

Boardman Township Trustees
Mahoning County, Ohio

Home Rule Resolution No. 16-04-22-12

Home Rule Resolution Adopting and Codifying Requirements for Holding Special Events.

The Board of Trustees of Boardman Township, Mahoning County, Ohio met in Regular Session at the Boardman Township Government Center on the ____ day of April, 2016, with the following members present: Thomas P. Costello, Brad Calhoun, Larry Moliterno.

Moved by Mr. Costello, seconded by Mr. Calhoun, to approve and adopt Home Rule Resolution 16-04-22-12, to be effective 30 days from the date of adoption, in accordance with Ohio Revised Code Section 504.10 and publication as follows:

WHEREAS, the Boardman Township Board of Trustees adopted a Limited Home Rule government in accordance with Ohio Revised Code Section 504.01 by Resolution duly adopted and approved October 12, 1999;

WHEREAS, Boardman Township constitutes an Urban Township with Limited Home Rule Authority as provided in the Ohio Revised Code Section 504.01, vested with the powers rights, and immunities granted therein;

WHEREAS, Boardman Township currently does not have any mechanism for regulating large-scale, outdoor events that attract visitors for special recreational, entertainment, charitable, or commercial events;

WHEREAS, Boardman Township desires to create such a mechanism for regulating the dates, times, location, and conditions under which these special events are conducted within the Township and in a manner which is necessary for the general health, safety and welfare of the general public;

WHEREAS, as a limited home-rule township under Ohio Revised Code Chapter 504, Boardman Township has the power to adopt and enforce within the unincorporated area of the township local police, sanitary, and other similar regulations that are not in conflict with general laws or otherwise prohibited by Section 504.04(B);

WHEREAS, the Boardman Township Board of Trustees finds that establishing a special events permit is really and substantially related to the public health, safety, morals, or general welfare of the public; and

WHEREAS, the Boardman Township Board of Trustees finds and determines that all formal actions of this Board concerning and relating to passage of this resolution were taken in an open meeting of this Board and that all deliberations of this Board and of any of its committees that resulted in such formal action were taken in meetings open to the public and in compliance with all legal requirements, including Ohio Revised Code Section 121.22.

NOW THEREFORE, BE IT RESOLVED, THAT THE FOLLOWING REGULATIONS BE AND HEREBY ARE APPROVED AND ADOPTED, AS AMENDED, TO BE EFFECTIVE 30 DAYS FROM THE DATE OF SECOND READING, PUBLICATION AND CODIFICATION:

ARTICLE I. GENERAL PROVISIONS

Section 1: Purpose

The purpose of this Resolution is to provide Boardman Township with a mechanism for regulating the dates, times, location, and conditions under which permittees are authorized to conduct special recreational, entertainment, charitable, or commercial events for individuals to congregate or assemble outdoors for a single purpose within Boardman Township in a manner consistent with maintaining the public health, safety, and welfare of its residents and the visitors who are attracted to Boardman Township for such special events. Boardman Township also wants to ensure that adequate and appropriate emergency provisions or other township support is available, if needed. Nothing in this Resolution is intended to prohibit, restrict, or delay any person, group, or organization from any activity otherwise permitted by law.

Section 2: Scope

This Resolution does not apply to (A) organized school-related programs, sporting events, and activities; (B) other public programs, activities, parades, or events authorized by the Board of Township Trustees or the Chief of Police or his or her designated representative, whether or not on public property; (C) programs, events, and activities at the Boardman Township Park that are organized or approved by the Boardman Township Park District; or (D) programs, events, and activities that are organized or approved by the Mill Creek Metropolitan Park District on property owned by it. This Resolution does not supersede any other applicable federal, state, or local rules or regulations.

Section 3: Definitions

(A) "Special Event" means any outdoor event, sponsored by an individual, business, or other entity or organization intended primarily for recreational, entertainment, charitable, or commercial purposes to be held within the jurisdiction of Boardman Township which does not block off any street, public sidewalk, alley, or highway area. The Chief of Police must approve any temporary closure of any street, public sidewalk, alley, or highway area separately from the Special Event Permit process. This definition includes that portion of an "indoor event" that contemporaneously occurs at an adjacent outdoor space. A "Special Event" may, but does not have to, include the cordoning off of areas in a parking lot to create a space where people are intended to gather.

(B) "Applicant" means the individual, corporation, partnership, or other entity or organization sponsoring the proposed Special Event and who is responsible for all aspects of the Special Event.

