

**Commercial and
Free Speech Activities
in the
Legislative Area
of the
Capitol Hill Complex**

**Utah Legislature
October 2006**

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As authorized by Utah Code § 36–5–1 (2006), which provides the Legislative Management Committee with complete jurisdiction over the legislative area of the Utah state capitol complex, the Legislature establishes the following policies and procedures for managing public access and use of the legislative area of the capitol hill complex.

These policies and procedures supersede all prior policies, procedures, memoranda, or other statements regarding public use of the legislative area of the capitol hill complex.

POLICIES AND PROCEDURES

Part 1. General Provisions

Section 1.1. Definitions.

As used in these Policies and Procedures:

(1) “Advanced Planned Free Speech Activity” means a free speech activity that can be reasonably scheduled in advance of its occurrence.

(2) “Capitol hill complex” has the same meaning as “capitol hill” in Utah Code § 36–5–1(1).

(3) (a) “Commercial solicitation” means any commercial activity conducted for the purpose of advertising, promoting, fund–raising, buying or selling any product or service, encouraging membership in any group, association or organization, or the marketing of commercial activities by distributing handbills, leaflets, circulars, advertising or dispersing printed materials for commercial purposes.

(b) “Commercial solicitation” does not include:

- (i) a free speech activity;
- (ii) filming or photographic activities, which shall be subject to the provisions of R131–2 et seq., Utah Administrative Code;
- (iii) solicitation by the state or federal government;
- (iv) solicitation related to the business of the state;
- (v) solicitation related to the procurement responsibilities of the state;

(vi) solicitation allowed as a matter of right under applicable federal or state law; or

(vii) solicitation made pursuant to a contract or lease with the state.

(4) “Demonstration” means the assembly of a group of individuals that join together to express a point of view openly.

(5) “Free speech” means the exercise of free speech as protected by the constitutions of the state of Utah and the United States.

(6) “Free speech activity” means a demonstration, rally, leafleting, press conference, vigil, march, or parade, in a location that is available for the activity under these policies and procedures, by one or more persons, for constitutionally protected free speech or assembly.

(7) “Freedom of assembly” means the exercise of freedom of assembly as protected by the constitutions of the state of Utah and the United States.

(8) “Leafleting” means the unsolicited distribution of leaflets, buttons, handbills, pamphlets, flyers, or any other written or similar materials indiscriminately to pedestrians or passers by.

(9) “March” or “Parade” means the organized assembly of individuals who are celebrating or expressing a point of view while moving from one location to another.

(10) “Legislative area” has the same meaning as provided in Utah Code § 36–5–1.

(11) “Press conference” means an organized formal assembly called by an individual or group to announce or express a point of view to the public utilizing the press and other media.

(12) (a) “Public areas” means the hallways and foyers in the legislative area that are open to the public.

(b) “Public areas” does not include the following locations in the legislative area:

(i) legislative chambers, including public viewing areas;

(ii) committee rooms;

(iii) office space; and

(iv) parking facilities.

(13) “Rally” means an open gathering of a group of individuals of similar purpose to join together to express a point of view openly.

(14) “Short–Notice Free Speech Activity” means a free speech activity that arises out of, or is related to events or other public issued which cannot be reasonably anticipated far enough in advance of the occurrence to reasonably allow compliance with the requirements for an advanced planned free speech activity.

(15) “Vigil” means an assembly of an individual or individuals who come together to demonstrate their solidarity by an occasion or devotional watching or observance.

Part 2. Commercial Solicitation

Section 2.1. General Restrictions on Commercial Solicitation.

(1) Except as allowed under Section 2.2, commercial solicitation is prohibited in the legislative area of the capitol hill complex.

(2) Nothing in this part shall be interpreted as to infringe upon any individual's constitutional right of freedom of expression and freedom of association in the legislative area of the capitol hill complex.

Section 2.2. Certain Commercial Solicitation Allowed Under a Facility Use Permit

(1) Except as provided in Section 2.3, commercial solicitation may be allowed if:

(a) a facility use permit is issued by the Capitol Preservation Board under Utah Administrative Rules, rule R131–2; and

(b) the commercial solicitation complies with the facility use requirements of rule R131–2.

(2) All materials allowed to be distributed under a facility use permit shall be displayed only on bulletin boards or in areas that have been approved in advance by the executive director of the Capitol Preservation Board.

(3) The issuance of a facility use permit shall not be construed as state or legislative endorsement of the solicitor's product, service, charity, or event.

(4) Soliciting activities are subject to all littering laws and regulations.

Section 2.3. Prohibited Commercial Solicitation.

