

CITY OF TRAVERSE CITY

PARK AND PUBLIC LAND USE POLICY

I. PURPOSE

The purpose and intent of this Policy are as follows:

- (a) The purpose of this Policy is to limit and regulate Events and Major Events, including those sometimes known as festivals, on City Parks.
- (b) It is intended to regulate them as to time, place, and manner and not as to content.
- (c) It is intended to protect all City Parks for their individual primary purposes and in particular, the Open Space for its primary and historic purpose of passive recreation and open space, i.e., free of structures and obstructions.
- (d) It is intended to keep bay front parks available for views of Grand Traverse Bay both from that space and across that space for the rest of the City.
- (e) It is recognized that the summer daylight hours are the most desirable time of the year to protect this Open Space use.
- (f) It is recognized that the National Cherry Festival has an important place in the history and society of Traverse City and that the Cherry Festival's interruption of the Open Space primary use has long been recognized as a benefit to and an integral party of this City's culture, making that interruption justified.
- (g) It is recognized that the Traverse City Film Festival has an important place in Traverse City and that the Film Festival's interruption of the Open Space primary use is de minimus as it primarily occurs during the evening hours and outside of the most desirable time to protect the Open Space use.
- (h) It is important to recognize that even sites that have accommodated Major Events are for general public recreational use first, thus the regular use of a park must be respected.
- (i) Most City Parks accommodate a variety of uses including both active and passive recreational opportunities that may occur on a casual and/or organized level.
- (j) The majority of Parks have not been designed to accommodate large-scale Events, as many lack the necessary amenities, such as, washrooms, parking, and/or access to water or power to support Major Events.
- (k) In addition, most Parks have differing features and requirements; thus, what is

appropriate in one Park may not be appropriate in another.

- (l) An objective of this Policy is to match events to an appropriate Park site. This is accomplished by delegating to the City Manager the authority to establish Individual Park Guidelines and determine which Parks are eligible for Major Events.
- (m) It sets forth the conditions within which sponsors and users of City Parks will be held accountable for their use to the citizens of the City of Traverse City.
- (n) It regulates the frequency of Major Events in Parks and establishes priority for holding Events.

II. DEFINITIONS

The following words and phrases shall have the corresponding definitions:

- (a) "City Manager" means the person acting as City Manager of the City of Traverse City or his or her designee.
- (b) "For Profit Organization" means a partnership, corporation or unincorporated business organization which is not an official non-profit corporation
- (c) "Parks" means those City-owned and officially dedicated parks as shown in the Park Inventory on file in the City Engineering office.
- (d) "Event" means a planned activity to use a Park which has an attraction to the public, such as games or amplified sound.
- (e) "Major Event" means any Event at a Park lasting more than three (3) consecutive days.
- (f) "Park Use Permit" or "Permit" means a permit granted by the City to regulate Park properties used for Events.
- (g) "Open Space" means the Park located North of Grandview Parkway, from Parking Lot VB on the West to the Marina and Marina Seasonal Parking Lot on the East.
- (h) "City Sponsored Event" means an event where the City of Traverse City completes and submits the Permit Application.

III. PERMIT REQUIRED

An Event shall not be held or announced as going to be held at a Park until and unless a Park Use Permit has been issued pursuant to this Policy.

IV. NATIONAL CHERRY FESTIVAL

Because of its unique place in the history and culture of Traverse City, the National Cherry Festival is allowed annually at the Open Space for up to eight (8) consecutive days in July, excluding set-up and tear-down, which will be addressed in the Letter of Understanding, and is exempt from other provisions of this Policy. The National Cherry Festival will only be allowed if there is a Letter of Understanding with the City addressing the entire operation of the National Cherry Festival at the Open Space, other City sites and Parks. The National Cherry Festival shall have first priority on Park usage even if its application is received after another application for the use of the same Park.

V. TRAVERSE CITY FILM FESTIVAL

Because of its demonstrated benefit to the City of Traverse City and its de minimus impact on the primary purpose of the Open Space, the Traverse City Film Festival is allowed annually at the Open Space for up to eight (8) consecutive days during the approximate period of end of July and beginning of August, excluding set-up and tear-down, which will be addressed in the Letter of Understanding, and is exempt from other provisions of this Policy provided that the Traverse City Film Festival's use of the Open Space continues to have a de minimus impact on the primary purpose of the Open Space as determined by the City Manager. The Traverse City Film Festival will only be allowed if there is a Letter of Understanding with the City addressing the entire operation of the Traverse City Film Festival at the Open Space, other City sites and Parks. The Traverse City Film Festival shall have first priority on Park usage even if its application is received after another application for the use of the same Park, except for the application of the National Cherry Festival.

