



Roll Call Number

Agenda Item Number

39

Date May 4, 2015

APPROVAL OF LICENSE POLICY FOR PLACEMENT OF PIANOS ON CITY RIGHT-OF-WAY

WHEREAS, the City of Des Moines authorized the placement of pianos on City owned property during the 2014 summer season and by Roll Call No. 15-0634 of April 6, 2015 the City Council directed the City Manager and City Attorney to develop a pilot program for placement of pianos on City right-of-way; and

WHEREAS, the placement of pianos in the City right-of-way will encourage and enhance the recreational, educational and cultural needs of citizens who work and live within the City; and

WHEREAS, the attached City of Des Moines Piano in Right-of-Way License Policy has been prepared which sets forth conditions and requirements to be incorporated in licenses issued by the City for placement of pianos in the City right-of-way.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that the attached City of Des Moines Piano in Right-of-Way License Policy is hereby approved.

BE IT FURTHER RESOLVED that pianos are hereby considered an encroachment as defined by Municipal Code Section 102-596 and that the City Engineer or its designee is authorized and directed to determine appropriate locations for the placement of pianos in City right-of-way and, pursuant to Municipal Code Sections 102-605 and 102-606, accept applications for license and enter into license agreements for the placement of pianos at appropriate locations in accordance with the terms, conditions and requirements of the approved Policy and other applicable criteria set forth in the Municipal Code.

BE IT FURTHER RESOLVED that the City Manager is authorized and directed to make such changes to the approved Policy that are determined necessary to further the interests of the City with such changes to be reported to the City Council.

APPROVED AS TO FORM:

Moved by _____ to adopt.

[Signature]

Lawrence R. McDowell Deputy City Attorney

(Council Communication No. 15238)

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Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GATTO, GRAY, HENSLEY, MAHAFFEY, MOORE, and TOTAL.

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED APPROVED

Mayor

City Clerk

CITY OF DES MOINES PIANO IN RIGHT-OF-WAY LICENSE POLICY

Policy

It is the policy of the City of Des Moines, Iowa, that the City Engineer or designee is authorized to issue piano licenses for placement of a piano on the right of way subject to the base conditions listed below and such other additional requirements as may be deemed advisable by the City Engineer with respect to a specific location.

Piano License conditions and requirements:

- A. Use is limited from May 1 to October 31;
- B. License agreement to provide insurance coverage as required by the City Engineer and Risk Manager in accordance with Municipal Code Section 102-612;
- C. License agreement to provide for indemnification of the City in accordance with Municipal Code Section 102-611;
- D. No sale, transfer, or assignment of the piano license agreement without written consent of the City;
- E. The location of the piano, including the bench, must be approved by the City Engineer and shall not interfere with access to public or City utilities located and/or operated within the City's right of way and shall comply with the criteria set forth in Municipal Code Section 102-607;
- F. No sign or advertisement is allowed on the piano except for a sign identifying the sponsor(s) of the piano. No solicitation for consideration by any means is allowed;
- G. Every day the piano must be securely covered from ten-thirty (10:30) p.m. to ten o'clock (10:00) a.m. unless otherwise designated by the City Engineer or designee in the license. When uncovered the piano must be available for use by all members of the public;
- H. The piano shall be securely anchored to the right of way. The anchoring system must be approved by the City Engineer or designee. Applicant shall be responsible for all damage to the right of way caused by the anchoring or placement of the piano. A deposit in an amount determined by the City Engineer or designee shall be required prior to placement of the anchoring system and shall be returned when the sidewalk is restored to its prior condition;
- I. The applicant shall be solely responsible for the piano and any and all damage to the piano. The applicant shall also adhere to such additional requirements as may be deemed advisable by the City Engineer with respect to a specific location.

The City Engineer or designee may grant the license if the applicant has fully completed the application in accordance with Municipal Code Section 102-606, signed the license agreement to include the requirements for indemnification, a certificate of insurance, compliance with the requirements of this policy, and paying the deposit and required license amount of \$50 per location and a \$100 application fee.