

ORDINANCE 2013-13

AN ORDINANCE OF THE BOROUGH OF CHESTER, MORRIS COUNTY, STATE OF NEW JERSEY, AMENDING CHAPTER 203 "SPECIAL EVENTS" OF THE CODE OF THE BOROUGH OF CHESTER.

WHEREAS, municipalities are empowered to make, amend, repeal, and enforce its ordinances pursuant to Statute (N.J.S.A. 40:48-1, et seq.); and

WHEREAS, municipalities are required by Statute to follow specific procedures for the passage of ordinances (N.J.S.A. 40:49-2 et seq.); and

WHEREAS, Section 203-1 et seq. presently regulates special events and vendors in the Borough of Chester; and

WHEREAS, the Mayor and Council wish to amend the ordinance to limit it to the regulation of Special Events and to create a separate ordinance for the regulation of Vendors; and

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Borough of Chester, County of Morris, State of New Jersey that the Borough Code is hereby amended as follows:

SECTION 1. Chapter 203 shall be amended by eliminating all references to "Vendors" and Chapter 203 shall be entitled as "SPECIAL EVENTS"

SECTION 2. Chapter 203 shall be amended in its entirety to read as follows:

SPECIAL EVENTS

§ 203-1 Definitions.

For the purpose of this Chapter, the terms used herein are defined as follows:

SPECIAL EVENT: A sale, exhibit, fair, show, festival, bazaar, race or other event operated by a proprietor, the proceeds of which are devoted exclusively to not-for-profit purposes, at a location and for a period of time not to exceed five consecutive days, approved by the Mayor and Council, wherein a proprietor sells or displays, or allows a concessionaire or concessionaires to sell or display any item of tangible personal property or service. No more than one special event shall be scheduled or approved to occur on any one day, except as may be permitted by Section §203-12.

PROPRIETOR: A not-for-profit entity which is located in or has a substantial membership from or provides substantial service to the Borough or its inhabitants which proposes to operate a special event, the proceeds of which are devoted exclusively to not-for-profit purposes.

NOT-FOR-PROFIT: The selling or soliciting for sale of goods, merchandise or services, the proceeds of which action are devoted exclusively to philanthropic, charitable or religious purposes as defined in the Internal Revenue Code, 26 U.S.C. 501, for a religious, charitable, civic, or veteran organization, service club, volunteer fire or first-aid company which is located in or has a substantial membership from or provides substantial service to the Borough and/or its inhabitants.

CONCESSIONAIRE: A natural person, firm, association, partnership, corporation or any other de jure entity or fictitious person that occupies space at or is otherwise authorized by a proprietor of a special event to sell or display any item of tangible personal property or service.

PERSON: Includes the singular and plural and shall also mean and include any person, firm, corporation or partnership or other fictitious person or de jure entity.

§ 203-2 Licenses required, violations.

A. Except as otherwise provided herein, it shall be unlawful to operate a special event or sell, dispose of, or display any goods, wares, merchandise, food or services at a special event without

first obtaining a license as required by this Chapter and otherwise complying with all other applicable statutes, regulations and ordinances.

B. It shall be unlawful to violate this Chapter, the terms and conditions of any license issued hereunder, or any provision herein whether or not licensed hereunder.

§ 203-3 Classes of Special Event Licenses.

There are hereby created two (2) classes of special event licenses: proprietor, and concessionaire.

A. Proprietor license, process.

(1) Notice of date(s) and location: Any proprietor who proposes to conduct a Special Event, shall file a written request with the Borough Clerk and, if any Special Event is to take place on a public park, the request must also be filed with the Board of Recreation Commissioners, setting forth the date(s) of the proposed Special Event on a form provided by the Borough. Such request must be filed with the Borough Clerk no earlier than October 1st and no later than November 1st of the calendar year prior to that for which a license is sought. In no event shall a license issue unless a written request for same has first been submitted within the aforesaid period. This time period may only be relaxed by the Mayor and Council in the exercise of their sound discretion, (i) upon good cause being shown by the applicant to the satisfaction of the Mayor and Council, and (ii) only if the request is made at least ninety (90) days prior to the first day of the Special Event requested. The request shall be provided by the Borough Clerk to the Mayor and Council for its approval. Filing of the request for a Special Event shall not guarantee approval of said Special Event, or issuance of a Special Event Proprietor License. The notification form shall include the following:

(a) The date, location, and hours of operation of the proposed special event(s) and alternate dates, which may be allowed if such special event is cancelled for circumstances beyond the control of the applicant.

(b) All the contemplated dates may be set forth on a single form, if more than one date is contemplated within the same calendar year. However, each special event shall require a separate, completed application.

