



Slackline Access to Public Lands

Slackline U.S. www.slackline.us info@slackline.us

This is a purely informative document to help the general public gain and understanding about the sport of slacklining. This document is written with the purpose to help create a dialogue with city, county, and state government bodies oversee that the parks slackliners use and to help in dispelling any misconceptions held about the sport and the intentions of the slacklining community.

A comprehensive overview of TREE PROTECTION and LEGAL LIABILITY is addressed, as these are two of the most common objections to allowing slacklining in urban areas. The section COMPETITION FOR RESOURCES offers a look at the intrinsic value parks offer surrounding residents with the nearly infinite amount of ways they contribute to the quality of life in an urban environment. Ultimately, this document is intended to serve as a platform to help seamlessly establish and/or incorporate slackline activities into existing City/County/State Ordinances governing urban areas set aside for public use. This body of information is the result of a successful legalization effort in San Luis Obispo, California, where government officials and the slacklining community worked together to establish the preservation of slacklining access through mutual understanding. Similar movements and policies are taking shape in urban areas throughout the country.

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INTRODUCTION



Adam Grosowsky and Jeff Ellington rig tubular webbing in Yosemite in the early 80's

Slacklining is a balance sport that is a moving meditation. It is similar, at first glance to tightrope walking, and is accomplished by stretching and tensioning a 1"–2" wide length of nylon/polyester webbing between two anchor points, most often trees. Its origin has most commonly been attributed to the rock climbing community in Yosemite National Park as a way of passing time while maintaining concentration, fitness, core strength and balance skills.

Although the sport originated over 40 years ago, the last 5–10 years has seen a great leap in newcomers, slacklining groups, advancements in technologies, methods and exposure for the sport through mass and social media outlets. While world-wide interest in slacklining has steadily increased over the past 10 years, the sport has transformed from traditional "primitive" slacklines into a growing collection of variations. No doubt the sport's imaginative and fearless athletes will continue to expand and incorporate increasingly inventive and challenging modalities.

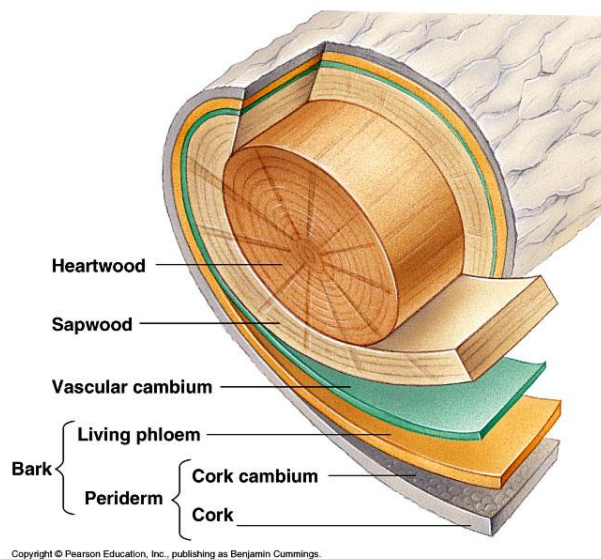


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TREE PROTECTION

For most people the introduction to slacklining occurs in a city park, over grass and on a slackline stretched between two trees. As the sport and urban populations continue to grow, this will undoubtedly continue to be the norm.

TREE PROTECTION is often the most cited concern from both non-slacklining residents and government officials. The “anchor” for each end of a typical slackline setup is nylon webbing wrapped around a tree. The obvious concern is whether the anchoring system damages the bark (potentially exposing the tree to airborne viruses) or worse, causes internal damage, thereby preventing the tree from providing nourishment to its upper structures:



