

CLERK FILE No. 301591

Clerk File No. 301591, City Light Department Policy and Procedure No. DPP 500 P III-132, Real Property Use Permits, Lease, Consents and Easements.

Filed September 10, 1996  
By Margaret Carter Deputy

**ACTION OF THE COUNCIL**

Referred	To
Referred	To
Referred	To
Reported	Disposition
Re-referred	To
Reported	Disposition

**REPORT OF COMMITTEE**

Honorable President:

Your

to which was referred the within \_\_\_\_\_  
would respectfully report that we have considered the same and respectfully recommend that

**Seattle  
City Light**

**Memorandum**



DATE: September 9, 1996  
TO: Legislative Department, Attention: City Clerk  
FROM: *Ginny Habib*  
Ginny Habib, Policies and Procedure Coordinator  
SUBJECT: Document Transmittal; Reference Ordinance 102228

FILED  
CITY OF SEATTLE  
96 SEP 10 AM 11:04  
CITY CLERK

The attached documents are hereby submitted for official filing, in compliance with Administrative Code Ordinance 102228. The documents, were published for public comment in the Daily Journal of Commerce. Affidavits of Publication are included.

Please file the document and attachments in your file #276591, City Light Department Policy and Procedure.

Gch

Attachments

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## City of Seattle City Light Department



### DEPARTMENT POLICY & PROCEDURE

**Subject**

REAL PROPERTY USE PERMITS, LEASES,  
CONSENTS AND EASEMENTS

**Number**

DPP 500 P III-132

**Effective**

SEP 11 1996

**Supersedes**

3/2/84

**Approved**

Page 1 of 4

**1.0 PURPOSE**

To provide guidelines for incidental use of real property and real property rights under the jurisdictional control of the Department.

**1.1**

Pole attachments and use of vaults, ducts or other electrical facilities by others are guided by other Department Policies and Procedures (DPP) and are excluded from this DPP.

**2.0 ORGANIZATION AFFECTED**

**2.1 The City Light Department**

**3.0 REFERENCES**

**3.1 Real Property Use Guidelines.**

**3.2 State Accountancy Act (RCW 43.09.210).**

**3.3 State Authorization to Cities to Operate Electric Utilities (RCW 35.92.050).**

**3.4 Lending of Credit Clause (Washington State Constitution, Art. VIII, Sec. 7).**

**3.5 RCW 35.92.050 and RCW 35.94.040.**

**3.6 Department Policy and Procedure 500 P III-130, Renting Department Property for Private Gardens.**

**3.7 Washington State Electrical Construction Code (WAC Ch 296-44).**

**3.8 Seattle City Charter, Article IV, Section 14.4.**

**3.9 Department Policy and Procedure 500 P III-506, Maintenance of the Transmission Rights-of-Way.**

**3.10 Washington State Growth Management Act (RCW 36.70A. et seq.).**

**3.11 Federal Power Act as amended by the National Energy Policy Act of 1992 (16 U.S.C. 791 et seq. and 16 U.S.C. 824j).**

**3.12 Department Electric and Magnetic Fields (EMF) and Human Health Policy.**

**4.0 POLICY**

**4.1 The City has acquired and possesses real property and real property rights which are placed under the jurisdiction of the Department. The Department is responsible for managing and preserving the property under its jurisdiction to achieve its mission of providing reliable, safe, and low cost electric**

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**REAL PROPERTY USE PERMITS, LEASES,  
CONSENTS AND EASEMENTS  
DPP 500 P III-132**

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power in an environmentally sound manner to meet our customers needs now and in the future. The primary uses of such property include electrical generation, transmission, distribution, substation operation, communication and other operations related to the furnishing of electric power. Incidental uses may be permitted provided they do not interfere with the primary use of the property for Department purposes, do not create hazardous conditions or obstruct the operation and maintenance of the utility system or limit the Department's ability to serve its customers.

- 4.2 The Department may approve or deny requests for temporary permits, leases, consents and easements to others for incidental uses of its real property and/or Department-held easements according to Department Use Guidelines, dated \_\_\_\_\_, and any revision thereof. The granting of easements and leases must be authorized by the City Council pursuant to City Charter.
- 4.3 The Use Guidelines establish criteria under which incidental uses may be granted, including: the effect of the proposed use on the Department's present and future use of the property, including the Department's ability to meet regional utility requirements imposed by any regulatory agency, by law, or pursuant to contractual agreements with other utilities; expenses of maintenance and operation; risk of liability from claims and damages arising from personal injury or property damage, including claims related to alleged or perceived health effects of EMF; diminishment of the value of the property or its usefulness to the Department; and the difficulty of removing incidental uses once established.
- 4.4 Incompatible uses, as shown in the Use Guidelines, shall be denied outright by the Real Estate Services Manager.
- 4.5 The Use Guidelines are not intended to override these policy considerations; in the event the Use Guidelines conflict with the DPP, the DPP shall prevail.
- 4.6 The Use Guidelines will be reviewed and, if necessary, revised on an annual basis.
- 4.7 Real Estate Services Unit, Facilities Management Division, shall establish rental rates.