VI. LIMITATIONS ON EVENTS AND MAJOR EVENTS

Events and Major Events at Parks are limited to the following:

- (a) A Major Event shall not have longer than five (5) consecutive full days of activity, excluding set-up and tear-down, which will be addressed in the Permit Application. If the event is limited to the evening hours (after the sun has set) with no impact during the day except for some minimal set up, up to three (3) additional days can be requested of the City Manager.
- (b) A Major Event shall not be held on a City Park unless it is a Park that the City Manager has determined to be eligible for Major Events based on its size, surroundings and history.
- (c) Except for the Open Space, no eligible Park shall have more than one Major Event per year.
- (d) The Open Space shall not have more than two Major Events between Memorial Day weekend and Labor Day weekend in addition to the National Cherry Festival; and shall not have more than one Major Event during the rest of the year.

- (e) No more than one Major Event shall occur in the City at the same time.
- (f) There shall only be one Event (greater than 6 hours in duration) at a Park at the same time and there shall be a suitable period of time between scheduled Events at a Park.

VII. EXEMPT ACTIVITIES

General public use for recreation is exempt if it does not involve the reserving or setting aside of any Park or part of a Park and does not include organized games, fixed signs, sound broadcasting equipment, tents, bleachers or similar items. Brief use for movie or television production and other photographic activities is exempt unless in the opinion of the City Manager the activity will disrupt normal use. City-sponsored Events and instructional recreation programs endorsed by the City are exempt. Permission for an exempt activity is automatically revoked if the user violates any law, ordinance or Park rule or regulation adopted pursuant to the Traverse City Code of Ordinances.

VIII. PERMIT APPLICATIONS

Permit applications must be completed by the Applicant and the person or sponsoring organization who will be the Permit Holder and submitted to the City Manager. Such applications and the submittal of the applications shall comply with the following:

- (a) Time. Applications shall be filed sixty (60) days before an Event that is 8 hours or longer. If an Application is filed more than one year before the Event, it shall be renewed in writing on the dates directed by the City Manager or it may be deemed untimely and withdrawn.
- (b) Signature. The application shall be signed under oath or affirmation by the adult person who will attend and be in charge of the Event and activity. That signatory is the Applicant.
- (c) Permit Holder. The application shall specify the name, address, and telephone number of the Permit Holder who shall be the sponsoring organization or individual.
- (d) Fee. All applications shall be accompanied by a non-refundable park useage application-processing fee. The City Commission by resolution and after recommendation of the City Manager shall establish application fees. The application fee shall be paid at the time of making the application, unless waived by the City Manager or City Commission. Payment for any services to be provided by the City over normal service may be charged to the Applicant or Permit Holder. The application fee may vary depending on the Park, activity requested, and time of year.
- (e) Insurance. Unless waived by the City Manager or City Commission, all Permit Holders shall provide insurance as follows:

- (1) Comprehensive general liability insurance - \$1,000,000 per occurrence and such additional insurance and coverages as may be required by the City Clerk for special activities.
 - (2) The policy shall name the City of Traverse City as an additional insured in the policy coverage. Any amendment to or cancellation of such insurance shall require no less than thirty (30) days written notice provided to the City Clerk of such cancellation and/or amendment.
 - (3) The duration of the insurance shall encompass the total length of time any equipment is placed on City property or that time of the event, whichever is longer.
 - (4) Suitable proof of insurance shall be submitted to the City Clerk prior to the Event taking place. In addition, the Applicant and Permit Holder shall execute a hold harmless and indemnification provision agreeing to hold the City and its officials, employees and volunteers harmless and to indemnify the City in the event of a claim resulting solely or partially from the Event or activity applied for.
- (f) Description of Event. The Event shall be described with such detail as required by the City Manager and the City Commission, and on the forms supplied by the City Manager.
- (g) Noise Containment Plan. A plan for noise and vibration containment shall accompany the application.
- (h) Filing Date. An application shall not be deemed to be filed until the City Manager states in writing that it is complete. The date of such writing shall be the date of filing of that application.

IX. PRIORITY OF APPLICATIONS

Applications for Events shall be considered and decided on a first come-first serve basis as of the date they are filed. An application shall be decided promptly after it has been properly and completely filed. Permit Holders with granted reservation requests shall have the scheduling priorities and rights as provided in this Policy.

