



CITY OF BETHLEHEM
OFFICE OF THE CITY SOLICITOR

INTEROFFICE MEMORANDUM

To: Robert G. Vidoni, City Clerk
From: William P. Leeson, Esq., City Solicitor
Re: Ordinance Amending Article 941 Entitled Parks
Date: August 1, 2019

Attached is a proposed Ordinance to amend Article 941 for the purpose of amending the definition of Director and amending Section 941.06, Subsection (a) relating to alcoholic beverages.

Please place this matter on City Council's agenda for review and appropriate action.



William P. Leeson, Esq., Solicitor

Cc: Robert J. Donchez, Mayor
Michael Alkhal, Director of Public Works
Jodi M. Evans, Director of Recreation

BILL NO. ____ - 2019

ORDINANCE NO. 2019-_____

AN ORDINANCE OF THE CITY OF BETHLEHEM, PENNSYLVANIA,
AMENDING ARTICLE 941 OF THE CITY OF BETHLEHEM CODIFIED
ORDINANCES RELATING TO PARKS.

THE COUNCIL OF THE CITY OF BETHLEHEM DOES HEREBY ORDAIN AND ENACT THE
FOLLOWING ORDINANCE:

Section 1. Article 941 of the City of Bethlehem Codified Ordinances relating to Parks, Section 941.01 relating to Definitions, definition of “Director” is hereby amended to read as follows (underlined text denotes additions, whereas ~~strikeouts~~ denote deletions):

941.01 DEFINITIONS.

“Director” means the ~~Director of the Department of Parks and Public Property~~ Director of Public Works or his/her designee.

Section 2. Article 941 of the City of Bethlehem Codified Ordinances relating to Parks, Section 941.06 relating to Behavior, Subsection (a) relating to Alcoholic Beverages is hereby amended to read as follows (underlined text denotes additions, whereas ~~strikeouts~~ denote deletions):

941.06 BEHAVIOR.

(a) Alcoholic Beverages. No alcoholic beverages shall be brought into or consumed in any City park except designated pavilions at Monocacy Park, Saucon Park and South Mountain Park.

- (1) Restrictions. Where alcoholic beverages are permitted the following restrictions shall apply:
 - (A) Consumption of alcoholic beverages shall be restricted to those persons affiliated with pavilion permittee.
 - (B) Alcoholic beverage use is limited to malt or brewed beverages (beer, ale, malt liquor) and wine. Distilled spirits such as whiskey, scotch, gin or any alcoholic beverage with an alcoholic content of more than twelve percent (12%) are prohibited.
 - (C) Permitted containers are metallic, with maximum content of sixteen ounces, and wine boxes. Bottles are prohibited.
 - (D) No alcoholic beverages shall be consumed in any parking lot, parking

area, sidewalk, pedestrian path or roadway in any park unless permitted as part of a Private Events Exception under (a)(3)(B) below or a Special Occasion Exception under (a)(4)(E) below.

(Ord. 2573 §2. Passed 9/6/77; Ord. 2016-011. Passed 4/19/2016)

- (2) Drunkenness. No person in a park shall be under the influence of intoxicating liquor in violation of Pennsylvania Crimes Code Section 5505, as amended, regarding public drunkenness.
- (3) Private Events Exception. The restrictions in (a)(1)(A) and (B) shall not apply to private events conducted inside the Illick's Mill building, the Earl E. Schaffer Ice Rink and the Charles Brown Ice House (said buildings hereafter "the park facility") when all of the following are satisfied:
 - (A) The event is authorized by (i) a permit agreement between the City and either a third party or a tenant of the park facility sponsoring the private event or (ii) a license agreement between the tenant of the park facility and a third party sponsoring the private event. All private events are subject to approval of the Director under paragraph (C) below.
 - (B) A private event under this Article means that (i) attendance is by either by private invitation or direct ticket sales; (ii) the event shall not be open to the general public; (iii) attendance at the event shall not exceed any applicable building occupancy limits set by City ordinance and Code regulations and directives by the Fire Commissioner and Bethlehem Fire Inspection Department; (iv) revenues from the event, if any are received by a tenant, permittee or licensee, shall benefit only non-profit and registered charitable organizations; (v) for events at the Illick's Mill building, the Earl E. Schaffer Ice Rink and the Charles Brown Ice House alcohol shall be served and consumed exclusively inside the building unless City Council approves issuance of a use permit for grounds surrounding a facility permitting service and consumption in the facility and on the grounds.
 - (C) An application for a permit or license agreement for an event subject to this Article shall be submitted to and is subject to review and approval by the Director. The application shall be submitted no less than sixty (60) days prior to the event. A permit or license agreement approved by the Director must be executed by the permittee or licensee, as the case may be, and executed copies delivered to the Director and the City's ~~Legal~~ Law Bureau no later than the date determined by the Director and set forth in the approved agreement. A permit or license agreement approved by the Director may be

amended by written agreement executed by all parties. Execution of a permit or license agreement or amendment on behalf of the City shall be by the Mayor and Controller with signed approval and certification by the Director.