**4.7.1**

Rental rates for permits and leases shall be established at the fair market value of the property pursuant to RCW 43.09.210 (State Accountancy Act), reviewed annually, and revised if warranted.

**4.7.2**

The minimum rate charge shall be set at an amount sufficient to recover the cost of administering the permit. The minimum rate shall be reviewed every two years and may be revised to reflect changing costs.

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Rental rates for low-income gardening permits shall be governed by DPP 500 P III-130.

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Rental rates may, at the discretion of the Department, be waived or reduced by an amount equal to the measurable and reasonable value of any bona fide benefits which accrue to the Department. To offset rent the use must provide a true and substantive benefit to the Department and be related to its utility operations, as opposed to a general public benefit.

**4.7.5**

The Department will charge an additional fee or impose additional requirements related to increased maintenance costs and/or liability, as described in 4.3 and 5.5, which result from the incidental use.

- 4.8 The amount charged for easements granted on the Department's property shall be based on the fair market value of the property right(s) being granted pursuant to RCW 43.09.210. Payment for easements may, at the discretion of the Department, be waived or reduced by an amount equal to the fair market value of any real and substantive benefits which accrue to the Department as discussed in §4.7.4.
- 4.9 Administrative fees for permits, leases, and easements shall be established by the Superintendent or designee. These fees may be waived or reduced when the use would be a real and substantive benefit to the Department or when the Department initiates the action.
- 4.10 Insurance will be required on any permit, lease, consent, and/or easement, if the use presents a risk of increased or additional liability to the Department or the City.

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**REAL PROPERTY USE PERMITS, LEASES,  
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DPP 500 P III-132**

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**5.0 DEFINITIONS**

- 5.1 Department. The Seattle City Light Department.
- 5.2 City. The City of Seattle.
- 5.3 Superintendent. The Superintendent of the City Light Department.
- 5.4 Real Estate Services Manager. The Manager of the Real Estate Services Unit of the Facilities Management Division of the City Light Department.
- 5.5 Easement. A property right on, over, and/or under land or water which the City of Seattle has been granted for utility purposes by another party and held under the jurisdiction of the Department.
- 5.6 Easement Granted. A property right on, over, and/or under its fee property, which the City of Seattle grants to another person and/or entity, upon recommendation of the Department and authorization by the City Council.
- 5.7 Increased Maintenance and Liability Costs. These are costs that the Department would not have incurred but for the presence of the incidental use. These include, but are not limited to, increased costs of maintenance and operation, increased costs of future development of the utility system, increased risk of liability resulting from the incidental use, increased administrative costs, and the costs of removing the incidental use.
- 5.8 Incidental Uses. These are uses by others of the Department's real property or easements, which are non-utility uses and for which the Department may grant, at its discretion, temporary permits or may consent to such uses, or, if a long term use, the City Council may authorize upon recommendation by the Department, provided that such uses are consistent with this policy and the Department's Use Guidelines.
- 5.9 Unacceptable Use. A use that is incompatible with the Department's existing and future use of its property and easements.
- 5.10 Use Guidelines. The Department's Real Property Use Guidelines administered by the Real Estate Services Unit.
- 5.11 Low-Income Permit. A permit which is granted to a low-income person as defined in DPP 500 P III-130.

**6.0 RESPONSIBILITIES**

- 6.1 The Real Estate Services Manager shall be responsible for:
- 6.1.1 Managing incidental uses of the Department's property and easements;
- 6.1.2 Granting and signing permits and consents outright, and leases and easements on behalf of the Superintendent upon authorization by the City Council;
- 6.1.3 Enforcing terms and conditions of permits, leases, consents and easements;
- 6.1.4 Keeping the Superintendent apprised, via the Deputy Superintendent of Finance and Administration, of situations where problems may occur and making recommendations for appropriate action;
- 6.1.5 Initiating the necessary legislation, as required by the City Charter, prior to executing easements and leases for use of Department property; and
- 6.1.6 Reviewing and revising, if necessary, this DPP in January of each year.
- 6.2 The appropriate Departmental divisions shall review the applications for incidental use and determine whether or not the use presents increased maintenance costs and risk of liability, and is compatible with the State Electrical Code, applicable state and federal law, FERC regulations and orders, and other applicable statutes, ordinances and regulations, the Property Use Guidelines, the Department's maintenance and operational requirements, and all future Departmental uses.
- 6.3 The Environment and Safety Division Director or representative shall review applications for commercial or industrial uses, except those for access only across Department property, to determine whether the proposed use presents a potentially significant environmental impact.

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- 6.4 The South Electric Services, North Electric Services, and Power Stations Divisions and the Skagit Project shall report any unauthorized use of or encroachments on the Department's transmission and/or distribution line rights-of-way or substation properties to the Real Estate Services Unit. The Real Estate Services Unit shall take appropriate steps, which may involve assistance from other divisions, to remove the use.

**7.0 PROCEDURES**

- 7.1 Applicants for permits, leases, consents, and easements shall submit the appropriate application and administrative fee to the Real Estate Services Manager.

