

ORDINANCE NO. 2023-11

**AN ORDINANCE OF THE BOROUGH OF KEYPORT,
COUNTY OF MONMOUTH, NEW JERSEY, AMENDING
CHAPTER 11, ENTITLED “RECREATIONAL
FACILITIES” OF THE REVISED GENERAL ORDINANCES
OF THE BOROUGH OF KEYPORT TO PROVIDE FOR
SPECIAL EVENTS PERMITS.**

WHEREAS, the Borough of Keyport, County of Monmouth (the “Borough”) is a public body corporate and politic of the State of New Jersey (the “State”); and,

WHEREAS, the primary purpose of parks and recreational facilities is to provide the public the opportunity to enjoy natural beauty and recreational opportunities and the primary purpose of streets and sidewalks is to provide a public right of way for a wide variety of transportation and pedestrian uses; and

WHEREAS, another important use of parks, streets, sidewalks, and other public places is to provide venues for a wide variety of public events and for the public to exercise their rights of free speech and assembly; and

WHEREAS, in order to ensure the public safety, peace, and tranquility it is the Borough's responsibility to enforce permitted uses and conduct be undertaken upon real property located within the various zoning districts delineated by the Zoning Regulations Ordinance; and

WHEREAS, most events in public places and upon private property where permitted uses do not include special events require a special event permit, and many require considerable advance planning by more than one Department, sometimes in conjunction with other governmental agencies, in order to adequately protect public safety, Borough property and reduce adverse impacts; and

WHEREAS, the Borough has a compelling need to coordinate its planning for proposed special events in order to protect public health and safety and reduce adverse impacts such as noise, congestion, traffic, and parking problems, while guaranteeing the public's rights to free speech and assembly; and

WHEREAS, the Borough has an interest in regulating events that take place on private property to the extent that the proposed events do not constitute permitted uses in the subject zone; and

WHEREAS, the Borough has a direct interest in regulating and planning for that portion of an event that occurs in public places such as parks, streets, and sidewalks; and

WHEREAS, the Borough recognizes that events that may occur at least in part on private property may also have a substantial impact on public places and require substantial public services such as police for crowd or traffic control; and

WHEREAS, if an event is proposed to take place in private or public places, which may require public services to deal with the impacts of the event (such as the reallocation of police personnel from their standard assignments in other geographic areas of the thereby potentially jeopardizing essential police/public safety services to those neighborhoods), the Borough has a legitimate interest in requiring the event applicant/organizer to plan for the event's impact upon services and impact upon zoning restrictions, noise, congestion, traffic, parking, etc. and to apply for and receive a special event permit; and

WHEREAS, while guaranteeing the public's rights to free speech and assembly, the Borough, working with the applicant/organizers of proposed events, shall develop reasonable permit conditions in order to protect the general public health and safety and reduce adverse impacts such as noise, traffic, and parking problems, and determine whether such a proposed event shall occur in the zone in question; and

WHEREAS, the Borough has no interest in basing special event permitting decisions, including decisions regarding reasonable permit conditions, on the viewpoint or message of the proposed event, but does have the responsibility to develop reasonable and effective permit conditions based upon such public safety factors as anticipated crowd size; the nature of the event; pedestrian and traffic control issues; anticipated noise, congestion, and parking problems; and the history of problems associated with the event or similar events and the event's or applicant's compliance with previous permit conditions designed to deal with those issues and problems; and

WHEREAS, the Borough wishes to provide applicants/event organizers with an efficient permitting process, and prompt administrative review of permit denials when permits are denied, by amending Chapter 11, entitled "Recreational Facilities" of the Revised General Ordinances of the Borough of Keyport to address the application process for applying for a special event permit for use of Borough property;

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Keyport, in the County of Monmouth, New Jersey, as follows:

Section 1. The aforementioned recitals are incorporated herein as though fully set forth at length.

Section 2. Chapter 11, entitled Recreational Facilities, shall be amended to include the following new sections:

§ 11-10 Special Events Permits.

§ 11-10.1 Special Events Permits - Definitions.

The following terms, when used in this section, shall have the following meanings:

"Applicant" shall include the person, or other entity applying for the special event permit. Applicant shall include, but not be limited to, the event's sponsor, organizer, or promoter.

