

CITY OF LEWISTON PARK USE POLICY

Application must be signed and returned no later than thirty (30) business days prior to the date of the event and a \$50 non-refundable application processing fee must accompany the application. This fee will not be waived.

This Policy is designed to govern the use of City-owned parks and playgrounds (herein referred to as “parks”) by individuals, groups, and/or organizations that are not directly associated with the City of Lewiston (i.e., not employees or offices or departments of the City of Lewiston.) Parks and playgrounds are defined by the City Code of Ordinances. All references to parks and playgrounds within this policy shall mean the City owned parks described in Section 2.

The following rules and regulations have been adopted with the intent to better serve those who have occasion to use the facilities while protecting the public's interest.

Section 1 - Definition of Park Use

The City, by this policy, designates the following parks as public use parks, subject to the regulations, restrictions and other requirements that are established. All parks are subject to the other policies and ordinances that have been, or may in the future, be adopted to govern those specific locations, including the following sections of the City Code of Ordinances:

Chapter 14 of the City Code of Ordinance regarding Animals
Chapter 54 of the City Code of Ordinances regarding Public Park usage

Section 2 – Purpose, Waivers, Exemptions

Purpose. The purpose of this section is to provide a listing of city parks subject to this policy. All activities requiring city permits or the approval of City Administration or the City Council must comply with the park application and use conditions outlined in this policy.

Exemptions. All activities, programs or events hosted by any Department of the City of Lewiston are exempt from those conditions and regulations outlined in this policy.

Covered Parks. The Parks covered by this policy include the following:

Judge Armand A. Dufresne, Jr. Plaza	Simard-Payne Police Memorial Park
Kennedy Park	Veterans Memorial Park

Section 3 - Application Process

Any individual and/or organization that desires to conduct or sponsor a public assembly or other event at a City-owned park in which it could reasonably be anticipated that fifty (50) or more persons might gather or participate, or that will involve the creation or emission of amplified sound, shall first apply for and obtain a permit. Applications for a permit, with an application fee in the amount of \$50.00 non-refundable to defray the costs of processing the application, shall be submitted to the City Administrator or designee at least thirty (30) calendar

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days before the planned event date.

The application shall state:

- A. The name and address of the applicant;
- B. The name and address of the person, corporation or association sponsoring and/or conducting the activity;
- C. The day and hours for which the permit is desired;
- D. The park for which a permit is desired;
- E. An estimate of the anticipated attendance or patronage;
- F. The nature and scope of the proposed use; and
- G. Any other information that the City Administrator finds reasonably necessary to a determination of whether a permit should be issued under this policy.

All applications for the use of a park shall be returned to the City Administrator for review. The City Administrator shall within five (5) business days of receipt of a completed application either:

- A. Approve it;
- B. Conditionally approve it.
- C. Disapprove it; or
- D. Refer it to the Facilities Use Review Committee for further review.

The City Administrator shall then notify an applicant of the disposition of the application. In the event that an application is denied or conditionally approved, the City Administrator shall state in writing the reasons for the denial or conditions.

Should the City Administrator conclude that an application requests a use which is appropriate for review by additional City officials, approval must be obtained from the Facilities Use Review Committee. All inquiries concerning the Parks should be directed to the attention of the City Administrator, City Hall, 27 Pine St., Lewiston, Maine 04240, Tel.: 513-3121.

Section 4 - Parks Use Review

A. Purpose and Organization

Since the parks are public facilities, the City of Lewiston is concerned that they be used in a manner consistent with the public interest. The City Administrator may forward an application to the Facilities Use Review Committee (herein referred to as Committee) for further review. The Committee shall be comprised of one or more of the following City staff members or their representatives.

- 1. City Clerk or designee
- 2. Police Chief or designee
- 3. Fire Chief or designee
- 4. Director of Public Works or designee

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5. City Administrator or designee

B. When Use Application Referred to Committee

Proposed uses for which the City Administrator may require approval by the Committee include, but are not limited to:

1. Entertainment events (i.e. concerts, live performances, circuses);
2. Events which require a state or municipal license or permit;
3. Events which impose age restrictions for admission;
4. Events to which the general public is invited;
5. Events or organizations which request free use of the facility;
6. Events for which an admission price will be charged;
7. Events organized for commercial purposes.

C. Action on Application

If an application is forwarded to the Committee for approval, the Committee may, within five (5) business days, either approve, conditionally approve, or disapprove it. The Committee shall report its decision to the City Administrator who shall then inform the applicant. In the event that an application is denied or approved with conditions, the Committee and/or City Administrator shall state in writing the reasons for the denial or conditions.