(1) The following commercial solicitation activities are prohibited in the legislative area, and no facility use permit shall be issued for:

(a) door-to-door commercial solicitation of items, services, or donations;

(b) commercial solicitation to persons in vehicles or leaving any commercial solicitation materials on vehicles or in parking lots;

(c) any sale of food or beverage products except by an entity under contract with the Legislature or the Capitol Preservation Board; and

(d) any sale of other products except as allowed under a contract with the Legislature, the Capitol Preservation Board, or as an integral part of governmental business on the capitol hill complex.

Part 3. Free Speech Activities

Section 3.1. Purpose.

(1) The purpose of these policies and procedures is to:

(a) promote and encourage free speech in the legislative area of the capitol hill complex;

(b) preserve the right of every person to exercise free speech and freedom of assembly as protected by the constitutions of the state of Utah and the United States, within the legislative area of the capitol hill complex subject to lawful time, place, and manner rules necessary to protect the public health, safety and welfare, including safety and security considerations, the rights of others to exercise free speech and freedom of assembly, and to minimize disruption to governmental business;

(c) facilitate public assembly and communication between people at the legislative area of the capitol hill complex;

(d) designate areas in the legislative area of the capitol hill complex for free speech activities as specified in these policies and procedures that are necessary to protect the public health, safety and welfare, including safety and security considerations, the rights of others to exercise free speech and freedom of assembly, and to minimize disruption to governmental business; and

(e) establish guidelines to promote and encourage free speech activities and public assembly in the legislative area of the capitol hill complex.

(2) These policies and procedures are intended to further the following governmental interests:

(a) to promote and encourage free speech activities in the legislative area of the capitol hill complex;

(b) to provide for lawful time, place, and manner rules regarding free speech activities necessary to protect the public health, safety, and welfare;

(c) to provide for the safety and security of individuals;

(d) to minimize disruption to or interruption of the conduct of state and legislative business;

(e) to maintain unobstructed and efficient flow of pedestrian and vehicular traffic between and within the capitol hill complex in order to provide safety and security of individuals, emergency vehicle access, and assure accessibility to public services;

(f) to provide all individuals their guaranteed right of free speech and freedom of assembly without harm or interruption;

(g) to inform individuals of their responsibilities regarding littering, damage to, and vandalism of the legislative area of the Capitol Hill Complex; and

(h) to ensure the health, safety, and welfare of all persons visiting or using the legislative area of the capitol hill complex.

Section 3.2. Free Speech and Freedom of Assembly In General

Except as specifically regulated by these policies and procedures as to time, place, or manner, all free speech and freedom of assembly may occur in all public areas of the legislative area of the Capitol Hill Complex in any lawful form or manner as guaranteed by the constitutions of the state of Utah and the United States.

Section 3.3. Time, Place, and Manner of Free Speech Activities -- Registration Requirements

(1) (a) Free speech and freedom of assembly, as protected by the constitutions of the state of Utah and United States, are promoted and encouraged in the legislative area of the Capitol Hill Complex.

(b) Each free speech activity is subject to lawful time, place, and manner rules necessary to protect the public health, safety, and welfare,

including safety and security considerations, the rights of others to exercise free speech and freedom of assembly, and to minimize disruption to governmental business.

(2) (a) Except as provided under Subsection (2)(b), each free speech activity shall be subject to rule R131–2–6 of the Utah Rules of Administrative Procedure, which provides general regulations on the use of the capitol hill complex, including regulations on noise levels, disruption of meetings, and access to buildings, halls, and stairways.

(b) In the case of a conflict between these policies and procedures and rule R131–2–6 of the Utah Rules of Administrative Procedure, the provisions of these policies and procedures shall control.

(3) Each free speech activity shall be subject to the following time requirements:

(a) Free speech activities held outdoors shall be subject to rule R131–11 of the Utah Rules of Administrative Procedure.

(b) Free speech activities held indoors in the legislative area may take place:

(i) during regular business hours; and

(ii) during legislative sessions, and committee and agency meetings, until such meetings are adjourned.

(c) In order to accommodate as many groups as may make requests to conduct free speech activities on a given day, a free speech activity in a specified public area may be limited to two hours when necessary to accommodate another pre-scheduled group in the same public free speech area. The time of a free speech activity in a specified public area may be shortened to two hours in duration if necessary to accommodate another group in the same public area that has qualified for a short notice free speech activity.

(4) Each free speech activity shall be subject to the following location requirements:

(a) Health, safety, and welfare restricted areas that may not be reserved for a free speech activity are:

(i) the vehicular traveled portions of roads, roadways or parking lots;

(ii) areas directly in front of or adjacent to parking garage entrances or exits, paths of egress, or access to stairs and emergency egress hallways;

(iii) areas under construction which are hazardous to non-construction workers; and

(iv) those specific portions of the legislative area that contain storage, utilities, or technology servicing the capitol hill complex or other areas, which either must be available for prompt repair, are not open for public use, or represent a danger to members of the public.