"Athletic Event" shall mean an occasion in which a group of persons gather to engage in or watch a sport or a form of exercise on private or public property not designed for such activity and/or on a Borough street, sidewalk, alley, or other street right-of-way, which obstructs, delays or interferes with the normal flow of pedestrian or vehicular traffic, or does not comply with traffic laws or controls. Athletic events include, but are not limited to, bicycle and foot-races.

"Block Party" shall mean a festive gathering on private property or a street which may or may not require the closure of a street, or a portion thereof, to vehicular traffic, and/or use of the street for the festivity including barbecues, picnics, music or games.

"Entertainment Areas" shall be the area(s) designated by the Business Administrator or administrator's designee as an area within specific boundaries in which a permitted special event may take place. Special event vendors will be allowed within the boundaries of the entertainment areas with proper permitting and approval of the Business Administrator or administrator's designee.

"Parade" shall mean a march or procession consisting of any number of persons, animals, or vehicles, or a combination thereof, on any Borough street, sidewalk, alley, or other right-of-way, which obstructs delays or interferes with the normal flow of pedestrian or vehicular traffic, or does not comply with traffic laws and controls.

"Park" means all parks and bodies of water contained therein, squares, drives, parkways, boulevards, trails, golf courses, museums, aquaria, zoos, beaches, playgrounds, playfields, botanical gardens, greenbelts, parking lots, community centers and other park, recreation and open space areas and buildings and facilities comprising the parks and recreation system of the Borough under the management and control of the Borough.

"Permit Application Fee" shall mean the fee to be paid by the special event permit applicant at the time the application is filed with the Borough. Such fee shall be set by the Resolution.

"Private Place" means and includes parking lots, malls, streets, avenues, ways, boulevards, drives, places, alleys, sidewalks, and planting (parking) strips, squares, triangles and non-dedicated roadways and the space above or beneath its surface, whether or not opened or improved, where the proposed special event is not a permitted use pursuant to the Zoning Ordinance in the zone in which the special event is proposed to take place.

"Public Place" means and includes streets, avenues, ways, boulevards, drives, places, alleys, sidewalks, and planting (parking) strips, squares, triangles and right-of-way for public use and the space above or beneath its surface, whether or not opened or improved.

"Refundable Deposit" shall mean the amount of money required of a permittee by the Borough if the special event is held in a public place, in order to assure adequate cleanup of the special event site. However, if it is reasonably anticipated that the holding of a special event on private property will result in the need for a cleanup in a surrounding public area, a deposit shall also be required, which shall be returned to the permittee upon the completion of the event and approval of the Business Administrator.

"Special Event" means meeting, gathering, or group of persons, animals or vehicles, or any combination thereof, having a common purpose, design or goal, upon a private or public facility, street, sidewalk, park, waterway, or other place, where the special event substantially inhibits the usual flow of pedestrian or vehicular traffic or which occupies any private or public area and impacts use in or around such area by the general public. A special event shall include, but shall not be limited to, farmer's markets, festival celebrations, concerts, parades, block parties, athletic events, drive-in movies, and other similar gatherings which meet one or more of the following; 1) is reasonably expected to cause or result in more than 50 people gathering in a park or other private or public place; 2) is reasonably expected to have a substantial impact on a park or other private or public place; 3) is reasonably expected to require the provision of substantial public services; or 4) occurs no more than four times per year with each event lasting for no longer than 48 consecutive hours.

"Special Event Permit" shall mean the permit issued by the Business Administrator or administrator's designee after the applicant has met all applicable reviews and requirements set forth in this chapter.

"Special Event Vendor" shall be a permitted vendor allowed to operate within entertainment areas during permitted special events.

"Substantial impact on a park or other private or public place" means an event which would impact in whole or in significant part the public's normal and customary use of such place.

"Substantial public services" means a material increase in the amount, scope, or level of necessary fire, police, traffic control, crowd control, or other public services above those that would normally be required without the event. With respect to police resources, "substantial public services" means resources for crowd management or traffic control required for the event over and above the normal deployment of police in that geographic area of the Borough at the time of day during which the event will occur.

§ 11-10.2 Special Event Permit – Application Required.