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For the purpose of this article, and with special thanks to the efforts of Jerry Miszewski - one of the preeminent slackliners in the world - and the San Luis Obispo (SLO) Parks & Recreation Department, a 5-year study on the effects of slackline anchoring systems on trees was initiated in 2008 at Meadow Park in SLO. In their efforts to establish a designated slackline activity area, Miszewski and the Parks & Rec. Dept. prevailed upon the SLO City Council to adopt verbiage in the City Ordinance allowing slacklining at Meadow Park. Specifically, the SLO City Arborist identified 12 trees (i.e., Alder, Elm, Sycamore Maple, Monterey and Cedar Pines) for temporary (1 year) use to determine the effect of slacklining on tree health. The City Arborist identified the trees by attaching strips of 2” webbing to the trees in question. After one year the City adopted the Ordinance as permanent based on the City Arborist’s finding that no damage had occurred as the result of regular slacklining. These same 12 trees have been used continuously since that time with no visible adverse damage to the trees. Each tree appears healthy, growing, and beautiful. The following, however, is an example of a tree used as an anchor by non-slackliners, which was left and forgotten without the proper protection.

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Some suggest that irreversible damage is done to trees below the bark structure from slackline anchors yet goes unnoticed because it occurs out-of-sight, and adversely affecting the tree's long-term growth. A discovery was made, however during the data collection in SLO that strongly suggests otherwise. The two trees were damaged by webbing placed by city employees without proper tree protection. The webbing was placed approximately 15'-20' off the ground and escaped notice by virtually everyone until tree mapping and identification was conducted by this author in preparation for a SLO Tree Committee presentation:



With the webbing removed, it was clear that these trees had grown in 5 years despite regular slacklining and ***despite the tightly wrapped 2" webbing!***

While concern for tree health is understandable and summarily deserves our every effort, the issue should be kept in perspective by all concerned. Most of us have seen or at least heard of the outcome of an unfortunate meeting between a speeding car and a tree. All too often, long after the car and its ill-fated occupants have been buried, the tree lives on.

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EVERYONE SHOULD USE TREE PROTECTION

Why? To protect trees, make a good public impression, promote conservation and so that others will have the chance to slackline.

Acceptable forms of tree protection include cardboard, carpet, carpet padding, car floor mats, yoga mats, towels or other soft materials. More information can be found at: www.slackline.us/publications.

An excerpt from the adopted SLO City Ordinance specifies that tree protection should:

1. ***Be used at all times.***
2. ***Be of sufficient thickness to protect the tree from wear damage (e.g., carpet, cardboard, towels, felt padding, etc.).***
3. ***Be at least 10" wide so the entire anchor (minimum 1" material) is prevented from contacting the tree.***
4. ***Wrap all the way around the tree.***
5. ***Not be attached to the anchor, so if the anchor were to move, the bark would not be affected.***

Examples of commercially available tree protection:



LIABILITY

To the average onlooker, slacklining appears dangerous. Property owners understandably scrutinize our sport, especially those park/government officials who shoulder responsibility for the maintenance, safety, and continued operation of the facilities placed in their care. Fortunately, long-standing legal precedence establishes protection from liability for City, County, State, and Federal land owners.

Because the intention of this document is to serve as a starting place from which to meaningfully address slacklining on public lands, legal verbiage is included for the interested reader (see § 831.7. at the bottom of this section for full text). However, the following short stories demystify the

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complicated legal jargon into a simple language that everyone can understand.

A Game of Frisbee. Two children visit their local park to play Frisbee. They find an unused portion of level grass and begin throwing the disk back and forth. As the game progresses, so does the distance between them, requiring one or the other to run a considerable distance to catch the Frisbee before it hits the ground. Tragically during one final throw a player scrambles into position to intercept the Frisbee, but falls out of control and crashes head-first into a tree, breaking her neck. Who's to blame?

The landowner in this case assumes no risk for the injured player **provided** the player fell “out of control” because of lack of skill (i.e., clumsiness). On the other hand, if the player “falls out of control” because of something the City did or didn't do (e.g., fails to repair a known broken water line which caused a gully in an otherwise level lawn), the City could be held liable.

