

SPRING GARDEN TOWNSHIP BOARD OF COMMISSIONERS
York County, Pennsylvania

RESOLUTION NO. 2012-07

WHEREAS, the Board of Commissioners of Spring Garden Township ("Board") adopted Ordinance 2012-11 ("Ordinance") which provides for the permitting of special events held on public property within Spring Garden Township ("Township");

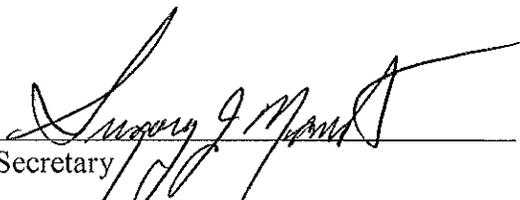
WHEREAS, the Ordinance authorizes the Board to issue regulations to be used in issuance and regulation of special events permitting.

NOW, THEREFORE, be it resolved by the Board of Commissioners of Spring Garden Township that the Special Events Permitting Regulations which are attached hereto as "Exhibit A" are hereby adopted in their entirety as the rules and regulations for the issuance of special events permits as provided by the Ordinance.

ADOPTED this 9th day of May, 2012.

ATTEST:

SPRING GARDEN TOWNSHIP
BOARD OF COMMISSIONERS


Secretary

By: 
President

Special Event Permitting Regulations

I. Purpose

The purpose of these Special Event Permitting Regulations ("Regulations"), which may be updated annually by the Board of Commissioners upon the recommendation of the Spring Garden Township Recreation Commission, is to implement the provisions of Chapter ___ of the Code of Ordinances of Spring Garden Township. These Regulations apply to all Special Events (as defined below) held in the Township and include information regarding the application procedure, bases for issuing permits, fees (application and cost recovery for Township services), and the appeals process. Event sponsors are encouraged to contact the Township Recreation Director at (717) 854-7282 for assistance in completing applications and/or to answer any questions that may arise.

II. Definitions

Definitions used herein shall be in addition to and/or consistent with those set forth in Chapter ___ of the Code of Ordinances of Spring Garden Township

Applicant. "Applicant" refers to the person or group sponsoring or organizing an Event and applying for a Special Event Permit required under Chapter ___ of the Code of Ordinances (hereinafter "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, 10-k, etc.

Barricade A "barricade" is defined as a sawhorse, metal gate, barrel or other approved barrier set up by the Township and/or Police Department and/or Department of Public Works or as otherwise permitted through the express written consent of the Chief of Police and/or Fire Chief as a warning device to block the passage of pedestrian and/or vehicular traffic from a particular designated area.

Block Party. A "block party" means an 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 Spring Garden Township, York County, Pennsylvania.

Code of Ordinances. "Code of Ordinances" means the Code of Ordinances of Spring Garden Township.

Community Event. A "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 Chapter ___ and these Regulations.

Event Permit. "Event Permit" means any written authorization issued as required by Chapter ___, in conjunction with these Regulations, which 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 Chapter ___ and these Regulations, commercial advertising that is regulated by the Township Zoning Ordinance or elsewhere in the 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" 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 a Special Event refers to those individuals, including but not limited to the Applicant, who take part in the activities of the Special Event.

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" shall mean 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" refers to:

- a. 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:
 1. wholly or partially on property owned or maintained by the Township which is
 - (i) designated by the Township for First Amendment Activity; or
 - (ii) is a traditional public forum;
 2. 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
 3. 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.

b. 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 25 people at the same time within a circumscribed 100-foot radius and does not interfere with regular use of the park by the general public (but the provisions of Chapter 220 (relating to the governance of 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 Center(s), or usages otherwise governed by Chapter 220 (relating to the governance of parks) of the Code of Ordinances.

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.

Traditional Parade. "Traditional Parade" is one which has been conducted on or about a certain date on a substantially similar route and in connection with a particular holiday for at least the past five (5) years.

Traffic Control. "Traffic Control" is defined as those activities performed by the Police Department during a Special Event that relate to the orderly flow of pedestrian, vehicular and other forms of movement along public rights-of-way.

