

A Resolution

NO. _____

ADOPTING THE CITY OF FORT WORTH VERTICAL AND OVERHEAD STREET BANNER POLICY

WHEREAS, on December 16, 1963, the City Council adopted a policy governing the use of overhead street banners in the City (M&C G-578) (Overhead Banner Policy); and

WHEREAS, on March 12, 1998, the City Council adopted a policy and procedures governing the placement of banners within the public rights-of-way of the City (M&C G-12155) (Street Banner Policy); and

WHEREAS, there have been no substantive updates to the Overhead Banner Policy in 60 years and the Street Banner Policy in 25 years; and

WHEREAS, the Street Banner Policy governs the installation of vertical banners from rods and brackets attached to City-owned metal street light poles within certain rights-of-way to allow non-profit organizations to use banners to promote the organization or events/exhibits held by the organization in the City which are open to the public, of common interest, or recognize or contribute to the cultural fabric of the City; and

WHEREAS, additionally the Street Banner Policy provides for specifications for vertical banners; allows for agreements with non-profits to manage the street banner program in certain areas of the City if recommended by the Director of Transportation and Public Works and authorized by the Fort City Council; and

WHEREAS, it is timely to combine the two policies and update all provisions related to the placement of street banners within the public right-of-way; and

WHEREAS, the new Vertical and Overhead Street Banner Policy will add definitions, update specifications and maintenance requirements, continue agreements with non-profits to manage the banner program in certain areas of the City, add definitions and update the fee structure.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS, THAT:

1. The City Council hereby rescinds the Overhead Banner Policy adopted in 1963 and the Street Banner Policy adopted in 1998.
2. The City Council hereby adopts the Vertical and Overhead Street Banner Policy attached hereto as "Exhibit A," which governs the placement of vertical

and overhead banners within the public right-of-way.

3. The fees will go into effect on October 1, 2023

Adopted this _____ day of _____ 2023.

ATTEST:

By: _____

Jannette S. Goodall, City Secretary

EXHIBIT A

CITY OF FORT WORTH VERTICAL AND OVERHEAD STREET BANNER POLICY

I. PURPOSE

This administrative policy explains what banners can be displayed on the City street light poles and over streets, and establishes requirements and procedures for such displays. Street lights are owned and operated by the City of Fort Worth and maintained by its Transportation and Public Works Department. The banners do not constitute an open public forum. The primary intent is to convey information to the community. Allowed displays are regulated in a consistent and lawful manner to provide a nonpublic forum that promotes tourism and city-sponsored messages.

II. DEFINITIONS

“Event” means an events of an interest to a significant portion of the residents of the City for cultural, civic or major event or program (art shows, concerts, festivals, major sporting events, parades and walk/run events) of broad interest to a significant portion of residents of the City and/or tourists, which will benefit a governmental agency, generate significant tax revenue to the benefit of most City residents, or support a city sanctioned event promoted by a charitable nonprofit organization.

“Hosted” means to plan, provide the means necessary, and manage, in part or in whole.

“Non-profit” means a community organization having current IRS 501(c) status and primarily operating within the city of Fort Worth or proof of substantial work or activities conducted in the city.

“Sponsored” means either in-kind donations for longstanding events which have become a community tradition, or in the form of in-kind services or grant funding awarded by the City for the event.

“Tourism Entity” means an entity that may apply for lodging tax funding under state law which includes convention and visitors’ bureaus; destination marketing organizations; and nonprofits, including main street organizations, lodging associations, or chambers of commerce.

“TPW” means the Transportation and Public Works Department.

III. LOCATION AND STRUCTURES

Approved banners may only be displayed in locations approved by the TPW Director as shown in attachment and as may be updated from time to time and provided on the City’s website.

IV. ALLOWED USAGE

Banners are allowed for the purpose of announcing and promoting community-based, cultural, educational and civic information and events. The following are authorized usage of street banners:

1. Events hosted by the City.
2. Events sponsored or co-sponsored by the City.
3. Events hosted by a tourism entity which support or attract tourism, are open to the public, and located in the city limits.
4. Events being held at City convention Center, Will Rogers Complex, Dickies Arena, major Colleges or Universities.
5. Welcome messages for those attending conventions, conferences and other city-wide events.
6. Identify and promote public improvement districts or other particular districts of the City. Examples: university or hospital area, historical district or cultural district.
7. Promote educational institutions including universities, colleges, public and private schools.