- a. Whenever a person, organization, or other entity desires to use a park or a certain area of the park, public street or place, or quasi-public private property when the use may impact public safety or Borough services for a period of one day or any part**

thereof, or when a private event on private property is such that it may impact public safety or Borough services, that person shall make application to and obtain from the Municipal Clerk a permit for the special event, which includes, but is not limited to, a performance, show or entertainment, labor strikes, road closings, large gatherings requiring other Borough permits, protests or demonstrations.

b. All events and activities must comply with applicable state statutes and Borough ordinances. It is the responsibility of the applicant to obtain all necessary and required permits and approvals.

c. Applications for a special event permit shall be submitted to the Municipal Clerk no less than 60 days before or within a reasonable amount of time to be reviewed by the Business Administrator and submitted for approval to the Mayor and Borough Council. There shall be a late fee of \$10 per day for applications submitted less than 60 days before the event date.

d. Special event permits shall be deemed to be either:

- 1. Borough-sponsored: The event is being run/operated by the Borough.**
- 2. Borough-sanctioned: The Borough is sanctioning the event because the event is in the public interest.**

e. The application shall state the following:

- 1. The name, address, and telephone number of the applicant, primary contact person, and on-scene manager of the event.**
- 2. The name, address, and telephone number of the person, persons, corporation, or association sponsoring the activity, if any.**
- 3. The day and hours for which the permit is desired.**
- 4. The portion of the park area or place for which the permit is desired.**
- 5. A description of and purpose for the special event.**
- 6. An estimate of the anticipated attendance.**
- 7. The anticipated charges or fees to members or persons attending.**
- 8. Any other information which the Business Administrator or administrator's designee shall find reasonably necessary to a fair determination as to whether a permit should be issued hereunder.**
- 9. A description of Borough equipment or services requested (however, there shall be no guarantee that those services or equipment will be made available).**

f. Standards for issuance of a special event permit shall include the following:

- 1. That the proposed activity or use of the park or requested area will not unreasonably interfere with or detract from the general public enjoyment of the park or surrounding area.**

- 2. That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety, and recreation.**
- 3. That the proposed activity and use will not unreasonably restrict, obstruct, interfere with or impede pedestrian right-of-way, a vehicle's right-of-way, or ingress or egress from the requested or abutting property.**
- 4. That the proposed activity will not entail extraordinary or burdensome expenses upon the Borough when the event is deemed "sanctioned."**
- 5. That any facility desired has not been reserved for other use at the date and time requested in the application.**
- 6. That the proposed activity or uses that are reasonably anticipated will not include violence, crime, or disorderly conduct, and will not create a nuisance.**
- 7. That the appropriate certificate of insurance, if required, is issued to the applicant naming the Borough as an additional insured for the place, date, and time of the special event.**
- 8. Applicant shall meet any and all requirements and conditions (fees, salary costs, public safety coverage, traffic control plans, etc.) listed on an approved permit.**
- 9. The Borough may implement reasonable terms or conditions as to the time, place, length and manner of the event; the implementation of a plan presented by the applicant and approved by the Borough for crowd control, traffic control, and security; compliance with health and sanitary regulations as explicated by the Health Department for the event; coordination with the Fire Department or Emergency Medical Services; emergency communication; fire suppression equipment with structures; maintenance of unobstructed emergency passageways; and, where traffic congestion may be anticipated, encouraging the use of public transit and car-pooling. In determining conditions, the Business Administrator or administrator's designee shall consider anticipated impacts of the event based on an assessment of the event, including size, scope, complexity, and history as well as the event's or event organizer's successful implementation of conditions included in previous permits. Conditions shall be based upon projected impacts on public safety, public places and public services, but shall not be based upon the programming content of the event or message that the proposed event may convey.**
- 10. In order to accommodate other concurrent events, the rights of abutting owners, and the needs of the public to use streets or parks, the conditions may include, but are not limited to, reasonable adjustments in the date, time, route or location of the proposed event; accommodations of pedestrian or vehicular traffic using the street; and limitations on the duration of the event.**
- 11. Any application for a special event permit shall be accompanied by a fee, as established by resolution.**
- 12. Prior to the issuance of the special event permit, the applicant must agree to reimburse the Borough for any costs incurred by the Borough in repairing damage to Borough property and/or the public rights of way which may occur in**

connection with the permitted event. The applicant/permittee agrees to defend, indemnify and save harmless the Borough, its appointed and elected officers and employees from and against all loss or expense, including but not limited to judgments, settlements, attorney's fees and costs by reason of any and all claims and demands upon the Borough, its elected officials or employees for damages because of personal or bodily injury, including death at any time therefrom, sustained by any person or persons and on account of damage to property or loss therefrom, arising out of any activity under or in connection with the special event, except only such injury as shall have been occasioned by the sol negligence of the Borough, its appointed or elected officers or employees.

