

Milford Borough, Pike County

Ordinance Regulating the Permitting of Demonstrations on Borough Streets

Ordinance# _____ 2021

Ordinance of Milford Borough Regulating the permitting of Demonstrations on Borough Streets

SECTION 1. Definitions.

a. The term Appeal shall have the definition defined below

b. The term "Applicant" means the person or entity that seeks the issuance of a Permit.

c. The term "Application" means a written application for a Permit on a form Prescribed for such purpose.

d. The term "Borough" means "The Borough of Milford" acting through the mayor, borough council, zoning officer, and police chief.

e. The term "Borough Property" means all Borough streets, alleys, sidewalks but does not include the public parks dedicated to recreation, outdoor activities, or memorial remembrance. These are controlled by the special event ordinances.

f. The term "Demonstration" means a public assembly, a meeting or gathering, a Rally or protest event, a political rally or event, a demonstration, speechmaking, marching, the Holding of vigils or religious services, and all other like forms of conduct, the primary purposes of which is expressive activity or the communication or expression of views or grievances, that (1) Is engaged in by more than 25 persons and the conduct of which has the effect, intent, or Likelihood of drawing a crowd of onlookers, or (2) will occur upon any Borough street, sidewalk, or Alley without compliance with the normal and customary traffic regulations or controls Governing such places. The term "Demonstration" shall not mean the casual use of Borough Property Which does not have an intent or propensity to draw a crowd of onlookers?

- g. The term “Demonstration Sponsor” means the person or entity which is Responsible for the staging or production of a Demonstration.
- h. The term “Permit” means a written authorization issued by the Borough for the
- i. The term “Permittee” means the person or entity to which a Permit is issued.
- j. The term “Permit Denial” means a written notice from the Borough informing an Applicant that its Application for a Permit has been denied.
- k. The term “Permit Revocation” means a written notice from the Borough informing a Permittee that its Permit has been revoked.

SECTION 2. Permit Requirement for a Demonstration.

No person or entity shall conduct or hold a Demonstration on Borough Property without first

Obtaining a Permit from the Borough. If the demonstration is to be on courthouse property, a permit from the borough is also required for the sidewalk area in front of the courthouse.

SECTION 3. Application for Permit

- a. The Applicant must apply for a Permit by filing an Application, in person or by Mail, with the borough secretary’s office- 500 Broad Street, Milford, PA 18337.
- b. The Application must be filled out completely and signed and dated by the Applicant. If the Demonstration is sponsored or produced by an entity, a person legally Authorized to bind the entity must also sign the Application.
- c. The Application must contain the following information:
 - 1. The name, address, e-mail address, if available, day-time telephone Number and fax number, if available, of the Applicant;
 - 2. The name of the person who will be in charge of the Demonstration onsite;
 - 3. The name, address, e-mail address, if available, day-time telephone Number and fax number, if available, of the Demonstration Sponsor;
 - 4. The date, time, duration, and location of the proposed Demonstration (Including all set up and takes down time);

5. an estimate of the approximate number of persons who are reasonably expected to attend the Demonstration;
6. if the Demonstration will include a march or parade, a detailed description of the proposed route of the march or parade (with assembling, starting, and ending points) and the proposed starting and ending times for the march or parade;
7. a statement of any equipment or facilities which are owned by the Applicant or Demonstration Sponsor that are expected to be used e.g. loudspeakers,
8. A copy of a certificate of insurance naming the borough as co-insured with the applicant for a sum of \$1,000,000,
9. Whether the Demonstration is a spontaneous event which has been planned in response to a specific occurrence, and, if so, must briefly describe such occurrence; and
10. A certification that the Applicant and Demonstration Sponsor will comply with all governmental rules and regulations applicable to the Demonstration, including, e.g., regulations concerning emergency medical services at special events.

d. After submission of an Application, the Applicant must immediately provide the Borough with any information that will amend, supplement or change any of the information originally provided in the Application.

e. The applicant must provide a detailed map of any public area they will be demonstrating on with documentation on their steps to insure the rights of pedestrians and vehicles traveling the streets will be guaranteed. The borough will prohibit parking along the defined areas of the demonstration erecting barriers deliniating the extent of streets allowed to be used for the demonstration (4 feet from the curb into the street).