V. PROHIBITED USAGE

Banners which are prohibited include, but are not limited to, the following:

1. Promotion of a profit-generating activity by a commercial enterprise, including direct or indirect sales of goods and/or services (commercial advertising).
2. Messages with political, religious or public issue advertising.
3. Messages with profane language or personal attacks.
4. Messages which promote, foster, or perpetuate unlawful discrimination.
5. Messages which advocate illegal activity.
6. Messages which infringe on copyrights or trademarks.
7. Messages which may compromise the safety, security or proceedings of public systems.
8. Any banner which would constitute a hazard to traffic or safety. Including, but not limited to, the words "stop," "look," "danger," "drive-in," or any other words or graphics which could negatively impact traffic or public safety are not allowed.
9. Any other use that would violate a local, state, and/or federal law or regulation.

VI. RESERVATION DATES AND PRIORITY

Reservations are made on a first-come, first-served basis with the following caveats:

- a) City-hosted events have priority, regardless of when an application is submitted;
- b) Events hosted by a tourism entity.

Events sponsored by the City but organized and managed by a local non-profit organization have second priority; and

Each reservation is limited to two consecutive weeks (14 days total) prior to the event(s). Banners not promoting a date specific event may be displayed for period specified in the permit, which may

not exceed 3 months. Upon request the TPW Director may grant an extension for an additional XX months. Additional fees will apply.

VII. FEES/DEPOSIT

Deposit:

A \$1,000.00 deposit is required to cover costs to the City in case of non-compliance (i.e., applicant's failure to remove banners, pole is damaged, etc.). The deposit must accompany the application. The deposit will be refunded if the request is denied.

Vertical Banner Fees

Program Fee \$100.00

Pole Rental:

\$25/pole per 2-week period (no commercial logo)

\$50/pole per 2-week period (commercial logo limit to 10%)

Security Deposit (refundable) \$1,000.00

Overstreet Banner Fees

Program Fee: \$100.00

Flat fee: \$500.00 per 2-week period

Security Deposit (refundable) \$1,000.00

All fees will cover the period for which the Banner Permit is granted and will not be applied to any Permit renewals.

The program fee is required to offset the cost of administering the Banner Policy.

VIII. SPECIFICATIONS

All banners must comply with the specifications and design requirements as determined by TPW. It shall be the responsibility of the permit holder to have its banner fabricated in accordance with the size and design specifications.

IX. INSTALLATION, MAINTANCE AND REMOVAL

Installation

All banners will be installed and removed by a contractor licensed and bonded to work in the City right of way and approved by TPW. Banners will be removed by the TPW of the City and the deposit forfeited by the applicant, if they are not removed by applicant's contractor within seven (7) calendar days of removal time stated in permit.

The Applicant shall provide all supports, braces, span wire, anchors, and ropes required for the installation of banners.

Maintenance:

Banners must always be maintained. The maintenance and upkeep of banners is the sole responsibility of the applicant. Banners in disrepair must be replaced or repaired within twelve hours of notification. Should the applicant fail to repair or replace within the time prescribed, the City has no duty but may remove banners that are not maintained as described herein. The applicant shall forfeit the deposit if banners are removed by banners are removed by TPW disrepair.

Maintenance and upkeep include, but are not limited to:

- Loose banners
- Torn banners
- Fallen banners
- Faded or discolored banners
- Broken brackets and/or missing bracket stems

Removal:

Any defect in a banner which could cause possible injury, damage to property, or a traffic hazard will result in the banner's removal by the City without prior notification to the applicant. The City will not attempt to make any changes or repairs to a banner. If there is remaining time within the permitted display period, the applicant will be allowed to provide a replacement banner for the remainder of the display period. No additional fee will be incurred to install a replacement banner.

No refunds will be provided should a banner be removed due to safety issues and the Applicant shall forfeit deposit fee.