7.1.1 Administrative fees for applications shall be charged pursuant to DPP 500 P III-132, Schedule 100 (§8.2).

7.1.2 The Real Estate Services Manager may waive application fees pursuant to 4.9 of this DPP.

- 7.2 Requests for permits, leases, consents, or easements shall be reviewed by the Real Estate Services Unit and approved or denied, based on consistency with this policy and the Use Guidelines, and the consent or approval of the Department's Engineering Services Division and other divisions having any operational responsibility for the property affected.

- 7.3 All easements, leases, and memorandums of lease, taken or granted, shall be recorded in the appropriate county.

**8.0 APPENDIX**

- 8.1 Distribution: All Department Policy and Procedure Manuals.
- 8.2 Schedule 100: Administrative Fees for Use Permits, Leases, Consents, and Easements.
- 8.3 Real Property Use Guidelines. Establishes criteria for possible incidental uses and specifies unacceptable uses of Department real property and easements

**CERTIFICATION**

I do hereby certify that the attached Department Policy and Procedure is a true and accurate copy of the original instrument as it is on file at the Department.

*[Signature]*

Date: 9/9/96

City Light Department

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**City of Seattle  
City Light Department**



**DEPARTMENT POLICY & PROCEDURE**

**Subject**

**ADMINISTRATIVE FEES FOR USE PERMITS,  
LEASES, CONSENTS, AND EASEMENTS**

**Number**

**DPP 500 P III-132, SCHEDULE 100**

**Effective**

**SEP 1 1 1996**

**Supersedes**

**3/2/84**

**Approved**

**Page 1 of 1**

**1.0 POLICY**

The Department may charge administrative fees for processing each application for easement, permit, or lease established by DPP 500 P III-132. If the use is denied by the Department, the fees shall be returned to the applicant.

**2.0 SCHEDULE**

**2.1 Permit and Lease Applications**

**2.1.1 Residential (including Grazing and Gardening) . . . . \$50.00**

**2.1.2 Commercial/Industrial . . . . \$100.00**

**2.2 Easement Applications . . . . \$100.00**

**2.3 Consent Applications . . . . No fee**

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### APPENDIX 8.3

City of Seattle  
City Light Department

#### REAL PROPERTY USE GUIDELINES

These guidelines set forth criteria to be considered when reviewing requests for incidental uses of City of Seattle real property and real property rights under the jurisdiction of the City Light Department.

The apparent satisfaction of criteria within these guidelines does not imply the Department's consent to or authorization of a particular use. Review and approval are required before a use permit, consent, easement or lease is issued. As provided by Charter, authorization by the City Council is required for the granting of easements and leases of City property.

#### Definitions for the purposes of these guidelines:

An *Easement* is a property right on, over, and/or under land or water, which the City of Seattle has been granted by another party for utility purposes, and which is placed under the jurisdiction of the City Light Department.

An *Easement Granted* is a property right on, over, and/or under its fee property, which the City of Seattle grants to another party upon recommendation of the Department and upon authorization by ordinance.

*Fee Property* is property acquired and owned by the City of Seattle under jurisdiction of the Department for utility purposes.

An *Incidental Use* is a use by others of the Department's fee and/or easement property and is more specifically defined in the Department DPP 500 P III-132.

An *Unacceptable Use* is a use that is incompatible with City Light's use of its property and property rights. Real Estate Services will deny the application without further review.

#### I. Criteria for acceptance of an incidental use:

##### A. Existing and Future Departmental Uses/Needs.

1. If the use will not interfere with existing and future uses/needs of the Department and meets all other criteria, approval may be given subject to the Department's requirements.
2. If the use will *potentially* interfere with existing and future utility uses, the application will be denied, unless the following conditions are met to the Department and its legal staff's satisfaction:
  - a. The Department will retain its right to cancel upon notice;
  - b. The total cost to remove or relocate an incidental use will be borne by the user;

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- c. If a public use is not electric utility related, user will pay all costs to remove and/or relocate public improvements in the event the property is required for utility operations;
  - d. Increased operation and maintenance costs to the Department, related to the use, will be borne entirely by the user;
  - e. The user will provide adequate assurance of payment of all potential costs resulting from the presence of the use, including costs to remove, increased operation and maintenance costs, mitigation costs, and increased risk of liability in the form of liability insurance, security deposits, or other assurance of payment.
3. The use will not interfere with the present or future use of transmission line rights-of-way, and related facilities, as regional utility corridors as may be required pursuant to Federal Energy Regulatory Commission orders issued under the Federal Power Act (codified as 16 USC 824j) and other applicable regulations, and pursuant to the City's contractual agreements with other utilities.

