

ORDINANCE #504 of 2016

AMENDMENT TO THE BOROUGH OF

FOREST CITY ORDINANCE #455

AN ORDINANCE OF THE BOROUGH OF FOREST CITY, SUSQUEHANNA COUNTY AND COMMONWEALTH OF PENNSYLVANIA, AMENDING ORDINANCE #455 OF FOREST CITY BOROUGH AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Forest City Borough has the authority vested in it by the Borough Code and amendments thereto to regulate the consumption of alcohol on borough owned property;

WHEREAS, Forest City Borough Council has determined the restrictions on the consumption of alcohol on the Forest City Borough's property known as Kennedy Park as set forth in the subject Ordinance are deemed no longer warranted; and

WHEREAS, Borough Council of the Borough of Forest City desires to amend the said Ordinance to allow the consumption of alcohol (with separately defined and adopted rules and regulation) on the Forest City Borough's property known as Kennedy Park; and

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Council of Forest City Borough, Susquehanna County and Commonwealth of Pennsylvania and by this Ordinance it is hereby Ordained and Enacted that Ordinance #455 amended as follows:

“Section 1: ...

c. Public Access Property – any public street, alley, sidewalk, park (other than the park known as Kennedy Park) playground, ball field, recreation areas, commons, or parking lots; or any private parking lots open to public use (regardless if the private parking lot establishment is open or closed for business). Public access property does not encompass duly licensed areas as may be so designated by the Pennsylvania Liquor Control Board, nor the Forest City Borough’s property known as Kennedy Park (with separately defined and adopted policies and regulations).”

ORDAINED, ENACTED and EFFECTED into law by the Council of Forest City Borough, this 6th day of June, 2016.


ATTEST:

By: 
Sharon M. Vannan, Secretary/Treasurer

FOREST CITY BOROUGH

By: 
William D. Orasin, Council President

EXAMINED and APPROVED this 6th day of JUNE 2016.

By: 
Pauline Wilcox, Mayor

BOROUGH OF FOREST CITY KENNEDY PARK SPECIAL EVENT APPLICATION

Date _____

Name of Applicant Organization _____

Contact Person _____ Ph. # _____

Contact's Address: _____

Date of Activity _____ Time: _____ to _____

Type of Activity _____ Area Requested for Activity _____

Approximate Number of People Attending _____ Fee \$ (see schedule) _____

All of the following **MUST** be agreed to and proof of compliance supplied before the Rental Permit will be issued:

- | | YES | NO |
|---|--------------------------|--------------------------|
| 1. Are you or the host entity a PA 501 (c)3 non-profit organization? | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Do you agree to provide a Certificate of Liability Insurance with Borough of Forest City named as additionally named insureds? | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Do you agree that you may not prevent other non-participating citizens from utilizing the non-rope off areas of the park? | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Do you agree that upon the event ending you are responsible for removal of all accumulated garbage and will restore the park to it's prior condition? | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Number of attendees? | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Do you agree to provide additional bathroom services in the park for an event with over 50 persons anticipated attending? | <input type="checkbox"/> | <input type="checkbox"/> |

If you event includes alcohol you **MUST** also agree to the additional terms below for a Rental Permit to be issued:

- | | YES | NO |
|---|--------------------------|--------------------------|
| 1. Do you agree to provide a Special Occasion Permit from the Pennsylvania Liquor Control Board for the event at Kennedy Park? | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Do you agree to rope off the proposed event area to ensure no alcohol use in the playground, basketball courts or baseball fields? | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Do you agree to obtain the services of off duty Forest City Police Officers (or other such qualified personnel as approved by Borough Council) to check all patrons' identifications? | <input type="checkbox"/> | <input type="checkbox"/> |

By signing below and submitting this application and for other good and valuable consideration, the Applicant understands and agrees that he or she or they are bound by the terms of all park rules and regulations, all applicable ordinances and the terms of the Permit.

(Signature of Applicant)

Only Checks or Money Orders will be accepted as payment of fee. Make payable to: **Borough of Forest City.**

**BOROUGH OF FOREST CITY
2016 KENNEDY PARK SPECIAL EVENT PERMIT**

(Please bring this permit with you on the day of your event)

This Permit, dated this _____ day of _____, issued by the Borough of Forest City, hereinafter called the Borough, and issued to _____ hereinafter called the Applicant for the _____ area
Activity date _____ Time: _____ to _____

Cancellations made within 14 days of the event will forfeit the full fee.