(D) Alcohol shall be served free of charge at the private event. Attendees may bring their own alcohol for personal consumption (“BYOB”) to private events. The provision of alcohol shall not be conditioned upon (i) the purchase of a ticket for admission to the event; (ii) in exchange for a donation or other fee; (iii) a required purchase or payment that would constitute a sale of alcohol under the Pennsylvania Liquor Code. An allowable BYOB private event under this Article 941 is restricted to a private event inside the Illick’s Mill building, the Earl E. Schaffer Ice Rink and the Charles Brown Ice House which is permitted or licensed for a limited period of time, but in no event to exceed six (6) hours in length, nor to exceed one (1) rental in a twenty-four (24) hour period, nor to occur between the hours of 12:00 p.m. midnight and 11:00 a.m. (See City of Bethlehem ordinances, Article 736).

(E) A permittee of the City, a tenant of the park facility or a licensee hosting a private event when alcohol will be served exceeding the restrictions in (a)(1)(A) and (B):

(i) shall obtain either a liquor liability insurance policy, or a special event liability insurance policy including host liquor liability coverage, or a general liability insurance policy including host liquor liability insurance coverage, satisfying coverage limits specified by the Director, naming the “City of Bethlehem, its officials and employees” as additional insureds, and scheduled in force for the duration of the event;

(ii) shall provide a certificate of insurance from a licensed insurance agent or the insurer, evidencing issuance of the required coverage, to the Director and the City’s Law Bureau no later than the date determined by the Director and set forth in the approved City permit or license;

(F) The lease of a tenant hosting or licensing a private event shall not be in default status as determined in the sole judgment of the Director of ~~Parks and Public Property~~.

(4) Special Occasion Exception. A qualified entity under the Pennsylvania Liquor Code and applicable Pennsylvania Liquor Control Board (“PA LCB”) regulations may host and conduct an event in a City of Bethlehem park or park facility approved by the Director if the event qualifies for a Special

Occasion Permit (“SOP”) under Pennsylvania Liquor Code and if all additional conditions stated hereafter are satisfied:

- (A) The entity must apply for and receive approval by the Director of a permit for the event in compliance with (a)(3)(C) preceding.
 - (B) The entity must secure an SOP from the PA LCB. A copy of the required SOP issued by the PA LCB shall be provided to the Director and the City’s Law Bureau no later than the date determined by the Director and set forth in the approved City permit.
 - (C) The entity must comply with insurance requirements under (a)(3)(E) preceding.
 - (D) The permit for an event for which the applicant must obtain an SOP also must be approved by resolution of City Council which, in its discretion, may refuse approval of a permit if the event is deemed unsuitable to the facility, potentially harmful to the facility, if it conflicts with other events, if it conflicts with the City’s use of or access to the park, or if it causes unreasonable burden on City resources needed to support the event.
 - (E) Events authorized and conducted pursuant to an SOP and City Council approved permit may be open to the general public but the limitations of (a)(3)(B)(iii); and (iv) and ~~(v)~~ preceding shall apply to the event; additionally, the limitations of (a)(3)(B)(v) preceding shall apply to the event unless City Council approves issuance of a use permit for grounds surrounding a facility permitting sales, service and consumption in the facility and on the grounds.
- (5) Bethlehem Golf Club Exception.
- (A) A permittee, tenant or licensee operating the restaurant at the Bethlehem Golf Club on Illick’s Mill Road shall not be subject to restrictions on the provision, sale and service of alcohol under Article 941 but shall:
 - (i) operate in compliance with the Pennsylvania Liquor Code and PA LCB regulations regarding provision, sale and service of alcohol, also including the terms and conditions of issuance and use of the required golf course liquor license;
 - (ii) operate in compliance with the applicable lease, permit or license granted by the City;

(iii) comply with the greater of the insurance requirements under (a)(3)(E) preceding or in the lease, if applicable;

(iv) not pledge or encumber as collateral, sell, assign or transfer the liquor license without express written consent from the City signed by the Mayor and the Controller; a violation of the preceding entitling the City to terminate a permit, lease or license.

(B) The sale of beer on the golf course by the restaurant operator, and its consumption, if lawful under the applicable golf course liquor license, is permitted.

(6) Denial of Applications and Revocation of Permits. The Director may deny a permit application and City Council may refuse to approve a permit if the event is deemed, in their discretion, unsuitable to the facility, potentially harmful to the facility, if it conflicts with other events, if it conflicts with the City's use of or access to the park, or if it causes unreasonable burden on City resources needed to support the event. The Director may deny, suspend or revoke the permission granted an event host under a permit, lease or license who fails to comply with the requirements of this ordinance or other applicable laws, the PA Liquor Code, PA LCB regulations and City ordinances.

Section 3. All ordinances and parts of Ordinances inconsistent herewith be, and the same are hereby repealed.

Sponsored by _____

PASSED finally in Council on the _____ day of _____, 2019.

President of Council

ATTEST:

City Clerk

This Ordinance approved this _____ day _____, 2019.

Mayor