**B. Costs.**

- 1. The cost to construct, operate and maintain improvements for an incidental use will be at the sole expense of the user.
- 2. The user will pay all costs related to the incidental use, including, but are not limited to:
  - a. Vegetation maintenance,
  - b. Litter removal,
  - c. Security,
  - d. Drainage control and increased drainage fees,
  - e. Insurance to cover property damage and personal injury, and all other liability,
  - f. Claims and lawsuits, including attorney's fees.
  - g. normal wear and tear caused by joint use of the Department's property for utility operations and maintenance related to the incidental use.
- 3. All costs to remodel, relocate or remove Department facilities to accommodate the incidental use, (done at the Department's discretion) will be at the sole expense of the user; this includes all acquisition costs of new right of way if the use interferes with Department present or future needs and cannot be relocated.
- 4. Increased operational or maintenance costs to the Department, related to the incidental use, will be borne entirely by the user.
- 5. Cost to repair Department facilities damaged by the user or as a result of the normal wear and tear associated with the incidental use will be borne entirely by the user.
- 6. Indemnification for all damages, liability, expenses of litigation, including attorney's fees, will be borne entirely by the user.

**C. Liability.**

- 1. The Department will determine whether or not the proposed use will increase, or potentially increase, the risk of liability and whether the increased risk of liability is

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acceptable. The types of risk may include, but are not limited to, liability for any claim or suit for damages related to:

- a. Personal injury or property damages arising from accidents of any kind;
  - b. Claims based on alleged or perceived health effects of electric and magnetic fields (EMF) on the user or the user's invitees;
  - c. Damage to users' improvements from normal utility operations, maintenance, construction and repair;
  - d. Environmental damages and regulatory fines or penalties arising from or relating to the incidental use.
2. Uses that present unacceptable levels of increased risk of liability will not be approved.
  3. If an incidental use is granted or accepted, the Department, as a condition of the granting or acceptance, will require provisions as may be appropriate to reduce, as much as possible, the increased risk of liability to the Department. These include, but are not limited to:
    - a. Hold harmless, indemnification and release agreements covering any injury/damages due to the incidental use;
    - b. In light of the scientific uncertainty regarding EMF, an acknowledgement by the user of receipt of information on electric and magnetic fields (EMF). In addition, for short term uses, a statement that the user accepts the risk of any potential effects of EMF associated with the use will be required. A release of the City from any claims relating to EMF may be required for long term uses. In some cases, upon consultation with the Law Department or the City's Risk Manager, an indemnification may be required.

**D. Compliance.**

1. The use must comply with applicable
  - a. Electrical safety codes;
  - b. Environmental laws and regulations, such as preparation of EIS under the State Environmental Policy Act (SEPA);
  - c. Building and zoning codes;
  - d. Other applicable laws and regulations.

**E. Construction Standards.**

1. Any improvements constructed by or for the user must meet applicable construction standards as determined by the Department and by applicable code enforcement agencies.
2. The Department will set additional standards for improvements constructed by or for the user, which it deems necessary to reduce risk of damage to the user's improvements, to protect adjacent property owners and the Department's facilities from damage, to prevent interference with Department operations, and to limit its liability. These include, but are not limited to,

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- a. Surfacing that provides adequate support for Department vehicles and equipment,
- b. Drainage and surface water runoff control,
- c. Retaining walls,
- d. Other applicable engineering standards,
- e. Electrical codes and Department electrical standards,
- f. Height restrictions,
- g. Access for inspection, repair, construction, and maintenance. The Department will require the design of improvements, including but not limited to gates and roads, which allow access to Department vehicles, personnel and equipment.

**II. Unacceptable uses:**

<b>Awnings</b>	(See Buildings.)
<b>Auto Wrecking Yards</b>	Danger of flammable/explosive and hazardous materials and nongrounded metals.
<b>Barbecue Pits</b>	Smoke contaminates insulators.
<b>Baseball Diamonds</b>	Potential liability. Structures may violate state safety codes.
<b>Billboards</b>	(See Buildings.) City policy against billboards on fee properties. Large structures on any R/W present danger to lines and persons working on them.
<b>Blasting</b>	Risk of liability and damage to utility facilities and operations.
<b>Buildings</b>	Buildings are considered hazardous to utility facilities and may violate the applicable safety codes. Buildings are incompatible with the use of rights-of-way (R/W), create additional risk of liability and interfere with future utility use. This includes any portion of buildings encroaching into the R/W.
<b>Campsites</b>	Smoke contaminates insulators. Potential liability.
<b>Canopies/Carports</b>	(See Buildings.)
<b>Cemeteries</b>	Not removable on short notice, may interfere with placement of facilities and access of maintenance equipment.
<b>Dumps</b>	Prevents access to electrical facilities. Potential risk of liability and may violate environmental laws and regulations.
<b>Eaves, Building</b>	(See Buildings.)
<b>Explosive or Flammable Material Storage</b>	Potential danger to utility facilities. Fire hazard. Flames or hot air can cause flashovers. Smoke contaminates insulators. Risk of liability or violations of applicable laws or regulations.
<b>Flooding</b>	Risk of drowning. Prohibits access to, maintenance and inspection of utility facilities and may encumber property preventing future use. Diminishes usefulness and value of property.