(c) In no event shall notification excuse compliance with any other ordinance, notwithstanding that said ordinance shall not have been disclosed by the Borough Clerk.

(2) Special Event Proprietor License Application Required: If the date, location and hours of operation of the proposed special event(s) is approved by the Mayor and Council, any proprietor who proposes to conduct a Special Event must, in addition to the above notice, submit an application for a special event proprietor's license to the Borough Clerk. If the Special Event is to take place on a public park, the proprietor must also submit application to the Board of Recreation Commissioners with such fees as may be required from time to time. All applications for a special event proprietor's license must be submitted within sixty (60) after approval of the date, location and hours of the Special Event by the Mayor and Council. An application for a proprietor's license must include all information required by § 203-4, of this Chapter.

B. Special Event Concessionaire license.

(1) Application for a concessionaire license for a special event shall be made no later than fourteen (14) days prior the Special Event for which a concessionaire license is sought.

(2) A special event concessionaire license shall be issued by the Borough Clerk to those persons defined herein as a concessionaire and whose application for said license shall be approved as set forth in this Section.

(3) A licensed special event proprietor may be designated by the Borough Clerk as the agent of the Borough Clerk for a special event, in accordance with § 203-10C. The application shall be exempt from the provisions of § 203-4A(9) and 203-4B.

(4) A special event concessionaire license shall be obtained and a license fee paid for each date on which a concessionaire proposes to operate as set forth herein. The Borough Clerk or agent designated hereby may issue a concessionaire license with more than one date endorsed thereon, provided that the applicant shall pay the daily fee to the Borough Clerk or agent for each proposed date in advance.

(5) In the event a special event proprietor shall cancel or postpone a scheduled special event by 9:00 a.m. on the date for which the same shall have been scheduled due to circumstances beyond the control of the proprietor, any special event concessionaire license valid on that date may be used by the concessionaire in the event that the proprietor shall have provided for a rescheduling of a special event as provided herein, upon the license being presented to the Borough Clerk or its agent who shall revalidate same.

(6) The Borough Clerk or agent shall not refund any fee; or portion thereof, paid hereunder, for any reason.

§ 203-4 Applications.

A. An application for a special event proprietor or special event concessionaire license shall be submitted, under oath or affirmation, to the Borough Clerk with the applicable fee. This fee shall not be refundable and shall be used to defray the costs of investigation and processing. The application shall contain the following information:

- (1) Name and address of the applicant;
- (2) Description of the applicant;
- (3) Name and address of the firm represented, if any, and an acknowledged statement from the firm certifying that the applicant is authorized to act as the employer's representative or a statement that the applicant is self-employed;
- (4) The names, addresses and telephone numbers of three persons who have known the applicant for a period in excess of three years;
- (5) The place of residence of the applicant for the three years immediately preceding the date of application;
- (6) A brief description of the nature of the business and a description of the tangible personal property or services to be offered for sale or purchase. In the event the business, tangible personal property, or services are otherwise regulated by law, proof of compliance therewith shall be shown;
- (7) If a vehicle is to be used in connection with a special event, a description thereof including state of registration, license plate number, the name and address of the insurance carrier and insurance policy number;
- (8) The number and places of arrests, the number and places of convictions for misdemeanors, disorderly persons offenses, or crimes and the nature of the offenses for which the applicant has been convicted. This shall include violation of ordinances other than traffic violations;
- (9) If the applicant is a natural person, two current passport photographs showing the applicant's full face. The photographs shall be affixed to the application;
- (10) Proof of tax identification number issued by the State of New Jersey to the applicant; and
- (11) Proof of current sales tax filing with the State of New Jersey, pursuant to N.J.S.A. 40:52-1.3 to the applicant.

B. The representative or natural person completing the application for a special event proprietor license shall be fingerprinted using an agency chosen by the Chester Borough Police Department. The Chief of Police shall, verify the information included on the application and respecting the moral character and business background of the applicant. The Chief of Police is authorized to receive state criminal history record information from the Division of State Police, State Bureau of Identification, or other authorized source, for use in considering the suitability of all applicants covered under this Chapter. All requested criminal history record checks will be subject to payment of the required user fee by the applicant.

C. Each application for a special event proprietor license shall additionally include the following:

(1) Date, hours of operation, location plan of concessionaires, an index of concessionaires, and the tangible personal property or service to be sold or displayed.

