



TOWN OF STONEHAM

APPLICATION FOR USE OF TOWN COMMON

Name of Group/Organization: _____

Address: _____ Tel: _____

List dates requested: _____ Hours requested: from _____ to _____

Please describe the event and activity: _____

Estimated total number of persons who will attend (see #4 below): _____

Please Read Carefully the following **RULES and IMPORTANT INFORMATION**

1. No alcoholic beverages shall be consumed on the Town Common or adjacent grounds.
2. Reservation of the Common is granted with the understanding that the Applicant shall be held liable for any property damage and shall be required to reimburse the Town of Stoneham for such damage. All trash resulting from the event shall be removed by Applicant from the Town Common area immediately following the event and properly disposed of. Failure to do so will result in a charge for removal and disposal by the Town.
3. Use of adjacent parking or other municipal parking for non-parking use must be authorized by the Town Administrator.
4. If estimated attendance exceeds 200 persons, a copy of this application must be submitted to the Stoneham Fire and Police Chiefs for their review. Applicant is responsible for the implementation of all recommendations from these departments reviews.
5. No fee may be charged by the Applicant for admission to the event.
6. Completion of this application does not constitute an agreement to use other Town facilities. A separate application must be made for use of those facilities.
7. No activity may occur between the hours of 10:00 pm to 6:00 am, unless otherwise authorized in writing by the Town Administrator.

As a condition of approval of this application and the use of the Town Common, the Applicant acknowledges and agree that:

- *The Applicant (a) has read and understands the rules set forth above, (b) shall inform those using the Town Common pursuant to the grant of this application of these rules, and (c) that the organization and those using the Town Common pursuant to the grant of this application shall abide by these rules;*
- *The Applicant shall abide by the Town's Regulations for the Use of Town Common, and any additional requirements imposed by the Town Administrator or his designee(s) as a condition for the grant of this application;*
- *Approval of this application by the Town is granted with the acknowledgement and agreement that the Town of Stoneham, its officials, employees and agents shall not be held responsible for injuries or damages sustained or property lost or stolen on the Town Common or adjacent grounds during the course of the subject event or otherwise arising from the grant of this application and that the Applicant shall indemnify, defend and hold harmless the Town of Stoneham, its officials, employees and agents from any liability, damages or expenses resulting therefrom; and,*
- *Applications shall be processed in order of receipt. The Town reserves the right to deny an application.*

SIGNATURE * : _____ DATE: _____

PLEASE PRINT FULL NAME _____

ADDRESS: _____ TELEPHONE NUMBER: _____

* The person signing this application on behalf of a group or organization must have authority to sign on behalf of said group or organization, and by signing this application is certifying that he/she has such authority.

TO BE COMPLETED BY TOWN ADMINISTRATOR

APPLICATION APPROVED: _____ APPLICATION DENIED: _____

_____ DATE: _____

TOWN ADMINISTRATOR

**TOWN OF STONEHAM
RULES AND REGULATIONS
FOR THE
TOWN COMMON**
(Approved - December 10, 2003)

Sec. 16-150. Town Common Regulations

The following Regulations are promulgated by the Town Administrator and the Board of Selectmen for the Town Common, pursuant to M.G.L. c. 45, §5. (Wherever authorization or approval of the Town Administrator is required by these regulations, such authorization/approval may be made by a designee of the Town Administrator. All authorizations/approvals shall be in writing, unless otherwise provided.)

Sec. 16-151. Regulations Applicable To All Persons Including Groups

(a) *Alcoholic Beverages - Prohibited*

No alcoholic beverage shall be consumed.

(b) *Amusement Rides (Mechanical)- Prohibited*

No mechanical amusement rides are allowed.

(c) *Animals - Restrictions*

No animals other than dogs, cats and other household pets shall be allowed, without the approval of the Town Administrator.

(d) *Audio Devices - Restricted*

No person shall create or allow the emission of any amplified sound, except from a radio, recorder or other device possessed and used by an individual for his/her own enjoyment and operated in such a manner so as not to interfere with the use and enjoyment of the Town Common by an other person, unless authorized by the Town Administrator.

(e) *Camping - Prohibited*

No overnight camping or sleeping is allowed.