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Gas Stations	Potential fire hazard or danger from explosion. (See Buildings.) No fuel storage tanks. No fuel loading areas. May be used as parking area, or landscaping, etc.
Greenhouses	(See Buildings.)
Hazardous Waste Disposal Sites	Risk of liability and interference with future use for electrical facilities.
Incinerators	Smoke contaminates insulators.
Junk Yards	Danger of flammable, explosive and hazardous waste materials, and nongrounded metals. Potential risk of liability and violations of environmental laws and regulations.
Kites	Dangerous in vicinity of overhead lines. Difficult to monitor in recreational areas.
Lakes	Risk of liability from drowning or other accidents. Prohibit access to, maintenance and inspection of utility facilities, and may encumber property preventing future utility use. Diminish usefulness and value of utility property.
Mobile Homes	(See Buildings.)
Model Airplanes	Dangerous in vicinity of overhead lines. Difficult to monitor in recreational areas.
Motorbike Trails	Cause erosion. Risk of liability. Nuisance to neighbors.
Play Equipment	Considered a structure. Risk of liability.
Ponds (all types)	(See Lakes.)
Porches	(See Buildings.)
Pump Islands	High risk. Includes immediate area around island where vehicles are parked for filling and where loading vehicles park.
Reservoirs	(See Lakes.)
Rifles Ranges	Public Safety. Potential risk of liability.
Service Stations	(See Gas Stations.)
Sheds	For the purpose of these guidelines, a shed is defined as a small building not requiring a building permit (less than 120 square feet) as measured on the roof. Not allowed on fee owned R/W. Sheds will be considered on easements on a case-by-case basis depending upon easement language. Storage of

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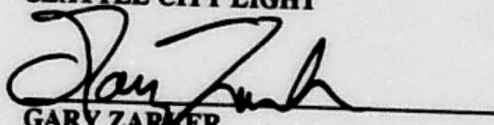
flammable/explosive/ corrosive materials prohibited. Metal sheds shall be grounded to City Light specifications. Difficulty in enforcing restrictions may increase risk of liability.

Structures	(See Buildings.)
Swimming Pools	Considered a structure. Risk of drowning. Prohibits/interferes with access. Potential risk of liability.
Swing Sets	Potential risk of liability. Considered a structure.
Trash Burning	Smoke contaminates insulators.
Tree Farms	Not removable on short notice. May violate electrical codes, interfere with placement of facilities and access or maintenance of equipment.
Wading Pools	Risk of drowning. Risk of liability.
Wetland Mitigation	Regulatory protection of wetlands may make these uses permanent and may prohibit future utility use. Diminishes usefulness and value of property. Interferes with use of property preventing access to utility equipment for maintenance, inspection and repair, and may encumber property preventing future development for utility purposes.
Wrecking Yards	Danger of flammable, explosive and hazardous waste materials, and nongrounded metals. Potential liability.

Dated this 13 day of August, 1996.

APPROVED:

SEATTLE CITY LIGHT

  
GARY ZARKER  
Superintendent

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City of Seattle  
City Light Department



DEPARTMENT POLICY & PROCEDURE

Subject

REAL PROPERTY USE PERMITS, LEASES,  
CONSENTS AND EASEMENTS

Number

DPP 500 P III-132

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Rental rates may, at the discretion of the Department, be waived or reduced by an amount equal to the measurable and reasonable value of any bona fide benefits which accrue to the Department. To offset rent the use must provide a true and substantive benefit to the Department and be related to its utility operations, as opposed to a general public benefit.

**4.7.5**

The Department will charge an additional fee or impose additional requirements related to increased maintenance costs and/or liability, as described in 4.3 and 5.5, which result from the incidental use.

- 4.8 The amount charged for easements granted on the Department's property shall be based on the fair market value of the property right(s) being granted pursuant to RCW 43.09.210. Payment for easements may, at the discretion of the Department, be waived or reduced by an amount equal to the fair market value of any real and substantive benefits which accrue to the Department as discussed in §4.7.4.
- 4.9 Administrative fees for permits, leases, and easements shall be established by the Superintendent or designee. These fees may be waived or reduced when the use would be a real and substantive benefit to the Department or when the Department initiates the action.
- 4.10 Insurance will be required on any permit, lease, consent, and/or easement, if the use presents a risk of increased or additional liability to the Department or the City.

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**REAL PROPERTY USE PERMITS, LEASES,  
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**5.0 DEFINITIONS**

- 5.1 **Department.** The Seattle City Light Department.
- 5.2 **City.** The City of Seattle.
- 5.3 **Superintendent.** The Superintendent of the City Light Department.
- 5.4 **Real Estate Services Manager.** The Manager of the Real Estate Services Unit of the Facilities Management Division of the City Light Department.
- 5.5 **Easement.** A property right on, over, and/or under land or water which the City of Seattle has been granted for utility purposes by another party and held under the jurisdiction of the Department.
- 5.6 **Easement Granted.** A property right on, over, and/or under its fee property, which the City of Seattle grants to another person and/or entity, upon recommendation of the Department and authorization by the City Council.
- 5.7 **Increased Maintenance and Liability Costs.** These are costs that the Department would not have incurred but for the presence of the incidental use. These include, but are not limited to, increased costs of maintenance and operation, increased costs of future development of the utility system, increased risk of liability resulting from the incidental use, increased administrative costs, and the costs of removing the incidental use.
- 5.8 **Incidental Uses.** These are uses by others of the Department's real property or easements, which are non-utility uses and for which the Department may grant, at its discretion, temporary permits or may consent to such uses, or, if a long term use, the City Council may authorize upon recommendation by the Department, provided that such uses are consistent with this policy and the Department's Use Guidelines.
- 5.9 **Unacceptable Use.** A use that is incompatible with the Department's existing and future use of its property and easements.
- 5.10 **Use Guidelines.** The Department's Real Property Use Guidelines administered by the Real Estate Services Unit.
- 5.11 **Low-Income Permit.** A permit which is granted to a low-income person as defined in DPP 500 P III-130.