(2) An administrative site plan to be approved by the Borough Administrator setting forth the following:

- [a] The area, public and/or private, to be licensed for the special event;
- [b] Layout of concessions: fixed and movable facilities including, but not limited to the nature, size, extent, and construction thereof, signs, displays, pennants, banners, balloons, and similar advertising or attraction devices;
- [c] Sanitary and solid waste control and removal plans;
- [d] Circulation (on and off-site), loading and unloading, crowd and traffic control, fire prevention, lighting and emergency access plans;
- [e] Proof of compliance with applicable statutes, ordinances, codes and regulations.

(3) All other information required to determine compliance with the provisions of this Chapter.

§ 203-5 Approval or rejection of application.

A. Upon verification of the application for a proprietor license by the Administrator and the Chief of Police, and such other investigation as necessary for the protection of the public good, and upon payment of the applicable licensing fee, the Clerk may issue the license.

B. A license shall not be issued to any person who has been convicted of a crime, misdemeanor, or other offense involving moral turpitude; who has made a misrepresentation or false statement in his application, or who has otherwise been found to be of unsatisfactory character or business responsibility by the Administrator.

C. In the event of the refusal of the issuance of such license, the Mayor and Council, on written request of the applicant, shall conduct a hearing to determine whether the license should be granted under this Chapter. Such request must be filed with the Borough Clerk no later than seven days after the rejection of the application.

D. If the special event is to take place on a public park, the Borough Clerk shall refer the application to the Board of Recreation Commissioners which shall within 30 days of receipt of a complete application, notify the Borough Clerk of the applicant's conformance with the Board's rules and regulations pertaining to the use of public parks. A proprietor's license shall not be issued for a special event to take place on a public park if said special event violates the rules and regulations of the Board of Recreation Commissioners.

E. Applicants should attempt to coordinate dates with approved Markets, and approved proprietors of same licensed by the Borough, as a requested date and/or proprietor's license may be denied if a Market request has been requested and approved by the Mayor and Council in order to promote public welfare. Proprietor and concessionaire licenses expire December 31st of the calendar year issued. Prior issuance of a proprietor's license shall not guaranty issuance of a license to a proprietor in any subsequent year. Licenses are issued based upon completed applications and payment of associated fees, in the order of submission.

F. In no event shall more than (1) one Special Event be authorized to take place on any one day. Should the number of approved applications for a proprietor license exceed the number of licenses permitted, or approval of notification of a Special Event be sought for the same date, the the Mayor and Council may in the sole discretion of the Mayor and Council waive this prohibition, and approve two (2) or more Special Events for the same date(s), only if (1) there is no geographical proximity which would cause a public safety concern; and (2) the Mayor and Council determine that one event will not negatively impact the other event.

G. The occurrence of a Special Event and Market (§202) on the same day should be avoided, unless approved by the Mayor and Council upon a satisfactory showing that (i) there is no geographical proximity which would cause a public safety concern and (ii) the two events will not negatively impact on each other.

§ 203-6 Issuance; records; non-transferability.

A. All licenses shall be issued on forms drawn by the Clerk in accordance with this Section. Records of all licenses shall be maintained by the Clerk in such a manner so as to identify the name of the licensee, the activity license, the location of the activity licensed, the amount of fee paid and the goods, if any, involved. All licenses shall be issued under the signature of the Borough or a facsimile thereof and the seal of the Borough.

B. A record of all current licenses issued pursuant to this Chapter shall be kept by the Borough Clerk and Police Department.

C. All licenses issued under this Chapter shall authorize only the person named in said license to engage in the activity designated thereon. The license shall not be transferable from the person to whom issued to any other person.

§ 203-7 Fees; renewals.

A. The fees for an application and/or license required by this Chapter shall be as established in Ch. [127](#), Art. [I](#), Municipal Fees.

B. An application for a special event proprietor license shall also include an escrow to be established by the Administrator for reimbursement to the Borough for direct costs incurred by the Borough in connection with the granting of a license. Said costs may include, but shall not be limited to: the use of Borough police; damages to and use of public property, streets, and parks; surcharge of the Borough sewer system; and personnel for cleanup or remediation of public property by members of the Public Works Department. The escrow and any costs assessed pursuant to this subsection will be determined by the Administrator based upon each individual application, subject to review by the Mayor and Council.

§ 203-8 [Revocation or suspension of license.](#)

A. Licenses issued under this Chapter may be revoked by the Administrator for any of the following causes:

(1) Misrepresentation or false statement contained in the application.

(2) Misrepresentation or false statement made in the course of carrying on the activities herein.

(3) Conviction of any crime of misdemeanor involving moral turpitude.

(4) Conducting the licensed business in an unlawful manner in violation of this chapter, state or federal statutes or regulations, or in such manner as to cause breach of the peace, create a nuisance or constitute a menace to the health, safety or general welfare of the public.

