

BOROUGH OF NEW CUMBERLAND

**COUNTY OF CUMBERLAND
COMMONWEALTH OF PENNSYLVANIA
ORDINANCE NO. 720**

AN ORDINANCE AUTHORIZING AND REGULATING SPECIAL EVENTS ON BOROUGH PROPERTY AND WITHIN PUBLIC RIGHTS OF WAY IN THE BOROUGH OF NEW CUMBERLAND, CUMBERLAND COUNTY, PENNSYLVANIA; REPEALING AND REPLACING EXISTING ORDINANCE #707.

BE IT ENACTED AND ORDAINED by the Council for the Borough of New Cumberland, Cumberland County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same:

Section 1. Purpose and intent.

- a. Special events are activities that impact the ordinary allocation of Borough personnel or the ordinary use of Borough streets, alleys, sidewalks, rights-of-way, parks, parking lots/facilities, plazas, or other Public Property. The purpose of this ordinance is to establish criteria and procedures for applying for and approval of a special event permit granted by the Borough. Protecting all persons' civil liberties and constitutional rights is paramount. Nothing in this ordinance is intended to or shall interfere in any way with constitutionally protected activity.

- b. The obligation of complying with the requirements of this ordinance is upon the applicant or sponsor, and nothing contained in this ordinance is intended to be construed to create or form the basis for liability on the part of the Borough, or its officers, employees, or agents, for any injury or damage resulting from the failure of the applicant or sponsor to comply with the provisions stated herein.

Section 2. Definitions.

ALCOHOL – shall mean ethyl alcohol of any degree of proof originally produced by the distillation of any fermented liquid, whether rectified or diluted with or without water, whatever may be the origin thereof, and shall include powdered alcohol and synthetic ethyl alcohol, but shall not mean or include ethyl alcohol, whether or not diluted, that has been denatured or otherwise rendered unfit for beverage purposes. The consumption and /or selling of alcohol shall be in compliance with Pennsylvania Liquor Control Board (PLCB) licensing and other applicable PLCB regulations.

ALCOHOLIC CIDER – shall mean a beverage which may contain carbonation in an amount not to exceed six and four tenths grams per liter, produced through alcoholic fermentation, which is primarily derived from apples, apple juice concentrate and water or pears, pear juice concentrate and water, consisting of at least one-half of one per centum, but not greater than eight and one-half per centum, alcohol by volume and sold

or offered for sale as alcoholic cider and not as a wine or as a substitute for wine, in bottles, cases, kegs, cans or other suitable containers of the type used for the sale of malt or brewed beverages in this Commonwealth.

APPLICANT — The person or entity who submits the special event permit, is issued the special event permit if approved, and is responsible for complying with all requirements of this ordinance.

APPLICATION – Document created by the Borough, as may be modified from time to time, for the purpose of gathering adequate Special Event information and required to be completed in its entirety by the Applicant including all supplemental information.

BEER — A commercially produced alcoholic beverage of consumption obtained by the fermentation of a mash of various malted grains.

BOROUGH OF NEW CUMBERLAND or BOROUGH — The Borough of New Cumberland a municipal entity situated in Cumberland County, Pennsylvania.

BOROUGH MANAGER – The Borough Manager of the Borough or his/her designee responsible for administering special event permits.

CHIEF OF POLICE — The Chief of Police of the Borough or his/her designee.

FIRE CHIEF — The Fire Chief of the New Cumberland Fire Department or his/her designee.

LIQUOR – shall mean and include any alcoholic, spirituous, vinous, fermented or other alcoholic beverage, powdered alcohol, or combination of liquors and mixed liquor a part of which is spirituous, vinous, fermented or otherwise alcoholic, including all drinks or drinkable liquids, preparations or mixtures, and reused, recovered or redistilled denatured alcohol usable or taxable for beverage purposes which contain more than one-half of one per cent of alcohol by volume, except pure ethyl alcohol and malt or brewed beverages.

PLCB – Pennsylvania Liquor Control Board.

PUBLIC PROPERTY — Any Borough or State street, alley, sidewalk, right-of-way, park, parking lot, plaza, Borough owned building, or any other property of the Borough.

SPECIAL EVENT — Any festival, concert, parade, assemblage, demonstration, bike or foot races, walks, special sports competitions, or other planned or announced public gathering in or upon any Public Property of the Borough with an expected attendance in excess of twenty-five individuals.

WINE – shall mean liquor which is fermented from grapes and other fruits, having alcoholic content of twenty-four per centum or less. The term “wine” shall not include any products containing alcohol derived from malt, grain, cereal, molasses or cactus.

Section 3. Permit required; exceptions.

- a. No person(s) or organization(s) is to engage in, form, start, or operate a Special Event in or on Public Property unless a permit is obtained from the Borough.
- b. This section shall not apply to the following:
 - (1) Any use of public property that is permitted by law or constitution.
 - (2) Funeral processions supervised by a licensed mortuary.
 - (3) Any local, state or federal governmental agency acting in the scope of its authorized functions, including the Borough and related entities such as the West Shore Recreation Commission, public library and fire department (events taking place on Public Property which are not specifically planned and organized by an exempt entity require a Special Event Permit).
 - (4) Pavilion rentals, for family gatherings, celebrations, or other such activities, when the pavilion is properly reserved with fees paid in advance, up to the number of individuals permitted in the reserved pavilion as per Borough policy. (This exception does not apply for gatherings that would otherwise be considered a Special Event, as defined)

Section 4. Application for permit.

