

GRAHAM PARK ADVERTISING POLICY
Revised October 2016
Approved by Resolution No. 16-____ on October 4, 2016

I. PURPOSE

Olmsted County operates Graham Park, the home of the Olmsted County Fair. Graham Park's operations are funded by a combination of federal, state and local funds, including grants and taxes, as well as revenue from events held there. Advertising revenues are an important additional source of revenue that supports Graham Park's operations. In order to raise additional revenue, Olmsted County will accept advertising on its advertising signs at Graham Park only if such advertising complies with the guidelines set forth in this Advertising Policy.

By allowing limited types of advertising on its advertising signs, Olmsted County does not intend to create a public forum for public discourse or expressive activity, or to provide a forum for all types of advertisements. Olmsted County's purpose in accepting advertising is to generate additional revenue to augment Graham Park's operating budget.

II. APPLICATION OF ADVERTISING POLICY

This Advertising Policy applies to the posting of all new advertisements on Graham Park advertising signs or after the effective date of this Advertising Policy Any advertisements which would be prohibited under this Advertising Policy, but which were posted in 2016 pursuant to the terms of any previous Advertising Policy and a duly executed advertising contract prior to the Effective Date of this Advertising Policy, will be allowed to remain posted for the duration of that contract.

III. DEFINITIONS

"Advertising Sign" means a sign that directs attention to a business, service, product, event or location not related to or on the premises where the sign is located.

"Advertising Slide" means a panel on an advertising sign which is intended to direct attention to a business, service, product, event or location not related to or on the premises where the sign is located

"Event Slide" means a panel on an advertising sign which is intended to direct attention to an event to be held on the grounds within Graham Park.

"Government Entity" means any unit of government located in Olmsted County other than the County such as a city, township or school district.

"Graham Park" means the real property owned by Olmsted County which is known as Graham Park and which was previously known as the Olmsted County Fairgrounds.

"Sponsor" means any entity that the County may contract with regarding the placement or sale of advertising at Graham Park.

IV. POLICIES

A. PERMITTED ADVERTISING CONTENT

The following classes of advertising are authorized on Graham Park advertising signs if the advertisement does not include any material that qualifies as Prohibited Advertising under Section IV B of this Advertising Policy:

1. Any advertising intended to promote an event to be held on the grounds of Graham Park. Notwithstanding any restrictions listed in the Prohibited Advertising section of this Policy, an event slide on an advertising sign at Graham Park is permitted to promote an event to be held on the grounds of Graham Park, even if that event slide may display content that would otherwise be prohibited if contained on an advertising slide. However, all advertising that promotes or solicits the sale, rental, distribution or availability of firearms or firearms-related products or depicts the use of a firearm must include the participation of a federally licensed firearms dealer as defined in 18 U.S.C. Section 921 that complies with applicable legal requirements for transfer of a firearm pursuant to 18 U.S.C. Section 922 at any event to be held on the grounds of Graham Park.
2. Commercial and Promotional Advertising. Commercial and Promotional Advertising primarily promotes the sale, lease, rental, distribution or availability of goods, services, food, entertainment, events, programs, transactions, donations, products or property (real or personal) for commercial or noncommercial purposes or more generally promotes an entity that engages in such activities.
3. Governmental Advertising. A Government Entity may purchase advertising for messages that advance specific government programs. It is Olmsted County's intent that governmental advertising will not be used for comment on issues of public debate.
4. Public Service Announcements. Olmsted County recognizes that its advertising program and its overall mission are promoted by allowing Public Service Announcements. First, such announcements engender goodwill with the public because Graham Park is seen as a caring and active participant in the community it serves. Second, board members and administrators of nonprofit and government organizations who purchase space for Public Service Announcements are introduced to the benefits of Graham Park advertising, increasing the likelihood they will continue to purchase Graham Park advertising in the future for their organizations or other organizations in which they are involved.

A Public Service Announcement must satisfy the following criteria:

- (a) The sponsor of the Public Service Announcement must be a government entity or a nonprofit corporation that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. At the time of submission of a proposed advertisement, the sponsor shall submit documentation of its 501(c)(3) status to the Graham Park Site Manager.
- (b) The Public Service Announcement may not include a message that is primarily commercial or retail in nature or related to a festival, show, sporting event, concert, lecture or event for which an admission is charged.

- (c) The Public Service Announcement must be directed to the general public or a significant segment of the public and relate to:
 - (i) Prevention or treatment of illnesses;
 - (ii) Promotion of safety or personal well-being;
 - (iii) Provision of children or family services;
 - (iv) Solicitation by broad-based employee contribution campaigns which provide funds to multiple charitable organizations; or
 - (v) Provisions of services and programs that provide support to low income citizens and citizens with disabilities.

