

**Office of  
The City Attorney  
City of San Diego**

**MEMORANDUM  
MS 59**

**(619) 236-6220**

**DATE:** June 12, 2007  
**TO:** Stacey LoMedico, Director, Park & Recreation Department  
**FROM:** City Attorney  
**SUBJECT:** Private Use of Dedicated Parkland for Vehicle Storage

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**INTRODUCTION**

The Park and Recreation Department has requested a right-of-entry permit between the City and SUNSET PARKING SERVICES LLC, a California limited liability company [Sunset], whereby Sunset would be allowed to store valet-parked cars in a reserved section of the Alcazar Parking Lot in Balboa Park.

**QUESTION PRESENTED**

Can public parking spaces within a dedicated park be reserved for the private storage of valet-parked vehicles?

**SHORT ANSWER**

No. The private use of dedicated public parkland for the reserved storage of valet-parked vehicles is not a valid park and recreation use and would violate City of San Diego City Charter [Charter] section 55.

**DISCUSSION**

Balboa Park is a dedicated public park and may be used only for park and recreation purposes under Charter section 55. Any other use of dedicated parkland would require a two-thirds vote of the electorate.

The reservation of parking spaces for the parking of cars by a private valet service company is inconsistent and incompatible with the general public's use and enjoyment of a dedicated public park.

Property that has been dedicated as a public park may be used as a site for the erection of a museum, library, art gallery, conservatory, or similar structure, as long as the structure is designed for the recreation and enjoyment of the community. *Spires v. City of Los Angeles*, 150 Cal. 64. The erection of a municipal auditorium for the benefit of the general public is not inconsistent with the dedication of property for park purposes. *Los Angeles Athletic Club v. Long Beach*, 128 Cal. App. 427, 430-431. There is a consistent thread in defining valid park uses. That thread is a finding that the use in question must be open to the general public, rather than restricted to use by any number less than the whole.

It is highly unlikely that a use of dedicated public parkland that does not benefit the general public will be found to be a valid park use. The general rule for permissible park uses has been stated by the City Attorney's Office as follows:

[A] proper park use is one that does not interfere with the enjoyment by the general public of the park for park and recreational purposes and is consistent with and complimentary to or enhances such purposes.

1975 Op. City Att'y 139, 140.

Therefore, any use of dedicated parkland that removes a portion of the park from use by the general public could not reasonably be considered a valid park and recreational use.

#### CONCLUSION

The use of dedicated public parkland for the reserved storage of valet-parked cars removes a portion of the public parking lot from use by the general public. It is not a proper park and recreational use and, therefore, violates Charter section 55.

MICHAEL J. AGUIRRE, City Attorney

By

Brock Ladewig  
Chief Deputy City Attorney