(C) "Special Event Permit" means a permit duly issued in accordance with this Resolution for the conduct of a Special Event containing such terms and conditions which the Chief of Police finds necessary to conduct the Special Event in a manner which is consistent with maintaining public health, safety, and welfare of Boardman Township residents and visitors who are attracted to Boardman Township for such special recreational, entertainment, charitable, or commercial events.

(D) "Block party" means a party organized by and for the benefit of the residents of a residential block or neighborhood on a temporarily-closed road or street.

(E) "Holder" means an Applicant who has received a Special Events Permit.

ARTICLE II. SPECIAL EVENTS PERMIT

Section 1: Special Events Permit Required

No person, corporation, partnership, or other entity or organization may conduct a Special Event without a Special Events Permit.

Section 2: Review by the Chief of Police

The Chief of Police or his or her designee will review all Special Events applications.

Section 3: Special Events Permit Application

An Applicant must submit a Special Events Permit Application to the Chief of Police at least 14 days before the date of the Special Event. The application must be on a form provided by the Township that includes, at a minimum, the following information:

- (A) name, address, and telephone number of the Applicant;
- (B) date(s) and times of the Special Event;
- (C) description of the Special Event, including any name that the Applicant will use to advertise the Special Event;
- (D) address or location where the Special Event will take place;
- (E) estimated number of people attending the Special Event;
- (F) plan for dealing with traffic, parking, crowd control, and sanitation and refuse services;
- (G) anticipated need for Township-related services for the Special Event;
- (H) evidence of financial and personnel-related capability to run the Special Event, including, but not limited to, the ability to provide security personnel, age verification, liability insurance, and first aid;
- (I) name, address, telephone number, and cellphone number of the individual who will be present at the Special Event and will be responsible for the overall operation of the Special Event, if not the Applicant.

Section 4: Fee

An Applicant must pay a \$20 fee when submitting a Special Events Permit Application to cover the costs of reviewing, processing, and enforcing this resolution. There is no fee for a block party or a Special Events sponsored by a house of worship on its premises.

Section 5: Criteria for Issuing a Special Events Permit

(A) In considering whether to issue a Special Events Permit, the Chief of Police shall not issue a permit when:

- (1) the proposed Special Event is scheduled to begin earlier than 5:00 pm on a weekday;
- (2) the proposed Special Event is scheduled to end later than 11:00 pm on any day; or
- (3) the proposed Special Event is to take place in property zoned other than Commercial, except this subprovision does not apply to a block party or a Special Event sponsored by a house of worship on its premises.

(B) In considering whether to issue a Special Events Permit, the Chief of Police may not issue a permit when:

- (1) the Chief of Police determines the proposed Special Event cannot be conducted in the location proposed without endangering the public, disturbing the peace, threatening public health, or damaging private or public property. The Chief of Police may consider the following criteria when making a determination under this section:
 - (a) whether the Applicant has provided adequate parking and traffic control for the Special Event, including sufficient parking spaces near the Special Event have been made available to the Applicant by the property owner to accommodate the number of vehicles reasonably expected for the estimated number of people attending the Special Event.
 - (b) whether the Applicant has provided adequate crowd control and security for the Special Event.
 - (c) whether the Applicant has adequate liability insurance.
 - (d) whether the proposed Special Event poses a burden on Township-related services.
 - (e) whether the proposed Special Event will have an undue adverse effect on neighboring properties due to noise, litter, or other negative features, and whether the Applicant has a plan to address them. While it may be presumed that a proposed Special Event that otherwise complies with the provisions of this Section will not have an undue adverse effect on neighboring properties, but evidence that prior Special Events conducted by the Applicant or on the same premises as the proposed Special Event has had an undue adverse effect on neighboring properties is sufficient to rebut this presumption.
 - (f) whether the Applicant has adequate financial ability and staff to conduct the Special Event satisfactorily.

- (g) whether the application contains any misrepresentation of material facts.
- (2) the Applicant has previously
 - (a) violated any provision of this Resolution; or
 - (b) failed to comply with the terms of a Special Events Permit issued under this Resolution.

Section 6: Multiple-Day or Regularly-Occurring Special Event

(A) A Special Event may take place over the course of one or more consecutive days but not more than four. For any such Special Event, only one Special Events Permit Application will be required.

(B)(1) For Special Events that are scheduled to be held on a regular or recurring basis at the same location within a six-month window and for which a similar setup is required at each occurrence, only one Special Events Permit Application will be required.

