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125TH MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

**Legislative Council Policy on the
Use of Capitol Park
Augusta, Maine**

1. Authority

Pursuant to 3 MRSA §162, Capitol Park is State-owned land that is under the jurisdiction of the Maine Legislative Council, Maine Legislature. The Maine Legislative Council ("Legislative Council") is authorized to establish and enforce standards and guidelines that govern all uses of Capitol Park. Pursuant to this authority and as provided in section 5 below, the Legislative Council designates the Chief of the Bureau of the Capitol Police as the Legislative Council's agent for issuing activity permits, and enforcing the standards and guidelines established for Capitol Park by authority delegated to the Chief of Capitol Police by the Commissioner of Public Safety.

2. Location

Capitol Park is located within the municipality of Augusta, immediately east of the Maine State House Grounds. It is bordered on the west by State Street, on the north by Capitol Street, on the south by Union Street and on the east by the Kennebec River. A State-owned road, so-called Gage Street Extension, and a railroad right-of-way cross a portion of the east end of the park. Several residences are in close proximity to the park.

3. Park purpose

Capitol Park was designed to enhance the State House Grounds, and the City of Augusta as Maine's Capital. Capitol Park ("the park") is established and maintained for the passive use and enjoyment of the natural environment and as an area of reflection by residents of the State and visitors. In keeping with its pastoral setting, Capitol Park is intended for non-intensive, non-commercial and non-exclusive use by individuals and groups.

4. Standards and guidelines established

The Maine Legislative Council establishes these standards and guidelines in order to promote the general purposes and the peaceful use of Capitol Park and to protect the public health, safety and welfare.

5. Administration and enforcement

- a. The Legislative Council authorizes and directs the Chief of the Bureau of Capitol Police to enforce the standards and guidelines contained in this policy, and to adopt such measures as may be necessary to enforce them. The Chief of Capitol Police shall not issue an activity permit or take any action that is inconsistent with these standards and guidelines. The Chief of Capitol Police shall deliver a copy of all activity permits issued or denied immediately upon their issuance or denial to the Executive Director of the Legislative Council.
- b. An Activity Permit is required for activities occurring in the park as provided in this policy. Such permit may establish reasonable conditions and limitations of use, including without limitation, period of use, activities permitted, maximum occupancy, use of sanitation facilities, limitations based on weather or condition of park grounds, and designation of areas where activity is permitted or prohibited.
- c. The Activity Permit holder is liable for any damage to the park that is attributable to the permit holder's use of the park or violation of the terms and conditions of any Activity Permit.
- d. An application for an Activity Permit may be turned down if:
 - i. The proposed use would conflict with other permitted uses or be inconsistent with purposes or authorized uses of the park;
 - ii. The applicant has egregiously or repeatedly violated the standards and guidelines for the park within the prior 24 months, failed to make restoration of any previous damage to the park or fails to meet all applicable permit application requirements; or
 - iii. The application is filed less than three (3) work days prior to the start of the proposed activity even if it would otherwise be in compliance with the standards and guidelines.
- e. The Chief of Capitol Police is authorized to issue and enforce criminal trespass orders to enforce the standards and guidelines established under this policy and activity permits issued pursuant to this policy.

6. Activity permit

- a. A person seeking a use of the park that requires a permit must apply for an Activity Permit by filing an application and supporting information, and applicable park use fee. The application must state with specificity the legal name and address of the person or

organization conducting, sponsoring or affiliated with the activity, contact information, anticipated attendance, the activity for which approval is sought and the date and time of the activity.

- b. The application form must be the form approved for use by the Legislative Council.
- c. An applicant must provide evidence of liability insurance if required under section 8 of this policy.
- d. An Activity Permit is non-transferrable and is valid only for the approved uses, dates and times.

