

POLICIES AND PROCEDURES FOR NON-COMMERCIAL EXPRESSION AT SOUTHLANDS

Adopted and Enforced by Southlands Metropolitan District No. 1

Adopted April 15, 2014

Preface

These Policies and Procedures of Southlands Metropolitan District No. 1 (“**Southlands**”) are provided for the purposes of regulating the time, place and manner of activities of all individuals, groups and organizations (each, an “**Applicant**”) engaged in non-commercial expression protected by the Colorado Constitution on the property of Southlands to comply with the pertinent court decisions, and are not intended to expand the rights of anyone beyond that required by law. These Policies and Procedures shall not be construed to allow any non-commercial expression at Southlands other than that expressly permitted by these Policies and Procedures, and the Board of Directors of Southlands reserves the right to prohibit any non-commercial expression not expressly permitted in these Policies and Procedures.

Each of these Policies and Procedures shall be interpreted to achieve the commercial purpose for which Southlands is operated, and to protect the valuable property rights of Southlands and the business of the tenants at Southlands. Neither the enforcement of these rules nor any expression permitted by these Policies and Procedures shall constitute or be deemed to constitute a dedication of Southlands for public use, nor be construed or interpreted as acquiescence or a waiver of the private property rights of Southlands.

1. Activities Permitted as Non-Commercial Expression. Non-commercial expression is any activity which is designed to obtain signatures on petitions directed to a governmental body or official, to register voters, and/or familiarize individuals with non-commercial subjects. The staging of performances and demonstrations are not permitted as non-commercial expression. Non-commercial expression is anticipated to result in individual or one-on-one communications as opposed to communications intended for a group of people simultaneously and would include handing out any leaflets, pamphlets or other written materials; carrying or displaying signs or placards; or other verbal statements which are protected by the Colorado Constitution at shopping centers.
2. Designated Area. Any Applicant may request access to Southlands for non-commercial expression in the areas designated in **Exhibit A** (the “**Designated Area**”).
3. Application and Permit Required. Applicant must have permission from Southlands to engage in non-commercial expression activities at Southlands, as evidenced by a fully executed Permit to Use Southlands, the form of which is attached hereto as **Exhibit B**. A Permit to Use Southlands is valid for six (6) months from the date of issuance, subject to all other conditions contained in these Policies and Procedures. An Application, in the form attached hereto as **Exhibit C** (“**Application**”) (provided by the Southlands Management Office) must be filled out completely and returned to the Southlands Management Office during business hours at least

twenty-four (24) hours prior to the time that Applicant arrives at Southlands to engage in the non-commercial expression. All persons engaging in the non-commercial expression must be listed on the Application as approved by the Southlands Management Office. The Application must be accompanied by copies of any and all petitions, literature and leaflets, the text or a photograph of any signs intended to be used, and a photograph of any displays. Business hours of the Southlands Management Office are 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays.

4. Review of Application and Notification. The Manager of Southlands will review the Application to ensure that the proposed non-commercial expression is permitted pursuant to the Policies and Procedures and may approve or reject an Application in whole or in part. The Manager of Southlands will approve or reject the completed Application within twenty-four (24) hours of receipt (excluding weekends and legal holidays). Southlands will make one attempt to contact and advise the Applicant of approval or rejection of the Application. If contact with the Applicant is not made, it shall be the sole responsibility of the Applicant to contact the Southlands Management Office to inquire about the approval or rejection of the Application. If denied in whole or in part, the Application will be returned to the Applicant by mail. If approved, a copy of the application will be returned to the Applicant upon check-in with the Southlands Management Office on the day of the proposed non-commercial expression. An Application may be rejected for any of the following nonexclusive list of reasons:

- A. The Application is not fully completed and executed;
- B. The Application does not contain the date(s) and time(s) in which the Applicant wishes to engage in non-commercial expression;
- C. The Applicant has not tendered the required indemnity agreement and/or insurance certificate, if any;
- D. The Application contains a material falsehood or misrepresentation;
- E. The Applicant is legally incompetent to contract or to sue and be sued;
- F. The Applicant or person on whose behalf the Application was made has on prior occasion damaged Southlands property and has not paid in full for such damage;
- G. The date(s) and time(s) proposed for the non-commercial expression conflicts with previously planned activities by other Applicants or programs organized and conducted by Southlands.

5. Custody of Approved Application and Permit to Use. Copies of the Application and Permit to Use Southlands must be maintained by the Applicant at all times the non-commercial expression is being conducted and must be made available to Southlands Management or Security upon request.

