

CITY OF EUREKA

Category: ADMINISTRATION

POLICIES & PROCEDURES

Subject:

Date Adopted:

File 1.78
Number

POLICY OBJECTIVE

The City of Eureka (“City”) Parks & Recreation Department (“Department”) has determined that there is an opportunity and a desire for advertisers to purchase banner space to promote their events and businesses. The purpose of this policy is to create clear guidelines for the Department and the public to understand the possibilities and limitations of the advertising opportunities offered on City fences.

The Department is interested in alternative fund development which includes activities like advertising on fences with banners. The City intends to raise funds through limited-run banner advertisements. Funds raised through this program will be used to offset operational costs for Department programs and facilities.

The mission of the Department is to provide for and enhance the quality of life and spirit of the community with a wide variety of recreational programs and services. Fence banner advertising will further the mission of the Department by generating funds which will be available to supplement maintenance of parks, many of which host youth recreation activities, and support the Department’s recreational programs delivered to community members of all ages.

LIMITED PUBLIC FORUM STATUS

None of the designated advertisement locations identified in this policy are a public forum for public discourse or free expression, and by adoption of this policy or selecting paid commercial advertisements for any designated advertisement location, the City is not creating a public forum. The City is not creating a public forum, or a designated public forum, but is creating a non-public forum open for a limited purpose by allowing banners on specific fences.

As defined in Eureka Municipal code §155.156, a banner is “a temporary, lightweight sign that contains a message which is attached or imprinted on a flexible surface that deforms under light pressure and that is typically constructed of non-durable materials, including but not limited to, cardboard, cloth, or plastic.”

This policy concerns what types of banners may be placed on specific fences adjacent to various public parks and streets. This policy does not regulate the parks or streets adjacent to the fences at issue. This policy does not prevent anyone from walking into a park or onto a street near the fences at issue and speaking their mind on any topic, or otherwise exercising their First Amendment rights.

The City is concerned certain types of advertisements interfere with the program’s primary purpose of generating revenue to benefit the Department. This policy advances

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the advertising program's revenue-generating objective by prohibiting advertisements that could detract from that goal by creating substantial controversy, interfering with and diverting resources from Department programs or facilities, and/or posing significant risks of harm, inconvenience, or annoyance to persons seeking to take advantage of Department programs or facilities. Such advertisements create an environment that is not conducive to achieving increased revenue for the benefit of the Department or to preserving and enhancing the welcoming atmosphere of its programs and facilities. The viewpoint neutral restrictions in this policy thus foster the maintenance of a professional advertising environment that maximizes advertising revenue.

This policy is intended to provide clear guidance as to the types of advertisements that will allow the City to generate revenue and enhance Department operations by fulfilling the following goals and objectives:

- Maximizing advertising revenue;
- Maximize use of Department programs and facilities by the public;
- Preventing the appearance of favoritism by the City or Department;
- Maintain a position of neutrality on controversial issues;
- Preserving the marketing potential of the advertising space by avoiding content that the community could view as demeaning, disparaging, objectionable, inappropriate, or harmful to the public generally and minors in particular;
- Avoiding claims of discrimination;
- Preventing harm, abuse, or disruption of Department property that may result from running demeaning, disparaging, or objectionable advertisements;
- Minimizing the diversion of resources from the City and the Department caused by demeaning, disparaging, objectionable, inappropriate, or harmful advertisements.

ASSIGNED RESPONSIBILITY

The Parks & Recreation Director, City Manager and/or City Council reserves the right to terminate any advertising agreement at any time that it ceases to be in the best interest of the City.

Advertisement agreements will be terminated in the event that the advertisement becomes inappropriate due to criminal, immoral, or unethical actions by the advertiser which aren't in line with the mission and goals of the City.

As a condition of approval of any fence banner advertisement, the advertiser shall indemnify and hold harmless the City of Eureka and its agents, officers, elected officials,

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and employees for any claims damages, or injuries relating to their participating in the Eureka Fence Banner Advertising program. The City shall not be liable for theft or any damage to banners.

APPLICABILITY

Banner advertising space is on a space-available basis, space must be requested two weeks or more in advance. City banner advertising needs supersede any advertisements from outside entities. Existing contractual agreements for banner advertising on fences exist outside of this policy. All future fence banner advertising agreements must conform to this policy.

Currently the following sites are available for banner advertising:

- The exterior fences of Carson Park along Carson, Buhne, H, and I Streets
- The intersection of Hemlock and Walnut Streets
- The interior fences of Kennedy Field
- The interior fences of Hartman Field
- The interior fences of Highland Park
- The interior fences of Jacob Haney Field

Sites may be added or removed at the discretion of the Department Director.