B. PROHIBITED ADVERTISING CONTENT

Advertising is prohibited on Graham Park advertising signs if it includes any of the following content, or includes an Internet address that directly links to, any of the following content:

1. Political. Advertising promoting or opposing a political party, or promoting or opposing the election of any candidate or group of candidates for federal, state or local office. Advertising promoting or opposing initiatives, referendums or other ballot measures.
2. Public Issue. Advertising expressing or advocating an opinion, position or viewpoint on matters of public debate about economic, political, religious or social issues.
3. Prohibited Products, Services or Activities. Any advertising that (i) promotes the sale, rental, or use of, or participation in, the following products, services or activities; or (ii) that uses brand names, trademarks, slogans or other material that are identifiable with such products, services or activities:
 - (a) Tobacco/Nicotine. Tobacco or nicotine products, including but not limited to, cigarettes, cigars and smokeless tobacco and their electronic equivalents such as e-cigarettes;
 - (b) Alcohol. Beer, wine, distilled spirits or any alcoholic beverage licensed and regulated under Minnesota law, however, this prohibition shall not prohibit advertising that includes the name of a restaurant;
 - (c) Adult/Mature Rated Films, Television or Video Games. Adult films rated "X" or "NC-17", television programs rated "TV-14 or TV-MA" or video games rated "T" or "M" or "A" by the ESRB;
 - (d) Adult Entertainment Facilities. Adult book stores, adult video stores, nude dance clubs and other adult entertainment establishments.

4. **Illegal Activity.** Any advertising that promotes an activity or product that is illegal under federal, state or local law.
5. **Sexual and/or Excretory Subject Matter.** Any advertising that contains or involves any material that describes, depicts or represents sexual or excretory organs or activities in a way:
 - (a) Which the average adult person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest of minors in sex; and
 - (b) Which is patently offensive to contemporary standards in the adult community as a whole with respect to what is suitable material for minors to see; and
 - (c) Which, when considered as a whole in the context in which it is used, lacks serious literary, artistic, political, medical, health or scientific value; or
 - (d) Which depicts, or reasonably appears to depict, a person under the age of eighteen (18) exhibiting his or her sexual or excretory organs or engaging in sexual or excretory activities.

For purposes of this subsection, "sexual or excretory organs" shall mean and include the male or female pubic area, anus, buttocks, genitalia, or any portion of the areola or nipple of the female breast and "sexual or excretory activities" shall mean and include actual or simulated sex acts of every nature (including but not limited to touching of one's own or another's clothed or unclothed sexual or excretory organs), urination and defecation.

6. **False or Misleading.** Any material Olmsted County knows, or the party submitting the advertisement knows or reasonably should have known is false, fraudulent, misleading, and deceptive or would constitute a tort of defamation or invasion of privacy. Sponsors are responsible for ensuring that their ads are adequately substantiated and comply with all applicable laws, regulations, and guidelines.
7. **Copyright, Trademark or Otherwise Unlawful.** Advertising that contains any material that is an infringement of copyright, trademark or service mark, or is otherwise unlawful or illegal.
8. **Profanity or Violence.** Advertising that contains any profane language, or portrays images or descriptions 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.
9. **Firearms.** Advertising that promotes or solicits the sale, rental, distribution or availability of firearms or firearms-related products or depicts the use of a firearm is prohibited unless a) the retailer is a federally licensed firearms dealer as defined in 18 U.S.C. Section 921 that complies with applicable legal

requirements for transfer of a firearm pursuant to 18 U.S.C. Section 922 or b) the firearms advertising is in connection with an event that will include the participation of a federally licensed firearms dealer as defined in 18 U.S.C. Section 921 that complies with applicable legal requirements for transfer of a firearm pursuant to 18 U.S.C. Section 922.

10. Harmful or Disruptive to Graham Park. Any material that is so objectionable under contemporary community standards as to be reasonably foreseeable that it will result in harm to, disruption of, or interference with regular activities at Graham Park.
11. Insulting, Degrading or Offensive. Any material directed at a person or group that is so insulting, degrading or offensive as to be reasonably foreseeable that it will incite or produce imminent lawless action in the form of retaliation, vandalism or other breach of public safety, peace and order.
12. Disparaging. Any advertising that is intended to be (or reasonably could be interpreted as being) disparaging, disreputable, or disrespectful to organizations, including Olmsted County or Graham Park, persons, groups, or businesses, including advertising that portrays individuals as inferior, evil or contemptible because of their race, color, creed, religion, national origin, sex, marital status, familial status, disability, public assistance status, age, sexual orientation local human rights commission activity or any other characteristic protected under federal, state or local law.
13. Lights, Noise and Special Effects. Flashing lights, sound makers, mirrors or other special effects that interfere with the safe operation of vehicles or pedestrians on public right of ways adjacent to Graham Park.
14. Government Comments on Issues of Public Debate. Advertising from a governmental entity that takes a position on an issue of public debate.
15. Endorsement. Advertising that implies or declares an endorsement of Olmsted County, or another government entity within its area, of any service, product, or point of view, without written authorization from Olmsted County or the other government entity.