The Borough reserves the right to cancel scheduled events if damage out of their control occurs 2 weeks or less of the reserved date. Rental fee will be refunded in full.

WHEREAS, the Borough is the owner of the real estate known as Kennedy Park

WHEREAS, the Borough Council have adopted regulations requiring a permit for the following activities:

1. Display any advertising signs or other advertising matter.
2. Operate for advertising purposes any musical instrument, soundtrack or drum.
3. Hold public assemblages (25 or more people).
4. Conduct exhibitions.
5. Hold a parade.
6. Dispense Alcohol.

WHEREAS, the Applicant desires to exercise certain non-exclusive rights and privileges for the purposes and on the dates contained in the attached application.

NOW, THEREFORE:

1. Purpose. The Borough hereby grants the Applicant the right to:
 - Display any advertising signs or other advertising matter.
 - Operate for advertising purposes any musical instrument, soundtrack or drum.
 - Hold public assemblages (25 or more people).
 - Conduct exhibitions.
 - Hold a parade.
 - Dispense Alcohol.
2. Assurances. By granting such permit the Borough does not:
 - (1) extend any assurance that the premises are safe for any purpose;
 - (2) confer upon such person the legal status of an invitee or licensee to whom a duty of care may be owed;
 - (3) assume responsibility for or incur liability for any injury to persons or property caused by an act of omission of such persons
3. Services. Applicant acknowledges that Borough may grant some services including without limitation, water, sewer, electric, maintenance, etc., to Applicant.
4. Fitness for a Particular Purpose. Borough has not inspected the premises regarding its fitness for its intended uses by Applicant or for any other purpose. Applicant understands that this Agreement grants use of the property in its existing, as is, condition.

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5. Indemnity, Liability and Loss or Damage. Borough shall not be liable to Applicant or Applicant's agents, employees, guests, invitees, patrons or to any person claiming by, through or under Applicant for any injury to person, loss or damage to property, or for loss or damage to business, occasioned by or through the acts or omissions of Borough or any other person, or by any other cause whatsoever except for Borough's gross negligence or willful misconduct. To the extent Borough is not prevented by law from contracting against such liability, Applicant shall indemnify Borough, its principals, partners, members, agents, beneficiaries, and employees and save them harmless from all suits, actions, damages, liabilities, and expenses relating to the loss of life, bodily or personal injury, or property damage arising from or out of any occurrence in, upon, at or from the Premises or Applicant's use and occupancy thereof except to the extent caused by the gross negligence or willful misconduct of any such party seeking indemnification hereunder. If the Borough shall, without fault on its part, be made a party to any action commenced by or against Applicant, Applicant shall protect and hold Borough harmless and shall pay all of Borough's costs and expenses associated therewith, including, without limitation, reasonable attorneys' fees.
6. Legal Use. Applicant will not occupy or use, nor permit any portion of the Premises to be occupied or used for any purpose other than the Permitted Use specified in this Permit, nor for any business or purpose which is unlawful in part or in whole or deemed to be disreputable or hazardous in any manner.
7. Cleaning and Repairs. Applicant will, at Applicant's own cost and expense, keep the Premises in sound condition, good repair, free from trash and rubbish and shall clean, repair or replace any damage or injury done to the Premises or any part thereof by Applicant or Applicant's employees, agents, or invitees. Applicant shall at termination of this Agreement, by lapse of time or otherwise, deliver up said Premises to the Borough in as good condition as it was as of the time of possession. Nothing in this paragraph shall prohibit Borough from seeking additional amounts or damages from Applicant for Applicant's default under this paragraph.
8. Attorneys' Fees. In case Applicant defaults in the performance of any of the terms, covenants, agreements, or conditions contained in this Agreement, and the Borough places the enforcement of the Agreement, or any part thereof, in the hands of an attorney or files suit upon the same, Applicant agrees to pay any and all of Borough's costs and expenses associated therewith, including, without limitation, reasonable attorneys' fees.
9. The Applicant shall be bound by all park rules and regulations, all applicable ordinances, and this permit. In addition to any other remedy at law or equity, violations may result in immediate revocation of this Permit. The Applicant hereby waives all claims, damages and causes of action against Borough as a result of the revocation of this Permit.
10. The Applicant may be required to submit evidence of liability insurance covering injuries to the general public and damage to the park arising out of such permitted activities in the amount of \$_____.

