

EAST MARLBOROUGH TOWNSHIP  
BOARD OF SUPERVISORS  
CHESTER COUNTY, PENNSYLVANIA

ORDINANCE NO. 08-01

AN ORDINANCE REGULATING THE CONDUCT OF TEMPORARY OUTDOOR ACTIVITIES WITHIN THE TOWNSHIP OF EAST MARLBOROUGH, INCLUDING DEFINITIONS, NOTIFICATION REQUIREMENTS, REQUIREMENTS FOR CONTROL OF TRAFFIC AND PARKING, AND REQUIREMENTS FOR THE PREVENTION OF NUISANCE CONDITIONS UNDER AND BY VIRTUE OF THE AUTHORITY CONTAINED IN THE SECOND CLASS TOWNSHIP CODE, 53 P.S. 65101, ET SEQ, THE BOARD OF SUPERVISORS OF EAST MARLBOROUGH TOWNSHIP, CHESTER COUNTY, DOES HEREBY ENACT AND ORDAIN AS FOLLOWS:

Section 1. Short Title and Purposes.

The title of this Ordinance shall be the "Temporary Outdoor Activities Ordinance of East Marlborough Township." The purposes of this Ordinance are to (i) assure proper control of traffic and parking during the conduct of Temporary Outdoor Activities within the Township, (ii) prevent such activities from creating nuisance conditions; in pursuit of these purposes to establish rules and regulations for the conduct of Temporary Outdoor Activities.

Section 2. Definitions.

As used herein, the following terms shall have the meanings set forth herein below:

- A. Owner. The owner or owners of the property or properties upon which a Temporary Outdoor Activity will be held.
- B. Nuisance Conditions. Any of the following conditions, when occurring in conjunction with, or as a result of, a Temporary Outdoor Activity, shall constitute a Nuisance Condition.
  - 1. any violation of one or more of the Performance Standards for air quality, fire and explosive hazards, glare and heat, liquid and solid waste, noise, odors, vibrations, radioactivity or electrical disturbances, or public health and safety as set forth within § 1811 of the East Marlborough Township Zoning Ordinance;
  - 2. the failure to provide sufficient trash receptacles for the deposit of trash, resulting in the littering of trash either across the property or on adjacent roadways or properties;
  - 3. the failure to provide sufficient parking areas on the property for all vehicles arriving at the Temporary Outdoor Activity, resulting in the parking of vehicles on adjacent or nearby public roads;

4. the failure to provide for traffic control on all nearby state or Township public roads, by the use of qualified traffic control personnel, including personnel of the East Marlborough Township Police and the Po-Mar-Lin or Longwood Fire Company's Fire Police, or other entity approved for traffic control pursuant to § 4.A of this Ordinance;
5. the serving of food and/or beverages without obtaining necessary permits or licenses from governmental agencies having jurisdiction thereof, including, but not limited to, the Chester County Health Department and/or the Pennsylvania Liquor Control Board, where applicable;
6. the failure to provide, where necessary, security personnel on, and/or near the site of a Temporary Outdoor Activity, where such Security personnel are necessary to (i) prevent panic or other conditions threatening public safety, or (ii) prevent or immediately stop any physical violence, or threat of physical violence, among individuals;
7. the failure to adequately control the serving or consumption of alcoholic beverages so as to prevent a disturbance or other behavior that could threaten public safety or general welfare either on the premises or offsite; and
8. the carrying of any firearm by any individual attending a Temporary Outdoor Activity, with the exception of the Pennsylvania State Police, the East Marlborough Township Police or personnel of a similar law enforcement agency approved by the East Marlborough Township Police.

C. Temporary Outdoor Activity or "Activity". Any event held within East Marlborough Township and conducted primarily out-of-doors or under tents, resulting in either (a) the assemblage of 200 or more persons, or (b) the arrival of 80 or more vehicles at the location of the Activity, whether held on private property, public property, or public roads. Temporary Outdoor Activities shall not occur over a continuous period of greater than 96 hours, excluding preparation and clean up times, and shall include community fairs, carnivals, parades, horse shows, horse trials, dog shows, sporting events (including, but not limited to, steeplechase racing), music or art festivals, holiday celebrations such as Fourth of July fireworks and similar special events, where the number of persons in attendance and/or the number of vehicles arriving for the event exceed the minimum thresholds set forth above. Excluded from the definition of Temporary Outdoor Activities and, hence, from the regulations of this Ordinance, are any event sponsored by the Armed Forces of the United States or the State of Pennsylvania, the forces of state or local police or fire departments, and events sponsored by an agency of the state, county or local government. Activities that are part of the regular operations of a principal use, such as weddings at a church, annual fund raising/social events at a grange, typical accessory events at educational, scientific or institutional sites are also excluded from this definition.

Activities with a significant emphasis on the sale, marketing and/or promotion of products or services to be consumed, utilized or provided off the premises shall not be considered a Temporary Outdoor Activity under this Ordinance and shall be subject to regulation as a commercial activity under the applicable provisions of the Township Zoning Ordinance.

- D. Sponsor. The person, group or entity responsible for conducting the Temporary Outdoor Activity and/or inviting, either by special invitation or publicity, the individuals in attendance at a Temporary Outdoor Activity. (The Sponsor may, in some circumstances, be the Owner or, in other circumstances, a tenant or licensee of the Owner, as the case may be.)

Section 3. Notification Procedures: Penalties for Violation.