6. Alternative Dates for Approved Applications. If the Application is approved, but the Designated Area is not available for the date(s) and/or time(s) requested, the Applicant will be advised by the Southlands Management Office of the next available date and time. If the Applicant wishes to engage in the requested non-commercial expression on the alternative date(s), the Applicant must advise the Southlands Management Office within two (2) business days after being notified. If the Applicant does not wish to engage in non-commercial expression or the Applicant fails to advise the Southlands Management Office within the prescribed time, the Application will be deemed denied.

7. Multiple Days. Any Applicant may request to use the Designated Area for non-commercial expression for up to three (3) consecutive days. In order to allow as many individuals, groups, and organizations as possible to engage in non-commercial expression, each Applicant will be limited to fifteen (15) calendar days in a year of use of the Designated Area. Southlands reserves the right to place additional limits on the total number of days that individuals, groups, or organizations are permitted to engage in non-commercial expression if Southlands believes, in good faith, that certain individuals, groups, or organizations are attempting to circumvent this rule.

8. Hours and Check-In Procedures. Non-commercial expression permitted under these Policies and Procedures shall only be allowed during the hours that a majority of the stores at Southlands are open for business to the public. Applicant must check in with Southlands Security Office immediately upon arrival each day and checkout at the end of each approved time and day.

9. Covenant to Conduct Activities in Designated Area. Southlands has established a Designated Area within Southlands Mall to accommodate Applicants whom wish to engage in non-commercial expression. Applicant covenants and agrees that any and all activities related to non-commercial expression shall be conducted in, and limited to, said Designated Area. If this Designated Area is occupied by Applicants, Southlands may refuse to allow any additional Applicants to engage in non-commercial expression at Southlands.

10. Guidelines for Posters, Placards and Signs.

- A. Applicant may not use any posters, placards, banners or other signs on Southlands that are larger than 22" x 28". All posters, placards and signs shall be neat in appearance. No Applicant shall display more than a total of three (3) posters, placards or signs at any one time. In no event shall any signs be affixed to any portion of Southlands, including any building, sign, tree or other fixture or block the view of any tenant's store or display or directly compete with business displays or logos of Southlands' tenants or promotional activities. In no event shall Applicants hand out approved leaflets more than 10 feet from the approved location or Designated Area. No materials may be inserted or attached to the ground. Placement of any written materials on any vehicle at Southlands is prohibited. Leaflets may only be handed directly to individuals at the location described in paragraph 9.

- B. No sign, poster, placard, display or written material shall interfere with the commercial purpose of Southlands or its tenants or contain or depict “fighting words,” obscenities, pornography, grisly or gruesome displays, highly inflammatory slogans likely to provoke a disturbance, or racial, religious or ethnic slurs, as determined in the sole and absolute discretion of Southlands.

11. Non-Affiliation. No representations may be made to anyone that the Board of Directors of Southlands Metropolitan District No. 1, individual property owners, or management of Southlands, or their respective consultants or employees, sponsor or support any view, belief, or request expressed by the Applicant.

12. Limitations on Sound Producing Devices. Applicant may not use, operate, or permit to be played any musical instrument, radio or MP3 player, or other device for the production or reproduction of sound which creates noise of a sufficient volume to impinge on the peace of other patrons at Southlands, as determined in the sole and absolute discretion of Southlands.

13. No Solicitation, Promotion or Distribution. Applicant may not solicit contributions or donations from anyone at Southlands. Applicant may not engage in or promote the sale of any items or services at Southlands. Applicant may not distribute commercial advertising or commercial promotional materials of any kind or offer samples of any items.

14. No Interference with Business or Movement. Applicant may not impede or interfere with the business of any Southlands’ tenants, employees or personnel, nor shall Applicant detain or in any way impede or interfere with the smooth flow and free passage of Southlands’ patrons, customers or personnel.

15. Use of Force and Other Disturbances Forbidden. Applicant shall not use physical force, obscene language or gestures, physically or verbally threaten any person, engage in fighting or raucous activity, or create any disturbance which is disruptive to Southlands’ commercial function, as determined in the sole and absolute discretion of Southlands.

16. Decorum.

- A. Each representative of Applicant shall be neat in appearance and at all times shall be fully clothed, including shoes and shirts. Further, each representative of Applicant must wear a name tag at all times while on the premises of Southlands, which name tag shall contain at a minimum the name of the individual, and his or her company and/or affiliation.