SECTION 4. Application Deadlines.

a. The Application for a Permit must be submitted to the Borough at least ten business days prior to the proposed date and time of the Demonstration. However, the Borough will accept

Applications less than five days prior to the proposed date and time of the Demonstration, provided, however, that the proposed Demonstration is a spontaneously-planned event in response to a recent occurrence (e.g., a march or rally that is timed to coincide with a recent or future political or other announcement, decision, determination, or declaration by a local, state, or federal official).

b. Where the applicant intends to hold the rally on non-borough property but the reasonable expectation is that the persons attending will also be on borough sidewalks, the applicant must produce written evidence from the property owner of his permission to host the event.

c. An Application shall be deemed submitted on the date it is received by the borough secretary or, if received on a holiday or after normal business hours, on the next business day that is not a holiday.

d. The approval committee will be the mayor, police chief, zoning officer, president of the council and chairman of the Roads committee.

SECTION 5. Application Fees.

Each Applicant for a Permit must remit an application fee of \$100 at the time of submission. The application fee must be by check or money order payable to the "Borough of Milford," and is non-refundable. Applications which are submitted after the deadlines set forth in Section 4 and which are accepted for processing by the Borough must also be accompanied by a non-refundable late fee of \$25. For demonstrations over 50 people, the applicant must also provide a fee equal to the cost of one extra member of the police department for one shift, for rallies over 100 persons the fee must equal the costs of 2 police officers for one shift.

SECTION 6. Order of Processing.

The Borough will process Applications for a Permit in the order that the Borough receives them.

The Borough will allocate the use of a particular Borough Property or a part thereof among competing Applicants in the order of receipt of fully executed Applications together with the required application fee. The Borough will have priority use of the requested Borough Property where the

proposed Demonstration conflicts or interferes with a previously scheduled event or with an annual or otherwise regularly-held event or ceremony that is sponsored by or on behalf of the Borough.

SECTION 7. Grounds for Denial of Application for Permit.

a. The Borough will approve an Application and grant a Permit unless there is a basis for denial of the Application.

b. The following grounds will constitute a sufficient basis for denial of an

Application for a Permit:

1. The Application for a Permit (including any required attachments and submissions) is not fully completed and executed;

2. The Application for a Permit contains a material falsehood or misrepresentation;

3. The Applicant has not tendered the required application fee;

4. The proposed Demonstration conflicts or interferes with a previously scheduled, annual, or otherwise regularly-held event or ceremony that is

Sponsored by or on behalf of the Borough or any other person or entity at the same Borough Property for the same date and time;

5. a fully executed prior Application for a Permit for the same Borough Property and for the same date and time has been received, and a Permit has been or will be granted to a different Applicant authorizing uses or activities which do not reasonably permit multiple occupancy of the particular Borough Property or part thereof;

6. The property sought to be used for the Demonstration is closed or partially

closed for construction, renovations, or other reasons, or is a borough property governed by special events permitting or use of the Property will pose a threat to the safety of participants or will impose an adverse impact upon the natural environment of the Borough Property;

7. the Demonstration will substantially or unnecessarily interfere with traffic in the area contiguous to the activity, and will unreasonably disrupt movement or circulation of vehicular or pedestrian traffic, unless there are readily available at the time of the proposed Demonstration sufficient Borough resources to mitigate any interference or disruption;

8. There are unavailable at the time of the Demonstration a sufficient number of police officers to police and protect lawful participants in the

Demonstration and non-participants from traffic related hazards in light of the other demands for police protection at the time of the proposed Demonstration;

9. the concentration of persons, vehicles, or things at the assembly and disbanding areas and along the route of the Demonstration will prevent proper fire and police protection or emergency medical service;

10. The Borough has revoked a Permit which was previously issued to the Applicant or for a Demonstration that was previously sponsored by the Demonstration Sponsor;

11. the proposed route of any march or parade to be conducted in connection with such Demonstration will proceed in a direction that is opposite of the normal flow of vehicular traffic on such route, unless the direction of the march or parade, or the location thereof, was inextricably intertwined with the purpose of the Demonstration;

12. The Borough Property cannot safely accommodate the expected number of participants in the Demonstration without an unduly adverse impact upon the natural environment of the Borough Property;

