

DISPLAY POLICY FOR TROY CITY PLAZA¹

1.0 MISSION STATEMENT

The Troy City Plaza is dedicated to the positive expression of our cultural and historical heritage, philosophies, and ethnic diversity, encouraging activities and displays depicting events which highlight and honor them.

In recognition of the rights protected by the U.S. Constitution and Bill of Rights the City of Troy provides this plaza as a limited public forum.

This Policy is established to ensure equal access and opportunity to use the Troy City Plaza. All displays shall comply with the provisions of this Policy.

2.0 PUBLIC FUNDING PROHIBITION

- 2.1 There shall be a disclaimer prominently displayed immediately in the front of the designated display areas, which shall read substantially as follows:

This display was not constructed with public funds and does not constitute an endorsement of any message by the City of Troy.

- 2.2 A notice must be prominently posted in the immediate area of the designated display areas advising the public that the area, as a limited public forum, is available to all Troy citizens and Troy civic and charitable groups.
- 2.3 All displays must be privately owned, erected, and maintained.
- 2.4 The City of Troy shall have no role in the planning, construction, erection, or storage of any display.

3.0 LOCATION OF AREAS DESIGNATED FOR DISPLAYS

- 3.1 The display areas shall be limited to two areas identified by the City of Troy on the Civic Center site as follows:

Display Area A - A 25' x 25' area located on the north side of the sidewalk west of the Peace Garden Court Yard, which is north of

¹ Although referenced as the Troy City Plaza, it is anticipated that there will be a re-naming of the limited public forum.

City Hall and west of the Library, as depicted in the diagram attached and incorporated as Exhibit A.

Display Area B - A 25' x 25' area located on the south side of the sidewalk west of the Peace Garden Court yard, north of City Hall and west of the Library, as depicted in the diagram attached and incorporated as Exhibit A.

- 3.2 The designated display area will remain in its natural vegetative state. The area does not currently have any direct artificial light, other than the light that emanates from building lights and light poles that are already in place on the property.
- 3.3 There shall be no concrete or asphalt or other permanent materials placed or poured in the designated display area.

4.0 DISPLAY RULES AND REGULATIONS

- 4.1 Displays shall be erected and installed only within the designated display areas, as indicated by survey markers on the property.
- 4.2 No portion of the displays shall extend more than 20' above the ground, nor outside the display area.
- 4.3 No sound shall be emitted by the display that exceeds 65 decibels measured at a distance of 15' from the display area in any direction.
- 4.4 Displays shall be designed or secured so that they will not be moved out of the designated display area by forces of nature, such as the effect of wind. Displays shall be designed and installed to be structurally sound and self-supporting of their own weight and loads, so that the displays can withstand any negative effects of wind, rain, snow or other natural forces.
- 4.5 Displays shall be designed and installed in a manner to prevent damage to the City's designated display areas.
- 4.6 There shall be no excavation of the display site as part of the installation of the display.
- 4.7 No part of the display shall be driven or buried into the ground, except that stakes not bigger than 4 square inches can be used to

secure the display to the ground as long as there is no permanent damage to the property.

- 4.8 There shall be no detectible odors emanating from the display.
- 4.9 Displays shall not include foul, putrid, or hazardous material.
- 4.10 There shall be no open flames or pyrotechnics as part of any display.
- 4.11 There shall be no spray painting of the public property designated for the displays.
- 4.12 Displays may be set up beginning at 8:00 am on the first day of the designated date group. Displays must be totally removed from the display area by 6:00 pm on the last day of the designated date group. The designated date group is the number of the grouping of days for the allowable display periods, as set forth on the attached Exhibit B, which shall be prepared annually for each calendar year and incorporated by reference into this Policy. The designated date group shall be determined by the lottery, as set forth in section 5.0 of this policy.
- 4.13 No public assembly will be permitted in the designated display area. Displays shall be unattended, and there shall be no solicitation in the designated display area.
- 4.14 There is no accessibility to electricity on the site, and displays shall not require external electric power. In addition, generators or motors of any kind shall not be used on the property. Displays shall be permitted to utilize battery or solar power sources.
- 4.15 There shall not be awnings or canopies or tents erected in the designated display area.
- 4.16 There shall be no commercial speech in or on the designated display area. Signs with company logos which indicate sponsorship of a display shall not be considered commercial speech, as long as they are located in the designated area and do not exceed 8 ½ x 11" in size, and as long as the sponsorship signs do not include telephone numbers and/or web site addresses.
- 4.17 There shall be no profanity, pornography, or obscenity in or on the designated display area.

4.18 There shall be no vehicles used on, in, or leading to the designated display areas unless the City approves the use of a vehicle in advance. Such approval shall be based on the ground conditions and the expected impact of the use of a vehicle.

5.0 SITE/DATE GROUP SELECTION PROCESS

- 5.1 Sites/Date Groups for the displays shall be selected by lottery process conducted by the City of Troy.
- 5.2 The selection lottery for each calendar year shall be held at 10:00 am on the first Wednesday of the month of November in the preceding year. This date shall also be used as the selection lottery for the remaining date groups in the 2004 calendar year.
- 5.3 Applications for the lottery shall be filed on forms provided by the City of Troy and shall be filed no less than 7 calendar days prior to the selection lottery.
- 5.4 Applications for the lottery shall be accepted from residents of the City of Troy above 18 years of age, or businesses, civic groups or non-profit organizations located in the City of Troy.
- 5.5 Not more than one application for the lottery shall be accepted from any one individual or group.
- 5.6 The lottery process shall require the applications to be selected at random.
- 5.7 Applicants shall either appear in person at the lottery, or have their designee present, as identified in their application for the lottery. The applicants or their designee must be present to select their preferences for the designated display area. Applications that have been selected, for which there is no applicant or designated representative present at the time of the drawing, shall be disqualified.
- 5.8 If selected, applicants shall pick the designated display area (A or B) and date group for their display from the remaining available locations and date groups. This process shall continue until all dates for each location are selected or until all applications have been drawn in the lottery.

