

Facility Management

PAGE NUMBER 1 OF 2

DATE 06-10-96

POLICY NUMBER 07-96

SUBJECT: PUBLIC USE OF CAPITOL BUILDINGS AND GROUNDS

The following provisions govern the use of the buildings, grounds, and facilities of the State Capitol that are under the authority and control of the Facility Management Division of the Office of Management and Budget (referred to collectively as the "Capitol Complex") by persons or groups other than state government. This policy does not apply to those portions of the State Capitol Building under the control of the Legislative Management Committee.

GENERAL POLICY

- The Capitol Complex is primarily for the operation and function of state government and nothing will be permitted which would interfere with those functions.
- NDCC 16.1-10-02 No person may use any property belonging to or leased by, or any service which is provided to or carried on by, either directly or by contract, the state or any agency, department, bureau, board, or commission thereof, for any political purpose.
- Use of Memorial Hall or select designated **public areas** may be used without the political content restrictions as stated in the Attorney General's Opinion 96-12 regarding public forum assemblies, however Facility Management will not be allowed to provide any support services for the event. The use of these areas will be permitted only if the activity does not interfere with the operations of State Government.
- The purpose of use of the Capitol Complex should be affiliated or connected with a state department or agency. If the request is from a non-state department or agency, they will be asked to seek co-sponsorship or affiliation with a state department or agency.
- The secondary purpose and use of the Capitol Complex is as a public place to be enjoyed by the general public, including tourists who visit the Capitol. No activities will be permitted which will harm or destroy the natural, horticultural, or architectural beauty, or which will harm the physical condition or safety of the Capitol Complex.
- No one will be permitted to sell food items without receiving written permission from Facility Management, as well as a food permit from the Fire and Inspections Department, 1020 East Central Avenue, Bismarck, ND 58501 (701) 258-2070.
- Any entity utilizing the Capitol Complex after regular working hours may be required to pay for all additional costs (staff and other incidental costs) associated with the approved function.
- The purpose of the insurance and indemnification requirements defined below is to ensure that, when appropriate, users of the Capitol Complex, rather than the North Dakota taxpayers, assume appropriate financial responsibility for their use of the Capitol Complex, including responsibility for any injury those users' actions may cause to themselves or third-parties. As the sponsor of an event the user may be held personally liable for such losses. By complying with the insurance requirements specified below, the user will meet the State's requirements, and protect their personal assets in the event of a loss. We recommend that the user check with their insurance agent concerning whether the user already has sufficient coverage in place or readily available.
- Individuals may use the grounds, at their own risk, for light recreational purposes, including a pleasant walk or some individualized and small group play.

REQUIREMENTS

1. All governmental and nongovernmental entities or parties desiring to use any portion of the Capitol Complex for an Event, shall make a written request for the Event from Facility Management on the attached Facilities/Equipment Use Request and Agreement form. The request should be made at least fifteen (15) days before the scheduled Event, when possible. If the user desires either: 1) to use available State Equipment, such as tables and chairs, for an Event at the Capitol Complex, or 2) to bring Equipment to the Capitol Complex for an Event the group must also complete the Equipment portion of the form.
2. A request to use any part of the Capitol Complex for an Event will be approved subject to the following conditions:

- a. No request for use will be approved if the requested use would interfere with the functions of state government or the conduct of state government business. Approval will not be given or refused based on the content of any speech which the Event Sponsor makes or intends to make.
 - b. Requests to use available space in the areas of the Capitol Complex open to the general public will be approved on a first-come/first-serve basis when the requested use is not prohibited by this policy.
 - c. The individual or group making the request (“the Event Sponsor”) must agree to maintain the facilities of the Capitol Complex in the manner and condition those facilities were in before the Event Sponsor’s use of those facilities. The Event Sponsor must agree that, if necessary, the Event sponsor will clean up and take all other actions necessary to return the facilities used to the condition and appearance of those facilities before the Event Sponsor’s use of the facilities.
 - d. If the Event Sponsor desires to use available State Equipment in the Capitol Complex the Event Sponsor must agree that the Equipment will be set up by Facility Management staff and that this set-up will not be moved or altered by the Event Sponsor without the permission of Facility Management.
 - e. If the Event Sponsor desires to bring Equipment into the Capitol Complex, the Event Sponsor must complete the indemnification portion of the attached Facility/Equipment Use Request and Agreement form and provide Facility Management with proof of adequate liability insurance, **unless either:** (1) the Event Sponsor is a State entity, or (2) the proposed Event is sponsored by a State entity and that sponsorship is verified in writing. In addition these indemnification and insurance requirements will be waived if:
 - (a) The Event Sponsor demonstrates that it has attempted to obtain adequate liability insurance and cannot obtain that insurance at all or only at a cost that is prohibitive. To demonstrate this it must provide both: (1) letters from three insurance agents or companies explaining whether insurance is obtainable at any price and, if so, at what cost coverage for adequate liability insurance is available; and (2) a letter from Event Sponsor demonstrating its financial inability to purchase the insurance coverage; or
 - (b) the Event Sponsor can identify each individual who will be participating in the Event Sponsor’s use of the Capitol Complex and each such individual signs a legally enforceable waiver releasing the State and its agencies, officials, and employees from any and all liability arising out of his or her use of the Capitol Grounds.
3. The buildings and grounds are to be kept clean and beautiful. A request for use will not be approved if the requested use would harm or destroy the Capitol Complex, including its horticultural and natural beauty.
 4. A request for use will not be approved if the requested use is likely to cause bodily injury or property damage to individuals participating in the activity or to bystanders.
 5. The Capitol mall is the oval, grass-covered area directly south of the Capitol Building and north of Boulevard Avenue. The Capitol mall shall be left as an open, unobstructed area, which will allow a clear view of the Capitol Complex. Because of the need to protect the grass and the appearance of the Capitol mall, no sporting events or sporting games will be allowed or approved on the Capitol mall.

DEFINITIONS

•**NDCC 16.1-10-02 "Political purpose"** means any activity undertaken in support of or in opposition to the election or nomination of a candidate to public office whether the activity is undertaken by a candidate, political committee, political party, or any other person but does not include activities undertaken in the performance of a duty of state office.

•**“Adequate liability insurance”** is defined as general liability insurance that: (a) is in force during the entire term of the proposed Event, (b) is from an insurance company or government self-insurance pool authorized to do business in North Dakota, (c) covers personal injury, death and property damage, (d) names by endorsement the State of North Dakota, its agencies, officers, and employees as additional insureds, for the cost of defense, including all expenses and attorney fees. and (e) has limits of liability of at least \$250,000 per person and \$1,000,000 per occurrence. If the event sponsor is an employer, evidence of compliance with state law for workers compensation will be required. Any attorney representing the state must first be appointed as a special assistant attorney general.

•**“Equipment”** includes, but is not limited to, tables, chairs, drop cords, podiums, music stands, bleachers, and display equipment and materials as well as stationary electronic equipment, sound equipment, and lighting equipment. “Equipment” does not include portable audio, video, lighting, or electronic equipment that the user does not intend to leave in one place for an extended period of time.

•**“Event”** is defined as an organized activity involving one or more persons participating in a performance, presentation, show, demonstration, exhibit, exposition, display, party, or similar activity.

•**“Capitol Complex”** includes the Judicial Wing Office Building; the State Office Building; and the Liberty Memorial

Building, and the Capitol grounds, (referred to collectively as the “Capitol Complex”):

Director

Date

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