Here's the legal verbiage and cited case law covering the “Assumption of Risk Doctrine”:

A. ASSUMPTION OF RISK

- The basic rule of landowner liability is limited in the context of active sports under the primary assumption of risk doctrine. See *Rowland v. Christian* 69 Cal.2d 108 (1968). This doctrine covers activities done for enjoyment or thrill, requiring physical exertion as well as elements of skill involving a challenge containing a potential risk of injury. See *Bjork v. Mason* 77 Cal.App.4th, 544 (2000).
- (The landowner has) no duty to eliminate or protect against risks inherent in a sport or activity.
- (The landowner must not) increase risks over and above those inherent in the sport. See *Calhoon v. Lewis* 96 Cal.Rptr.2d 394 (2000).

The Teenager and the Jungle Gym. A teenager arrives at the local park and sees his two friends sitting atop the jungle gym roof (clearly not designed as a seating area by the jungle gym manufacturer). He climbs the ladder to the top of a slide, but rather than use the slide, he stretches one leg across a gap to the monkey bars beyond. His precarious maneuver is necessary in order to gain enough height to grab hold of the roof structure where he hopes to join his friends. He swings himself upward and lands, momentarily, on the roof. He quickly begins to lose traction on the slick plastic. His friends are unable to prevent him from falling, which causes multiple broken vertebrae as he lands awkwardly on his back some 10' below. Once again, who's to blame?

This one is not as simple as you might think. The City installed a structure with an inherently dangerous design element – a jungle gym roof approximately 12' high. Cities do this regularly – it's why jungle gyms, swings, and merry-go-rounds are fun! Because they did not post a sign calling attention to the “danger,” the teenager's lawyers argued the City failed to protect the teenager. Surprisingly, it was only on appeal that the teenager's decision to climb the structure was adequately scrutinized. Specifically (and directly related to slackline activities), the court wrote **“human beings possess an inherent fear of falling”** and therefore the teenager knew of the danger because he's human. The case was overturned and the city was not held liable for the teenager's injuries.

Here's the legal verbiage and cited case law:

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California Civil Code § 846 - Owner's Liability to Recreational Users.

- An owner of any estate or any other interest in real property, whether possessory or nonpossessory owes no duty of care to keep the premises safe for entry or use by others for any recreational purpose or to give any warning of hazardous conditions, uses of, structures, or activities on such premises to persons entering for such purpose, except as provided in this section.
- A "recreational purpose," as used in this section, includes such activities as fishing, hunting, camping, water sports, hiking, spelunking, sport parachuting, riding, including animal riding, snowmobiling, and all other types of vehicular riding, rock collecting, sightseeing, picnicking, nature study, nature contacting, recreational gardening, gleaning, hang gliding, winter sports, and viewing or enjoying historical, archaeological, scenic, natural, or scientific sites.
- An owner of any estate or any other interest in real property, whether possessory or nonpossessory, who gives permission to another for entry or use for the above purpose upon the premises does not thereby (a) extend any assurance that the premises are safe for such purpose, or (b) constitute the person to whom permission has been granted the legal status of an invitee or licensee to whom a duty of care is owed, or (c) assume responsibility for or incur liability for any injury to person or property caused by any act of such person to whom permission had been granted except as provided in this section.
- This section does not limit the liability which otherwise exists (a) for willful or malicious failure to guard or warn against a dangerous condition, use, structure or activity; or (b) for injury suffered in any case where permission to enter for the above purpose was granted for a consideration other than the consideration, if any, paid to said landowner by the state, or where consideration has been received from others for the same purpose; or (c) to any persons who are expressly invited rather than merely permitted to come upon the premises by the landowner.
- Nothing in this section creates a duty of care or ground of liability for injury to person or property.