**6.0 RESPONSIBILITIES**

- 6.1 The Real Estate Services Manager shall be responsible for:
- 6.1.1 Managing incidental uses of the Department's property and easements;
- 6.1.2 Granting and signing permits and consents outright, and leases and easements on behalf of the Superintendent upon authorization by the City Council;
- 6.1.3 Enforcing terms and conditions of permits, leases, consents and easements;
- 6.1.4 Keeping the Superintendent apprised, via the Deputy Superintendent of Finance and Administration, of situations where problems may occur and making recommendations for appropriate action;
- 6.1.5 Initiating the necessary legislation, as required by the City Charter, prior to executing easements and leases for use of Department property; and
- 6.1.6 Reviewing and revising, if necessary, this DPP in January of each year.
- 6.2 The appropriate Departmental divisions shall review the applications for incidental use and determine whether or not the use presents increased maintenance costs and risk of liability, and is compatible with the State Electrical Code, applicable state and federal law, FERC regulations and orders, and other applicable statutes, ordinances and regulations, the Property Use Guidelines, the Department's maintenance and operational requirements, and all future Departmental uses.
- 6.3 The Environment and Safety Division Director or representative shall review applications for commercial or industrial uses, except those for access only across Department property, to determine whether the proposed use presents a potentially significant environmental impact.

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- 6.4 The South Electric Services, North Electric Services, and Power Stations Divisions and the Skagit Project shall report any unauthorized use of or encroachments on the Department's transmission and/or distribution line rights-of-way or substation properties to the Real Estate Services Unit. The Real Estate Services Unit shall take appropriate steps, which may involve assistance from other divisions, to remove the use.

**7.0 PROCEDURES**

- 7.1 Applicants for permits, leases, consents, and easements shall submit the appropriate application and administrative fee to the Real Estate Services Manager.

**7.1.1**

Administrative fees for applications shall be charged pursuant to DPP 500 P III-132, Schedule 100 (§8.2).

**7.1.2**

The Real Estate Services Manager may waive application fees pursuant to 4.9 of this DPP.

- 7.2 Requests for permits, leases, consents, or easements shall be reviewed by the Real Estate Services Unit and approved or denied, based on consistency with this policy and the Use Guidelines, and the consent or approval of the Department's Engineering Services Division and other divisions having any operational responsibility for the property affected.

- 7.3 All easements, leases, and memorandums of lease, taken or granted, shall be recorded in the appropriate county.

**8.0 APPENDIX**

- 8.1 **Distribution:** All Department Policy and Procedure Manuals.

- 8.2 **Schedule 100:** Administrative Fees for Use Permits, Leases, Consents, and Easements.

- 8.3 **Real Property Use Guidelines.** Establishes criteria for possible incidental uses and specifies unacceptable uses of Department real property and easements

**CERTIFICATION**

I do hereby certify that the attached Department Policy and Procedure is a true and accurate copy of the original instrument as it is on file at the Department

*[Signature]*

Date: 9/6/96

City Light Department

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**City of Seattle  
City Light Department**



**DEPARTMENT POLICY & PROCEDURE**

**Subject**

**ADMINISTRATIVE FEES FOR USE PERMITS,  
LEASES, CONSENTS, AND EASEMENTS**

**Number**

**DPP 500 P III-132, SCHEDULE 100**

**Effective**

**SEP 1 1 1996**

**Supersedes**

**3/2/84**

**Approved**

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**1.0 POLICY**

The Department may charge administrative fees for processing each application for easement, permit, or lease established by DPP 500 P III-132. If the use is denied by the Department, the fees shall be returned to the applicant.

**2.0 SCHEDULE**

**2.1 Permit and Lease Applications**

**2.1.1 Residential (including Grazing and Gardening) . . . . \$50.00**

**2.1.2 Commercial/Industrial . . . . \$100.00**

**2.2 Easement Applications . . . . \$100.00**

**2.3 Consent Applications . . . . No fee**

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### APPENDIX 8.3

City of Seattle  
City Light Department

#### REAL PROPERTY USE GUIDELINES

These guidelines set forth criteria to be considered when reviewing requests for incidental uses of City of Seattle real property and real property rights under the jurisdiction of the City Light Department.

The apparent satisfaction of criteria within these guidelines does not imply the Department's consent to or authorization of a particular use. Review and approval are required before a use permit, consent, easement or lease is issued. As provided by Charter, authorization by the City Council is required for the granting of easements and leases of City property.