Issued By :

Edward J. Pearsall, Borough Councilman – Parks & Recreation

Agreed to By:

Permit Applicant & Organization

BOROUGH OF FOREST CITY KENNEDY PARK RULES AND REGULATIONS

Rules and Regulations for Kennedy Park

An ordinance providing for rules of the use and occupancy of Kennedy Park; establishing a Park Board; Prohibiting certain activities and conduct at Kennedy Park; establishing a procedure for obtaining permits; establishing closing and opening hours at Kennedy Park authorizing Enforcement of The ordinance; and providing for Civil and Criminal penalties for violations of the Ordinance.

The purpose of this ordinance is to provide rules and regulations of the use of and conduct in the park.

Definitions:

Animals—include cats, dogs, horses, any fowl or birds and any living creatures within the jurisdiction of the park.

Approving governing agency—means the Borough Council or the Park Board

Director—Hired by the Borough Council and is the Chief Executive officer of Kennedy Park.

Park Attendant—any person employed by the Borough Council or the Park Board to perform duties within the park.

Path—any footpath, walk, or path maintained for pedestrians or bicycles.

Permit—any written license issued under the authority of the Borough Council or the Park Board permitting a special event or activity in Kennedy Park.

Special Event: An event or a gathering with more than 50 people in attendance and is open to the public, usually the permit is requested by a community based organization, nonprofit or charitable group.

Soliciting—any person selling goods or services.

Vehicle—any conveyance propelled by an engine.

Vending—selling or trading any item or service.

Rules of Conduct - It shall be unlawful for any person in the park to:

1. Mark, deface, disfigure, injure, tamper with or remove any tables, benches, fireplaces, railings, paving or paving materials, water lines or other public utilities or parts of signs, notices or placards, whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or other structures or equipment, facilities of park property either real or personal.
2. Fail to cooperate in maintaining restrooms in a neat and sanitary condition.
3. Dig or remove any soil, rock, sand, stone tree, shrub, blossom, plant or other wood material.
4. Damage, cut, carve, mark, transplant or remove any plant.
5. Stand or sit on any monuments, planters, railings, fences or upon any other property not designated or customarily used for such purpose.
6. Throw, discharge, or otherwise place in the waters of the creek, any substance matter or thing that may result in the pollution of said body of water.
7. Take into, carry through, or put into the park, any rubbish, refuse, garbage or other material. Such refuse and rubbish shall be deposited in receptacles so provided.
8. Bring any glass container into the park.
9. Hunt, molest, harm, frighten, kill trap, pursue, chase, tease, shoot or throw missiles of any kind at any animal, wildlife, reptile, or bird; nor shall he/she remove or have in their possession the young of any wild animal, or the eggs or nest of any reptile or bird.
10. Domestic pets must be on a leash and under control of their owner or person responsible. Said owner or person responsible must remove solid waste from areas where people walk or play.

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Domestic animals include dogs, cats, horses (if horses are part of an organized event), ferrets, and domesticated birds.

Vehicles - It shall be unlawful for any person in the park to:

1. Drive any vehicle, including ATV's on any area except the paved park roads, trails or parking areas.
2. Leave a vehicle standing or parked for more than 48 hours in established parking areas or elsewhere in the park during hours when the park is closed.
3. Ride a bicycle without reasonable regard to the safety of others.
4. Exceed the speed limit in the park, which will be ten (10) miles per hour or less.

Firearms, Weapons, tools - It shall be unlawful or any person to bring into or have in his possession within the confines of Kennedy Park:

1. Any pistol or revolver, unless permitted.
2. Any rifle, shotgun, BB gun, air gun, spring gun, slingshot, bow or any other weapon.

Explosives and Fireworks - It shall be unlawful for any person to have in his possession or set off any fireworks unless by permit and Borough approval.