7. Park use fee and security deposit

- a. An applicant shall be required to tender a refundable security deposit of \$250 for every 500 participants after the first 200. However, the total amount of the deposit required may not exceed \$2,000. The security deposit shall be released within 3 work days following the permitted activity provided that the deposit is not needed to repair any damage, clean up the park or correct any noncompliance that arises directly or indirectly from the activity.
- b. An applicant shall pay a nonrefundable park use fee as follows. If a use is applicable to more than one category of fee, the larger fee applies. Fees are not cumulative.
 - i. Use that includes placement or use of a tent or other structure: \$50
 - ii. Use that includes placement or use of 2 or more tents or other structures: \$100
 - iii. Use where the anticipated or actual number of participants is between 100 and 200: \$50
 - iv. Use where the anticipated or actual number of participants is between 201 and 1,000: \$100
 - v. Use where the anticipated or actual number of participants is between 1,001 and 2,500: \$200
 - vi. Use where the anticipated or actual number of participants is between 2,501 and 4,000; \$400
 - vii. Use where the anticipated or actual number of participants more than 4,000; \$500
 - viii. For all other activities: \$0.
- c. The fee or security deposit may be reduced or waived only upon written petition and a clear and convincing demonstration of financial hardship by the applicant for a permit such that the applicant is unable to pay all or a portion of the fee or deposit. That an applicant is a nonprofit organization or unit of government does not constitute a "financial hardship." No fee or deposit may be required for park use by the Legislative Council.

8. Liability insurance requirement

An applicant shall be required to file a Certificate of Liability Insurance naming the State of Maine as Insured that provides general liability insurance in an amount commensurate with the proposed activities but not less than \$100,000 general aggregate, when such activities include use of energy such as electricity or propane, sale of food, an animal show or competition, or is otherwise required by the State of Maine's insurance policies.

9. Sanitation Facilities

For any activity involving more than 50 but less than 100 people and having a scheduled duration of more than four (4) hours or for an activity involving 100 or more people and having a scheduled duration of more than two (2) hours, the Activity Permit holder must arrange for, at his or her own expense, portable toilets or similar sanitation stations, in a quantity sufficient to accommodate the number of participants, to be on-site at an authorized location for the duration of the event.

10. Park hours

The customary hours when the park is open to the public are from ½ hour after sunrise to ½ hour after sunset, local time. However, the Legislative Council or its designee may close all or portions of the park at any time without prior notice for reasons of safety, weather, park conditions or maintenance.

11. Allowed activities without a permit

- a. The following activities are allowed without an Activity Permit issued by the Legislative Council or its designee:
 - i. Walking, sitting and noncompetitive running or jogging;
 - ii. Photography, bird watching and nature walking;
 - iii. Reading, talking, singing, individual and family picnicking and sunbathing;
 - iv. Dog walking provided the dog is on a leash and under the direct control of the person possessing the dog at all times;
 - v. Bicycling, if the bicycle is equipped with on-road tires;
 - vi. Holding a picnic or birthday party or providing a meal to a group where the reasonably anticipated attendance is 25 or fewer individuals; and
 - vii. Gathering in the park for lunch or other similar purpose of brief duration that is part of a pre-arranged tour of the Capitol or the Maine State Museum by an organized Maine school group of elementary, middle or high school youth.
- b. The following activities are allowed upon issuance of an Activity Permit:
 - i. Making any public speech or holding any rally or protest;

- ii. Parade or march;
- iii. Concert;
- iv. Distribution of any printed matter as provided herein, or the carrying of signs or bill boards. When permitted, distribution of printer matter may be confined to one or more entrances to Capitol Park;
- v. Holding a picnic or birthday party or providing a meal to a group where the reasonably anticipated attendance is more than 25 individuals;
- vi. operation of a propane grill or other food preparation equipment;
- vii. Performing a wedding ceremony or memorial service, holding a dedication, holding an awards or any other similar service or ceremony, or holding a wedding or similar reception, whether or not catered;
- viii. Holding an animal show involving 25 or fewer animals;
- ix. Erection or placement of tents, canopies or other similar structures, tables, chairs, platforms or podiums;
- x. Operation of a sound amplification system. For the purposes of this policy, a megaphone is not considered sound amplification equipment; and
- xi. Any group gathering of more than 25 individuals for whatever reason.