(5) A determination, after investigation, that the applicant's moral character or business responsibility are unsatisfactory.

(6) As set forth in §§ [203-11](#) and [203-12](#).

B. All persons whose licenses have been revoked shall have the right of appeal to the Mayor and Council by filing a written request within seven days to the Borough Clerk for such hearing. The Mayor and Council shall within 30 days after receipt of the request hold a hearing. At the conclusion of said hearing, the Mayor and Council shall affirm or set aside the revocation of the license. The decision of the Mayor and Council on such appeal shall be final and conclusive.

§ 203-9 [Regulations of proprietor.](#)

A. A special event proprietor shall not permit a special event to commence earlier than 9:00 a.m. nor end later than 6:00 p.m. Notwithstanding, setup and cleanup may be allowed by the Administrator at other times as may be determined in his reasonable discretion. A concert may be allowed by the Administrator at other reasonable times.

B. A special event proprietor canceling any proposed special event shall notify the Borough Clerk of any such cancellation as soon as is practical.

C. Upon submission and approval of an application and the granting of a special event proprietor license the Borough Clerk, if authorized by the Mayor and Council, may designate said proprietor as its agent for the purpose of accepting and reviewing applications for concessionaire licenses.

D. The special event proprietor or an agent thereof shall be present at the site of the special event on the date of its operation at all times.

E. A special event proprietor, when acting as the agent of the Borough Clerk, shall ensure that any applications and/or licenses are complete and are in compliance with the provisions of § [203-3C](#) (special event concessionaire licenses); § [203-4](#) (Applications); § [203-6](#) (Issuance records; non-transferability); and § [203-11](#) (Sale of foods/beverages). A special event proprietor, when authorized to act as the agent for the Borough Clerk, shall collect the appropriate license fees as set forth in § [203-7](#) and shall be responsible for delivering said fees, completed applications, and a record of all special event concessionaire licenses sought to be issued to the Borough Clerk no less than seven days before the special event, except under exceptional circumstances, subject to the discretion of the Administrator.

F. Police and security officers.

(1) A special event proprietor may, in the discretion of the Administrator, be required to employ off-duty Borough police officers or licensed private security officers to be on duty while the special event is open. Private security officers employed by the proprietor license shall be duly licensed in accordance with the provisions of N.J.S.A. 45:19-8 et seq. and N.J.A.C. 13:55-1.1 et seq.

(2) The Administrator with the advice of the Chief of Police of the Borough shall determine whether police officers are needed to control traffic at or in the vicinity of a special event and shall assign according to the usual practice the number of police officers required. The Administrator shall notify the proprietor of his determination and the proprietor shall have the opportunity to appeal the decision to the Mayor and Council within 10 days of notification of such decision in the event that the proprietor contests the decision. A proprietor shall reimburse the Borough of Chester for expenses incurred by the Borough as a result of providing police officers of the Borough of Chester to perform functions relative to controlling traffic attributable to a special event in accordance with the provisions of Chapter 55, Police Department, Article II, Contracted Off-Duty Employment.

G. A special event proprietor license issued hereunder shall be prominently displayed at the location of a special event.

H. A special event proprietor shall not allow anyone except a holder of a concessionaire license to sell or display for sale any item of tangible personal property.

I. A special event proprietor shall not allow anyone to sell or display for sale any item of tangible personal property or service unless such person shall be licensed as a concessionaire and shall prominently display at all times a valid concessionaire license.

J. A special event proprietor shall post bond or other financial security and proof of insurance for special events as a condition of such license.

K. A special event proprietor shall, within 24 hours after the close operations, clean the site of the special event, adjoining areas and roads, of any debris, waste or trash.

L. A special event proprietor shall provide adequate sanitary facilities at the site of the special event and shall comply with the Board of Health.

M. If the special event is to take place on a public park, a proprietor shall comply with and shall cause all concessionaires to comply with the rules and regulations set forth by the Board of Recreation Commissioners and such charges as may be established by said Board from time to time.

N. Nothing herein stated shall be construed to exempt any proprietor or concessionaire under this Chapter from complying with the requirements of all other ordinances of the Borough, including but not limited to zoning.

§ 203-10 Sale of foods/beverages.

A. A special event concessionaire shall not sell any foods, beverages, ice cream, confections or related commodities without obtaining a valid food handler's permit issued by the Chester Borough Board of Health.

B. A special event proprietor shall not rent or provide space to a concessionaire, nor shall any proprietor approve any application, nor issue any license to a concessionaire who shall sell any foods, beverages, ice cream, confections, or related commodities who does not possess a valid food handler's permit.

