

ORDINANCE NO.: 2012 - 11

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF  
THE TOWNSHIP OF SPRING GARDEN TO INCLUDE AND  
PROVIDE FOR THE PERMITTING OF SPECIAL EVENTS

The Spring Garden Township Board of Commissioners, York County, Pennsylvania, enacts and ordains as follows:

**Section 1.** The Code of Ordinances of the Township of Spring Garden is hereby amended to include the following:

**§1 - PURPOSE.**

Freedom of speech and association are among those precious rights guaranteed and protected by the United States and Pennsylvania Constitutions. The law gives the Township the ability to balance those rights with its interests in protecting its citizens and preserving Township and public property. As a municipal government, the Township may enact content-neutral restrictions on the time, place, and manner of such expression in order to promote such significant government interests. The purpose of this Ordinance is to set forth the circumstances under which the Township will regulate First Amendment Activity. The Township also has an interest in regulating Activity not protected by the First Amendment to ensure that Township resources are deployed effectively and proposed events are appropriately scheduled. This Chapter is also intended to address such events. This Chapter is not intended to control the permitting of picnic pavilions, ballfields, and park facilities, which are addressed in Chapter 220.

**§ 2- DEFINITIONS**

As used in this Chapter, certain terms are defined as follows:

**APPLICANT.** "Applicant" refers to the person or group sponsoring or organizing an event and applying for an event permit required under this Chapter.

**ATHLETIC COMPETITION.** "Athletic Competition" means an event involving sports, games, or exercises which is reasonably anticipated to obstruct the normal flow of traffic on a public property or otherwise limit public access to public property. Examples include, but are not limited to: marathons, charity walks, 5-k and 10-k races, etc.

**BLOCK PARTY.** A "Block Party" means an annual one-day outdoor public event organized by the residents of a neighborhood and held upon a Township right-of-way for social or entertainment purposes which is supported by a majority of those property owners abutting the Township right-of-way upon which such block party is to be held. Such support shall be evidenced on a form provided by the

Township requiring the signatures of abutting homeowners. A Block Party can only be held between the hours of 10:00 a.m. and 9:30 p.m.

**BOARD OF COMMISSIONERS.** "Board of Commissioners" means the Board of Commissioners of Spring Garden Township, York County, Pennsylvania.

**BUSINESS DAY.** "Business Day" refers to normal Township work hours occurring Monday through Friday, excluding holidays.

**CHIEF of POLICE.** "Chief of Police" means the Chief of Police, or duly authorized designee, of the Spring Garden Township, York County, Pennsylvania.

**COMMUNITY EVENT.** "Community Event" is an annual one-day community or neighborhood event organized for the purpose of celebrating community arts, recreation or culture or to commemorate a holiday, seasonal, or special day to the community.

**COST RECOVERY.** "Cost recovery" refers to administrative and departmental costs charged by the Township to an Applicant in conjunction with an Event permitted under this Chapter.

**EVENT PERMIT.** "Event Permit" means any written authorization issued as required by this Chapter that authorizes the performance of a specified act or acts on a street or other Township property.

**FIRE CHIEF.** "Fire Chief" refers to the Chief of the York Area United Fire and Rescue, York County, Pennsylvania.

**FIRST AMENDMENT ACTIVITY.** "First Amendment Activity" includes all expressive and associative activity that is protected by the United States and Pennsylvania Constitutions, including speech, press, assembly, and/or the right to petition. For purposes of this Chapter, commercial advertising that is regulated by the Zoning Ordinance or elsewhere in this Code of Ordinances is excluded from this definition.

**MANAGER.** "Manager" means the Manager, or duly authorized designee, of Spring Garden Township, York County, Pennsylvania.

**PARADE.** "Parade" for purposes of this Chapter means a march, procession, organized movement, or motorcade consisting of persons, vehicles, or a combination thereof that is 1) held with an intent to attract attention; 2) takes place upon streets within the Township or on streets within a Township park; and 3) interferes or has a tendency to interfere with the normal flow or regulation of pedestrian or vehicular traffic or does not comply with normal and usual traffic, regulations or controls.

**PARTICIPANT.** "Participant" in an Event refers to those individuals, including but not limited to the Applicant, who take part in the activities of the Event by invitation of the Applicant.

**PARK PAVILION.** "Park Pavilion" refers to a shelter located within a Township park.

**PERSON.** "Person" means any person, firm, partnership, association, corporation, society, company, or organization of any kind.

**POLICE DEPARTMENT.** "Police Department" means the Spring Garden Township Police Department.

**PUBLIC ASSEMBLY.** "Public Assembly" means a group activity including but not limited to a demonstration, march, meeting, parade, protest, rally, or vigil which involves the expression of opinions or grievances of persons for a common purpose as a result of prior planning and which interferes or has a tendency to interfere with the normal flow or regulation of pedestrian or vehicular traffic upon the streets, parks, sidewalks, or other public grounds within the Township or does not comply with normal and usual traffic, regulations or controls; or which occupies any public area open to the general public to the exclusion of others.