Advertising, Assemblages, Entertainment - No person shall post, paint affix, distribute, deliver, place cast or leave about, any bill, billboard, placard, ticket, handbill, circular, or advertisement without a written permit.

Merchandise, Sale prohibited - No person shall solicit, expose, or offer for sale any article or service in the park without a permit as a concessionaire.

Ignitable and Combustible Materials - No person shall kindle, build, maintain or use a fire, except in the grills provided by the Borough for cooking food. No person shall throw away or discard any lighted match, tobacco products, paper or other material against any vehicle or structure or under any tree or shrub.

Section 1

Miscellaneous Conduct - It shall be unlawful for any person in the park to:

1. Camp or stay overnight without a written permit.
2. Take part in the playing of any games involving thrown or otherwise propelled objects except in those areas designated.
3. Enter any area designated as "closed to the public".
4. Engage in threatening, abusive, insulting, or indecent language.
5. Fail to produce and exhibit any permit upon request.
6. Disturb or interfere unreasonably with any person or party occupying an area or participating in any activity under the authority of a permit.
7. Erect or occupy any tent, stand, or other structure in the park, or sell or give away from any such tent, stand or other structure any food, drink, or other thing without a permit.
8. For any person under the age of ten years old to be in the park, at any time, without supervision.

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9. Deny or prevent use of non-rope off areas of the park to any non-participating citizen or member of the public.

Closing Hours - No person shall be in the park during the hours the park is closed without a written permit. The park will be closed from 10PM to DAWN from May 1 to October 31 and DUSK to DAWN from November 1 to April 30.

Permits:

A. Permits for special events and activities in the park shall be obtained by application to the Borough Office in accordance with the following procedure:

1. A person seeking issuance of a permit shall complete an application stating:
 - a. The name and address of the applicant.
 - b. The name and address of the person, persons, corporation, or association sponsoring the activity, if any.
 - c. The day and hours for which the permit is desired
 - d. The portion of the park thereof for which the permit is desired
 - e. Any information concerning the usage
 2. Standards for issuance of a use permit shall include the following findings:
 - a. That the proposed activity or use of the park will not unreasonably interfere with or detract from the public's enjoyment of the park.
 - b. That proposed and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation.
 - c. That the proposed activity or uses that reasonably anticipated will not include violence, crime, or disorderly conduct.
 - d. The proposed will not entail extraordinary or burdensome expense or police operation by the Borough.
 - e. That the facilities desired have not been reserved for other use on the date and hour requested in the application.
- B. A permittee shall be bound by all park rules and regulations and all applicable ordinances fully as though the same were inserted in said permits.
- C. An applicant for a permit may be required to submit evidence of liability insurance covering injuries to the public and damage to the park arising out of such activities.
- D. Revocation. The Borough Council or the Forest City Police shall have the authority to revoke a permit upon finding of violation of any rule or ordinance or upon good cause shown.

Enforcement

- A. The Borough police department, Borough Council, and the park board, in connection with their duties imposed by law, shall diligently enforce the provisions of the ordinance.
- B. The borough police department, Borough Council, and the park board shall have the authority to order any person or persons acting in violation of the ordinance to cease such activity or leave the park. Forest City Police Department is to be contacted if necessary.

Penalty: Any person, firm, organized group, or corporation violating any provision of this ordinance shall be fined not less than two hundred dollars nor more than five hundred dollars for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs

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or continues. This Section shall not limit any other remedies and criminal sanctions provided in law and equity.

Rental Fee Schedule: All permits must follow rules and regulations provided.

1. Fee for Use of Grounds, Pavillion, etc. without alcohol - no fee (\$0). Permit will reserve date.
2. Fee for use of kitchen / concession stand in building: \$200 with \$50 returned if found to be clean and in good condition after.
3. Fee for Permit for use of Alcohol in park: \$500. Fee will be returned to permittee if within one year after the event or prior to the next permitted event for permittee, whichever is sooner, a collateral donation with a value of at least twice the alcohol permit fee (\$1,000) is made to the park. Collateral donation value and appropriateness must be approved by the Kennedy Park Board for fee to be returned. Fee return is also contingent on the park being left clean with no damage, and all of the above rules being appropriately followed.