



City of Grand Haven
City Manager's Office
519 Washington Avenue
Grand Haven, MI 49417
616-847-4888
www.grandhaven.org

FROM: Pat McGinnis, City Manager
DATE: February 7, 2013
SUBJECT: Access to and Use of Public Property

Purpose

This written Policy confirms and clarifies the informal policy of the City to permit non-commercial public use of some City owned property. This policy is intended to address competing interests, to ensure that decision making leading to permission to use public lands is content neutral and non-discriminatory, to protect our built and natural environments, and to ensure that any such use is cost neutral (*i.e.*, that any costs incurred by the City are reasonably reimbursed).

The access to and use of some City-owned property is already addressed in other City ordinances and policies. For example, City ordinances and policies already address the use of City parks and the Community Center, processes are in place for use of the City-owned marina and boat launch facilities and the use of City rights-of-way requires City Council approval of license or encroachment agreements. Some areas of City property are not open for public use. For example, the DPW garage, offices in City Hall, BLP facilities, maintenance sheds and other work areas are not available for public use. However, other areas have been open to public use for some limited purposes. Examples include lawn areas surrounding some City buildings and Dewey Hill.

Procedure

Requests to access public lands shall be submitted in writing to the City Manager's Office at 519 Washington Avenue.

The City Manager shall review the request and advise the applicant of any additional information that may be needed to fully understand the nature of the proposed use of public lands and of any additional materials that may be needed to further the review process (*e.g.* encroachment permits, insurance documentation, names of local representatives readily available to respond to questions and meet at the site, etc.).

The City Manager shall determine if existing City boards or committees have any jurisdiction or interest in a particular request (*e.g.* Parks and Recreation Board for request to use City Parks, Planning Commission for requests to erect and buildings or structures, Harbor Board to consider requests adjacent to or upon the City's navigable harbor, City Council to approve substantial permanent or semi-permanent encroachments on public lands or the use of City rights-of-way, etc.) and will submit requests to those bodies for advice or approval as appropriate.

The City Manager shall allow the use of City owned property in accordance with this policy if such use (i)

is compatible with any other previously committed use of the same property, (ii) will not, itself or in combination with other uses, adversely impact the built or natural environment, (iii) can be done on a financially neutral basis, (iv) will not pose a liability risk or a risk to the public health, safety and general welfare, and (v) is not otherwise adverse to the public interest. Any permission to use public property shall be documented by a written agreement signed by the City Manager after consultation with such other City officials as the City Manager deems necessary and signed by the parties using the property. Any use of City property shall require that the user authorize a local person who can be contacted anytime there are concerns about the condition of any display or other items placed on the City-owned property to immediately go to the property to address such concerns on behalf of the user.

Where there are competing requests for use of City owned property, efforts will be made to work a resolution of the situation that is mutually acceptable to the requesting parties. If such a resolution of the competing requests is not possible, the City Manager, without regard to the nature of the requesting party or the content of any use, will review the requests to see which will have the least impact on the property, poses the least public risk, and otherwise appears to better comport with the public interest. If it is not apparent that one proposed use is more favorable using the above criteria, the City Manager may resolve the competing requests in some other manner to ensure fairness and mutual opportunities for access and use. Such methods may include drawing lots, alternating use (annually, if it is one time a year use; weekly, if the use is for specific days on a repeated basis through the year or for a season; or on some other basis), or such other methods as the parties may agree upon or the City Manager determines to reasonably resolve the competing requests. If a resolution cannot be found, the City Manager may simply deny either requesting party's use of the property.

The City Manager shall determine what costs the City may incur due to the proposed use of public lands and establish a reasonable fee to be paid by the applicant to cover all public expenses incurred during the review and possible approval process. Such fee shall be used to pay for publication (if public review is appropriate), administrative process and any study or physical inspection of the site and the potential impact on public lands, traffic, public building or facilities or other impacts that could potentially cause expense to the public. It shall also cover the costs incurred to have any City personnel provide any services related to that use and for the restoration of the site following any such use. If the City Manager determines that the proposed use of public lands will result in any ongoing expense to the public, or if the use of public lands is continuous in nature, a fee for public services and rental of public lands shall be paid by the user each year the use remains upon public lands. Such fee shall be based on actual cost of City personnel to maintain or oversee the use of public lands plus a reasonable administrative fee to cover expenses. Rental shall be for the storage of materials left on site and not for the market value that would otherwise accrue for commercial use of said lands.

The City Manager may also establish a deposit, a one-time payment to the City or require a bond to cover the expense of the eventual removal of materials left upon public lands. The City Manager may make this determination based on an estimate of the cost of eventual removal of items erected and not removed by the user of public lands.

The City reserves the right to remove any displays or messages that are not kept in compliance with the written agreement, if fees not paid on time, or use of public land is altered or expanded without the written consent of the City Manager or other authorizing body.