**PUBLIC SAFETY SERVICES.** "Public Safety Services" are those services provided by the Police Department, York Area United Fire and Rescue and/or Emergency Medical Services.

**RECREATION DIRECTOR.** "Recreation Director" means the Director of Parks and Recreation for Spring Garden Township, York County, Pennsylvania.

**SIDEWALK.** "Sidewalk" is any area or way set aside or open to the general public for the purpose of pedestrian traffic, whether or not it is paved.

**SPECIAL EVENT (EVENT).** "Special Event" or "Event" refers to:

A Special Event shall include but not be limited to a Parade, Public Assembly, performance, meeting, contest, exhibit, Athletic Competition or presentation, community event, Block Party, or ceremony, and which event is to be held wholly or partially on property owned or maintained by the Township which is (i) designated by the Township for First Amendment Activity or (ii) in a traditional public forum; on a street or sidewalk located within the Township and will likely result in the obstruction of such streets or sidewalks or will likely compromise the ability of the Township to respond to a public safety emergency; or on any other property, but requires for its successful execution the provision and coordination of Township services to a degree over and above that which the Township routinely provides.

The definition of "Special Event" is not intended to include:

1. an activity held solely on private property and which does not otherwise require for its successful execution the provision and coordination of Township services to a degree equal to and/or over and above that which the Township routinely provides;
2. programmed activities provided or managed by the Township, *i.e.* recreational and senior programs;
3. any event that would otherwise fall within the definition of a Special Event held in a Township park but which involves fewer than twenty-five (25) people at the same time within a circumscribed one hundred-foot radius and does not interfere with regular use of the park by the general public (but the provisions of Chapter 220, governing parks, may still apply);
4. First Amendment Activity on Township streets or sidewalks (including those in parks) that will not likely result in the obstruction of Township streets or sidewalks nor compromise the ability

of the Township to respond to a public safety emergency; or

5. Permitting of Sports Fields, Sports Facilities, or Park Pavilions, Recreation and/or Senior Centers, or usages otherwise governed by Chapter 220, governing parks, of the Code or any regulation(s) promulgated thereunder.

**SPORTS FIELDS.** "Sports Fields" refers to Township-owned and or permitted fields for the purpose of playing baseball, football, soccer or other sports.

**SPORTS FACILITY.** "Sports Facility" refers to Township-owned facilities associated with sports activities including but not limited to ice skating rinks, concession stands, pools and pool houses.

**STREET.** "Street" is any paved or unpaved road, thoroughfare, avenue, boulevard, parkway, drive, or other public way set aside or open for purposes of vehicular traffic, including any berm, shoulder or median strip thereof.

**TOWNSHIP.** "Township" refers to the Spring Garden Township, York County, Pennsylvania.

**FIRE DEPARTMENT.** "Fire Department" refers to the York Area United Fire and Rescue, York County, Pennsylvania.

### **§ 3- SPECIAL EVENT PERMIT—WHEN REQUIRED.**

No person shall conduct any Special Event as defined herein unless an Event Permit is issued pursuant to this Ordinance.

No person shall be required to obtain an Event Permit from the Township to engage in First Amendment Activity on streets or sidewalks unless such Activity will likely result in the obstruction of Township streets and/or sidewalks or will likely compromise the ability of the Township to respond to a public safety emergency.

In the event that a person determines that his/her activity is not a Special Event, but still wishes to obtain an Event Permit for an Event to be held on Township property, such person shall follow the Special Event Permit Application regulations set forth in Section 4 of this Chapter.

If a person holds a Special Event without a permit as required hereunder, the persons participating shall be required to disperse once the Police Department directs him/her to do so. If a person involved in the activity believes that a permit is not required, he or she may take an immediate appeal as set forth in the regulations required pursuant to Section 4.

### **§ 4 - SPECIAL EVENT PERMIT APPLICATION.**

The Board of Commissioners shall issue or cause appropriate departments to issue regulations for the issuance of Special Event Permits. Such regulations must at minimum meet the following criteria:

Permits for First Amendment Activity shall be (i) issued on a content-neutral basis to the extent required by law; (ii) evaluated no later than two (2) business days from the receipt of a completed permit application where such First Amendment Activity is intended to respond to current events and depends for its value on a timely response; (iii) shall contain only such restrictions on time, place, and manner

that are reasonably related to the Township's significant interests and (iv) and shall be issued for an application fee that reflects the cost of evaluation and scheduling the event. No permit application fee shall be assessed for First Amendment Activity on the portico of the Township's administration building(s).