§ 831.7. Liability to participant in or spectator to hazardous recreational activity

(a) Neither a public entity nor a public employee is liable to any person who participates in a hazardous recreational activity, including any person who assists the participant, or to any spectator who knew or reasonably should have known that the hazardous recreational activity created a substantial risk of injury to himself or herself and was voluntarily in the place of risk, or having the ability to do so failed to leave, for any damage or injury to property or persons arising out of that hazardous recreational activity.

(b) As used in this section, "hazardous recreational activity" means a recreational activity conducted on property of a public entity that creates a substantial, as distinguished from a minor, trivial, or insignificant, risk of injury to a participant or a spectator.

"Hazardous recreational activity" also means:

(1) Water contact activities, except diving, in places where, or at a time when, lifeguards are not provided and reasonable warning thereof has been given, or the injured party should reasonably have known that there was no lifeguard provided at the time.

(2) Any form of diving into water from other than a diving board or diving platform, or at any place or from any structure where diving is prohibited and reasonable warning thereof has been given.

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(3) Animal riding, including equestrian competition, archery, bicycle racing or jumping, mountain bicycling, boating, cross-country and downhill skiing, hang gliding, kayaking, motorized vehicle racing, off-road motorcycling or four-wheel driving of any kind, orienteering, pistol and rifle shooting, rock climbing, rocketeering, rodeo, self-contained underwater breathing apparatus (SCUBA) diving, spelunking, skydiving, sport parachuting, paragliding, body contact sports, surfing, trampolining, tree climbing, tree rope swinging, waterskiing, white water rafting, and windsurfing. For the purposes of this subdivision, "mountain bicycling" does not include riding a bicycle on paved pathways, roadways, or sidewalks. For the purpose of this paragraph, "body contact sports" means sports in which it is reasonably foreseeable that there will be rough bodily contact with one or more participants.

(c) (1) Notwithstanding subdivision (a), this section does not limit liability that would otherwise exist for any of the following:

(A) Failure of the public entity or employee to guard or warn of a known dangerous condition or of another hazardous recreational activity known to the public entity or employee that is not reasonably assumed by the participant as inherently a part of the hazardous recreational activity out of which the damage or injury arose.

(B) Damage or injury suffered in any case where permission to participate in the hazardous recreational activity was granted for a specific fee. For the purpose of this subparagraph, "specific fee" does not include a fee or consideration charged for a general purpose such as a general park admission charge, a vehicle entry or parking fee, or an administrative or group use application or permit fee, as distinguished from a specific fee charged for participation in the specific hazardous recreational activity out of which the damage or injury arose.

(C) Injury suffered to the extent proximately caused by the negligent failure of the public entity or public employee to properly construct or maintain in good repair any structure, recreational equipment or machinery, or substantial work of improvement utilized in the hazardous recreational activity out of which the damage or injury arose.

(D) Damage or injury suffered in any case where the public entity or employee recklessly or with gross negligence promoted the participation in or observance of a hazardous recreational activity. For purposes of this subparagraph, promotional literature or a public announcement or advertisement that merely describes the available facilities and services on the property does not in itself constitute a reckless or grossly negligent promotion.

(E) An act of gross negligence by a public entity or a public employee that is the proximate cause of the injury.

(2) Nothing in this subdivision creates a duty of care or basis of liability for personal injury or damage to personal property.

(d) Nothing in this section limits the liability of an independent concessionaire, or any person or organization other than the public entity, whether or not the person or organization has a contractual relationship with the public entity to use the public property, for injuries or damages suffered in any case as a result of the operation of a hazardous recreational activity on public property by the concessionaire, person, or organization.

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COMPETITION FOR RESOURCES

The majority of the world's industrialized urban populations surpassed rural populations over 60 years ago with no reversal of this trend in sight. Despite impressive and engaging technological advancements across continents and cultures, the fundamental human desire to engage in outdoor activities remains and continues to evolve. From the Encyclopedia of San Francisco on the **19th Century beginnings of Golden Gate Park**:

With the blossoming of large businesses in San Francisco, there emerged a much more dense population. Businesses created jobs and enticed workers to San Francisco, but they also created crowded conditions by 1897. Society sought a balance between the urban and natural worlds, and felt a romantic yearning for the simpler past. Everyone could see the need for a remote park to provide an escape from their workaday lives. ***Parks became an antidote to the materialistic ambitions of the city's citizens.***

The value of city parks is undeniable and will only increase with the passage of time.

