

**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;**
  - 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 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,**
  - 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>	<b>(See Buildings.)</b>
<b>Auto Wrecking Yards</b>	<b>Danger of flammable/explosive and hazardous materials and nongrounded metals.</b>
<b>Barbecue Pits</b>	<b>Smoke contaminates insulators.</b>
<b>Baseball Diamonds</b>	<b>Potential liability. Structures may violate state safety codes.</b>
<b>Billboards</b>	<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>
<b>Blasting</b>	<b>Risk of liability and damage to utility facilities and operations.</b>
<b>Buildings</b>	<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>
<b>Campsites</b>	<b>Smoke contaminates insulators. Potential liability.</b>
<b>Canopies/Carports</b>	<b>(See Buildings.)</b>
<b>Cemeteries</b>	<b>Not removable on short notice, may interfere with placement of facilities and access of maintenance equipment.</b>
<b>Dumps</b>	<b>Prevents access to electrical facilities. Potential risk of liability and may violate environmental laws and regulations.</b>
<b>Eaves, Building</b>	<b>(See Buildings.)</b>
<b>Explosive or Flammable Material Storage</b>	<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>
<b>Flooding</b>	<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.</b>
<b>Gas Stations</b>	<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>
<b>Greenhouses</b>	<b>(See Buildings.)</b>

<b>Hazardous Waste Disposal Sites</b>	<b>Risk of liability and interference with future use for electrical facilities.</b>
<b>Incinerators</b>	<b>Smoke contaminates insulators.</b>
<b>Junk Yards</b>	<b>Danger of flammable, explosive and hazardous waste materials, and nongrounded metals. Potential risk of liability and violations of environmental laws and regulations.</b>
<b>Kites</b>	<b>Dangerous in vicinity of overhead lines. Difficult to monitor in recreational areas.</b>
<b>Lakes</b>	<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>
<b>Mobile Homes</b>	<b>(See Buildings.)</b>
<b>Model Airplanes</b>	<b>Dangerous in vicinity of overhead lines. Difficult to monitor in recreational areas.</b>
<b>Motorbike Trails</b>	<b>Cause erosion. Risk of liability. Nuisance to neighbors.</b>
<b>Play Equipment</b>	<b>Considered a structure. Risk of liability.</b>
<b>Ponds (all types)</b>	<b>(See Lakes.)</b>
<b>Porches</b>	<b>(See Buildings.)</b>
<b>Pump Islands</b>	<b>High risk. Includes immediate area around island where vehicles are parked for filling and where loading vehicles park.</b>
<b>Reservoirs</b>	<b>(See Lakes.)</b>
<b>Rifles Ranges</b>	<b>Public Safety. Potential risk of liability.</b>
<b>Service Stations</b>	<b>(See Gas Stations.)</b>
<b>Sheds</b>	<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 flammable/explosive/ corrosive materials prohibited. Metal sheds shall be grounded to City Light specifications. Difficulty in enforcing restrictions may increase risk of liability.</b>
<b>Structures</b>	<b>(See Buildings.)</b>
<b>Swimming Pools</b>	<b>Considered a structure. Risk of drowning. Prohibits/interferes with access. Potential risk of liability.</b>

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 13th day of August, 1996.

APPROVED:

SEATTLE CITY LIGHT

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Superintendent