In order to minimize the effect on traffic flow, banners, rods and brackets must be installed on weekdays between 9:00 a.m. and 4:00 p.m. or during daylight hours on weekends. Nighttime installation is prohibited. Banners may only be installed on metal street light poles by a contractor licensed and bonded to work in the City ROW. Banners may only be suspended from fiberglass banner rods attached to metal brackets.

Banners may be put up no earlier than two weeks prior to the event, except for City sponsored events. In the case of banners not promoting a specific event, they may be up for a maximum of two weeks.

X. PERMIT TERMS

The terms of the permit for any approved banner are not transferable.

The City is not responsible for damage to a banner during installation or removal, or while it is displayed.

XI. HOLD HARMLESS

The applicant shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with activities or operations performed by the applicant or on the applicant's behalf out of issuance of this permit, except for injuries and damages caused by the sole negligence of the City.

XII. APPLICATION

An organization seeking to display a banner on City street light poles shall submit a completed banner permit application on a form provided by the City, accompanied by the required application fee and other required documentation. It is advised that applications be submitted at least 90 days before the requested reservation date. A traffic control plan that must be accepted by the City before a permit will be approved. Applications will not be accepted more than 12 months in advance.

Applications can be submitted online or in person at the TPW department on the 2nd floor of City Hall, 200 Texas Street.

Upon submittal, each application will be reviewed by the TPW Director, City Engineer or designee. The TPW Director or designee shall have sole authority to approve banner applications including design/content, location and installation dates. The City will review and approve or provide comments for corrections within 10 business days. An approved application will be issued a permit upon receipt of fees and documentation. See application for details.

Procedure:

The Application must:

- State the purpose of the nonprofit, educational institution or event being promoted (if applicable)
- State the dates and times banners will be installed, displayed and removed; and if, applicable, the dates of the special event/exhibit
- State and provide a map showing the location and number of banners, specifically banner/street light pole locations. In the event of dual requests, the application with the earliest postmark will be given first consideration, unless one of the nonprofits or educational institutions have received prior approval in which case they will retain first right of refusal.
- Include a color sample of the banner design/content
- Include a check made payable to the City of Fort Worth for all applicable deposits and fees
- Identify corporate sponsorship logo(s). The logo shall occupy no more than 10 percent of the overall size of the banner. Sponsors will be restricted to their logo or company name on the bottom 10 percent of the proposed banner and shall not include any advertisement or slogan.

- Include a certificate of insurance meeting the following insurance requirement:

Insurance:

All insurance requirements must be met before the Banner Permit is issued. The following insurance must be documented on a certificate of insurance, with the City named as the Certificate Holder.

- A. Commercial General Liability in the amount of \$1,000,000, per occurrence; \$2,000,000 aggregate limit
- B. Business Auto Liability in the amount of \$1,00,000 each accident on a combined single limit basis. Split limits are acceptable if limits are at least: \$250,000 for injury to one person, \$500,000 for injuries to two or more persons resulting from or arising out of one accident, and \$100,000 for property damage.
- C. The City shall be endorsed on the policy as an additional insured as its interests may appear.
- D. The policy shall be endorsed to provide a thirty (30) days' notice of cancellation or non-renewal to the City.

XIII. PERMIT DENIAL AND APPEAL

Denials of banner permits may be appealed in writing to the City Manager for final determination. Written appeals must be received by the City Manager or designee within five business days following denial.

The City Manager or designee will base all final decisions on the following criteria:

- Whether the proposed banner meets the criteria for an allowable display;
- Whether the banner is likely to promote tourism or a local event provided for under "Allowed Usage," likely of great interest to a majority of city residents;
- Whether another proposed banner which seeks the same time slot has, under the policy, a higher priority for approval; and
- Any other lawful basis for the determination.

XVI. SPECIAL AGREEMENTS

The City's Vertical and Overhead Street Banner Program may be administered by certain non-profit organizations within a defined area of the City. In such cases, the Director or designee will draft a formal agreement approved by the City Council describing the terms and conditions under which a banner management program may operate. Banners are subject to approval by the Director or designee and must be in accordance with the Vertical and Overhead Street Banner Policy.