13. The Demonstration for which the Applicant has requested the provision of services from the Borough will place an undue burden on the personnel resources of the Borough;

14. The Demonstration will have an unduly adverse impact on the landscaping, planting, or natural environment of the Borough Property;

15. The Demonstration will have an unduly adverse impact on the public health or safety of the Applicant, other users of the Borough Property, Borough Regulation Governing Permits for Demonstrations on Borough Property

Or interfere with the movement or service capability of police vehicles, firefighting equipment, or emergency medical or ambulance services);

17. The Demonstration will unreasonably interfere with the customary functions and uses of, and ingress and egress to and from, buildings that are immediately adjacent to the Borough Property;

18. the Applicant, or the person on whose behalf the Application for a Permit was made, has on prior occasions damaged Borough Property and has not paid in full for such damage;

19. The Applicant has not complied or cannot comply with applicable licensure

requirements, ordinances, or regulations of the Borough concerning the sale or offering for sale of any goods or services, including the requirement to obtain a business privilege license;

21. The Demonstration is prohibited by law, including applicable Borough ordinances and regulations;

22. the Borough Property requested is a limited public forum and the expressive activities of the Demonstration do not fall within the designated category of expressive activities for which the limited public forum has been opened;

23. The Borough Property requested is a non-public forum that has not been opened

for expressive activity to the general public; and/or is a property primarily used for recreational activities of children and youths,

24. The Application is sought for an event that is more appropriately covered by ordinances relating to the Borough's "Special Events Policy.

SECTION 8. Action on Application; Amendment or Revision of Applications.

a. In the case of Applications submitted under the deadline set forth in Section 4(a) above, the Borough will grant or deny the Application within two business days after receipt of the Application, provided, however, that the Borough may in its sole discretion extend this period of review for an additional period of two business days, where the Application has been submitted more than twenty days prior to the proposed date and time of the Demonstration.

b. In the case of Applications submitted under the deadline set forth in Section 4(b) above, the Borough will grant or deny the Application within thirty days of receipt of the Application.

c. Any amendment or revision of an Application for a Permit will for purposes of determining the priority of the Application, relate back to the original filing thereof; but the time within which the Borough will grant or deny the Application for a Permit will be computed from the date of the amendment or revision.

SECTION 9. Notice of Action; Issuance of Permit.

a. The Borough will immediately provide to the Applicant notice of the grant or denial of the Application for a Permit by telephone, facsimile, or by e-mail, in accordance with the written instructions of the Applicant in the Application.

b. Upon approval of the Application for a Permit, the Borough will issue to the Applicant a Permit denoting the location of the Borough Property, the approved route of any march or parade, and the date, time, and duration for which the Permit is valid. The Permit will note thereon any reasonable restrictions, and any other special requirements, that are applicable to the Permit.

c. The Permit will be made available for personal pick up by the Applicant, or will be mailed to the Applicant, in accordance with the written instructions of the Applicant in the

Application.

d. A Permit cannot be transferred or assigned, except that a Permit may be assigned or transferred to an entity that is a legal successor to the Permittee upon the Borough's written permission.

SECTION 10. Denial of Application; Contents of Notice.

a. In the Permit Denial, the Borough will clearly set forth all grounds upon which the Application for a Permit was denied by reference to Section 7(b) above.

b. Where feasible, the Permit Denial will contain a proposal by the Borough for measures by which the Applicant may cure any technical defects in the Application.

c. Where the grounds for the Permit Denial are included in Section 7(b)(4), (5), (7),(8), (9),(11), (12), or (13) above, the Borough will offer to the Applicant:

1. a proposal to hold the Demonstration at different Borough Property, if available, for the same date and time, so long as the alternate Borough Property is reasonably similar to the proposed location with comparable public visibility;
2. A proposal to hold the Demonstration at the same Borough Property, if available, but on an alternative date or time; or
3. A proposal for an alternative route for any proposed March or parade to be conducted in connection with such Demonstration, so long as the alternate route is reasonably similar to the proposed route and has comparable public visibility.

d. The Borough will serve the Permit Denial on the Applicant by first class U.S. mail, by facsimile, or by e-mail, in accordance with the written instructions of the Applicant in the Application. The Borough will also make the Permit Denial available for personal pick up by the

Applicant.

e. An Applicant desiring to accept an alternate proposal made by the Borough in accordance with subsection (c)(1) – (3) above will promptly notify the Borough of its acceptance.