V. Additional Requirements

Any advertising in which the identity of the sponsor is not readily and unambiguously identifiable must include the following phrase to identify the sponsor in clearly visible letters:

"Advertisement paid for by [name of sponsor]"

VI. PROCEDURES

The Graham Park Site Manager shall be responsible for the daily sales and administration of Graham Park's advertising program, in a manner that is consistent with this Advertising Policy. Questions regarding the terms, provisions and requirements of this Advertising Policy shall be addressed to the Site Manager.

- A. Submission of Advertising. All proposed advertising must first be submitted by the sponsor to the Site Manager for initial compliance review. The Site Manager shall be responsible for performing a thorough evaluation of the submission to assess its compliance with this Advertising Policy. If the advertisement's sponsor purports to be a 501 (c) (3) organization submitting a Public Service Announcement, it shall provide to the Site Manager documentation demonstrating its 501 (c)(3) status.

The Site Manager may at any time discuss with the entity proposing the advertisement one or more revisions to an advertisement, which, if undertaken, would bring the advertisement into conformity with this Advertising Policy.

If the Site Manger is unable to make a compliance determination, the Site Manager shall promptly send the final version of the advertisement, along with the names of the sponsor, the size and number of the advertisements, the approximate dates and locations of the display, and, to the extent applicable, documentation demonstrating the sponsor's 501 (c)(3) status, to the County Public Works Director, or his/her designee, for further review.

- B. Authority of Olmsted County. The ultimate authority to determine whether a particular advertisement complies with this Advertising Policy rests with Olmsted County.

In the event the Site Manager in contravention of this Advertising Policy approves an advertisement that Olmsted County ultimately determines is not in compliance with this policy, the sponsor shall, upon request from the Public Works Director, remove the advertisement within 24 hours. In the event Olmsted County directs the removal of any such advertisement, it shall provide the sponsor with the opportunity to revise the advertisement and/or pursue an appeal of that decision in compliance with Sections VI.C(2) and/or (3) below.

- C. Determination of Compliance. The County Public Works Director, or his/her designee, shall determine whether a particular advertisement submitted by the sponsor complies with this Advertising Policy. In reaching this determination, the Public Works Director, or his/her designee, may consider any materials submitted by the sponsor, and/or and materials publicly available, and may consult with the Site Manager.

If the Public Works Director, or his/her designee, determines that the advertisement does not fall within any of the categories set forth in Section IV.B above, the Site Manager, or his/her designee, shall notify the sponsor of this determination. In the event the Public Works Director, or his/her designee, determines that an advertisement falls within one or more of the prohibited categories set forth in Section IV.B above, he/she may seek additional policy review by consulting with the Olmsted County's County Attorney's Office. If the Public Works Director determines the advertisement is not in compliance with this policy, then:

1. Notification of Non-Compliance. The Site Manager, or his/her designee shall provide the sponsor with a copy of the Advertising Policy and the written explanation for the decision.

2. Opportunity for Revision by Sponsor. Upon receipt of a decision of non-compliance, the sponsor may provide proposed revisions to the advertisement to the Site Manager. If the Site Manager or his/her designee, determines the proposed revisions do not bring the advertisement into compliance with the Advertising Policy, this decision may be appealed to the Public Works Director within 5 business days of the denial. The Public Works Director may consult with the County Attorney's Office concerning this appeal and upon reaching a decision, shall provide a written explanation for the decision within ten (10) days after receiving the notice of appeal.
3. Appeal of Decision. A sponsor may request review of a decision by the Public Works Director's by the Olmsted County Board by filing a notice of appeal with the Olmsted County Attorney's Office within 10 days of issuance of the decision by the Public Works Director to be considered at the next regularly scheduled meeting of the County Board. The County Board shall provide a written explanation for decision concerning its review within thirty (30) days of the appeal hearing, a copy of which shall be mailed to the sponsor. This determination shall be deemed final.

VI. RESPONSIBILITIES

Olmsted County is responsible for the implementation of this Graham Park Advertising Policy.

OLMSTED COUNTY HAS CREATED THIS POLICY BASED ON A POLICY ADOPTED BY THE PIERCE COUNTY TRANSIT AUTHORITY OF PIERCE COUNTY, WASHINGTON AND GRATEFULLY ACKNOWLEDGES ITS ASSISTANCE.