12. Prohibitions

The following are prohibited:

a. Activities

- i. Overnight use, or habitation on a temporary or permanent basis;
- ii. Fires or other open flames, including charcoal grills
- iii. Organized sporting events, scrimmages, or team training;
- iv. Ball playing or ball games except that informal, noncompetitive individual or family ball tossing that is not disruptive of others is allowed;
- v. Golfing or hitting golf balls;
- vi. Kite-flying except in designated open areas in the park, or balloon release;
- vii. Operation of gas-powered model aircraft
- viii. Races, human or animal;
- ix. Animal shows or competitions involving more than 25 animals;
- x. Placement of political campaign signs or banners;
- xi. Commercial activities, including offering or solicitation of goods or services, except that the sale of beverages and food items that is ancillary to and occurs in conjunction with an authorized on-site festival sponsored by the city of Augusta or the Legislative Council may be permitted by special exception.
- xii. Climbing, standing or laying on or affixing objects to any monument, gate, fence, bench, table or tree
- xiii. Digging or other disturbance of soil or sod
- xiv. Skateboarding, roller blading or roller skating

xv. Construction of monuments or memorials

b. Behaviors

- i. Defacing or destroying any natural feature or built structure in the park;
- ii. Accosting any person or interfering with another person's use or enjoyment of the park;
- iii. Public indecency;
- iv. Panhandling or begging;
- v. Physical or verbal abuse of others;
- vi. Noise-making, including drumbeating or use of horns that is disruptive to another person's use or enjoyment of the park or to area residents;
- vii. Urinating or defecating except within authorized sanitation stations;
- viii. Allowing defecation by animals under a person's control except when the person immediately collects and properly disposes of the animal's feces. Notwithstanding the above, defecation is prohibited on any walking path.
- ix. Disturbing any bird's nest or eggs or damaging or removing any tree, bush, plant, flower or stone;
- x. Smoking except in clearly designated areas established by the Legislative Council;
- xi. Littering or breaking any bottle or other article of glass;
- xii. Entering or remaining in the park whenever the park is closed;
- xiii. Possession or consumption of alcoholic beverages;
- xiv. Possession or use of illegal drugs or substances;

c. Equipment and animals

- i. Possession or use of fireworks, firecrackers, sparklers or other explosive or incendiary devices;
- ii. Possession or use of paint guns, ammunition or weapons, including firearms, knives, swords or Tasers. Notwithstanding this prohibition, a bona fide military or law enforcement honor guard or military personnel in full dress uniform while participating in a formal military ceremony in the park may be permitted to carry weapons provided all firearms have been disabled and are incapable of being discharged. Furthermore an on-duty law enforcement officer is permitted to carry a weapon provided that the officer is in uniform with the officer's badge displayed or an officer who is in plainclothes so discloses possession of the weapon to the Chief of Capitol Police;
- iii. Possession or use of any combustible or compressed gas, except that bottled propane in an approved 100 pound or less container and used in connection with an outdoor grill may be allowed by permit; if a grill is permitted, the permit holder shall have one or more serviceable fire extinguishers on-site and in close proximity to the grill at all times.
- iv. Animals, except service dogs and dogs allowed under section 11B above;
- v. Motor vehicles, except for authorized service vehicles and equipment used for maintenance and improvement of the park, and if permitted, to transport

equipment into or out of the park. In no event, however, may such permitted vehicles travel on or cross any stone-dust path or alley;

- vi. Mechanical amusement rides;
- vii. Animal-driven wagons;
- viii. Electrical or fuel-powered heating or cooling equipment;
- ix. Electrical generators; and
- x. Cleated footwear

d. Other

Any other activities, behaviors, equipment or animals not otherwise specified herein if they may damage the park or pose a threat to public health or safety or enjoyment of the park by others.

13. Special Uses

Upon approval of the director of the Maine Historic Preservation Commission, the Legislative Council authorizes use of the park, subject to appropriate conditions, for historic re-enactments or commemorations of significant historical events related to Capitol Park, the State House, the State of Maine or the United States of America.

14. Modification

The Legislative Council reserves all rights to modify this policy at any time as it deems necessary or appropriate. Furthermore that Legislative Council grants authority to its Executive Director to authorize the Chief of Capitol Police to take an action that may be inconsistent with these standards and guidelines in an emergency or unusual circumstance provided that such action is in keeping with the intent of this policy and such action is limited to the duration of the emergency or unusual circumstance.

15. Effective Date

July 9, 2012

THIS POLICY IS ADOPTED BY THE MAINE LEGISLATIVE COUNCIL ON JUNE 28, 2012 AT AUGUSTA, MAINE.

BY: David E. Boulter

Executive Director of the Legislative Council