Section 5 - Criteria for Approval of Use Applications

The Committee or the City Administrator may deny the application if they find:

- A. The proposed event or activity would present an unreasonable danger to the health or safety of the applicant, or other users of the park, City employees or the public.
- B. Adequate parking facilities do not exist and are not available to accommodate the proposed event or activity in the park, based upon recognized standards for provision of adequate parking facilities;
- C. Adequate sanitary facilities do not exist and are not available to accommodate the proposed event, based upon recognized standards for provision of sanitary facilities;
- D. The event or activity shall cause damage from destruction or overuse of the grounds, equipment, vegetation, buildings, fences or other amenities in the park;
- E. The proposed event or activity would unreasonably disturb persons who occupy land which is adjacent to such park;
- F. The park has been reserved for other use at the day and hour required in the application.
- G. The applicant or the person on whose behalf the application is made has on prior occasions made material misrepresentations regarding the nature or scope of an event or activity previously permitted or has violated the terms or conditions of prior permits issued to or on behalf of the applicant.
- H. The application for permit, including any attachments and submissions, is not fully completed and executed.
- I. The applicant has not tendered the required application fee, or the required user fee,

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indemnification agreement, insurance certificate, or security deposit within the times prescribed by the City Administrator.

- J. The application contains a material falsehood or misrepresentation.
- K. The applicant is legally incompetent to contract or to sue or be sued.
- L. The applicant or the person on whose behalf the application for permit was made has on prior occasions damaged City property and has not paid in full for such damage, or has other outstanding and unpaid debts to the City.
- M. The use or activity intended by the applicant would conflict with programs organized and conducted by the City and scheduled for the same time and place.
- N. The proposed use or activity is prohibited by or inconsistent with the classifications and uses of the park designated pursuant to law, City ordinance, or City regulations.
- O. The applicant has not complied or cannot comply with applicable licensure requirements, ordinances or regulations of the City concerning the sale or offering for sale of any goods or services.
- P. The use or activity intended by the applicant is prohibited by law, by this policy or City ordinance, or by other regulations of the City.

Section 6 - Conditional Approval

A. Large Groups and Special Activities

The following conditions shall be imposed upon the issuance of a permit for events involving large groups (100 or more people) or groups with special activities (e.g. inflatables, tents, special equipment):

- 1. A requirement that the permittee pay in advance an estimate of all City costs that result directly from the permittee's use, event or activity under the permit, and that the permittee reimburse the City for any such costs which exceed the estimate.
- 2. A requirement that the permittee either provide an insurance policy naming the City of Lewiston as an additional insured, or a security deposit or performance bond, to cover damages that may result from permittee's use, event or activity.

Permittees will be required to sign a Fee Agreement which sets forth all conditions, prior to final approval.

B. Capital Costs for Judge Armand A. Dufresne, Jr. Plaza and Simard-Payne Police Memorial Park

The City has ongoing capital costs and indebtedness arising from construction of Judge Armand A. Dufresne, Jr. Plaza, and Simard-Payne Police Memorial Park. In order to meet these costs, permits for use of these parks shall be conditioned upon payment of a daily fee in the following amount:

Judge Armand A. Dufresne, Jr. Plaza	\$ 150.00
Simard-Payne Police Memorial Park	\$ 150.00

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LA Arts shall be exempt from this fee for any approved use of Judge Armand A. Dufresne, Jr. Plaza by LA Arts, due to the contributions that LA Arts has already made toward the capital costs of constructing the Plaza.

Nonprofit organizations based in Lewiston shall be entitled to an 50% discount on the above fee for up to five days per year per organization.

Section 7 – Permittee Privileges and Responsibilities

- A. No person shall camp or maintain a campsite, tent or mobile recreational vehicle, whether self-propelled or not, or camp on any street or property owned, leased, maintained or controlled by the city unless specifically approved by the City Administrator. Such property shall include but not be limited to city streets, parks or municipal lots.
- B. No person shall post or affix any placard, bill notice or other paper upon any structure, fence or enclosure in any public park, pleasure driveway or boulevard.
- C. Any physical alteration of any building, structure, facility, or appurtenance thereof, without the prior written approval of the City is prohibited.
- D. The permittee agrees to abide by City Ordinances that apply to noise, malicious activity, crowd control, individual and group behavior.
- E. The permittee must comply with all applicable City, County, State, and Federal laws and regulations.
 - 1. If the permittee plans to handle food of any kind for any reason when utilizing the facilities, it is its responsibility to contact the Lewiston City Clerk's Office at City Hall to obtain the proper permit(s). This permit must be displayed in a prominent place in the facility during the event or program.
 - 2. The permittee shall be responsible for all other licenses, permits, and/or approvals required by the State of Maine and the City of Lewiston. Failure to obtain said licenses and permits shall be cause for cancellation of the event or program and withholding of any deposits or fees collected by the City of Lewiston.
- F. The permittee agrees not to use the premises, or allow the premises to be used for any illegal, immoral, or improper purposes.

