

ORDINANCE NO. 527

**BOROUGH OF PARKESBURG
CHESTER COUNTY, PENNSYLVANIA**

**AN ORDINANCE OF THE BOROUGH OF PARKESBURG PROVIDING
FOR THE REGULATION OF SPECIAL EVENTS (PROCESSIONS,
ASSEMBLAGES AND SPECIAL ACTIVITIES) IN THE BOROUGH OF
PARKESBURG**

WHEREAS, pursuant to the provisions of the Borough Code of the Commonwealth of Pennsylvania, Act of February 1, 1966, as amended to date (8 Pa. C. S. § 101 et seq.), the Parkesburg Borough Council is empowered to enact, ordain, and enforce suitable ordinances and regulations to provide for the general health, safety and welfare of the residents and visitors to the Borough of Parkesburg; and

WHEREAS, the Borough Code also permits the Borough to regulate the streets, public squares, common grounds, sidewalks; to prescribe reasonable fees for the services of the Borough's officers; to enforce the payment of fees and to impose fines and penalties; and require the issuance of licenses for activities which may be prejudicial to the public health or safety of the inhabitants.

NOW THEREFORE, IN CONSIDERATION OF THE FOREGOING AUTHORITY be it ENACTED and ORDAINED by the Borough of Parkesburg, County of Chester and Commonwealth of Pennsylvania and it is hereby ENACTED and ORDAINED by authority of same as follows:

SECTION 100: LEGISLATIVE INTENT

This Ordinance is adopted and intended to regulate Special Events within the Borough of Parkesburg, Chester County, Pennsylvania by imposing certain appropriate time, place and manner regulations and license fees to provide for the health, safety and welfare of Parkesburg Borough residents and visitors thereto.

SECTION 101: DEFINITIONS

APPLICANT. Any person or group sponsoring or organizing an event who has filed a written application for a permit and who assumes responsibility for all duties and responsibilities under this chapter.

ASSEMBLAGE. A gathering of people, without vehicles, which interferes with the movement of pedestrian or vehicular traffic on any street.

BOROUGH. The Borough of Parkesburg, Chester County, Pennsylvania.

BOROUGH MANAGER. The Borough Manager of the Borough of Parkesburg, Chester County, Pennsylvania.

CHIEF OF POLICE. The Chief of Police of the Borough of Parkesburg, Chester County, Pennsylvania.

COMMUNITY EVENT. A special event, as defined herein, that has long-standing tradition in the Borough and attracts substantial participation/attendance by Borough residents and/or is an event sponsored by the Borough. Events under such definition shall include, at the time of this chapter's enactment, the Memorial Day Parade to be held on Memorial Day of each year, 4th of July celebration, Community Day, Labor Day celebration, Halloween Parade and Christmas Parade. These events will be afforded priority in the issuance of special event permits should the applying entity meet all of the necessary application requirements and follow all of the regulations established in this chapter. The list of events classified under this designation may be modified from time to time by Resolution of Borough Council.

COST RECOVERY. Administrative and departmental costs charged by the Borough to an applicant in conjunction with an event permitted under this chapter.

EVENT. A special event, community event, parade, race (e.g., a 5K, 10K, half marathon or other run), procession, assemblage, or other similar event.

HALF MARATHON. An event that involves participants walking, running, or athletically moving in some way for a distance similar to that of 22 kilometers or 13.1 miles.\

PARADE. A march or procession of any kind, in or upon any street or public park within the Borough.

PARTICIPANTS. Those individuals, including but not limited to the applicant/permittee, who take part in the activities of the event.

PERMIT. Written authorization from the Borough for a special event, parade, procession, assemblage, race, etc., as required by this chapter.

PERMITTEE. A person/entity to which a permit required by this chapter is issued.

PERSON. Any person, firm, association, partnership, corporation, society, company, or organization of any kind.

PROCESSION. A group of individuals, vehicles, animals, and/or objects moving along a street in a way that interferes with the normal movement of traffic.