#### Definitions for the purposes of these guidelines:

An *Easement* is a property right on, over, and/or under land or water, which the City of Seattle has been granted by another party for utility purposes, and which is placed under the jurisdiction of the City Light Department.

An *Easement Granted* is a property right on, over, and/or under its fee property, which the City of Seattle grants to another party upon recommendation of the Department and upon authorization by ordinance.

*Fee Property* is property acquired and owned by the City of Seattle under jurisdiction of the Department for utility purposes.

An *Incidental Use* is a use by others of the Department's fee and/or easement property and is more specifically defined in the Department DPP 500 P III-132.

An *Unacceptable Use* is a use that is incompatible with City Light's use of its property and property rights. Real Estate Services will deny the application without further review.

#### I. Criteria for acceptance of an incidental use:

##### A. Existing and Future Departmental Uses/Needs.

1. If the use will not interfere with existing and future uses/needs of the Department and meets all other criteria, approval may be given subject to the Department's requirements.
2. If the use will *potentially* interfere with existing and future utility uses, the application will be denied, unless the following conditions are met to the Department and its legal staff's satisfaction:
  - a. The Department will retain its right to cancel upon notice;
  - b. The total cost to remove or relocate an incidental use will be borne by the user;

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- c. If a public use is not electric utility related, user will pay all costs to remove and/or relocate public improvements in the event the property is required for utility operations;
  - d. Increased operation and maintenance costs to the Department, related to the use, will be borne entirely by the user;
  - e. The user will provide adequate assurance of payment of all potential costs resulting from the presence of the use, including costs to remove, increased operation and maintenance costs, mitigation costs, and increased risk of liability in the form of liability insurance, security deposits, or other assurance of payment.
3. The use will not interfere with the present or future use of transmission line rights-of-way, and related facilities, as regional utility corridors as may be required pursuant to Federal Energy Regulatory Commission orders issued under the Federal Power Act (codified as 16 USC 824j) and other applicable regulations, and pursuant to the City's contractual agreements with other utilities.

**B. Costs.**

- 1. The cost to construct, operate and maintain improvements for an incidental use will be at the sole expense of the user.
- 2. The user will pay all costs related to the incidental use, including, but are not limited to:
  - a. Vegetation maintenance,
  - b. Litter removal,
  - c. Security,
  - d. Drainage control and increased drainage fees,
  - e. Insurance to cover property damage and personal injury, and all other liability,
  - f. Claims and lawsuits, including attorney's fees.
  - g. normal wear and tear caused by joint use of the Department's property for utility operations and maintenance related to the incidental use.
- 3. All costs to remodel, relocate or remove Department facilities to accommodate the incidental use, (done at the Department's discretion) will be at the sole expense of the user; this includes all acquisition costs of new right of way if the use interferes with Department present or future needs and cannot be relocated.
- 4. Increased operational or maintenance costs to the Department, related to the incidental use, will be borne entirely by the user.
- 5. Cost to repair Department facilities damaged by the user or as a result of the normal wear and tear associated with the incidental use will be borne entirely by the user.
- 6. Indemnification for all damages, liability, expenses of litigation, including attorney's fees, will be borne entirely by the user.

**C. Liability.**

- 1. The Department will determine whether or not the proposed use will increase, or potentially increase, the risk of liability and whether the increased risk of liability is

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acceptable. The types of risk may include, but are not limited to, liability for any claim or suit for damages related to:

- a. Personal injury or property damages arising from accidents of any kind;
  - b. Claims based on alleged or perceived health effects of electric and magnetic fields (EMF) on the user or the user's invitees;
  - c. Damage to users' improvements from normal utility operations, maintenance, construction and repair;
  - d. Environmental damages and regulatory fines or penalties arising from or relating to the incidental use.
2. Uses that present unacceptable levels of increased risk of liability will not be approved.
  3. If an incidental use is granted or accepted, the Department, as a condition of the granting or acceptance, will require provisions as may be appropriate to reduce, as much as possible, the increased risk of liability to the Department. These include, but are not limited to:
    - a. Hold harmless, indemnification and release agreements covering any injury/damages due to the incidental use;
    - b. In light of the scientific uncertainty regarding EMF, an acknowledgement by the user of receipt of information on electric and magnetic fields (EMF). In addition, for short term uses, a statement that the user accepts the risk of any potential effects of EMF associated with the use will be required. A release of the City from any claims relating to EMF may be required for long term uses. In some cases, upon consultation with the Law Department or the City's Risk Manager, an indemnification may be required.

**D. Compliance.**

1. The use must comply with applicable
  - a. Electrical safety codes;
  - b. Environmental laws and regulations, such as preparation of EIS under the State Environmental Policy Act (SEPA);
  - c. Building and zoning codes;
  - d. Other applicable laws and regulations.