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

III. Event Permit Applications

All Event Permit Applications shall be available for pick-up or mailing upon request by calling (717) 854-7282. They may also be downloaded from the internet on the Township's web site at www.springgardentwp.org/

- (a) Completed Applications shall be submitted to the Recreation Director, 340 Tri-Hill Road, York, PA 17403, in person, by mail, or by e-mail to ckaufman@sgtwp.org. Applications shall be time-stamped by the Township upon receipt and shall be processed by the Recreation Director in the order they are received unless otherwise regulated herein. All review time periods discussed in this Section III shall begin to run only upon the Township's receipt of a fully-completed Application. For example, it is not acceptable to skip portions of the Application or to write in "same as last year" in blanks. If an application is returned to an Applicant for failure to fill in all Sections as are applicable, the time-stamping and preference order discussed in this subsection (a) shall be restarted upon the return of the completed Application to the Township.
- (b) Permits for First Amendment Activity intended to respond to current events and depending for its value on a timely response shall be evaluated by the Recreation Director, in consultation with the Manager and Township Solicitor, no later than two (2) business days from the receipt of a completed permit application by the Township. The Applicant shall designate the activity as one involving spontaneous speech in the application. If the Police, Fire, and/or Public Works Departments do not have the opportunity to completely review the requested permit application before a permit is issued under these expedited circumstances, the Township reserves the right to modify the permit duration, route, or location of the Special Event based upon content neutral public safety concerns including but not limited to accommodations for pedestrians, vehicular traffic, staffing availability, and emergency vehicle access.
- (c) An application for a Traditional Parade as defined in these Regulations shall be given a preference to continue on the same date and route for the purpose of protecting the expectations and enjoyment of the public. It is requested that a completed application for the Traditional Parade be provided to the Recreation Director no later than forty-five (45) days prior to such Event.
- (d) Otherwise, applications for Special Events 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. Upon receipt of a completed application, the Recreation Director will review the application and respond within seven (7) business days. For Events requested at least forty-five (45) days ahead, the Recreation Director reserves the right to respond within fourteen

(14) business days but in no case shall the Recreation Director respond later than twenty (20) days before the requested date of the Event.

(e) The information requested in the written permit application shall include the following and shall be updated by Applicant in a timely fashion should circumstances change prior to the Event:

1. Application information including the name, address, and telephone number of the person(s) and, if applicable, the organization seeking to conduct the Event and billing address;
2. A description of the Event as well as the requested date(s) and hours of the Event;
3. The location of the Event and, if applicable, a Route and Traffic Plan detailing plans for categories listed in the Application, including but not limited to the proposed route to be traveled, including the starting point and the termination point, and parking availability for the Event.
4. If roads and/or sidewalks will be closed, the Applicant will be required to explain how motorists and business owners and residents will be notified in advance of the Event;
5. If the Event is taking place on private property, written authorization from the owner will be required;
6. The approximate number of Participants in the Event;
7. Whether any animals and/or vehicles will be involved in the Event and the type of animals and description of the vehicles;
8. A statement as to whether the Event will occupy all or only a portion of the width of the streets proposed to be traversed;
9. A Proposed Site Plan, including the location of structures, electrical, sanitation, and plumbing and the location by street of any assembly areas for the Event;
10. The time at which any unit of an Event will begin to assemble at such area;
11. If the Event is designed to be held by or on behalf of an individual or organization other than the Applicant, a letter from said person/group shall be filed with the permit authorizing the Applicant to file for said permit on his/ her/its behalf;