City parks:

- Offer citizens the daily benefits of direct experience with nature — the motivation to explore, discover, and learn about their world and to engage in health-promoting physical activity.
- Offer citizens a sense of place, self-identity, and belonging as an antidote to social alienation, vandalism, and violence.
- Engage citizens in informal, experiential learning through play and shared activities.
- Provide a valuable resource for closing the educational achievement gap in communities.
- Offer a vehicle for citizens' participation in community development and democratic processes.
- Provide time spent in nature, helping people to relieve mental fatigue, reducing aggression.
- Provide residential gathering places where neighbors form social ties that produce stronger, safer neighborhoods.

Elected governing bodies are keenly aware that creating and maintaining healthy parks is an integral component of creating and maintaining healthy communities. Parks officials across the U.S. have adopted and adhere to Urban Forest planning standards which set aside acreage and develop parks and open space in proportion to population and in response to changing public interests. Community, neighborhood, and mini parks are developed specifically to offer various levels of active and passive recreational activities according to expressed needs (e.g., baseball, soccer, football, swings, slides, walking paths, gardens, living sculptures, etc.). Skateboard parks, pickle ball courts, and even soccer fields, for example, are relative newcomers to city parks in America when compared to baseball diamonds, outdoor basketball courts, merry-go-rounds, and swing sets.

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SUMMARY

The purpose of this document is to shed light on the sport of slacklining in order to encourage meaningful conversations that will result in achieving protection for public land owners as well as protection of the public's privilege to access lands for the purpose of recreation. ***Support of slacklining by Parks Officials should be viewed as an opportunity to promote the development of an active, healthy community and a solid investment in its future.***

Slackline enthusiasts around the world have been stewards of public lands over the past forty years, requiring no modification of existing equipment or maintenance protocols on the part of land owners. However, in some communities, concerns for protection of natural resources (namely, trees) and protection from liability for personal injury have been raised by the general public and/or land owners. Fortunately, protection of trees is easily accomplished using readily available materials. And, protection from legal liability, having been originally established in 1968 by the Supreme Court, has only been bolstered since that time by subsequent statute.

Despite its lengthy history, however, and specifically due its recent popularity, slacklining is considered a new sport in America. As such, few cities have formally included this activity into City Ordinance or Regulation verbiage. A proposed Ordinance is offered below which has been developed over many years of practical experience and deliberately includes elements intended to address concerns regarding natural resource and liability protection, as well as sensitivity to competition for resources.

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PROPOSED SLACKLINE ORDINANCE

A. Slacklining shall be allowed in city parks as follows:

1. At all times slacklining shall require the following tree protections:
 - a. Protection shall be placed between the slackline anchor and tree of sufficient thickness to protect the tree from wear damage (e.g., carpet, cardboard, towels, felt padding, etc.).
 - b. Protection shall be at least ten inches wide so the entire anchor (minimum one inch of material) is prevented from contacting the tree.
 - c. Protection shall wrap all the way around the tree.
 - d. Protection shall not be attached to the “anchor”, so if the anchor were to move, the bark would not be affected.
2. Slacklines shall not:
 - a. Be attached to trees less than twelve inches in diameter at attach point.
 - b. Cross walkways, sidewalks, or bike paths.
 - c. Intentionally interfere or displace any existing activities planned for or occurring in parks.
 - d. Be left unattended or remain affixed overnight.
3. Slacklining shall be allowed during normal park operating hours and lines shall at all times be designated with ribbons or streamers attached thereto for visibility.