RACE/RUN. An event that involves participants walking, running, or athletically moving in some way for a specific distance, no longer than 10 kilometers or 6.2 miles, for which time is usually kept.

SIGN. Posters, bills, banners, flyers, written advertisements or other written messages of any kind.

SPECIAL EVENT.

- A. A temporary event, gathering or organized activity on a Borough street, public property or private property, or in any Borough park, building or other facility, when an organized activity is conducted involving one or more the following factors:
- (1) The closing of a public street, sidewalk, or alleyway or a portion thereof;
 - (2) Blocking or restricting public property or a portion thereof;
 - (3) Blocking or restricting access to private property of others;
 - (4) Use of pyrotechnics or special effects;
 - (5) Use of open flame, explosions, or other potentially dangerous displays or actions;
 - (6) Use or display of animals, vehicles, aircraft, or water craft only when such use or display could create a disturbance or affect the public safety of persons attending or in the immediate area of the event;
 - (7) Sale or service of merchandise, food, or nonalcoholic and/or alcoholic beverages on public and private property where otherwise prohibited by ordinances;
 - (8) Installation of a stage, vehicle(s) of any kind, trailer, van, portable building, booth, stand, grandstand, or bleachers on public property or on private property where otherwise prohibited by ordinance;
 - (9) Placement of portable toilets on public property or on private property where otherwise prohibited by ordinance;
 - (10) Placement of no-parking signs or barricades in a public right-of-way;
 - (11) Amplification of music, voices, sounds, or activities in excess of that permitted by ordinance;
 - (12) The Borough determines that the event will result in substantial impact on Borough resources, facilities, or public safety services in response thereto.
- B. Examples of special events include but are not limited to concerts; dances; assemblages, processions, parades, circuses, amusement rides, fairs; festivals; community events; half marathons, 10k's's, 5k's and other running events, bicycle races and tours; motorcycle rides; and other organized activity conducted for the purpose of recreation, fund-raising for profit, nonprofit fund-raising, community or organizational promotion, or charity.

SPECIAL EVENT VENUE. Area at which a special event will be conducted and for which a permit has been issued.

STREET. The entire width between the boundary lines of every publicly maintained right-of-way when any part thereof is open to use by the public for the purpose of vehicular traffic.

VENDOR. A person or entity that promotes or exchanges goods or services for money from a temporary stand, booth or location or from a movable vehicle, cart or wagon while traveling on the public streets and alleys of the Borough of Parkesburg.

SECTION 102: PERMIT REQUIRED

- A. Except as provided in this chapter, no person or entity shall conduct, facilitate, promote, manage, aid or solicit attendance at a parade, assemblage, procession, community event, or special event, unless a permit has been approved by the Borough Manager.
- B. No person or entity shall be required to obtain a special event permit from the Borough to engage in the following:
 - (1) Funeral processions;
 - (2) Lawful exercise of First Amendment activity, such as free speech and the right to assemble on sidewalks, streets, or other public property, unless such activity will likely result in the obstruction of Borough streets, sidewalks, or other public property or will likely compromise the ability of the Borough to respond to a public safety emergency or will block, obstruct or limit access to public or private property;
 - (3) A governmental agency acting within the scope of its authority and functions;
 - (4) House moving and construction activities;
 - (5) Students participating in school district-sanctioned educational activities, provided that such conduct is under the immediate direction and supervision of the proper school authorities and does not obstruct, block or limit access to public or private property.

SECTION 103: PERMIT APPLICATION PROCESS

- A. Application. A person seeking a special event permit as required by this chapter shall obtain an application from the Borough manager or via the Borough website and submit it to the Borough Manager;
- B. Filing period. An application for a permit as required by this chapter shall be submitted to the Borough at least 60 days and not more than 150 days prior to the date proposed for the event. In the event that the permit involves the

closing of a road under the jurisdiction of the Commonwealth of Pennsylvania, the application must be submitted not fewer than 75 days before the proposed date of occurrence of the event.