12. A description of any sound systems, or other electrical or other devices to be used in connection with the Event, including a list of entertainers/band/performers;
13. The estimated/approximate number of spectators;
14. Whether alcohol is planned to be served. Event organizers are required to secure necessary authorizations pursuant to Chapter 104 of the Code of Ordinances and from all other appropriate county, state and/or federal authorities;
15. Whether an Event will contain Fireworks. Event organizers are required to secure the necessary authorizations pursuant to Chapter 147 of the Code of Ordinances and from all other appropriate county, state and/or federal authorities.
16. A designation of any public services, facilities or equipment to be utilized and a description of Event access for persons with disabilities and security plans, if any. In the event that an Applicant wishes to use Township equipment that is made available to the public (i.e. Barricades, traffic safety devices, signage, etc.), it shall be necessary to pay the hourly or flat fee rental rates set by the applicable Department and as approved by Resolution of the Board of Commissioners from time to time, if any. Such rates shall be provided in writing upon request.
17. Information as to whether any food, beverages or other concessions will be sold within a "special event area" or "concession venue." Any plans to sell concessions must be separately reviewed by the Recreation Director. Event organizers are required to secure any and all necessary Township/County/Commonwealth licenses/permits associated therewith and Township in no way assumes liability for any failure to do so.
18. You must provide a clean-up plan. You are expected to clean up after your event. You may provide your own personnel for cleaning up or you may contact the Director of Public Works as to rates for use of Township employees. The Applicant shall also address separate receptacle use for recyclables.
19. If insurance is required as set forth in Section VIII herein, a copy of the certificate listing the Township as an additional insured and a signed indemnification statement must be provided.

IV. Permit Issuance:

(a) The Recreation Director shall issue a permit as provided for herein when, after a consideration of the application and all other information that is obtained, he finds that:

1. The proposed Event is appropriate for the size and use for which the requested location has been established or designated;
2. The proposed Event will not interfere with a previously permitted Event or previously approved construction or maintenance work;
3. The proposed Event will not substantially or unnecessarily interfere with traffic in the area contiguous to the Event, or that, if the activity will substantially interfere with traffic, there will be sufficient Township resources available at the time to mitigate the disruption;
4. The proposed Event is scheduled to occur during normal operating hours of the Township for the particular location requested. Operating hours of particular facilities are posted therein or may be obtained from the Manager or from the applicable department in charge of said facility;
5. The Applicant has obtained all necessary approvals, permits, or licenses from other governmental agencies or otherwise required pursuant to the Code of Ordinances and/or state and/or other applicable law. The Recreation Director will endeavor to notify the Applicant of permits or licenses required by the Code of Ordinances, but it is the ultimate responsibility of Applicant to determine what approvals, permits or licenses are required by all governmental agencies;
6. The noise levels anticipated for the proposed event comply with the Chapter 202 of the Code of Ordinances
7. The Applicant has complied with the application requirements including but not limited to permit fees, Cost Recovery, insurance and indemnification requirements where applicable;
8. The application is complete and does not contain misrepresentations of fact;
9. The concentration of persons, animals, and vehicles at public assembly points of the Event or during a continuous procession will not unduly interfere with property, fire and police protection of, or ambulance service to, areas contiguous to such public assembly or processional areas; and
10. Adequate sanitation and other required health facilities are or will be made available in or adjacent to any public assembly areas.

- (b) Event organizers shall be responsible for provided adequate toilet facilities throughout an event venue as required by the Recreation Director.
- (c) Application for fireworks permits must be made in accordance with the Chapter 147 of the Code of Ordinances regarding fireworks.
- (d) If a Special Event will includes animals, at least one week prior to the Special Event, the Applicant or coordinator shall provide the Recreation Director with a health certificate for each animal to participate as well as the name of a local veterinarian who shall provide care for an injured or sick animal, a copy of the handler's licenses required under federal and/or state law, and verify access to an animal ambulance.
- (e) It is recommended that no advertising of the Event commence until the Applicant receives final permit approval.

V. Denials

- (a) No permit shall be denied based solely on the Applicant or content of protected speech scheduled to occur at a Special Event.
- (b) All denials shall be in writing and shall state the specific reason for such denial. The denial shall be provided in person to the Applicant or shall be mailed to the Applicant or other person so designated on the permit application at the address set forth therein within the response time frames set forth in Section III of these Regulations.
- (c) The Recreation Director, in denying an application for an Event Permit, shall, where possible, propose measures to cure the defects in the permit.
- (d) In the event that the permit is denied due to another event occurring at the same time and location, the Recreation Director may authorize the conduct of the Event at a date, time, location, or route different from that named by the Applicant. An Applicant desiring to accept an alternate permit shall notify the Township of its acceptance within three (3) days after notice of the denial. An alternate Event permit shall conform to the requirements of, and shall have the effect of, an Event Permit issued under Chapter ___ and these Regulations.