- B. Applicant must ensure that the Designated Area and areas surrounding it are clean, neat, and free of trash and refuse related to the non-commercial expression. Each applicant and representative shall be responsible for cleaning up any debris, litter, and garbage caused by or related to the Applicant’s activity, including but not limited to, picking up and properly disposing of leaflets, handbills, and flyers distributed or made available.

- C. Applicant and each representative of Applicant must keep all personal items, including supplies and extra materials, in a safe, neat, and orderly manner.

17. Compliance With All Laws.

- A. Each Applicant and representative of Applicant shall comply with all applicable federal, state and local laws and ordinances and must register with all governmental agencies, if any, and obtain all licenses, permits and/or other documentation if any as is required by law.
- B. In addition to these Policies and Procedures, while at Southlands, Applicant must also comply with all rules and regulations and Southlands' Code of Conduct, a copy of which is attached hereto and incorporated herein as **Exhibit D.**
- C. Southlands reserves the right to take any appropriate action, including without limitation, necessary legal action, to ensure compliance with these Policies and Procedures, and Applicant shall pay any and all costs, fees and/or expenses, including reasonable attorneys' fees, associated therewith.

18. Enforcement

- A. First time violations of the Policies and Procedures shall result in warnings, termination, or cancellation of the Applicant's right to engage in non-commercial expression in the Designated Area on that day, if necessary, as determined by the Southlands Management Office in its sole discretion.
- B. A second violation of the Policies and Procedures may result in a permanent ban from Southlands for a period of not less than six (6) months, as determined by the Southlands Management Office in its sole discretion.
- C. Once banned for six months, subsequent violations may result in a permanent ban from Southlands' property of Applicants and/or representatives, as determined by Southlands in its sole discretion.

19. Grounds to Revoke Approval of Application. Southlands approval of the Application may, in its sole and absolute discretion, be terminated and revoked, and a ban may be placed on future activity by Applicant, upon the occurrence of any of the following:

- A. Any transfer or attempted transfer of an approved Application by the Applicant;
- B. Any statement or representation in the Application concerning a material matter which is determined to be false, or omits to state a material fact necessary to make the statement or representation not misleading, or conceals any material fact that would affect the approval of the Application;
- C. Any violation of any applicable law or ordinance in Southlands;

- D. Any failure by Applicant to comply with the reasonable request of Southlands Management and Security;
- E. Any failure to appear after being advised that its Application was approved, or fails to occupy the Designated Area during the approved hours, such failure shall be considered an abandonment of the right to engage in non-commercial expression for the entire time period for which access was sought; or
- F. Any violation of these Policies and Procedures or the Southlands Code of Conduct.

20. No Exceptions or Waiver of Right to Enforce. The failure to enforce one or more of these Policies and Procedures does not constitute acquiescence nor is it a waiver of Southlands' right to enforce the Policies and Procedures.

21. Modification of Policies and Procedures. To retain the ability to adapt to new or changing circumstances, Southlands reserves the continuing right, without the necessity of advance notice, to alter, amend, modify, change or terminate these Policies and Procedures, or any of them, and/or to make new or different Policies and Procedures. When any Applicant's Application is or will be affected by any change in these Policies and Procedures, any then-approved Applicant will be promptly notified of such changes and be given a copy of any new or modified Policies and Procedures.

22. Acceptance of Liability and Agreement to Indemnify. Anyone who enters Southlands for the purpose of non-commercial expression expressly accepts full liability for any damage, cost or expenses resulting from the non-commercial expression. Liability shall include, but is not limited to, maintenance costs for cleaning-up litter and expenses resulting from damage to persons or property or both. If insurance is required, Applicant shall provide the Southlands Management Office with a valid Certificate of Insurance prior to commencing any activity at Southlands. Such insurance shall be required for objective criteria such as but not limited to: (1) whether there is a prior history of injury to persons or property when this group engages in expressive activity; (2) whether there is a prior history of injury to persons or property when similar groups engage in expressive activity; (3) the historical scope of the risk and whether it exceeds the minimal or inconsequential; (4) whether the risk can be lessened or eliminated by adjusting the time, date, place or planned manner of expression; and (5) if so, whether the applicant is willing to make such adjustments. In addition, Applicant shall sign an indemnity agreement, agreeing to indemnify and hold harmless Southlands, its owner, management, and tenants from any damage or loss directly caused by Applicant or any person acting on behalf of Applicant, the form of which is attached hereto and incorporated herein as **Exhibit E**. This indemnity agreement is part of the Application and must be submitted prior to the non-commercial expression being commenced. If the nature of the activity creates a risk of injury or damage to persons or property, and if that risk warrants special insurance protection, then Applicant must purchase and carry the necessary insurance coverage. Southlands will make, in its sole and absolute discretion, the determination of whether special insurance protection is