Banner advertising rates will be set by the Department and approved advertisers will be able to purchase week long blocks of time, up to a limit of 2 months for a single advertisement, on a space-available basis. Advertising rates include installation and removal of banners by Parks staff.

Size Range of Banner	Cost Per Week (2 month max)	Cost Per Month (2 month max)
Less than 4 feet wide	\$20	\$70
Greater than 4 feet wide (limit of 8 feet)	\$30	\$110

Prices are subject to change at the discretion of the Department Director.

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LIMITATIONS

The City will only accept commercial advertisements. The City will not accept non-commercial advertisements for any purpose, including but not limited to, expressing messages, communications or other content or images of any kind related to political, social, charitable, or religious issues or matters. Advertisements which purport to propose a commercial transaction but which have a primarily non-commercial purpose shall not be accepted.

Advertisements which include, or give the appearance of, the following will not be accepted by the Department:

- Advertising which causes a fence, if posted individually or in combination with other advertisements, to become a designated public forum for general expressive conduct, debate and discussion;
- Advertisements that include images or depictions of graphic violence, including dead, mutilated, or disfigured human beings, or animals, the act of killing, mutilating, or disfiguring human beings or animals, or intentional infliction of pain or violent action towards or upon a person or animal.
- Advertisements that promote the use of alcohol, tobacco, or firearms.
- Advertisements that promote sexual, obscene, “adult”, or pornographic images and activities. Advertisements which contain statements, words, pictures, or other representations which are in reference to obscene matter are in violation of Eureka Municipal Code §155.163 (D).
- Advertisements that promote political candidates, groups, causes, campaigns, etc.
- Advertisements that contain religious messages or images, or that discuss, advocate or promote a religious faith, organization, tenant or other belief.
- Advertisements that contain material that demeans or disparages an individual or group of individuals or an entity. For purposes of determining whether an advertisement contains such material, the Department will determine whether a reasonably prudent person, knowledgeable of the City’s population, and using prevailing community standards, would believe that the advertisement contained material that ridicules or mocks, is abusive, or hostile to, or debases the dignity or stature of any individual, group of individuals, or entity.
- Advertisements that contain the use of profanity.

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- Advertisements that promote any activity, service, or product that is illegal under federal, state, or local law.
- Advertisements that are, or that the sponsor should reasonably should have known are, false, misleading, or deceptive.
- Advertisements that contain the usage of copyright infringement.
- Advertisements that promote or create an appearance of an endorsement by the City of an advertiser's products or services.
- Advertisements that are not commercial advertisements.
- Advertisements that contain content which is so offensive or controversial that it is reasonably foreseeable it will result in a disruption to or interference with the orderly use of nearby public property or destruction of the same. For purposes of determining whether an advertisement contains such material, the Department will determine whether a reasonably prudent person, knowledgeable of people who routinely use the nearby public property and using prevailing community standards, would believe the material is so objectionable that it is reasonably foreseeable that it will result in harm to, or disruption of or interference with nearby public property.

The Department reserves the right, from time to time, to amend, suspend, modify, or revoke the application of any of these standards, as it deems necessary to comply with legal mandates, or to fulfill the goals and objectives referred herein. All provisions of this advertising policy shall be deemed severable.

PROCEDURES

After advertisers have contacted the Department to determine that space is available and that their proposed offering is likely to be in line with the Department's limitations, proposed banners must then be presented to the Department either electronically or in person by appointment at the Adorni Center prior to acceptance for installation. The City holds the right to judge acceptability of banner advertisements based on their content according to the criteria listed in this policy statement. If a banner is accepted and space is available, the advertiser must sign a Eureka Fence Banner Advertising Contract with the City and remit payment for the amount of time granted. No banners will be installed until payment is received by the Department.

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Once approved by the Parks & Recreation Department, banners will be installed by Parks staff. Advertisers are not allowed to install or remove their own banners from City property. Banners must have reinforced grommets.

Any banners found on City park fences which do not have an advertising agreement on file with the Parks & Recreation Department will be removed by Parks staff in accordance with Eureka Municipal Code §155.163 (c) and held at the Parks Corp. Yard until retrieved by its owner.

Eureka Municipal Code §155.163 (c) contains the following: Any sign deemed by the City to be posted on public property contrary to the provisions of this subchapter, or to be unsafe, due to interfering with the public's health, safety, welfare, or convenience may be removed by the Public Works Department or Police Department.