Permits for all other Special Events (including First Amendment Activity not responding to current events) shall (i) be issued for an application fee that reflects the cost of evaluating and scheduling the event; (ii) shall be submitted to the Township at least fourteen (14) business days and not more than one hundred eighty (180) business days before the date and time at which the Event is proposed to commence and (iii) shall be evaluated within seven (7) business days of receipt by the Township of a completed application or as otherwise set forth in the administrative regulations that shall be promulgated to implement this Chapter. For Events requested at least forty-five (45) days ahead, the Recreation Director reserves the right to respond within fourteen (14) business days but no later than twenty (20) days prior to the requested date for the Event.

All permit fees (both permit application fees and cost recovery fees as defined herein and further explained in Section 6) shall be adopted from time to time by resolution of the Board, which resolution shall be available in hard copy form via request to the Township and on the Township's internet site at [www.springgardentwp.org/](http://www.springgardentwp.org/)

#### **§ 5 - OTHER PERMITTED ACTIVITY.**

**Sports Fields, Sports Facilities, and Park Pavilions and other permits for park facilities:** permits for the use of such fields and facilities shall be issued in accordance with Chapter 220 and/or any regulations promulgated thereunder.

#### **§ 6 - COST RECOVERY.**

(a) The Township shall require the 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 and Sections 6(b) and (c) herein but only if (a) such costs reflect actual costs or a percentage thereof and (b) 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 Township to achieve the least expensive alternative available consistent with the purpose of the proposed Special Event.

(b) Unless the Special Event falls within subsection (d) herein, sponsors of Special Events shall all be required to pay all or an equally-applied percentage of full cost recovery for Township services pursuant to promulgated regulations. Any such fees shall be approved from time to time by Resolution of the Board of the Commissioners.

(c) In the event that a sponsor of a First Amendment Activity can evidence indigency, no application fee or cost recovery charges or costs under subparagraphs (d) and (e) below shall be assessed. To evidence indigency, the sponsor of a Special Event shall submit a notarized affidavit certifying that:

(1) The costs to be imposed exceed the available resources of the sponsor/organization and the sponsor/organization does not reasonably foresee such funds becoming available within a reasonable period after the Event; and

(2) The sponsor is not charging participation fees or other admittance fees to the general public for the Special Event and has no other sponsor that is underwriting costs.

(d) In addition to costs otherwise set forth in this Chapter or in the Regulations, the Township shall also charge Special Event sponsors for all services specifically requested in writing by such sponsor, including but not limited to requests for public safety or public works personnel and/or for the use of Township equipment.

(e) Where the presence of Emergency Medical Services is necessary, requested or utilized, the Chief of Police, in consultation with the Fire Chief, shall have full authority to require an Event sponsor to employ such number of uniformed paramedics as may be designated by the Chief of Police.

(f) All sponsors of Special Events and the Township shall work in good faith to obtain an estimate of the total cost recovery amount at least ten (10) days before the Special Event is to begin. Payment in full of this estimated cost recovery amount must be made to the Township at least four (4) days before the Special Event is to begin or the permit will not be issued or revoked if already issued. No more than sixty (60) days after the conclusion of the Special Event, the Township shall issue an invoice or a refund for the difference between the estimate and the actual cost recovery.

#### **§ 7- PROHIBITION OF DIRECT PAYMENTS.**

Special Event sponsors are prohibited from making direct payments to Township employees for Public Safety, Public Works or other Township services. All Township employees shall instead receive compensation through the Township payroll for any assistance with Special Events.

#### **§ 8 - REVOCATION OF PERMIT.**

The Manager and/or Chief of Police and/or Fire Chief shall have the authority to revoke an Event Permit instantly upon violation of the conditions or standards for issuance as set forth in this Chapter.

#### **§ 9- SEVERABILITY.**

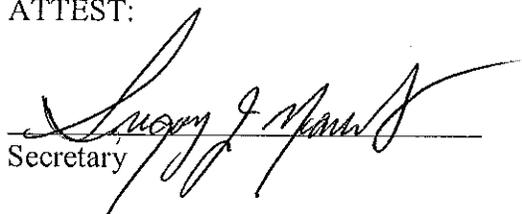
If any section, subsection, sentence, clause or phrase of this Chapter is for any reason held invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Chapter.

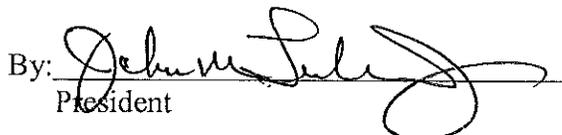
Section 2: All Ordinances or parts thereof that are inconsistent herewith are hereby repealed and amended.

ENACTED AND ORDAINED this 9<sup>th</sup> day of May, 2012.

ATTEST:

SPRING GARDEN TOWNSHIP

  
Secretary

By:   
President