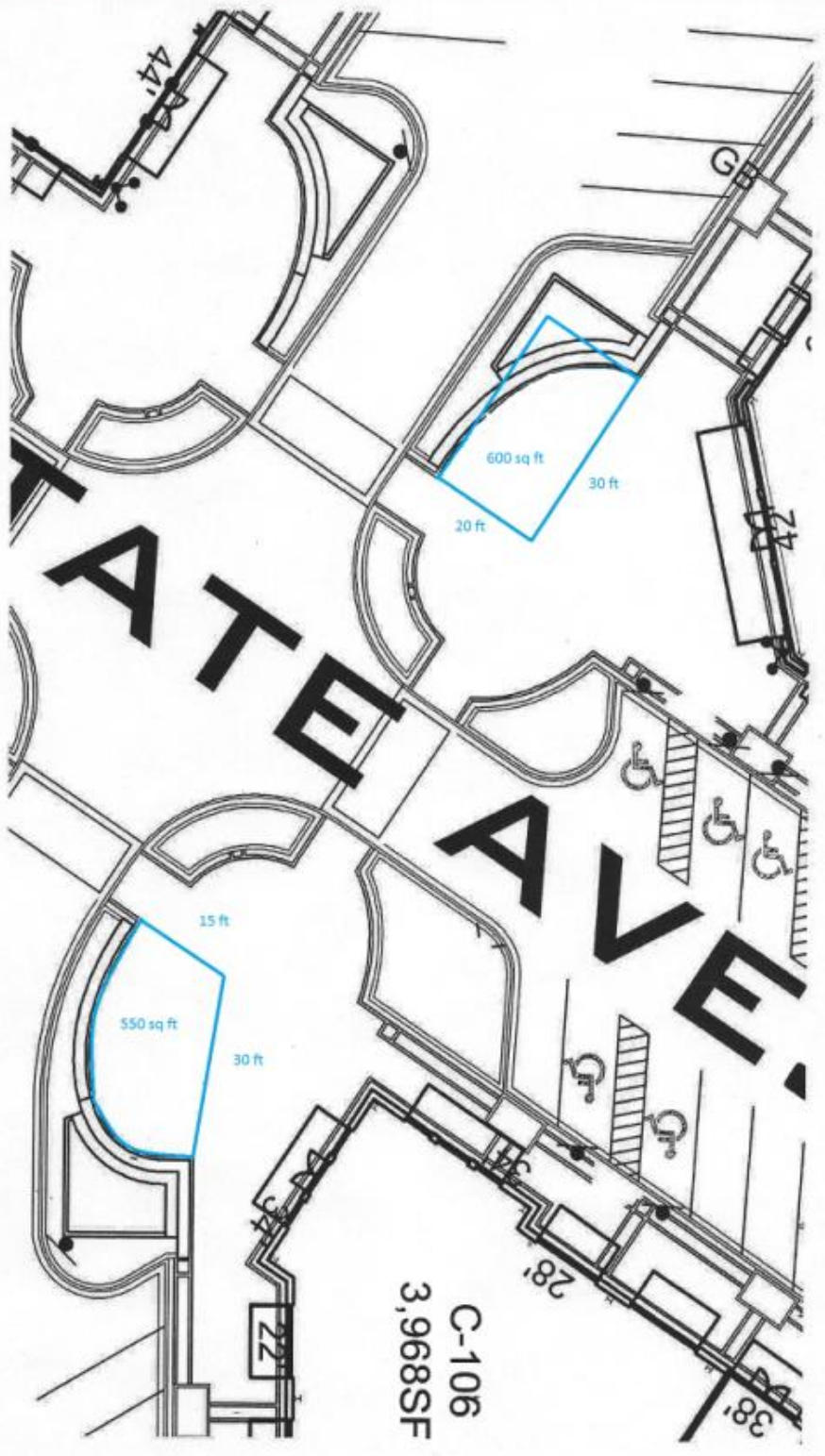
necessary. The insurance policy shall name as additional insured all persons and entities listed in Exhibit F.

23. Nothing in these Policies and Procedures shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to Southlands, its respective officials, employees, contractors, or agents, or any other person acting on behalf of Southlands and, in particular, governmental immunity afforded or available to Southlands pursuant to the Colorado Governmental Immunity Act, Title 24, Article 10, Part 1 of the Colorado Revised Statutes.