- C. Late application. The Borough Manager, where good cause is shown, may, but is not required to, consider an application filed less than 60 days prior to the proposed event date, provided that all of the requirements and review can be met.
- D. Content. The application for a permit required under this chapter shall be on a form provided by the Borough which shall include but not be limited to:
- 1) The name, address, telephone number, cell phone number and e-mail address of the person or entity seeking to conduct such an event;
 - 2) If the event is designed to be held by, on behalf of, or for any person or entity who is not filing the application, the applicant for such permit shall file with the Borough Manager a written authorization from the person proposing to hold the event, authorizing the applicant to apply for the permit on his/her/its behalf;
 - 3) The name, address, telephone number, cell phone number and e-mail address of the person who will be responsible for conducting the event;
 - 4) The date when the event is to be conducted;
 - 5) The route on public roads to be traveled by event participants, as well as the starting and termination points or, if the event does not involve moving participants, the location of the event;
 - 6) The approximate number of persons likely to attend or participate in the event; the animals (if any) and vehicles (if any) which will be involved in the event; and a specific description of the nature of the event;
 - 7) The hours when the event will start and terminate;
 - 8) A statement as to whether the event will occupy all or only a portion of the width of the streets, sidewalks, or other public right-of-way proposed to be traversed by pedestrian and vehicular traffic;
 - 9) The location by streets of any assembly areas for such event;
 - 10) The time at which units of the event will begin to assemble at any such assembly area or areas;
 - 11) The setup, tear down, and cleanup dates and times;

- 12) The purpose of the event;
- 13) Maps detailing the proposed site locations and/or routes, along with written descriptions of the following: amplification devices, street closures and detours, electrical requirements, emergency medical stations, equipment, fire lanes, fireworks or pyrotechnics, litter control, portable toilets, signage, structures, and vendors;
- 14) The cost of admission, if any, and whether the event is public or private;
- 15) A plan for disposal of wastewater, including capture and containment, to be approved by the Borough;
- 16) A plan for disposal of garbage and municipal waste to be approved by the Borough;
- 17) Proof of comprehensive general liability insurance in the amount of \$1,000,000. Naming the Borough of Parkesburg as an additional insured. In the event that the permit requires the closing of a road under the jurisdiction of the Commonwealth of Pennsylvania, the applicant must also name the Pennsylvania Department of Transportation as an additional insured;
- 18) Any enticements, such as candy, balloons, toys, silly string, fireworks, plastic horns and poppers, to be thrown or given away to onlookers;
- 19) The following statements:
 - a) A statement indemnifying and holding the Borough harmless executed by the applicant and the individuals or organization conducting the event;
 - b) A statement that information set forth in application is true and correct to the best of the applicant's knowledge under penalty of law;
 - c) An agreement to comply with this chapter and any other applicable ordinances, rules, regulations, or requirements for event;
- 20) Such additional information as the Borough Manager shall find reasonably necessary to arrive at a fair determination as to whether a permit should be issued.

E. Cost recovery. The Borough shall require payment of cost recovery fees for the cost of providing the services of public safety and public works for special events as set forth in written regulations enacted pursuant hereto, but only if such costs reflect a good faith estimate of actual expenses to be incurred

and do not include costs associated with protecting First Amendment activity from actual or threatened harm. All sponsors of special events shall work in good faith with the Borough to achieve the least expensive alternatives available consistent with the purpose of the proposed special event. The Borough Manager shall, upon receipt of the special event permit application, contact the Police Chief, the Chief of the Keystone Valley Fire Department, the crew leader of the Department of Public Works, and any other relevant Borough department officials in order to establish an accurate, good faith estimate of the event's cost of Borough resources.