Section 8 - City Requirements and Responsibilities

- A. Tentative holds on dates will be allowed for only a period of seven (7) calendar days. After this period has expired, the tentative hold may be canceled at any time.
- B. Any security deposits shall be returned to the permittee within 15 working days of verification that no damage has occurred to the facility or furnishings and that required clean up was completed.
- C. Permittee may cancel this agreement and receive a full refund of charges and security deposit if cancellation is provided to the City Administrator at least 3

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weeks prior to the scheduled event.

- D. The City Administrator shall inform City Clerk's Office, Code Enforcement, the Police Chief and the Fire Chief of all major scheduled events in writing following the signing of a contract.
- E. It shall be the responsibility of the Chief of Police, in cooperation with the City Administrator to determine how many police officers and what, if any, additional private security will be required for the scheduled event. Certain events will require the services of a representative of the Fire Marshall's Office. The determination shall be made by the person or persons acting on the application, and the fee for this service shall be the responsibility of the permittee.
- F. Similar type competitive events will not be allowed within seven (7) days of an approved event. The decision as to whether or not an event is considered to be a competitive event shall be made by the City Administrator.
- G. Park use permits are not transferable and are revocable and may be revoked at the discretion of a City of Lewiston representative with 24 hours notice, or without notice if the safety and health of the public is threatened, notwithstanding any other terms or conditions of the permit to the contrary.
- H. No person, group, or association shall be excluded from use of a City facility because of race, color, creed, or national origin. No organization which discriminates on the basis of race, color, creed, or national origin shall be authorized use of any City facility.

Section 9 - Liability

- A. The permittee shall be liable for any damages to the park or to any contents owned by the City during the period of use, whether such damage is caused by permittee or its agents, servants or employees, or by any invitees, permittees, or trespassers.
- B. The City of Lewiston shall not be liable for any damage or loss to any property of the permittee or any other person from any cause whatsoever while said property is located on the premises for storage purposes or for any other purpose, nor shall the City be liable for any injuries resulting from the use of the park.
- C. The permittee agrees to defend, indemnify, and hold harmless the City of Lewiston, its departments and their representatives, officers, agents or employees from and against all claims of any nature whatsoever for damages, including damages or loss to personal property, personal injuries and death resulting there from the use of the park in connection with the event for which the permit is granted. However, nothing contained herein shall be construed as rendering the permittee liable for acts of the City of Lewiston, its departments, or their agents or employees.
- D. When a permittee provides a certificate of insurance pursuant to Section 6(A) of this policy, the permittee shall provide comprehensive general liability insurance with minimum limits of liability for bodily injury in the amount of \$1,000,000 for each occurrence and minimum limits of liability for property damage in the amount of \$1,000,000 for each occurrence. The City shall be named insured additionally under the policy. Additional coverage may be requested when deemed necessary due to the risks posed by the permitted activity.

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Section 10 - General Use

Upon completion of the activity, the park and adjacent area must be clear, orderly, and free of any obstruction or litter. The park must be left in the same condition it was when the permittee took occupancy. Area must be clear of all chairs, tables, booths, decorations, debris, etc., according to a schedule set by the City Administrator. If additional personnel are needed to clean up after an event, in order to prepare the park for the next day's use, the permittee will be responsible for the extra cost involved.

Section 11 - Appeals

Any applicant who is aggrieved by the denial of an application or by conditions imposed on approval of an application may appeal to the City Administrator by written request filed with the Office of the City Administrator within five (5) days from the receipt of the decision of the City Administrator or the Committee. The City Administrator shall designate himself or any agent or employee to act as a hearing officer in the appeal. The hearing officer shall provide the applicant the opportunity to be heard regarding the denial or conditional approval of the application. The hearing officer shall issue a written decision within five (5) days of the close of the hearing,

Any person who is aggrieved by the decision of a hearing officer may appeal to superior court, pursuant to the provisions of Rule 80B of the Maine Rules of Civil Procedure.

Section 12 - Copyright

Permittee assumes full responsibility for any copyright infringements, charges, or royalties that may occur on account of activities at the facility pursuant to this Agreement. Permittee warrants that all copyrighted material to be performed has been duly licensed or authorized by the copyright owners or their legal representatives and agrees to indemnify and hold the city harmless from any and all claims, losses or expenses incurred with regard thereto, including legal fees. Permittee, upon request, shall provide the City with written proof prior to the start time of rental that all copyright provisions and laws have been satisfied by permittee or some other party. The City reserves the rights to contact owners of copyrights to inform them of the impending event and to inquire whether appropriate copyright(s) fees have been paid. If these fees have not been paid and the City is informed of a claim which could or will result from the event contemplated by permittee in this Agreement, then the City or the City Contractor shall have the right to withhold from the box office receipts a sum of money sufficient to satisfy any such claims and shall have the right to pay such amount to the holder(s) of the copyright(s).

Section 13 - Veteran's Memorial Park

Effective July 6, 2010, the City shall not permit any vendors, entertainment or commercial activity in Veteran's Memorial Park.

Section 14 - No Smoking

There shall be no smoking permitted at The Mark W. Paradis Park.