X. RESERVATION REQUESTS

If an Event is intended to be held annually, after it is held the Permit Holder may request that the dates for the following year or years at that Park be reserved. The City Manager may reserve those dates if the Permit has not been violated, the Permit Holder has fulfilled all obligations to the City and the Event has not created any unreimbursed expense or harm to the City. A reservation fee established by the City Manager may be charged. If the City Manager reserves those dates, an

application from that Permit Holder will be given preference over all other applications for those dates and Park. Reservation requests for more than three (3) years will not be accepted. Granted reservation requests may be revoked by the City Manager if there is reason for revoking based on the health, safety and welfare of the City, such as construction or development activities at that Park, the elimination or reduction of City employees or resources needed to service the Event, or any reason stated above for not granting the request.

XI. REVIEW OF PERMIT APPLICATIONS

(a) City Manager. A Permit may be granted by the City Manager, if the Event complies with all of the following:

- (i) The Event is limited to not more than a 24-hour period.
- (ii) It is neither sponsored nor conducted by a For-Profit Organization.
- (iii) Admission is not restricted and no fee is charged.
- (iv) No commercial activity or business enterprise is conducted.
- (v) There is no sale of goods and/or services.
- (vi) No alcoholic beverages are distributed.

The City Manager may also grant a Permit for an Event which is not a Major Event, which in the past has been given a Permit by the City Commission, and which has not substantially changed from the last held Event.

The City Manager may delegate all or any part of his or her authority under this Policy to other City employees.

(b) Parks and Recreation Commission. The Parks and Recreation Commission shall review an application for a Permit whenever permission for use of parks has not been delegated to the City Manager or whenever the City Manager determines it advisable.

(c) City Commission. Unless the City Manager is given authority to grant an application for a Permit, it shall be decided by the City Commission.

XII. STANDARDS

The standards for granting approval of a Permit application are the following:

- (a) The activity is consistent, or can be made consistent by imposing conditions agreed to by the applicant with City guidelines that apply to the Park where the Event will take place. Individual Park Guidelines shall be adopted by the City Manager.
- (b) The activity will not unreasonably interfere with or detract from the general public's enjoyment of the Park or nearby public land.

- (c) The activity will not unreasonably disturb normal activity on surrounding private land.
- (d) The activity will not unreasonably interfere with or detract from the promotion of the public health, welfare, safety and recreation.
- (e) The activity does not cause a violation of any law, ordinance, rule, or regulation.
- (f) The facilities desired have not been reserved for other use on the date and hour requested in the application.
- (g) The activity will not cause damage to water, beaches, trees, benches, landscaping or other natural or man-made components of the Park.
- (h) The activity does not entail extraordinary or burdensome expense of operation by the City.
- (i) The activity does not materially impact the characteristics or functions of environmentally sensitive resources or properties.
- (j) The activity will not be exclusive, in whole or in part, but will be open to the general public without charge. Sporting contests such as volleyball may charge a participant fee.
- (k) The activity shall not occur so soon before or after another Event that it creates a burden on the Park facility, City staff or resources, or so soon that it unreasonably impedes the primary general public use of the Park.
- (l) The Event complies with all other provisions of this Policy.

XIII. GENERAL CONDITIONS

The following general conditions apply to all Events. Additional special conditions may be imposed in the Permit. All terms and representations specified in the permit application are automatically special conditions to the Permit unless changed or superseded by the general conditions or an additional condition.

- (a) **Equipment and Signs.** No other property, equipment or signs are to be used by participants in the Park, public land, and adjacent property or water except as listed in the permit. No signs shall be erected in violation of any City ordinance. Placement of such equipment shall be coordinated with the City Manager. Unless authorized by the City Manager, all property, equipment and signs shall be removed from the Park on any day during which the Event, setup, or removal is not being conducted.

- (b) Cleanup. The Applicant and Permit Holder shall promptly and completely cleanup and restore the site immediately following the Event or activity.
- (c) Set Up and Removal. Set up and removal shall occur promptly and the time allowed therefor shall be restricted in the Permit.
- (d) City Cost. Damage to public properties or the City's cost incurred in cleanup and repair shall be the responsibility of the Applicant and the Permit Holder. Payment of any such assessment shall be due within thirty (30) days. The City Manager may require a bond, letter of credit, or cash deposit as security for cleanup and restoration.
- (e) Tents. If tents are used, the tent material shall be composed of noncombustible and flame-resistant fabric in accordance with the City Fire Code and erected to meet wind load requirements of the State Construction Code.
- (f) Advertising. Any advertising or public announcements of the Event that occurs before all necessary approvals from the City have been obtained, is at the Events own risk. No signs are allowed in the City rights-of-way.
- (g) Time of Events. The Permit shall specify the days and hours of the event. Unless otherwise indicated in the Permit, all Events are limited to the hours of 10:00 am and 10:00 pm daily. The City Manager may approve a time extension for good reason.
- (h) Time of Amplified Sound. Unless otherwise allowed in the Permit, amplified music or sound shall be limited to no more than a total of six hours including normal breaks taken between the beginning and end of individual music performances between 10:00 am and 10:00 pm.
- (i) Noise. The Application shall include a current, active plan for the containment of noise and vibration attributed to the Event. Special conditions may be placed on any amplified sound to preserve the rights and enjoyment of those adjacent or near the Event. The City noise ordinance applies to all Events. This shall include but not be limited to amplified music and speech, construction, and sounds emanating from groups or crowds connected with the Event. No person shall cause, suffer, allow, or permit the operation of any amplified sound reproduction device in such a manner that it crosses a real property line of the Park and raises the total sound levels by the permissible sound level limits set forth below when measured within a building.