VI. Appeal Procedure

- (a) Any Applicant shall have the right to appeal the denial of a Special Event Permit to the Board of Commissioners. The denied Applicant shall make the appeal within three (3) business days after receipt of the denial by filing a written notice with the Manager and a copy of the notice to the Solicitor. The Solicitor's Office is located at 221 West Philadelphia Street, Suite 600, York, PA 17401. The Board of Commissioners shall act upon the appeal and render a written decision within thirty

(30) business days following receipt of the appeal. In the event of a denial which affects an event that is to be held in response to spontaneous speech pursuant to Section III (b) of these Regulations, the Board of Commissioners will issue a written decision within one (1) business day following receipt of the appeal. If time is insufficient for the one (1) day evaluation period and the Board of Commissioners does not provide an opinion on the denial within the one-day period, the Applicant may deem the decision a final denial and may immediately appeal the Recreation Director's decision to a court of competent jurisdiction or take other action as is legally available to it.

- (b) In the event that the Board of Commissioners rejects an Applicant's appeal, the Applicant may file an immediate request for review with a court of competent jurisdiction, or take such other action as is legally available to it.

VII. Fees: Event Permit Application and Cost Recovery

- (a) Application fees: Event Permit application fees shall be nonrefundable and shall be set from time to time by Resolution of the Board of Commissioners. A copy of the current fee schedule is attached hereto as Exhibit A-1 and is also available on the Township's website. No permit application fee shall be assessed for First Amendment Activity on the portico of the Township's building(s). **Waivers for indigence are also available to eligible Applicants per Section 6 of the Code of Ordinances.** An affidavit is attached to the Application to be used as needed.
- (b) Cost Recovery for Township Departmental Services: **Some Special Events will require the Applicant to pay fees (in addition to the application fee) for Township services as described herein.** The Applicant shall work with the Recreation Director, Manager, Chief of Police, Fire Chief and Director of Public Works to memorialize a Cost Recovery plan that will cover departmental charges incurred by the Township relating to any required police traffic control provided by the Police Department/Emergency Medical Services/Fire Department, if applicable, as well as other set-up and cleaning activities provided by the Public Works Department. Cost Recovery shall take into account the requirements of Chapter ____ of the Code of Ordinances. The Township will provide the Applicant with a Cost Recovery Invoice detailing all fees due prior to the Event. A schedule of general fees and specific costs for major categories of Special Events is attached hereto as Exhibit A-2. Per Section 6 of the Code of Ordinances, payment in full for estimated cost recovery is required four (4) days before an Event is to begin. If any payment is due for Events subject to the exigency exception for First Amendment activity, such Applicant may pay such costs on the day of the Event. Waivers for indigence are available to eligible Applicants per Section 6 of the Code of Ordinances. Permits will not be issued until payment has been received.
- (c) Use of volunteers: The Recreation Director will work with Applicants to determine ways to reduce the need for Township services with the use of volunteers if possible.

The use and placement of volunteers are subject to the discretion of the Police Department and the Fire Department.

(d) Additional Charges.

- i. Property or Equipment Damage. Within thirty (30) days after the completion of a Special Event, the Manager shall transmit to the Applicant (individual or group) an itemized bill setting forth any verifiable damages or loss to Township equipment or property known by Township to be caused by said Applicant during a Special Event. In the event that the Applicant refuses to pay such bill, the Township reserves the right to seek legal recourse permitted under applicable law for recovery of said damages.
 - ii. The Township reserves the right to assess additional costs for litter and refuse collection to the extent that the Applicant fails to meet its obligations as set forth in its Clean-up Plan required pursuant to these Regulations. Charges shall be determined by the Director of Public Works after he or she receives the verified time sheet of the foreperson in charge of said clean-up. The current applicable hourly rates for Township personnel shall be charged, and an itemized bill shall be sent to the Applicant. In the event that the Applicant refuses to pay such bill, the Township reserves the right to seek legal recourse permitted under applicable law for recovery of said damages.
 - iii. As set forth in Section 6 of the Code of Ordinances, the Township shall also charge Special Event applicants and/or sponsors for all optional services specifically requested in writing by such Applicant/sponsor, including but not limited to requests for public safety or public works personnel and/or for the use of Township equipment. These costs are for those services requested over and above routine/required cost recovery items.
 - iv. Any fees required in obtaining other permits required for an event (such as to allow pyrotechnics or alcohol) are not included in the calculations associated with the Special Event Permit itself and shall be paid separately.
- (e) Refunds: In the event that it is determined that Applicant overpaid for Cost Recovery, the Township will refund money to the Applicant within 60 (sixty days) of the Event.
- (f) Pursuant to applicable case law, including but not limited to *Forsyth County Georgia v. the Nationalist Movement*, 505 U.S. 123 (1992) the Township shall not charge any fees for police protection that is required due to potential public response to speech content.
- (g) In the event that a Special Event does not fit within the classifications set forth on the chart attached hereto as Exhibit A-2, the Chief of Police shall determine whether and