SECTION 11. Permit Revocation.

Upon written notice to a Permittee, the Borough may revoke a Permit, where it has been determined that: the Permittee does not intend to comply with, cannot comply with, or has violated, any of the conditions or restrictions applicable to the Permit, including but not limited to the following:

- A. failure of the Applicant to obtain any permits or licenses that are legally required by The Milford Code or any Borough ordinances in connection with the Demonstration;
- B. failure to comply with any conditions applicable to the Permit.

SECTION 12. Procedures for Appeal of Permit Denials and Permit Revocations.

a. An Applicant who is denied a Permit, or a Permittee whose Permit has been revoked, may file a written appeal (the "Appeal") from such Permit Denial or Permit Revocation with the Borough Secretary within 48 hours of receipt of the denial.

b. The Appeal must be filed within 48 hours of the Permit Denial or Permit Revocation and must state succinctly the grounds upon which it is asserted that the Permit Denial or Permit Revocation should be modified or reversed. The Appeal must be accompanied by copies of the Application for a Permit, the written Permit Denial or Permit Revocation from the Borough, and any other papers or documentation material to the determination. A copy of any Appeal shall be served by hand to the borough secretary, 500 Broad Street, Milford, pa 18337.

Building.

c. The Mayor and Borough President shall promptly affirm, modify, or reverse the Permit Denial or Permit Revocation and give notice of the decision to the Applicant.

SECTION 13. Permit Restrictions.

The Borough may place reasonable restrictions on the conduct of a Demonstration, which restrictions may consider the customary use and nature of the Borough Property, recreational use policies, the size and location of the Borough Property, and the degree to which the Demonstration might interfere with the customary uses of pedestrians and/or motor vehicles of the sidewalks involved.

SECTION 14. Compliance with Applicable Law.

a. A Permittee must comply with all applicable provisions of The Milford Code and all Borough ordinances, including those provisions concerning food and noise levels.

b. Failure to comply with applicable laws may be a basis for revocation of a Permit.

c. The issuance of a Permit under this Regulation will not supersede a requirement for the Applicant to obtain any other permits required by law.

d. In the case of demonstrations on property adjacent to borough public streets, failure to obtain certified letters of approval or appropriate permits or the withdrawal of permission by the property owner will result in an automatic revocation of the permit.

SECTION 15. Insurance.

a. The Applicant shall procure and maintain at all times during its use of Borough Property insurance in the amount of \$1,000,000 and naming the borough as co-insured.

c. The Applicant shall provide the certificate from an insurer evidencing such coverage prior to the Applicant's use of Borough Property, and within the time prescribed by the Borough. The certificate shall also provide that the insurer shall give the Borough reasonable advance notice of insurer's intent to cancel the insurance coverage provided.

SECTION 16. Indemnity Agreement.

Upon submission of an Application and the issuance of a Permit, each Applicant shall be deemed to have agreed to defend, indemnify and hold harmless the Borough, its elected and appointed officials, agents, and employees, from and against any and all claims against the Borough,

its elected and appointed officials, agents, and employees, and for all damage or losses to Borough owned building, structures, or other property, which arise from the acts or omissions of the Applicant or persons within or under the direct control or supervision of the Applicant (e.g., employees).

SECTION 18. Reimbursement of Borough Personnel Costs.

Each Demonstration Sponsor of a Demonstration shall reimburse the Borough an amount equal to all personnel costs for services that are specifically requested from the Borough for the purpose of staging and conducting the Demonstration, including, but not limited to, costs for public safety, public health,

and sanitation . This section shall not be construed to apply to borough police costs associated with traffic and crowd control.

SECTION 19. Severability; Amendments.

In the event that any provision of this Regulation, or the application thereof to any person or circumstance, shall be judged invalid, the remainder of this Regulation and the application of any such remaining provisions to other persons or circumstances, shall not be affected thereby.

The Borough reserves the right and power to modify, amend, or repeal this Regulation at any time.