



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

September 11, 1996

Supersedes

3/2/84

Approved

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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 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.

4.7.3

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

4.7.4

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.

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.
- 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