(f) *Damaging Town Common - Prohibited*

No person shall remove, break, deface or defile the Town Common or any part thereof.

- (g) *Electrical or Electronic Device(s) Requiring Outdoor Auxiliary Equipment*
- No person shall use any electrical or electronic device or equipment requiring outdoor auxiliary power without the approval of the Town Administrator.
- (h) *Fireworks - Prohibited*
- No person shall use or discharge fireworks.
- (i) *Litter, Trash, etc.*
- All litter, cans, refuse, bottles and trash shall be removed by the user(s) , unless placed in a trash receptacle provided or authorized by the Town.
- (j) *Motor Vehicles - Restricted*
- No motor vehicle shall be allowed on the Town Common, except Town vehicles and those vehicles authorized by the Town Administrator.
- (k) *Open Fires - Prohibited*
- No open fires or flames, including cooking on an open grill, is allowed.
- (l) *Solicitation and Sale of Goods or Services - Restricted*
- No solicitation or sale of goods or services is allowed, except for an event by or for a non-profit group with written permission of the Town Administrator.
- (m) *Sporting Events*
- There shall be no organized sporting events.
- (n) *Structures and Buildings - Restricted*
- No person shall station or erect any building, tent, canopy, stand, bandstand, stage, tower, scaffold, sound stage, platform, rostrum or other structure on the Town Common without the approval of the Town Administrator.
- (o) *Trees, Shrubs, and Flowers: Planting and removal, etc. - Restricted*
- No person, other than a Town employee or contractor, shall plant, remove, cut, deface or otherwise damage any tree, shrub or flower, unless authorized by the Town Administrator.

Sec. 16-152. Regulations Applicable to Group Use**(a) *Application/Approval For Group Use***

- (1) No organized group may use the Town Common without submitting a written application on a form provided by the Town to the Town Administrator or his/her designee and receiving approval by the Town Administrator.
- (2) Applications may not be submitted by a minor.
- (3) Applications may be made up to one (1) year in advance.
- (4) Applications shall be processed in order of receipt and shall be allocated in order of receipt of fully executed applications. Annually occurring events, such as Town Day, shall at all times be deemed to be fully executed applications for each year following the prior year's event.
- (5) The Town Administrator may establish an application fee and/or user fee schedule for group events.
- (6) Applications for activities or events which require insurance, approval or permits from other governmental entities, or compliance with other terms or conditions, will be reviewed and, if the application otherwise conforms to all other requirements, a conditional approval will be issued. If, within the time prescribed by the Town Administrator, any required fee or security deposit is not paid, or an insurance certificate evidencing the requisite insurance is not filed with the Town Administrator, or the approval or permit of other governmental entities has not been received, or the other terms and conditions have not been met, the conditional approval will automatically expire, the application for permit will be deemed denied and no written notice of denial will be required. For events or activities which involve the use of special facilities or activities, all terms and conditions for issuance of the permit, including securing insurance and payment of all fees and security deposit, must be completed at least thirty (30) days prior to the event unless otherwise a different time period is prescribed by the Town Administrator.
- (7) No permit shall be issued unless all applicable fees and security deposit, if any, are paid within the times prescribed by the Town Administrator. Failure to pay fees or security deposit within that time shall cause the application to be deemed denied, without further notice to the applicant.
- (8) The applicable provisions and procedures for denial of an application and notice thereof are set out in Section 16-154 of these Regulations.

- (9) Any amendment or revision of an application or approval shall, for purposes of determining the priority of the application for permit, relate back to the original filing thereof; but the time in which the Town shall grant or deny the application for permit and serve notice of such granting or denial shall be computed from the date of the proposed amendment or revision.
- (10) Applications and approvals shall be limited to no more than for one (1) day.
- (11) If estimated attendance exceeds two hundred (200) persons, a copy of this application must be submitted to the Stoneham Police and Fire Chiefs for their review. The Police and Fire Chiefs have the right, in their reasonable discretion, to require detail officer(s). The applicant is responsible for the implementation of all recommendations from these departments' reviews.

