the issues; and 2) be represented by counsel.

C. The decision of the hearing officer designated by the City to hear the matter shall be rendered within five (5) days of the close of the hearing. The decision shall be in writing, and shall set forth the findings and reasons for the decision, and the permittee shall be notified in writing in accordance with title 1, chapter 5, article 1 of this code. If the hearing officer determines that there are sufficient grounds for disciplinary action, the hearing officer shall impose one of the following penalties:

1. A warning;

2. Suspension of the permit for a specified period not to exceed six (6) months; or

3. Revocation of the permit.

The hearing officer shall, in conjunction with the issuance of a warning or the suspension of a permit, order the permittee to take appropriate corrective action.

8-1-208: EMERGENCY TEMPORARY SUSPENSION OF PERMIT:

Certain types of Commercial or Professional Instruction may create an imminent peril to public health or safety. Where the conduct or activity of the permittee creates an imminent peril to the public health or safety, the permit may be summarily suspended upon notice to the permittee, provided further, that the permittee shall be entitled to a hearing within two (2) weeks thereafter and a decision within two (2) days after the hearing.

8-1-209: VIOLATIONS; ENFORCEMENT:

A violation of any provision of this article is punishable as provided for in title 1, chapter 3 of this code.

Section 3. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.
Section 4. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance and shall cause this Ordinance and the City Clerk’s certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Section 5. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

Adopted: January 10, 2017
Effective: February 10, 2017

JOHN A. MIRISCH
Mayor of the City of Beverly Hills

ATTEST:
BYRON POPE
City Clerk

APPROVED AS TO FORM:
LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:
MAHDI ALOUZRI
City Manager