

## **TOWN OF SALISBURY - BOARD OF SELECTMEN**

### **POLICY REGARDING PRIVATE USE OF MUNICIPAL PROPERTY**

At the June 27, 2022 meeting of the Board of Selectmen, the issue of private use of public land was addressed. It was quite clear the Board wanted to establish a policy for the use of public land, both for profit and non-profit use. Selectman Coburn stated the need for procedures and guidelines and the Board agreed that monetary compensation along with guidelines for use must be implemented.

The Town of Salisbury finds that the use of municipal properties by private entities will promote the use and enjoyment of the Town's public space, enhance tourism, and preserve handicapped accessibility to establishments. Use of public space by non-profit organizations is regularly addressed via a special event application permit. This Policy addresses the use of public space by a for-profit business.

Points to consider regarding the use of public property:

- \* Should there be a fee per square foot (special event application vs. licensing for use application)?
- \* Will the proposed use prohibit or impede access to common areas?
- \* Will the proposed use contribute to the general betterment of the location?
- \* Is the proposed use desirable to the residents of Salisbury and the general public?

#### **Board Policy Regarding Private Use of Municipal Property**

The purpose of this Policy is to ensure public access to land owned by the Town of Salisbury if the Board of Selectmen decides in its discretion to allow a private entity to use Town-owned property for a private purpose. Town-owned land must be open to, and enjoyed by, all citizens.

No private entity may place benches, tables, seating or any other permanent or temporary structure(s) on public property without prior written consent of the Town of Salisbury through its Board of Selectmen.

Town-sponsored events, such as Salisbury Days, are exempt from this restriction, as they are permitted in advance.

- Any and all temporary uses of public space must be approved by the Board of Selectmen through either a special event permit or license process. No entity may hold special events more often than ten times per calendar year.
- This Policy is not intended to address the lease of Town-owned property, which shall be accomplished through an RFP process open to all bidders, with a lease

awarded to the most suitable proposal and compensation decided by the Board of Selectmen.

- Any municipal property licensed to a private entity must provide safe circulation for guests and the public. At least **four feet** (ADA standard) of sidewalk/ pedestrian walkway must remain available to accommodate foot traffic and access for handicapped persons.
- Public land licensed to any entity must be open and accessible to members of the public, with no restrictive fencing, barriers, etc. impeding public use of the area, except as provided below concerning licensees who serve alcoholic beverages.
- Any private use of public land must adhere to ADA requirements.
- Every request shall be temporary in nature in its entirety and designed to be removed when not in use. The Town reserves the right to require removal of structures from public property if or when the Board of Selectmen determines it may be necessary. Should the licensee not comply with removal, the licensee will be billed by the Town for the cost of removal and face the possibility of license revocation.
- All applications will be subject to review and approval through relevant licensing boards and departments.
- Each requested use must be allowable by Salisbury's Zoning Bylaws.
- If alcohol is involved, the entire area must be separated from any public walkway by a contiguous enclosure and an application must be presented to the Board of Selectmen, acting as the Town's Liquor Licensing Authority, for an alteration of licensed premises.
- A temporary license for the use of public space shall be for a term certain and shall not exceed one year. All licensees shall be required to apply annually if they wish to continue licensing municipal property from the Town in future years.
- All licensees shall be required to indemnify and hold the Town harmless from any damages that occur on the licensed premises.
- All licensees shall be required to comply with any and all requirements set forth in the License Agreement. Failure to do so may result in revocation of the license.

The Town shall not be responsible for any costs relative to the licensed use. The licensee understands that construction, maintenance, utilities, and other amenities relative to the license of public space and operation shall be its sole responsibility.

- Insurance: The licensee's use of Town-owned property shall be conditioned upon the licensee obtaining and maintaining liability insurance for the additional area for the period covered by the license. The minimum amount of insurance shall be in the amount of One Million [\$1,000,000.00] Dollars per occurrence. The Certificate of Insurance shall name the Town of Salisbury as an additional insured, and the Original Certificate shall be provided prior to obtaining any permits.
- A detailed plan of proposed use of public space, showing placement of all structures to be placed on the property, drawn to scale and allowing handicapped access throughout the leased area, must accompany any application for a license.
- The plan must clearly show separation between space and pedestrian walkways/access, with dimensions of each on the plan.

The license fee for use of the public space and term of the license shall be determined by the Board of Selectmen and is subject to change on a yearly basis. The Town, acting through the Board, reserves the right to revoke a license for the use of Town-owned property for any reason and at any time. After a completed application is submitted and reviewed, the request will be placed on a subsequent Board of Selectmen's agenda as "Use of Public Property Permit/License." Once the applicant has received all necessary Town approvals, the licensee shall be required to execute a License Agreement for use of the public space, which, if approved by the Board of Selectmen, will be signed by the members of the Board.

Checklist for Permit Application: Consideration for a license to utilize municipal property will not be given until the following conditions are met and submitted:

1. Completed application signed by the applicant, including signoffs by all relevant boards/committees/departments.
2. The original Certificate of Insurance naming the Town of Salisbury as an additional insured.
3. A detailed plan of proposed use of public space showing placement of all structures to be placed on the property, drawn to scale and allowing handicapped access throughout the leased area. Plan must clearly show separation between space and pedestrian walkways/access with dimensions of each on the plan.

This policy was adopted by a vote of the Board of Selectmen on June 12, 2023 and is effective immediately.