(b) *Indemnification*

The Town Administrator may institute an indemnification requirement for group events, in which the applicant shall execute a written agreement with the Town, on a form prescribed by the Town Administrator, by which the applicant (group) shall covenant to hold harmless and indemnify the Town of Stoneham, its officials, employees and agents against all costs, damages, losses, claims, and expenses, including reasonable attorney fees, incurred, directly or indirectly, as a result of such applicant's use of the Town Common. Such costs, damages, losses, claims, and expenses shall include, without limitation, any damage to the Town Common or adjacent Town property, the cost of employee overtime, the cost of police and fire protection, and any claim asserted by a third party against the Town of Stoneham, its officials, employees or agents on account of any alleged injury arising from the use of the Town Common. This agreement shall also constitute a release by the applicant and each and all of its members of any claim against the Town of Stoneham, its officials, employees or agents for any injury to persons or damages to property suffered by such applicant or any of its members during or as a result of using the Town Common, except insofar as such injury or damage is directly and solely caused by the negligence or intentional misconduct of any person belonging to or acting on behalf of the Town of Stoneham.

(c) *Insurance*

The Town Administrator may institute an insurance requirement for group events, requiring insurance with such coverages and in such amounts as shall reasonably be required by the Town, which shall name the Town of Stoneham as an additional insured thereunder. The amounts and type of insurance required shall be determined by the Town Administrator based upon the nature of the activity and the risk involved. The Town Administrator shall prepare a uniform schedule of insurance guidelines for particular types of activities. The Applicant shall provide the Town

Administrator with a certificate from an insurer evidencing such coverage prior to the applicant's use of Town Common, and within the time prescribed by the Town Administrator. The certificate shall also provide that the insurer shall give the Town reasonable advance notice, of no less than thirty (30) days, of insurer's intent to cancel or amend the insurance coverage provided.

(d) *Security Deposit*

- (1) The Town Administrator may institute a security deposit requirement. The security deposit shall be in an amount in accordance with a schedule of fees. The amount of the security deposit set in the schedule of fees shall be equal to the estimated cost of policing, cleaning up, and restoring the park upon the conclusion of the use or activity. Promptly after the conclusion of a permit activity, the Town shall inspect the premises and equipment used by the permittee.
- (2) If it is determined that there has been no damage to the Town Common or equipment beyond reasonable wear and tear, the security deposit shall be refunded in full within thirty (30) days of the conclusion of the permitted event.
- (3) If it is determined by such inspection that the permitted event proximately caused damage to the Town Common in excess of normal wear and tear and which requires repairs in excess of routine maintenance, the Town shall retain the security deposit or any portion thereof necessary to pay for the cost repair or any fines assessed against the applicant. The Town Administrator shall give written notice of the assessment of damages or fine and retention of the security deposit to the permittee by personal delivery or by deposit in the United States mail, with proper postage prepaid, to the name and address set forth in the application for permit. Any assessment of damages in excess of the security deposit shall be paid to the Town within thirty (30) days after notice of such assessment of damages is sent.

(d) *Waiver of Application/User Fee, Insurance Requirement and/or Security Deposit*

Any requirements for an application and/or user fee, insurance, or security deposits may be waived by the Town Administrator if the activity is protected by the First Amendment of the United States Constitution and the requirement would be so financially burdensome that it would preclude the applicant from using the Town Common for the proposed activity. Fees for equipment and services shall not be waived pursuant to this subsection. Application for a waiver of a user fee, security deposit, or certificate of insurance shall be made on a form prescribed by the Town Administrator and must include an affidavit by the applicant and sufficient financial information about the applicant to enable the Town Administrator to determine

whether the requirement(s) would be so financially burdensome that it would preclude the applicant from using the Town Common property for the proposed activity. If no written denial is issued within thirty (30) days of the date on which the application for such waiver is fully completed, executed and filed with the Town Administrator, the waiver request shall be deemed approved, contingent upon the applicant complying with all other permit requirements.

(e) *Approvals For Designated Areas Only*

All approved applications shall be for the use of designated areas only and shall not exceed the scope of the approval.