(2) Upon notice to the Holder, the Chief of Police may review a Special Events Permit that has been issued for a regular or recurring event and revise the terms of the Special Events Permit if the expected circumstances for which the Special Events Permit was granted change during the course of the time in which the Special Event has occurred. The Chief of Police will work with the Holder to agree upon revised terms, but the Chief of Police retains the authority to revoke the Special Events Permit under Article II, Section 9.

Section 7: Responsibility for Special Event

(A) A Holder is solely responsible for conducting the Special Event in compliance with the conditions of the Special Events Permit and for maintaining public safety and order during the Special Event. Boardman Township does not assume any liability or responsibility by issuing a Special Events Permit.

(B) As part of the Application, the Applicant shall agree to assume the defense of and indemnify and save harmless the township, trustees, boards, officers, employees, and agents from all suits, actions, damages, or claims to which the township may be subjected of any kind or nature whatsoever resulting from, caused by, arising out of, or as a consequence of such Special Event and the activities permitted in connection therewith.

Section 8: Pre-Paid Expenses for Police Protection

If police protection is deemed necessary for the event, the Chief of Police shall inform the Applicant, and the Applicant must secure the police protection deemed necessary at the Applicant's sole expense. The Chief of Police may require such an expenses to be paid to the Township before a Special Events Permit is issued or may issue the Special Events Permits and require the expenses within a reasonable period of time before the Special Event, in which case the Chief of Police will revoke the Special Events Permit if the expenses are not paid by that time.

Section 9: Revocation of Special Events Permit

(A) Any Special Events Permit may be revoked by the Chief of Police or his or her designee at any time when, by reason of emergency, disaster, calamity, disorder, riot, traffic conditions, violation of this Resolution or any permit conditions, or undue burden on public services, he or she determines that the health, safety, tranquility, or welfare of the public or property requires such revocation.

(B) The Chief of Police or his or her designee will notify the Holder or other person designated in the Special Events Permit Application in writing by personal service or certified mail, or, if the Special Event has commenced, orally, in writing, by personal contact or service, or by telephone or text message.

(C) Continuing a Special Event after the Chief of Police has given the notice required by Article II, Section 9(B) has been delivered is unlawful.

ARTICLE III. PENALTIES, SEVERABILITY, AND EFFECTIVE DATE OF RESOLUTION

Section 1: Enforcement

This Resolution and the terms and conditions of a Special Events Permit shall be enforced by any law enforcement officer or by any other Township official designated by the Township or the Chief of Police to enforce these provisions.

Section 2: Penalties

A violation of any provision of this Resolution or the failure to comply with the terms of a Special Events Permit shall constitute an unclassified civil misdemeanor punishable by a civil fine as follows:

- (1) First Offense - \$250.00
- (2) Second Offense - \$500.00
- (3) Third Offense - \$750.00
- (4) Fourth and Subsequent Offenses - \$1,000.00

Section 3: Severability

If any paragraph, provision, or section of this Resolution is held to be invalid by the final decision of any court of competent jurisdiction, then that decision will not affect the validity of the remaining paragraphs, provisions, or sections of this Resolution. The Boardman Township Board of Trustees declares that it would have adopted this Resolution and each paragraph, provision, or section thereof despite the fact that one or more paragraphs, provisions, or sections would be declared invalid.

Section 4: Effective Date

This Resolution shall be effective thirty (30) days from the date of adoption.

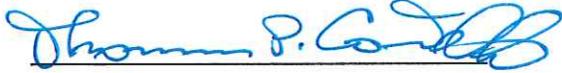
ROLL CALL

| | <u>Aye</u> | <u>Nay</u> |
|---------------------------------|------------|------------|
| Mr. Brad Calhoun, Trustee | X | |
| Mr. Thomas Costello, Vice Chair | X | |
| Mr. Larry Moliterno, Chair | X | |

BY ORDER OF THE BOARDMAN TOWNSHIP TRUSTEES:



Brad Calhoun, Trustee



Thomas Costello, Vice Chair



Larry Moliterno, Chair

ATTEST:



William D. Leicht, Fiscal Officer

Approved as to Form:

Matthew G. Vansuch, Special Legal Counsel

CERTIFICATION

I, William D. Leicht, Fiscal Officer of Boardman Township, do hereby certify that the foregoing Resolution is taken from the Minutes of Boardman Township at a meeting duly-held on April 22, 2016 that the same has been compared by me with the original Resolution of said Minutes, and that said Resolution is a true and correct copy thereof.

A handwritten signature in black ink, appearing to read "William D. Leicht", written over a horizontal line.

William D. Leicht
Fiscal Officer