

**MILLERSBURG BOROUGH
DAUPHIN COUNTY, PENNSYLVANIA**

RESOLUTION NO. 16-06

**A RESOLUTION SETTING POLICIES ON THE USE OF PUBLIC FACILITIES AND
SPECIAL EVENTS HELD ON PUBLIC PROPERTY OWNED BY THE BOROUGH
OF MILLERSBURG, DAUPHIN COUNTY, PENNSYLVANIA**

WHEREAS, the Borough of Millersburg, Dauphin County, Pennsylvania owns and maintains several building and public parks suitable for public events; and

WHEREAS, the Millersburg Borough Council recognizes that such venues are publicly owned and therefore generally open to the public for casual uses; and

WHEREAS, the Millersburg Borough Council encourages the use of public facilities for events both great and small benefiting the community and its residents; and

WHEREAS, the Millersburg Borough Council recognizes that all proposed event and use of public facilities are different and carry varying degrees of risk and legal liability; and

WHEREAS, it is the policy of the Millersburg Borough Council that those individuals and groups using public facilities assume an appropriate cost of the liability for planned events.

THEREFORE BE IT RESOLVED that the Borough Council adopts the following policies regarding the use of public facilities.

A. The Borough recognizes the following types of usage of public property and sets the following requirements for each use.

1. **Casual Park Usage.** This includes low impact, routine recreational usage of public parks, including the use of play grounds as well as activities such as hiking, jogging, picnicking, and relaxing. This Category also includes group activities requiring no special accommodations by the Borough and that do not interfere with casual use by other park patrons. No special permissions are required, but all activities are at the individuals' own risk. The Borough will carry general liability coverage for its public facilities. The Borough Council reserves the right to post rules of conduct for park users and the Borough of Millersburg specifically disclaims liability for accidents, injuries or losses arising from violations of posted park rules and/or violations of Borough Ordinances or the laws of the Commonwealth of Pennsylvania and of the United States of America.
2. **Pavilion/Gazebo/Stage Rentals.** The Borough provides pavilions in its parks intended for Casual Park Usage as detailed in Category 1. Additionally, the Borough makes the pavilions, the Gazebo in Market Square Park and the stage at Riverfront Park (herein called "facility") available for reservation for a fee that is set from time to time. This fee covers the Borough's costs for cleaning the facility, providing access to restrooms, and posting the facility. Users who have paid the fee are granted priority

access to the facility over other casual park users. The Borough may set specific rules for facility rentals. The Borough grants a blanket waiver of any insurance requirements to groups who agree to and abide by the rules as stated. The Borough of Millersburg specifically disclaims liability for accidents, injuries or losses arising from violations of pavilion use rules and/or violations of Borough Ordinances or of the laws of the Commonwealth of Pennsylvania and of the United States of America. This Category does not apply to events requiring special arrangements by the Borough beyond the routine maintenance detailed herein. (See Categories 4-7 below.)

3. **Use of the Borough Building.** The Borough Building located at 101 West Street is available for public usage for business meetings and youth activities. Leaders of groups using the downstairs meeting room for regular (weekly or monthly) meetings may be issued a door key. The leader shall provide accurate contact information to the Borough Manager and Borough Secretary. Key holders shall not transfer any key without appropriate notification to the Borough. The leader shall surrender the key if the group ceases to meet regularly. Keys may not be duplicated except by Borough officials. Organizations or groups requesting the use of Borough Council Chambers or Downstairs Meeting Room must make such a request at least five (5) business days in advance to allow the Borough to arrange for opening and securing the building. Any group may be charged a fee for use of either room as set forth by the Council from time to time. The Borough may require appropriate insurance coverage and/or user agreements if a specific risk or concern is identified.
4. **Low Impact Usage.** This includes small, organized gatherings upon public property outside of the scope of Categories 2 and 3. Such events require minimal special accommodation by the Borough or its employees and Casual Park Usage is not greatly impacted (i.e. the activity is confined to a small area). Generally a signed agreement and proof of liability insurance will be required, but the Borough Council at its discretion may waive any or all of these requirements if the activity is deemed to be of sufficiently limited scope or risk of liability exposure or if there are other extenuating circumstances. In these cases, the Borough Manager may consult with the Council President and the appropriate Committee Chair to discuss requirement waivers. Examples include, but are not limited to, small religious services, political rallies, and memorial services.
5. **Moderate Impact Usage.** This category includes gatherings on public properties that require special accommodation or effort by the Borough of any kind and that greatly impact Casual Usage or the normal flow of motor vehicle traffic. Additionally, any of the following factors automatically place an activity of any size within this Category: street closures or encroachments upon a local street, the presence of outside vendors, an expectation of a crowd larger than 100 people, or a request for Borough labor during the event. A facility use agreement and proof of liability insurance are required for such activities. Users must list "Millersburg Borough" as additionally insured. The Borough reserves the right to charge a user fee to cover the Borough's expenses as well as vendor fees. Examples of Moderate Impact Usage include, but are not limited to weddings, concerts, dry docking of the Ferry Boats, and public auctions that require a street closure.
6. **Sports.** The Borough recognizes the inherent danger of injury in any physical activity. Therefore sports organizations that utilize Borough parks shall execute a facility use agreement with the Borough each season prior to any games or practices. Proof of liability insurance shall be required and the organization shall list "Millersburg Borough" as additionally insured. The Borough requires sports organizations to pay

insurance deductibles resulting from damage to buildings to which the organization has primary or exclusive use and to maintain such buildings throughout the year. The Borough further requires that sports leagues provide a roster of players to the Borough each season. The Borough reserves the right to charge a user fee to cover expenses to the Borough.