5.9 Any date groups not selected for either of the two designated display areas on the day of the lottery shall become available after the first day of December. Troy residents, businesses, civic or non-profit organizations can apply for one of these available dates by filing an application at least 21 calendar days in advance of the first day of the desired date group.

6.0 AGREEMENT BETWEEN CITY AND SUCCESSFUL APPLICANTS

6.1 Each successful applicant shall pay a non-refundable fee of \$50.00 for each display to offset any public costs. This fee shall be paid at least 21 calendar days prior to the first date of the date group, as designated by the lottery system described in Section 5.0 of this policy.

6.2 Each successful applicant shall enter into an agreement with the City of Troy at least 21 calendar days prior to the first date of the date group, as designated by the lottery system described in Section 5.0 of this policy. The agreement shall be in the form approved by the City of Troy. The approved agreement form shall be supplied to all persons at the time of the yearly application for the lottery, and shall be subsequently available at City Hall, the Community Center, and the web site.

6.3 The agreement shall require the successful applicant to provide a proposed layout of the proposed display (at a suitable scale), which shall include the size (square footage) and location of any signs, booths, tables, or temporary structures of any kind. Applicant shall provide a written description of the display material types (wood, metal, plastic, etc.), the dimensions, and a description of the method of anchoring the display. This information shall be provided at least 21 calendar days prior to the first date of the date group, as designated by the lottery system described in Section 5.0 of this Policy.

6.4 The agreement shall require each successful applicant proposing a display for the Troy City Plaza to submit an executed hold harmless agreement on the applicant's letterhead. The hold harmless agreement shall be signed by the applicant's authorized representative, and shall agree to defend, indemnify, or hold harmless the City of Troy, its elected and appointed officials, employees and volunteers and others working on behalf of the City of Troy; against any and all claims, demands, suits, loss, including all costs connected therewith, for any damages that may be

asserted, claimed, or recovered against or from the City of Troy, its elected and appointed officials, employees, volunteers or others working on behalf of the City of Troy, by reason of personal injury, including bodily injury and death; and/or property damage, including loss of use thereof, which arises out of or is in any way connected or associated with the activity authorized by this permit.

- 6.5 The agreement shall require each successful applicant proposing a display for the Troy City Plaza to procure and maintain insurance acceptable to the City, demonstrating that general liability coverage is available for claims for personal injury or property damage caused by the display or attributed to the placement of the display. Such insurance shall be in the amount of \$500,000 per occurrence and aggregate limit. The Certificate of Insurance shall name the City of Troy as an additional insured. In the event of a change in law, the City reserves the right to modify the insurance requirements as necessary with 30 calendar days notice to the successful applicant. The successful applicant agrees to provide the certificate of coverage at least 21 calendar days prior to the first date of the date group, as designated by the lottery system described in Section 5.0 of this Policy. The successful applicant must keep said insurance or a similar policy with the above minimum insurance coverage in effect for the term of the display. The successful applicant shall submit to the City of Troy Risk Management Department a Certificate of Insurance acceptable to the City demonstrating coverage for the above insurance amounts. Additionally, the City may request a copy of said insurance certificate at any time during the display.

- 6.6 The agreement shall require each successful applicant proposing a display for the Troy City Plaza to provide a \$100 deposit to the City. This deposit shall be security for the City against any property damage to the designated display areas caused by the successful applicant's display or any costs or contract or Troy personnel charges incurred by the City as a result of the successful applicant's failure to comply with the terms of the agreement or this display policy. This deposit shall be made at least 21 calendar days prior to the first date of the date group, as determined by the lottery system set forth in Section 5.0 of this Policy. The existence of a deposit does not preclude the City from taking any other available legal action to recoup any City damages resulting from the successful applicant's failure to comply with the terms of the agreement or this display policy. Upon removal of the display, the deposit shall be returned to the successful applicant, less any costs

incurred by the City as a result of the applicant's breach of the Policy or agreement.

- 6.7 The agreement shall require each successful applicant to submit the details for any graphics, and any messages or wording for the display (at a suitable scale) at least 21 calendar days prior to the first date of the date group, as determined by the lottery system set forth in Section 5.0 of this Policy. This information shall be reviewed by the Troy City Attorney or Attorney's designee for compliance with this Policy. The Attorney shall indicate any objections to the proposed display in writing within seven days of receiving the information. Objections can be based on the inclusion of pornography, profanity, obscenity, or commercial speech, which are prohibited in the limited public forum. The Attorney shall rely on First Amendment jurisprudence in making this determination. Appeals of the Attorney's decision can be made to the Troy City Council or by filing an action with the Oakland County Circuit Court.
- 6.8 The displays must contain only the items that were submitted and approved by the City, in accordance with this policy.
- 6.9 The failure to comply with the terms this policy or the agreement will result in disqualification of the successful applicant, and shall be considered grounds for removal of the display (at the expense of the successful applicant) from the designated area and a forfeiture of the remaining time contained within the lottery assigned time slot.
- 6.10 The successful applicant agrees to comply with all federal, state, and local laws and regulations that apply to the display.