- (1) Pursuant to a recent Borough Resolution, the minimum rate for rental of Borough equipment is set at a rate of a minimum of four hours according to the rate established from time to time by Resolution of Borough Council;
- (2) The hourly rate for special labor, special policeman, and other such officials as may be necessary for the conduct of a special event is set by Resolution from time to time by the Borough Council;
- (3) The Borough's good faith estimate of costs will be provided to the applicant within 15 days following the first meeting of the Borough Council to occur after the applicant's submission of an application for a special event permit;
- (4) Upon issuance of a special event permit, the applicant/permittee shall be required to remit payment, in the amount estimated and requested by the Borough for the purposes of cost recovery, to the Borough Office no less than 10 days prior to the date on which the event is to occur. Failure to remit the necessary payment by this deadline will result in a denial of the permit request or revocation of an awarded permit;
- (5) Within 30 days after the conclusion of the event, the Borough will provide an accurate account of the costs incurred upon its resources as a direct result of the event;
 - a) Should the event's actual costs exceed the costs estimated by the Borough and payment remitted by the applicant, the Borough shall issue an invoice to the permittee for the balance of costs, to be paid within 30 days of the invoice date, or face penalty herein established;
 - b) Should the event's actual costs be less than that estimated by the Borough and payment remitted by the applicant, the Borough shall issue a refund to the permittee for the amount of overpayment within 30 days of the calculation of the actual costs;

SECTION 104: STANDARDS FOR INSURANCE

The Borough Manager, with the approval of Borough Council, shall issue a permit as provided for hereunder when, from a consideration of the application and from such other information as may be otherwise obtained, it is found that:

- A. The conduct of the event will not unduly interfere with the safe and orderly movement of traffic traveling on roads in the vicinity of the event, nor shall the event have any adverse impact upon the access to or use of public or private properties and/or traffic circulation in the vicinity of the event;
- B. The conduct of the event will not require the diversion of so great a number of police officers of the Borough to properly police the event and/or the movement of participant and spectators at the event and/or in the areas contiguous thereto as to prevent normal police protection to the Borough;
- C. The concentration of persons, animals, and vehicles at assembly points of the event will not unduly interfere with proper fire and police protection or ambulance service to areas contiguous to such assembly areas;
- D. The conduct of such event will not interfere with the movement of firefighting equipment en route to a fire and/or emergency medical vehicles;
- E. The event is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delay;
- F. The event is not to be held for the sole purpose of advertising any products, goods, or event, and is not designed to be held purely for private profit;
- G. All sponsor(s), participants, and attendees at events are subject to applicable federal, state and local laws, ordinances, and regulations not otherwise waived by the permit, including but not limited to law, ordinances and regulations regulating noise volume, disorderly conduct, traffic and public intoxication. Police officers may order the shutdown of an event that becomes disorderly and/or hazardous to participants and/or the public;
- H. The Borough shall abide by the following additional regulations when issuing special event permits:
 - (1) Those events classified herein or subsequently by the Borough as community events shall be afforded priority in the issuance of a special event permit, provided that the applicant meets all of the necessary application requirements and follows all of the regulations established herein;
 - (2) In the issuance of special event permits, the Borough:
 - a) Shall not permit more than two special events to occur within one calendar month;

- b) Shall permit only one run to occur within one calendar month;
- c) Shall permit only one half marathon to occur within one calendar year;
- d) Shall not permit two special events to occur within two weeks or 14 days of one another.

SECTION 105: NOTICE OF DECISION

The Borough Manager shall notice the applicant for a permit as to whether the application has been approved or rejected and, if approved, a good faith cost recovery fee, within 15 days following action by the Borough Council. If the application is rejected, the notice shall be in writing and communicate the basis therefor. Should the application be approved, a permit shall be issued as set forth herein upon payment of the cost recovery fee to be paid by the applicant and execution of an indemnification and hold harmless agreement by the applicant.