- A. The Sponsor of a Temporary Outdoor Activity with permission where applicable of the Owner, shall notify the Township, on a form prescribed by the Township for such purpose, at least thirty (30) calendar days prior to the occurrence of a Temporary Outdoor Activity. The notification shall be made to the Township Manager, and shall clearly state:
1. the name of the Sponsor;
  2. the group for which the Temporary Outdoor Activity is planned;
  3. the location of the property upon which the Temporary Outdoor Activity will be held;
  4. the date and time (including the starting and closing times and number of days) of the Activity;
  5. the provisions to be made for trash collection and disposal;
  6. the provisions to be made for parking of vehicles (including the Sponsor's best estimate of the number of vehicles anticipated to arrive at the Temporary Outdoor Activity);
  7. the provisions made by the Sponsor for traffic control and direction, including the qualified entity from which traffic control services have been contracted;
  8. provisions, if any, for emergency vehicles at the site during the Temporary Outdoor Activity;
  9. the provision, if any, for medical services on the site during the Temporary Outdoor Activity;
  10. the provision, if any, of security (over and above traffic control) on the site during the Temporary Outdoor Activity;
  11. if alcoholic beverages are to be served, the provision for the control of the consumption of alcohol to prevent public intoxication and/or Nuisance Conditions;
  12. a certificate of insurance with a minimum of \$2,000,000 per occurrence in General Liability (including Liquor Liability, if applicable) naming the Township as additional co-insured;
  13. provision for handicapped parking; and

14. provision for adequate restroom facilities (including handicapped facilities).
- B. The Township Manager shall review the information contained in the notification form within fourteen (14) calendar days after receiving same. In the event that the Township Manager believes, after such review, that the Sponsor's plans for traffic control, parking and interior circulation, security (if needed) and/or prevention of Nuisance Conditions or compliance with other provisions of this Ordinance are inadequate when compared to the magnitude, intensity, inherent characteristics and/or timing of the Temporary Outdoor Activity to assure that the conduct of the Temporary Outdoor Activity will be in accordance with the standards of this Ordinance, the Township Manager may advise the Sponsor of such inadequacies and is hereby authorized to discuss such concerns with the Sponsor and/or the Owner. If, after these discussions, the Township Manager's concerns are not satisfied she may refer the applicant to the Board of Supervisors. The Board of Supervisors may impose conditions on the Sponsor, including with respect to the scope, size and timing of the Temporary Outdoor Activity, the posting of adequate surety and the reimbursement of expenses incurred by the Township. If the Board of Supervisors determines that the Sponsor has not or cannot make adequate arrangements to comply with this Ordinance, the Board of Supervisors may prohibit the Sponsor from conducting the proposed Temporary Outdoor Activity.
  - C. No Temporary Outdoor Activity shall be held in East Marlborough Township unless the Sponsor has submitted the required notification form to the Township Manager in accordance with the terms of this Ordinance. Violation of the terms of this Ordinance, by holding a Temporary Outdoor Activity without providing written notification, failing to comply with any conditions imposed on the Sponsor or otherwise violating the terms hereof, shall subject the Sponsor of the Temporary Outdoor Activity, and the Owner of the property upon which the Activity is held, jointly and severally, to a fine or civil penalty not exceeding \$1,000 for each day that a violation occurs. The provisions of this Ordinance may be enforced by the Township through an action in equity brought in the Chester County Court of Common Pleas.

Section 4. Traffic and Parking Controls.

- A. The Sponsor of a Temporary Outdoor Activity shall, prior to the submission of notification, contract with a qualified entity for traffic control on all state or township roads in close enough proximity to the site of the Activity to be affected by the traffic to be generated thereby. The following entities are hereby approved for provision of traffic control services:
  1. Pennsylvania State Police;

2. East Marlborough Township Police (or other law enforcement agencies or public safety organizations approved by the East Marlborough Township Police);
  3. Po-Mar-Lin or Longwood Fire Company's Fire Police.
- B. The Sponsor of a Temporary Outdoor Activity shall undertake advance planning for the handling of ingress and egress of vehicles to and from the property, interior circulation of vehicles within the property, and parking on the property. All vehicles must be parked on the property, and no vehicles shall be parked on public roads. In the event that the Activity's sponsor anticipates the necessity for additional parking facilities, other than those available on the property, the Sponsor may contract with a nearby property owner or owners for overflow parking, So long as either (a) shuttle service from the overflow parking site is provided, or (b) safe pedestrian pathways are available from the overflow parking to the property where the Activity is being held. Parking plans must be detailed and shall accompany the notification form.

Section 5. Prevention of Nuisance Conditions.

The Sponsor of a Temporary Outdoor Activity shall assure that no Nuisance Conditions shall occur as a result of such an Activity. Without limiting the foregoing, the Sponsor shall (i) assure that none of the impacts of the Activity violates applicable provisions of § 1811 of the Township Zoning Ordinance, (ii) provide adequate trash disposal containers, and "police" the grounds for litter, (iii) provide, where the magnitude and/or intensity of a Temporary Outdoor Activity warrants it, security personnel; (iv) assure that no firearms are brought onto the property during a Temporary Outdoor Activity; and (v) provide adequate controls over the consumption of alcoholic beverages.

Section 6. Validity and Severability.

If any section, subsection, paragraph, clause or provision of this Ordinance shall be declared, in a final decision by a court of competent jurisdiction, to be invalid, such decision shall not affect the validity of the remainder of this Ordinance, nor of any other portions thereof.

Section 7. Effective Date.

This Ordinance shall be effective five (5) days after its enactment.

ENACTED AND ORDAINED by the East Marlborough Township Board of Supervisors this 3<sup>rd</sup> day of March 2008.

Carly H. Wall

Richard H.

Eddie G. Caudill

Robert F. Weed

R

ATTEST:

Jane R. Lark