**AMPLIFIED SOUND REPRODUCTION DEVICE
MAXIMUM PERMISSIBLE SOUND LEVEL LIMITS**

Indoors across a real property line
dB(C) ABOVE
INTERIOR AMBIENT SOUND LEVEL

Week nights 10:00 p.m. - 7:00 a.m. Weekend nights 11:00 p.m and 9:00 a.m.	All other times
3 dB(C)	6 dB(C)

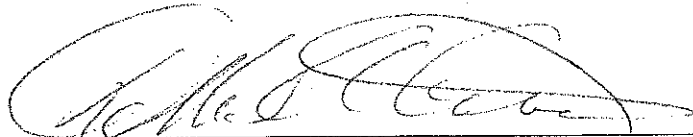
- (j) Excavation. No digging, staking or any other ground disturbing activity shall be performed except as authorized in the permit and upon prior notification to the City Manager. Trenching, excavating, or other disturbance of the ground surface will require the applicant to notify MISS DIG to appropriately mark all areas where obstructions exist prior to disturbing the surface area.
- (k) Trash and Toilets. Portable toilet and trash receptacles shall be provided, as necessary, for all Events based on the anticipated size of the Event. These shall be provided at the expense of the Permit Holder. The number, type and location of all receptacles and toilets shall be listed on the Permit. At least one portable toilet must be ADA compliant/handicap accessible. The Permit Holder is responsible for the clean up of the area and removal of trash from the site.
- (l) Recycling. It shall be the policy of the City of Traverse City to encourage recycling whenever possible. The mandatory provision of an area(s) utilizing source separation containers for primary recycling materials shall be provided at all Major Events. A list of primary recycling materials shall be determined by the City Manager. The number and location of such area(s) shall be shown on the Permit.
- (m) Contracts with the City. The proposed Permit Holder for a Major Event must contract with the City for cost reimbursement and other obligations to the City.
- (n) Commercial Activity. Only incidental commercial activity is allowed for non-Major Events. All such incidental commercial activity shall be under the control of the Permit Holder and shall not be operated independently by third parties unless the third party operated commercial activity is allowed in the Permit.

- (o) Vehicles. No trucks or other motor vehicles are allowed at the Park except in designated parking lots or except those conveying specialized equipment for the Event and allowed in the Permit.
- (p) Lights. No strobe lights, or flashing lights are allowed. All lighting shall be directed at the Event and to the extent practical away from areas where the activity is not occurring. Portable or vehicle mounted generators are not allowed unless shielded from view and hearing by appropriate means approved by the City Manager.

XIV. REVOCATION OF USE

In addition to the penalties provided by Ordinance, a Permit may be revoked in writing at any time by the City Manager if it is determined that the holding of the Event authorized by the permit is no longer in the best interest of the public health, safety and welfare, or there has been a misrepresentation in the application or any material misstatement by the Applicant, or there has been a failure to follow this Policy, or other City ordinance, State law, or any condition attached to a Permit. The Applicant or Permit Holder whose Permit is revoked by the City Manager may appeal to the City Commission within three (3) days. All activities under the permit will be suspended pending such appeal. Anyone acting pursuant to a permit that has been revoked or suspended shall be deemed to be trespassing, may be removed by City Police, and may, at the discretion of the City Manager, be charged with criminal trespass. In the event that a Permit has been revoked pursuant to the provisions of this section, the Applicant or Permit Holder shall be not be granted a Permit under this policy for two years following the date of revocation.

I hereby certify that the above Policy was adopted by the City Commission on March 16, 1998, and was amended in its entirety, at a regular meeting of the City Commission on March 17, 2008, at a regular meeting of the City Commission by a vote of Yes: 6 No: 0 at the Commission Chambers, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan.



Debra A. Curtiss, City Clerk