SECTION 106: DENIAL OF APPLICATION FOR PERMIT

An application for an event permit may be denied if the applicant fails to satisfy or violates any of the requirements set forth in this chapter or:

- A. The applicant has made or permitted the making of a false or misleading statement or omitted a material fact on the permit application; or
- B. The applicant has violated this chapter or has had an event permit revoked within the preceding 12 months; or
- C. The Borough believes that persons or property are at risk as a result of the activities or conduct of persons at the event; or
- D. The issuance of a special event permit would violate any of the regulations included in Section 104, Standards for Insurance, subsection H, such as the priority afforded to community events or any of the calendar restrictions; or
- E. The applicant does not remit the required payment as determined by the Borough's cost recovery estimate process described in Section 103, subsection E or does not execute an indemnification and hold harmless agreement or otherwise comply with the terms hereof.

SECTION 107: APPEAL PROCEDURE

Any person or entity aggrieved by the action of Borough Council shall have the right to request Borough Council to reconsider its action at its next regularly scheduled meeting by submitting a written request to Council by registered or certified mail at the Borough

Office. Borough Council shall consider the request to reconsider its action at its next regularly scheduled meeting after receipt of such request and shall render a decision within 15 days following its meeting. Borough Council shall consider all relevant information submitted by the applicant, Borough and other public officials, neighbors of the property where the event is to be held and other Borough residents and businesses and shall review all relevant documents submitted. Borough Council shall mail its decision with regards to the appeal to the address provided to Council by the applicant/appellee.

SECTION 108: NOTICE TO BOROUGH AND OTHER OFFICIALS

Immediately upon the issuance of an event permit, the Borough Manager shall send a copy thereof to the following:

- A. The Chief of Police;
- B. The Chief of Police of the Keystone Valley Fire Department;
- C. The Borough Manager and any party designated by him to be notified.

SECTION 109: CONTENTS OF PERMIT

Each event permit shall state the following information:

- A. Date of the event;
- B. Starting and termination times of event;
- C. The portions of the streets to be traversed or blocked that may be occupied by the event;
- D. The approximate number of persons, animals, and motor vehicles that will be in the event;
- E. A brief description of the event;
- F. The statement of the applicant agreeing to indemnify and hold the Borough harmless;
- G. The signature of the event organizer and applicant; and
- H. All information required by the Borough on its Application Form.

SECTION 110: DUTIES OF PERMITTEE; POSSESSION OF PERMIT

- A. Duties of permittee. A permittee shall comply with all permit directions and conditions and with applicable federal, state and municipal laws, ordinances and regulations.

- B. Possession of permit. The event chairman or other person heading or leading such activity shall carry the event permit upon his person during the conduct of the event.

SECTION 111: PUBLIC CONDUCT DURING THE EVENT

- A. Interference. No person shall hamper, obstruct, impede or interfere with any event or event assembly or with any person, vehicle or animal participating or used in an event;
- B. Driving through event. No driver of any vehicle shall drive between the vehicles, person, or animals involved or participating in an event when such vehicles, person or animals are in motion;
- C. Parking on event route. The Chief of Police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a street or highway or part thereof or in public parking lots constituting a part of the route or in the vicinity of the site of an event.

SECTION 112: DIRECT PAYMENTS PROHIBITED

Special event organizers are prohibited from making direct payments to Borough employees for public safety, public works, or other Borough services. All Borough employees shall instead receive compensation through the Borough payroll for any paid assistance with special events.

SECTION 113: REVOCATION OF PERMIT

The Borough Manager shall have the authority to revoke an event permit issued hereunder upon violation of the standards for issuance of a permit as herein set forth, upon learning that the applicant made or permitted the making of a false or misleading statement or the omission of a material fact on the event application or violated other applicable laws, statutes, ordinances, rules, regulations or policies.