to what extent the traffic control services of police (including the need for barricades) are reasonably necessary for a Special Event. The Chief of Police shall base this decision only the following objective criteria:

1. The location, duration, route, time and date and expected size of the event; and
2. The expected sale or service of alcoholic beverages; and,
3. The number of streets and intersections blocked and what portion of the streets are planned to be used for the Event; and,
4. Whether bridges or main arteries shall be involved in the Event route; and,
5. The need to detour or preempt citizens' travel on and use of the streets and sidewalks.

(h) As set forth in Section III (e)(16) herein, Barricades and/or other traffic devices, including signage, etc, specifically requested by permittee and/or required by the Township must be provided through the Department of Public Works/Police Department for a fee as established from time to time by the Board of Commissioners and the *placement* of the Barricades and/or other traffic safety devices must approved by the Police Department. If provided by the Department of Public Works/Police Department, delivery and/or pick-up fees will apply.

(i) An Applicant is responsible to notify the Township immediately upon the postponement or cancellation of an Event. Applicants will be charged for Township services provided in advance of the Event up through the time of notification.

VIII. Insurance and Indemnification

(a) General liability Insurance: Due to the risk of personal injury and property damage under certain circumstances, insurance will be required under the following conditions:

- i. All Athletic Competition Events.
- ii. Any Special Event involving animal(s), fireworks, automobile(s) or other vehicle(s), including but not limited to watercraft, aircraft, or motorcycles, or the sale of food.

Where required, the Applicant or, if applicable, the Organization/Sponsor shall maintain insurance in the amount specified by the Board of Commissioners from time to time to cover the entire duration of the Event.

The Applicant shall provide to the Township a certificate of insurance duly executed by the officers or authorized representatives of a responsible and non-assessable insurance company, evidencing the minimum coverage(s) as recommended and

approved by the Township Solicitor at the time of Application and specifically identifying Township as an additional insured, which insurance shall be noncancelable, except upon thirty (30) days prior written notice to Township:

All policies must be made on an occurrence basis. Claims-made policies are not acceptable.

- (b) Liquor Liability. Where the Applicant, on behalf of any other persons, organizations, firms or corporations on whose behalf application is made, seeks to hold a Special Event involving the sale of alcoholic beverages and has otherwise been granted all necessary permits for such purpose, including but limited to permission pursuant to Chapter 104 of the Spring Garden Township Code of Ordinances, the Applicant shall maintain a policy or policies of Liquor Liability Protection with limits proscribed and approved by the Township Solicitor at the time of the Application. Such insurance shall be evidenced on the certificate of insurance provided to the Manager.
- (c) Where insurance is required per subsection (a) or (b), the Applicant on behalf of himself/herself or any other persons, organizations, firms or corporations on whose behalf the application is made, by filing a permit application shall represent, stipulate, contract and agree that they will jointly and severally indemnify and hold the Township harmless against liability, including court costs and attorney's fees, and attorney's fees on appeal, for any and all claims for damage to property, or injury to, or death of persons arising from the sponsor's activities authorized by the Special Event permit. In such circumstances, a specific Indemnification Statement shall be attached to the Application.

IX. Americans with Disabilities Act Regulations

It is the responsibility of all Applicants/Permittees to determine the applicability of and ensure compliance with the requirements set forth by the Americans with Disabilities Act, 42 U.S.C. § 12111 et seq., as amended, in addition to any all regulations promulgated thereunder.