(b) In order to protect the public health, safety, and welfare and to allow for public accessibility to and the conduct of state business, a free speech activity that does not use any candles shall be allowed in the main public foyer of the House Building.

(5) (a) With the exception of leafleting activities, which are provided for in Section 3.4, all free speech activities shall comply with the registration requirements of rule R131-11-5, which shall be administered by the executive director of the Capitol Preservation Board.

(b) Consistent with the protections of the Utah and United States constitutions, and in order to preserve the free speech rights of others, outbursts or similar actions which disrupt or are likely to disrupt any government meeting or proceeding are prohibited.

Section 3.4. Leafleting.

(1) Notwithstanding any other provision of these policies and procedures, there is no registration requirement for free speech leafleting.

(2) In order to protect the public, health, safety, and welfare and allow for public accessibility to and the conduct of state business, free speech activity leafleting is allowed in the public areas of the legislative area of the capitol hill complex, without interference from capitol security, provided that it is done in a nonaggressive manner and does not prevent other individuals from passing along sidewalks and through doorways.

(3) The state is allowed to enforce any and all applicable statutes and ordinances regarding blocking public sidewalks, blocking hallways, disorderly conduct, blocking entrances to public buildings, garage entries, assault, battery and the like, consistent with the requirements of the constitutions of the state of Utah and the United States.

(4) Leafleting is not allowed by placing leaflets on vehicles on the legislative area of the capitol hill complex.

Section 3.5. Contests and Appeals.

(1) The following claims regarding a free speech activity in the legislative area of the capitol hill complex shall be appealed according to the procedures of Subsection (2):

(a) A claim that an action by the state has improperly characterized an event or activity as an impermissible commercial event and not a permissible free speech activity;

(b) A claim by an applicant that the state's denial, or condition of approval, of a proposed route, time, or location for a free speech activity constitutes:

(i) a violation of these policies and procedures; or

(ii) an unlawful time, place, or manner restriction; or

(c) Any other claim that any action by the state regarding a proposed free speech activity impermissibly burdens constitutionally protected rights of the applicant, sponsor, participants, or spectators.

(2) (a) Not later than 30 calendar days after the date of occurrence of the state action complained of under Subsection (1), an individual shall file a written complaint with:

(i) the speaker of the House;

(ii) the president of the Senate; and

(iii) the general counsel for the Legislature.

(b) The written complaint shall contain:

(i) the names of the individual or individuals filing the complaint;

(ii) a description of the nature of the claims made under the complaint;

(iii) a description of the dates, facts, and circumstances associated with each claim made in the complaint;

(iv) a specific description of the relief sought by the complaint;

(v) a telephone number and address whereby the individual or individuals filing the complaint may be contacted; and

(vi) the signatures of the individual or individuals filing the complaint.

(c) As soon as reasonably possible, but no later than two days, not including Saturdays, Sundays, or legal holidays, after receipt of a written complaint, the speaker of the House and president of the Senate shall:

(i) issue a written determination, which may include lawful conditions, or notice of denial of the complaint; or

(ii) make a determination that jurisdiction for the complaint properly lies with the executive director of the capitol preservation board and refer the complaint to the executive director to be determined according to rules R131-11-6 and R-131-11-7, Utah Rules of Administrative Procedure.

(d) The speaker and president may deny a requested activity if:

(i) the requested activity does not comply with the applicable rules or policies and procedures;

(ii) the registrant attempts to register a free speech activity, but the speaker and the president determine that it is a commercial activity;

(iii) the event would disrupt, conflict, or interfere with a state sponsored activity, a time or place reserved for another free speech activity, or the operation of state business, and the determination is in accordance with constitutional provisions governing free speech and freedom of assembly; or

(iv) the event poses a safety or security risk to persons or property and the determination is in accordance with constitutional provisions governing free speech and freedom of assembly.

(d) The speaker and president may, in approving or partially approving a contested free speech activity, place conditions on the activity that alleviate such concerns in accordance with these policies and procedures and constitutional provisions governing free speech and freedom of assembly.

(e) If the applicant disagrees with a determination made by the speaker and president, the applicant may obtain judicial review of a determination issued under this Section.

Part 4. Public Use of the Legislative Area of the Capitol Hill Complex

Section 4.1. Public Use of Facilities in the Legislative Area.

Public use of the public areas of the legislative area and its facilities that is not a free speech activity shall be regulated by the procedures and requirements of rule R131-2 of the Utah Rules of Administrative Procedure, which provides procedures and guidelines for public use of capitol hill facilities.