SECTION 114: TEMPORARY SIGNS/BANNERS FOR EVENTS

In addition to the rules governing signs and banners as set forth in Article XVII of the Borough of Parkesburg Zoning Ordinance, further regulation thereof is supplied to assure the health safety and welfare of the community such that all event signs, banners, flyers, or advertisements of any kind provided for such unique purpose and for such a limited duration shall be located within the boundaries of the event location and shall be removed within three days of the completion of the event. An event sign or banner not removed in compliance with this section may be removed by the Borough at a fee of \$25 per sign. Said fee per sign or banner removal shall be subject to modification from time to time by Resolution of the Borough Council. After removal by the Borough, the Borough may store, dispose, destroy or otherwise handle the sign or banner as it deems appropriate and shall have no liability to the applicant/permittee or the sign owner.

SECTION 115: INSURANCE REQUIRED TO CONDUCT EVENT

An applicant for an event must provide proof of comprehensive general liability insurance in the amount of \$ 1,000,000 to protect the Borough against loss from liability imposed by law for damages on account of bodily injury and/or property damage arising from any aspect of the event. Such insurance shall name the Borough of Parkesburg, its officers, employees, agents and, if required, any other public entity involved in the event, as an additional insured on a separate endorsement maintained for the duration of the event. In the event that the permit requires the closing of a road under the jurisdiction of the Commonwealth of Pennsylvania, the applicant must also name the Pennsylvania Department of Transportation as an additional insured. Notice of limitation, reduction, or cancellation of insurance coverage shall be provided immediately to the Borough by the carrier and the applicant.

SECTION 116: INDEMNIFICATION

The applicant for an event shall indemnify and hold harmless the Borough, its officers, employees, agents and representatives against all claims of liability and causes of action resulting from injury or damage to persons or property arising out of the event.

SECTION 117: CONDITION OF PREMISES AFTER EVENT

The applicant is required to return any public property upon which the event is held to its condition prior to the conduct of the event. Failure to do so may result in the applicant and sponsoring organization being prohibited from being issued a special event permit for a future event or being required to post a bond to insure compliance with the requirement to clean up after the event. In addition, the applicant will be responsible for any costs or expenses incurred by the Borough in restoring the premises to their condition prior to the conduct of the event.

SECTION 118: UNLAWFUL CONDUCT

It shall be unlawful for any person to organize, present or conduct, or attempt to organize, present or conduct an event without first having obtained a permit therefor as herein provided or to otherwise violate any of the provisions of this chapter. It shall also be unlawful for any person to fail to comply with all directions and conditions of an event permit.

SECTION 119: VIOLATIONS AND PENALTIES

Any person who violates any of the provisions of this chapter shall, upon conviction thereof before a District Justice or other court of competent jurisdiction, be sentenced to pay a civil penalty not to exceed \$600 for each and every offense, plus the costs of prosecution and reasonable attorney fees incurred by the Borough of Parkesburg in enforcement proceedings. Each day in which a person is in violation of this chapter and each section of this chapter violated by a person shall be considered a separate violation hereunder.

SECTION 120: AMENDMENTS TO PERMIT APPLICATION AND COMMUNITY EVENTS

The Borough of Parkesburg reserves the right, from time to time, to adopt by Resolution of the Borough Council modifications of, supplements to, or amendments to the special event permit application and the list of those events classified as community events.

SECTION 121: REPEALER

If any portion of the Ordinance shall be determined to be unconstitutional, illegal or unenforceable, then the portion and only that portion of this Ordinance, which is deemed to be unconstitutional, illegal or unenforceable, shall be severed from the remainder of this Ordinance and all other terms thereof shall remain in full force and effect.

SECTION 122:

This Ordinance shall be effective as required by the Borough Code thirty (30) days after adoption.

ORDAINED and ENACTED by the Parkesburg Borough Council this 17th day of July, 2017.

PARKESBURG BOROUGH COUNCIL

Kathleen M. Rick
KATHLEEN M. RICK, President

ATTEST:

Wendy A. Keegan
WENDY A. KEEGAN, Secretary

Approved this 17th day of July, 2017.

John P. Hagan, II
JOHN P. HAGAN, II, Mayor