(f) *Town Common To Be Generally Available For Use By Individual Members of the Public*

IT IS THE STRONG POLICY OF THE BOARD OF SELECTMEN AND THE TOWN OF STONEHAM THAT THE TOWN COMMON BE GENERALLY AVAILABLE FOR USE BY INDIVIDUAL MEMBERS OF THE PUBLIC WITHOUT THE INTERFERENCE OF GROUP USE. ACCORDINGLY, GROUP USE SHALL BE REASONABLY LIMITED IN TIME, PLACE AND MANNER BY MEANS OF THE APPROVAL PROCESS.

(g) *Time Restriction*

No activity may occur between the hours of 10:00 p.m. to 6:00 a.m., unless otherwise authorized by the Town Administrator.

(h) *Liability For Property Damage*

Reservation of the Town Common is granted with the understanding that the Applicant shall be liable for any property damage and shall be required to reimburse the Town for such damage.

(i) *Trash and Litter*

All trash resulting from the event shall be removed by the Applicant from the Town Common area immediately following the event and properly disposed of. Failure to do so shall result in a charge for removal and disposal by the Town.

(j) *Use of Adjacent and/or Municipal Parking For Non-Parking Purposes*

Use of parking adjacent to the Town Common or other municipal parking for non-parking purposes must be authorized by the Town Administrator.

(k) *Portable Toilets - Prohibited*

Portable toilets are prohibited.

(l) *Trash Dumpsters - Prohibited*

Trash dumpsters are prohibited.

(m) *No Fee Charged By Applicant*

No fee may be charged by the Applicant for admission to the event.

Sec. 16-153 Denial of An Application For Group Use - Procedures and Provisions

(a) *Notice of Denial*

Notice of denial of an application for permit shall clearly set forth the grounds upon which the application was denied and, where feasible, shall contain a proposal by the Town for measures by which the applicant may cure any defects in the application for use or otherwise procure approval. Where an application has been denied because a fully executed prior application for the same time and place has been received, and approval has been or will be granted to the prior applicant authorizing uses or activities which do not reasonably permit multiple occupancy of the particular area, the Town may propose an alternative place, if available for the same time, or an alternative time, if available for the same place.

(b) *Grounds for Denial of Application*

To the extent permitted by law, the Town may deny an application if the applicant or the person on whose behalf the application was made has on prior occasions made material misrepresentations regarding the nature or scope of an event or activity previously permitted or has violated the terms of prior approvals or permits issued to, or on behalf, of the applicant. The Town may also deny an application on any of the following grounds:

- (1) the application (including any required attachments and submissions) is not fully completed and executed;
- (2) the applicant has not tendered the required application fee, if any, with the application or has not tendered the required user fee, indemnification agreement, insurance certificate, or security deposit within the times prescribed;

- (3) the application contains a material falsehood or misrepresentation;
- (4) the applicant is legally incompetent to contract;
- (5) the applicant or a party on whose behalf the application was made has on prior occasions damaged Town property and has not paid in full for such damage;
- (6) a fully executed prior application for the same time and place has been received, and an approval or permit has been or will be granted to a prior applicant authorizing uses or activities which do not reasonably permit multiple occupancy of the Town Common;
- (7) the use or activity intended by the applicant would conflict with previously planned programs organized and conducted by the Town and previously scheduled for the same time and place;
- (8) the proposed use or activity is prohibited by or inconsistent with the classifications and uses of the Town Common or part thereof so designated;
- (9) the use or activity intended by the applicant would present an unreasonable danger to the health or safety of the applicant, other users of the Town Common, Town employees or of the public;
- (10) the applicant has not complied or cannot comply with applicable licensure requirements, bylaws or regulations of the Town concerning the sale or offering for sale of any goods or services; or
- (11) the use or activity intended by the applicant is prohibited by federal, state or town law, bylaw or regulations.

Sec. 16-154. Compliance with Applicable Law and Penalties

Persons shall comply with applicable state laws and regulations and Town bylaws and regulations.

Sec. 16-155 Failure To Comply With Town Common Regulations

Any person who fails to comply with any of these Town Common Regulations is subject to revocation of their application approval Depending on the severity of the offense, or the frequency of other offenses, the Town may initiate legal action.

Sec. 16-156 Penalty For Violation

Pursuant to M.G.L. c. 45, §24, violation of any of these regulations is subject to being "punished by a fine of not more than two hundred dollars."