**E. Construction Standards.**

1. Any improvements constructed by or for the user must meet applicable construction standards as determined by the Department and by applicable code enforcement agencies.
2. The Department will set additional standards for improvements constructed by or for the user, which it deems necessary to reduce risk of damage to the user's improvements, to protect adjacent property owners and the Department's facilities from damage, to prevent interference with Department operations, and to limit its liability. These include, but are not limited to,

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- a. Surfacing that provides adequate support for Department vehicles and equipment,
- b. Drainage and surface water runoff control,
- c. Retaining walls,
- d. Other applicable engineering standards,
- e. Electrical codes and Department electrical standards,
- f. Height restrictions,
- g. Access for inspection, repair, construction, and maintenance. The Department will require the design of improvements, including but not limited to gates and roads, which allow access to Department vehicles, personnel and equipment.

## II. Unacceptable uses:

Awnings	(See Buildings.)
Auto Wrecking Yards	Danger of flammable/explosive and hazardous materials and nongrounded metals.
Barbecue Pits	Smoke contaminates insulators.
Baseball Diamonds	Potential liability. Structures may violate state safety codes.
Billboards	(See Buildings.) City policy against billboards on fee properties. Large structures on any R/W present danger to lines and persons working on them.
Blasting	Risk of liability and damage to utility facilities and operations.
Buildings	Buildings are considered hazardous to utility facilities and may violate the applicable safety codes. Buildings are incompatible with the use of rights-of-way (R/W), create additional risk of liability and interfere with future utility use. This includes any portion of buildings encroaching into the R/W.
Campsites	Smoke contaminates insulators. Potential liability.
Canopies/Carports	(See Buildings.)
Cemeteries	Not removable on short notice, may interfere with placement of facilities and access of maintenance equipment.
Dumps	Prevents access to electrical facilities. Potential risk of liability and may violate environmental laws and regulations.
Eaves, Building	(See Buildings.)
Explosive or Flammable Material Storage	Potential danger to utility facilities. Fire hazard. Flames or hot air can cause flashovers. Smoke contaminates insulators. Risk of liability or violations of applicable laws or regulations.
Flooding	Risk of drowning. Prohibits access to, maintenance and inspection of utility facilities and may encumber property preventing future use. Diminishes usefulness and value of property.

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<b>Gas Stations</b>	Potential fire hazard or danger from explosion. (See Buildings.) No fuel storage tanks. No fuel loading areas. May be used as parking area, or landscaping, etc.
<b>Greenhouses</b>	(See Buildings.)
<b>Hazardous Waste Disposal Sites</b>	Risk of liability and interference with future use for electrical facilities.
<b>Incinerators</b>	Smoke contaminates insulators.
<b>Junk Yards</b>	Danger of flammable, explosive and hazardous waste materials, and nongrounded metals. Potential risk of liability and violations of environmental laws and regulations.
<b>Kites</b>	Dangerous in vicinity of overhead lines. Difficult to monitor in recreational areas.
<b>Lakes</b>	Risk of liability from drowning or other accidents. Prohibit access to, maintenance and inspection of utility facilities, and may encumber property preventing future utility use. Diminish usefulness and value of utility property.
<b>Mobile Homes</b>	(See Buildings.)
<b>Model Airplanes</b>	Dangerous in vicinity of overhead lines. Difficult to monitor in recreational areas.
<b>Motorbike Trails</b>	Cause erosion. Risk of liability. Nuisance to neighbors.
<b>Play Equipment</b>	Considered a structure. Risk of liability.
<b>Ponds (all types)</b>	(See Lakes.)
<b>Porches</b>	(See Buildings.)
<b>Pump Islands</b>	High risk. Includes immediate area around island where vehicles are parked for filling and where loading vehicles park.
<b>Reservoirs</b>	(See Lakes.)
<b>Rifles Ranges</b>	Public Safety. Potential risk of liability.
<b>Service Stations</b>	(See Gas Stations.)
<b>Sheds</b>	For the purpose of these guidelines, a shed is defined as a small building not requiring a building permit (less than 120 square feet) as measured on the roof. Not allowed on fee owned R/W. Sheds will be considered on easements on a case-by-case basis depending upon easement language. Storage of

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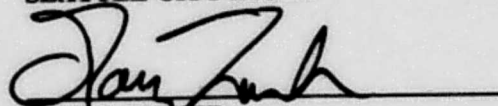
flammable/explosive/ corrosive materials prohibited. Metal sheds shall be grounded to City Light specifications. Difficulty in enforcing restrictions may increase risk of liability.

Structures	(See Buildings.)
Swimming Pools	Considered a structure. Risk of drowning. Prohibits/interferes with access. Potential risk of liability.
Swing Sets	Potential risk of liability. Considered a structure.
Trash Burning	Smoke contaminates insulators.
Tree Farms	Not removable on short notice. May violate electrical codes, interfere with placement of facilities and access or maintenance of equipment.
Wading Pools	Risk of drowning. Risk of liability.
Wetland Mitigation	Regulatory protection of wetlands may make these uses permanent and may prohibit future utility use. Diminishes usefulness and value of property. Interferes with use of property preventing access to utility equipment for maintenance, inspection and repair, and may encumber property preventing future development for utility purposes.
Wrecking Yards	Danger of flammable, explosive and hazardous waste materials, and nongrounded metals. Potential liability.

Dated this 13 day of August, 1996.

APPROVED:

SEATTLE CITY LIGHT

  
CARY ZARKER  
Superintendent

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