



Legislation Text

File #: 46401, **Version:** 1

Title

Temporary Land Use Permit- Request from Cherokee Park, Inc. for temporary access within Cherokee Marsh (North Unit) for grading purposes in conjunction with the development located at 1507 Burningwood Way.

Body

The City of Madison Parks Division has received a request from Cherokee Park, Inc., the Developer of 1507 Burningwood Way ("Development"), whose contractor is R.G. Huston Co., Inc. ("Contractor"), to temporarily utilize a portion of the City-owned Cherokee Marsh (North Unit) to facilitate grading and removal of excess stockpile materials from the park ("Work") in conjunction with their development at the northerly end of Burningwood Way. The Contractor requests the temporary use of the area identified in Cherokee Marsh (North Unit) under the following terms and conditions:

The Work must be completed between the hours of 7:00 am and 2:30 pm and may not span more than 7 days after the work has begun. The use of Cherokee Marsh (North Unit) is acceptable for a specified date and time range only, as agreed to by the Parks Superintendent or his designee. Any other entry into the park constitutes trespass.

The Contractor may only access the park from the Development. The equipment must exit the same way they came in. All restoration activities, including maintenance of those restoration efforts shall be at the Applicant's expense.

The Applicant is responsible for all clean up after the Work is completed, including removal of any erosion control measures. If City resources are required for cleanup, the Applicant will be invoiced on a time and material basis for all costs incurred to the City.

The Applicant shall provide a refundable deposit of \$1,000.00 with City of Madison Parks Division, which may be used by the City for repairs or cleanup made to the park. Any remaining portions of the deposit may be refunded back to the Applicant. The refundable deposit shall accompany this Application and is required prior to the City of Madison Parks Division approval for this Temporary Land Use Application. Provide a check in the amount of \$1,000.00, payable to the City Treasurer, along with the signed Temporary Land Use Application to the City of Madison Parks Division at 210 Martin Luther King Jr. Blvd, Room 104, Madison, WI.

The Applicant shall contact Conservation Supervisor Paul Quinlan at 608-469-2164 a minimum of 48 hours (2 working days) in advance of performing any work related to this request. The Work shall only begin upon written or verbal approval by the Madison Parks Division and after the receipt of the signed Temporary Land Use Permit and related deposit.

Upon completion of the Work, a post inspection of the property will be conducted. At the time of the post inspection, the City of Madison Parks Division will make a determination if any restoration or clean up will be required.

The City of Madison reserves the right to use and occupy the Property in a manner consistent with the rights conveyed herein, provided that such use and occupancy shall not interfere with or disturb the activities and/or use of the Applicant.

Applicant shall comply with all applicable laws, ordinances and regulations related to environmental pollution or contamination, or to occupational health and safety.

The Applicant shall be liable to and hereby agrees to indemnify, defend and hold harmless the City, and its officers, officials, agents, and employees, against all loss or expense (including liability costs and attorney's fees) by reason of any claim or suit, or of liability imposed by law upon the City or its officials, officers, agents or employees for damages because of bodily injury, including death at any time resulting there from, sustained by any person or persons or on account of damages to property, including loss of use thereof, arising from, in connection with, caused by or resulting from the acts or omissions of the Applicant and/or its officials, officers, agents, employees, assigns, guests, invitees, or subcontractors, in the performance of this Agreement, whether caused by or contributed to by the negligent acts of the City, its officers, officials, agents, and employees. Additionally, the Applicant shall carry commercial general liability insurance covering as insured the Applicant and naming the City as an additional insured, with no less than the following limits of liability: bodily injury, death and property damage of \$1,000,000 in the aggregate. This policy shall also be endorsed for contractual liability in the same amount. As evidence of this coverage, the Applicant shall furnish the City a certificate of insurance on a form provided by the City prior to this use approval.

This Temporary Land Use Application shall terminate upon completion of the Applicant's Work or by August 1, 2017, whichever is sooner.