13. The Business Administrator or administrator's designee has the authority to require a refundable deposit for reimbursement of the costs for cleanup services.

14. The Business Administrator or administrator's designee shall have the right to designate the areas to be used for permitted special events.

§ 11-10.3 Special Event Permit – Enforcement, Violations & Penalties

The Keyport Borough officials shall, in connection with their duties imposed by law, diligently enforce the provisions of this chapter. The Keyport Police Department shall have the authority to eject from the park or area any person acting in violation of this chapter. Any person who shall violate any provision of this chapter shall be summarily evicted from the park, beach or other recreational area or place, and may be denied further admittance to the park, beach or any other recreational area. The Business Administrator may revoke the special events permit and terminate the event for violations of this chapter.

§ 11-10.4 Special Event Permit – Denial of Application

A. Denial of Application: A special event permit may be denied based upon a determination that:

1. The proposed event would unreasonably disrupt the orderly or safe circulation of traffic or as would present an unreasonable risk of injury or damage to the public;
2. The event would seriously inconvenience the general public;
3. The event would unreasonably infringe upon the rights of abutting properties;
4. The proposed event is proximate to another previously permitted or scheduled event, so that the combined impacts and required public services exceed what the Borough, after reasonable efforts have been made to accommodate both events, can reasonably provide; or the proposed event would interfere with construction or maintenance work in the immediate vicinity, or unreasonably infringe upon the rights of abutting properties;
5. There are not sufficient safety personnel or other necessary Borough staff to accommodate the event;
6. The applicant failed to complete the application form after being notified of the additional information or documents required;
7. The applicant supplies false or misleading information, fails to complete the application or to supply other required information or documents, or declares or shows an unwillingness or inability to comply with reasonable terms or conditions contained in the permit application;

8. The applicant cannot meet, or is unwilling to meet, all of the requirements of this chapter or any special conditions imposed by any of the reviewing agencies;
9. Other issues in the public interest were identified by the Business Administrator or administrator's designee; or
10. Failure to prepay expenses.

B. Revocation of Permit: The Business Administrator or administrator's designee may cancel or revoke a permit already issued upon written notice to the applicant stating the grounds for revocation if:

1. The applicant, in the information supplied, has made misstatement of a material fact, failed to fulfill a term or condition of the permit in a timely manner, or submitted a permit fee which was insufficient or incomplete; or
2. The applicant requests the cancellation of the permit or cancels the event; or
3. An emergency or supervening occurrence requires the cancellation or termination of the event in order to protect the public health or safety. The Borough shall refund the permit fee in the event of a revocation caused by an emergency or supervening occurrence and shall refund the balance of the fee less its costs incurred if the cancellation occurs at the request of an applicant who is in compliance with this chapter.

Section 3. All ordinances or parts thereof inconsistent with the provisions of this ordinance are hereby repealed.

Section 4. Each section, subsection, sentence, clause and phrase of this ordinance is declared to be an independent section, subsection, sentence, clause and phrase and the finding or holding of any such portion of this ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this ordinance.

Section 5. Except as amended by this ordinance, all other provision of the Borough's Revised General Ordinances shall remain in full force and effect.

Section 6. The Borough Clerk is hereby directed, upon adoption of the ordinance after public hearing thereon, to publish notice of the passage thereof.

Section 7. This ordinance shall be in full force and effect from and after its adoption and any publication according to law.

Introduced: September 5, 2023
 Public Hearing: September 19, 2023
 Adopted: September 19, 2023

Michele Clark, RMC
 Clerk, Borough of Keyport

Mayor Rose Araneo
 Borough of Keyport