C. The equipment used or employed by any special event concessionaire in the sale of ice cream, foods, beverages, confections and other related commodities shall be maintained in a clean and sanitary manner and be subject to inspection by the Board of Health or its authorized agents in accordance with the provisions of this chapter and the ordinances of the Board of Health of the Borough of Chester. Any violation found and not immediately corrected shall be grounds for revocation of the license.

D. Notwithstanding the penalties set forth in this Chapter, any person violating this chapter shall be liable for the penalties set forth in Chapter 235, Board of Health General Provisions, Article III, General Penalty.

§ 203-11 Discrimination.

No license shall issue to any individual, organization, or entity who shall directly or indirectly exclude, withhold or deny, any person of any advantage, privilege, membership, or right, or otherwise discriminate against said person on account of race, creed, color, national origin, ancestry, marital status, or sex or otherwise as prohibited by law. Nor shall the Borough Clerk or his agent refuse to issue a license on account of race, creed, color, national origin, ancestry, marital status, or sex or otherwise as prohibited by law.

§ 203-12 Exceptions and limitations.

The following shall be exempt from all provisions hereof except §§ 203-1, 203-2, 203-4, 203-5, 203-7, 203-8 and 203-9 with relation to violation of applicable sections hereof, violation of which shall be unlawful:

A. Federal census takers and polls or surveys taken pursuant to federal, state or local laws.

B. Any veteran or volunteer fireman who holds a special license issued pursuant to N.J.S.A. 45:24-9 and -10; provided, however, such licensee shall notify, in writing; the Chief of Police of the Borough prior to any soliciting within the Borough, the dates and approximate area in which such licensee intends to solicit. Such notification shall also include the licensee's license number, date issued and county where issued.

C. Any nonprofit, religious, charitable, civic, or veteran organization service, club, volunteer fire or first-aid company located in, has a substantial membership from, or provides substantial service to the Borough or its inhabitants, soliciting in its name, or for a bona fide not-for-profit purpose money, donations, or financial assistance of any kind or selling or distributing any item of literature or merchandise for which a fee is charged and which sale or distribution does not constitute a special event as defined herein; provided, however, that organization, service, club, volunteer fire or first-aid company procures from the Borough Clerk a special permit by submitting to the Borough Clerk an application containing:

(1) Name and address of organization;

(2) Purpose for which the special permit is requested;

(3) Names and addresses of the officers and directors of the organization;

(4) Period and place during which solicitation is to be carried on; and

(5) Name, address and position in nonprofit organization of person making the application.

D. Upon being satisfied that such person, organization or association is bona fide, the Borough Clerk shall issue a special permit and identification cards without charge for the specified period.

E. Any person engaged in any activity, the purpose of which is to aid or promote the nomination, election, or defeat of any candidate or candidates for political office, or to aid or promote the passage or defeat of the public question in any election, or which seeks to influence the content, introduction, passage or defeat of any legislation.

§ 203-13 Violations and penalties.

Any person violating any of the provisions of this chapter shall be liable for the penalty(s) stated in Chapter 1, General Provisions, Article III, General Penalty, which in no event shall be less than \$500 and upon conviction shall forfeit such license issued hereunder and the right to renew such a license and shall be ineligible for the issuance of a license hereunder for a period of one year from the date of conviction.

§ 203-14 Effect.

A. All licenses issued prior to the adoption of this Chapter shall not be affected by this Chapter, but all subsequent license applications must comply with all the provisions of the Chapter.

B. All persons not required to be licensed previously, but who are required by this Chapter to apply for a license, must obtain a license upon its adoption

SECTION 3. If any Chapter, Article, Section or Subsection, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by any court of competent jurisdiction such decisions shall not effect the remaining portions of this Ordinance.

SECTION 4. All ordinances or rules or regulations of the Borough of Chester, which are inconsistent with the provisions of this ordinance, are hereby repealed to the extent of such inconsistency.

SECTION 5. This ordinance shall take effect upon passage and publication according to law.

Dated: _____

Robert Davis, Mayor

Attest:

Valerie A. Egan, Administrator/Borough Clerk

LEGAL NOTICE OF FINAL ADOPTION

NOTICE is hereby given that the above Ordinance was introduced and passed on first reading at a meeting of the Borough Council of the Borough of Chester, in the County of Morris, State of New Jersey, held in the municipal building on the 15th day of October 2013, and the same came up for final passage at a meeting of the said Borough Council on the 4th day of November 2013 at which time, after persons interested were given an opportunity to be heard concerning said ordinance, the same was passed and will be in full force in the Borough according to law. By order of the Borough Council of the Borough of Chester, County of Morris and State of New Jersey.

Valerie A. Egan, Municipal Clerk