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EXHIBIT A

DESIGNATED AREA FOR NON-COMMERCIAL EXPRESSION



C-106
3,968SF

EXHIBIT B

PERMIT TO USE SOUTHLANDS

To Whom It May Concern:

The Applicant named below is hereby authorized to use a Designated Area, more particularly described below, at Southlands during the hours of _____ and _____ on _____.

The portion of Southlands that will be utilized will be the following:

Name of Authorized Applicant: _____

Sincerely,

Ann Finn
District Manager

CONSENT AND ACKNOWLEDGEMENT

Applicant hereby acknowledges receipt of a copy of the Policies and Procedures for Non-Commercial Expression at Southlands, and Southlands Code of Conduct, and consents to the terms, conditions, policies and procedures contained therein, and covenants and agrees to comply therewith and to be bound thereby.

Date: _____

APPLICANT:

By: _____

Its: _____

EXHIBIT C

**APPLICATION FOR ACCESS TO SOUTHLANDS FOR
NON-COMMERCIAL EXPRESSION**

[See attached sheets]

Southlands Metropolitan District No. 1

c/o Special District Management Services, Inc.
141 Union Blvd., Suite 150
Lakewood, CO 80228
(303) 987-0835 phone
(303) 987-2032 fax

| |
|------------------------------|
| For Internal Use Only |
| Approved By: _____ |
| Permit Issued On: _____ |
| Permit #: _____ |

Application for Permit to Access Southlands for Non-Commercial Expression

Applicant Name: _____

Name of Organization/Group: _____

Business Address: _____ **State:** _____ **Zip:** _____

Daytime Phone #: () _____ **Alt./Cell:** () _____

Email: _____ **Contact Person On-Site:** _____

Date Requested: _____ **Time Requested:** _____

Nature of Planned Activity: _____
(i.e., political petitioning, campaigning, informational leafleting, etc.)

Names of Individuals to be engaged in Activity: _____

If Applicant, Organization, or Group is insured under a General Liability Policy:

Name of Insurer: _____ **Policy #:** _____ **Exp. Date:** _____

Please list all permits, licenses and other documentation obtained by Applicant from any governmental agency concerning the proposed Activity:

Description: _____ **Date Issued:** _____

Description: _____ **Date Issued:** _____

Required to be submitted with application: Mail completed paperwork to: c/o Special District Management Services, Inc.
141 Union Blvd., Suite 150, Lakewood, CO 80228.

- Completed Application
- Signed Waiver and Release from Liability and Agreement to Indemnify (separate form)
- Attach copies of petitions, leaflets, and other written material to be circulated, displayed, or distributed. Please attach photographs of any displays to be used. Any materials not attached may not be used by Applicant.

INDEMNIFICATION/WAIVER OF LIABILITY: Applicant, its successors and assigns, assumes all liability and risk and will defend, indemnify and hold harmless the Southlands Metropolitan District No. 1 (the "District"), the District's directors, staff, employees, consultants, licensees, invitees, agents, successors, and assigns from any and all injuries, loss, claims, liability, damages, and costs, including, without limiting the generality of the foregoing, court costs and attorneys' fees, caused by, resulting from, or in any way arising out of the use of the District's facilities by the Applicant, its guests, licensees, invitees, agents, contractors, subcontractors, employees, successors, and/or assigns.

____ **Initial**

[Signature page follows]

**Application for Permit to Access Southlands for Non-Commercial
Expression – Signature Page**

READ, COMPLETE, SIGN AND DATE:

I certify that the information in this application is complete and accurate to the best of my knowledge. I understand that omission or falsification of information may constitute grounds for denial or cancellation of a Permit for Non-Commercial Expression. I have read, understand, and agree to abide by the Policies and Procedures for Non-Commercial Expression at Southlands, the Southlands' Code of Conduct, and agree to comply with any instructions provided by Southlands Management or Security personnel.

Name: _____ Title: _____

Signature: _____ Date: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2014, by
_____, as the _____
_____ of _____.

WITNESS my hand and official seal.

My commission expires: _____

(S E A L)

Notary Public

EXHIBIT D

SOUTHLANDS' CODE OF CONDUCT

EXHIBIT E

WAIVER AND RELEASE FROM LIABILITY AND AGREEMENT TO INDEMNIFY

[See attached sheets]

EXHIBIT F

ADDITIONAL INSURED

Southlands Metropolitan District No. 1