7. **High Risk Activities.** This category includes activities that inherently represent a particularly high risk of injury or property damage due to the nature of the proposed event or that require activation of the Emergency Operations Center (EOC). Additionally, any event involving alcohol and/or the closure of a state highway would be included in this category. A facility use agreement and proof of liability insurance are required for such activities. Users must list "Millersburg Borough" as additionally insured. The Borough reserves the right to charge a user fee and require insurance coverage above and beyond the standard \$1 million liability policy. Examples of high-risk activities include parades on state highways, street festivals, the Tour de Millersburg, Fireworks and wine festivals.

B. All organizations requesting the use of Borough-owned property in Categories 4-7 shall make every effort to secure permission 45 days prior to the event or the start of the sports season. All facility use and special event requests require approval by the Borough Council at a regularly scheduled meeting. If permission is not secured or is denied, the Borough will assume no liability for accidents, injuries or loss resulting from an activity nor will the Borough make any special arrangements for the specified use. The Borough may require that any organization not securing prior approval vacate the premises.

C. Council reserves the right to set specific liability limits. In general, Low Impact Usage would require \$100,000 in coverage, Moderate Impact Usage would require \$250,000 coverage, and Sports require \$1 million. As noted, High Risk Activities require \$1 million coverage unless the Council requires more coverage.

D. The possession or consumption of alcohol and illegal substances is forbidden in public places, unless alcohol is specifically permitted for a particular event. Organizers of such events will be required to provide proof of liquor liability coverage. The Borough will assume no liability for accidents, injuries or loss caused by or related to the use, possession or consumption of alcohol and illegal substances. Organizers of events involving the use of alcohol must acknowledge that they are independent contractors and the event is not a joint venture with Millersburg Borough. Organizers of such events release and indemnify Millersburg Borough, Inc., its employees, agents, and assigns from any and all claims, losses, or damages incurred as a result events involving alcohol.

E. The Borough reserves the right in all cases to place reasonable requirements and restrictions regarding the use of any facility. These provisions shall be included in any user agreement. Further, the Borough may require written documentation detailing the Organization's responses to specific or general concerns raised by the Borough Council.

F. The Borough Council is receptive to new ideas for community activities. Since the Borough assumes some liability and responsibility for activities in public facilities, Council members should be fully aware of all details of various events. To that end, the Council and/or the Borough Manager may require that organizations proposing new events or

significant changes to existing events attend a meeting of the Borough Council or the appropriate Committee to discuss these ideas prior to approval.

G. If an organization requests the services of a Borough employee, the organization will be billed as appropriate, including overtime hours. Additionally, the Borough Council reserves the right to require the presence of one or more Borough employees if Council feels it is necessary for the health, safety and welfare of the community and bill the organization as appropriate.

H. The Borough Council recognizes that under the Federal Tort Claims Act, codified at 28 U.S.C. § 2671-2680, the United States acts as a self-insurer and recognizes liability for the negligent and wrongful acts or omissions of its employees acting within the scope of their official and representational duties. Therefore, the provisions of this policy notwithstanding, all insurance requirements may be waived for elected and appointed officials of the Federal government and any agencies or employees of the Executive, Legislative or Judicial branch of the Federal government unless or until the Federal Tort Claims Act is repealed or ruled unconstitutional.

I. The Borough Council recognizes that under Act 152, as amended by Act 142 of 1980, commonly known as the Sovereign Immunity Tort Claims Act, the Commonwealth of Pennsylvania enjoys sovereign immunity. In accordance with Section 8528 of the statute eligible claims or suits against the Commonwealth, its officials or employees within the waived areas may be settled up to \$250,000 per person; \$1 million each occurrence. Therefore, the provisions of this policy notwithstanding, all insurance requirements may be waived for elected and appointed officials of the Commonwealth government and any agencies or employees of the Executive, Legislative or Judicial branch of the Commonwealth government unless or until the Sovereign Immunity Tort Claims Act is repealed or ruled unconstitutional.

DULY ADOPTED this 13th day of July, 2016 by the Millersburg Borough Council.

ATTEST:

BOROUGH OF MILLERSBURG
Dauphin County, Pennsylvania

By: Ann Bowman Jackson
Borough Secretary

By: Cheryl C. Dreyer
President of Council

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