- a. A person or organization seeking the issuance of a Special Event Permit shall file an application with the Borough on forms provided by the Borough. The Borough Manager may assign a Borough staff person the responsibility for administering and enforcing this ordinance. Upon receipt of a special event application, the application will be forwarded to appropriate Borough staff members who will make a recommendation on the permit application as expeditiously as possible. In addition to the Borough of New Cumberland special event permit application, the applicant may also be required to secure permits from the Pennsylvania Department of Transportation if the event requires the closure of a state roadway(s). The applicant has the burden of proof of obtaining any such permission from other entities, or property owners.
- b. An application shall be completed, signed, and submitted at least 60 days before the date the special event is to commence and at least 21 days prior to the Borough Council meeting where action on approval is intended. The Borough, where good cause is shown, shall have the authority to consider any application which is filed less than 60 days before the date of the event. Any required application and/or processing fee for any special event permit shall be set by resolution. If an application and/or processing fee is required, it is nonrefundable, and payment shall be made to the Borough at the time the application is submitted. Additional fees related to Special Events may be established and revised from time to time as set by Resolution.

- c. A person or organization shall complete all information listed on the Borough's special event permit application and shall provide any other additional information which a Borough official shall find reasonably necessary to make a fair determination as to whether a permit should be issued.
- d. The Borough shall issue a permit for a proposed special event unless it finds any of the following:
- The event would likely endanger public safety or health.
 - The proposed event would seriously and unreasonably inconvenience or impact the general public's use of public property, services, or facilities.
 - The event would unreasonably infringe upon the rights of abutting properties.
 - The event would conflict with another proximate event or interfere with construction or maintenance work in the immediate vicinity.
 - There is not sufficient qualified safety personnel or other necessary event staff to safely accommodate the event.
 - The applicant failed to complete the application form or provide other required information in a timely manner after being notified of the additional information or documents required.
 - Information contained in the application or supplemental information requested from the applicant is found to be false in any material detail.
 - The applicant cannot meet, or is unwilling to meet, all the requirements of this ordinance or any special conditions imposed by the Borough.
 - Other issues in the public interest were identified by the Borough Manager, Council, or designee.
 - The applicant failed to prepay required expenses, fees, charges, deposits, insurance or bonds.
 - The proposed event is scheduled to occur at a route or location adjacent to a school or class during a time when such school or class is in session, and the noise created by the activities of the event would substantially disrupt the educational activities of the school or class.
 - The purpose of the proposed event is to incite crime or the overthrow of the government by force or the event would engage in or encourage participants to engage in illegal acts.
 - The application is incomplete or insufficient information is presented for a decision to be made by the Borough.
 - Proof of notification to affected businesses or residences have not been properly presented for street closures or other event impacts when required by the Borough.
 - Excessive noise or amplified sound will be present between the hours of 9:00 p.m. and 7:00 a.m.
 - Conditional approval may be granted for supplemental information not yet available from the applicant, i.e. PennDOT approval or PLCB Permits.

- e. The Borough requires proof of liability insurance from the applicant by requiring the applicant to submit a copy of a certificate of insurance in an amount equal to the Borough's liability under the Government Tort Claims Act of the state, and requires the execution of a hold harmless agreement to indemnify the Borough in the event the Borough is held liable for any injuries or damage as a result of the event. The Applicant shall add the Borough as an additional insured on any required certificate of insurance.
- f. The persons or organization shall comply with all other applicable federal, state, and local statutes, ordinances, codes, licenses, permits, rules, or regulations.
- g. The persons or organizations shall also comply with all directives and instructions from the Borough administration, police, fire, and public works personnel.

Section 5. Action on application.

- a. Borough Council shall act on all newly proposed first-time special event permit applications at a regular Council meeting. In instances where Special Events occur annually, are hosted by the same event sponsor, and are generally consistent with the prior year's event, the Borough Manager may act on special event permit applications. At the discretion of the Borough Manager, applications may be deferred to Borough Council for review and consideration. However, special event permit applications requesting alcohol sales and consumption may only be approved by Borough Council.
- b. Prior to Borough Council or the Borough Manager acting on the special event permit application, the following shall occur:
 - (1) The Borough employees shall act upon the application for a permit required by this ordinance as expeditiously as possible.
 - (2) The Borough employees reviewing the application shall document their review of the application and any provisions that need to be addressed by the applicant and included in the permit.
- c. The applicant shall be notified in writing of Borough Council's or Borough Manager's decision on the special event permit application. If the application is disapproved, the reasons therefor shall be set forth in writing.

Section 6. Duties of applicant.

- a. General. The applicant under this ordinance shall comply with all permit directions, instructions, guidelines, and conditions.
- b. Cleanup. Applicant shall make arrangements with the Borough for adequate trash containers for the event and procedures to clean the public property used for the special event. Cleanup must begin immediately after the special event and continue until completed with all refuse and recycling properly contained for collection and disposal.
- c. Application for Permit. The applicant shall provide all information requested in a timely manner and all required supplemental documentation requested by the

Borough must be submitted at least 7 days prior to the Council meeting scheduled for consideration.

- d. Meetings. At the request of the Borough Manager, or designee, the applicant shall meet with staff to discuss and review the permit application.
- e. Special Event Changes. Applicant is required to keep the Borough Manager informed of all proposed changes to the event that occur following approval of the Special Event. All proposed changes must be approved by the Borough Manager at least 10 days prior to the Special Event date.

Section 7. Payment of costs for services and equipment provided by Borough or for damage to public property.

- a. The Borough may impose reasonable fees and requirements upon the applicant as necessary to cover the costs of public services and equipment provided by the Borough for the special event, including Security and Emergency Medical Services required in Section 8. If a fee is imposed, an estimate of the anticipated fee may be required to be paid at the time the permit is approved. Fees shall be established by Resolution and may be modified from time to time.
- b. Canceled event. If a fee is imposed and the special event is canceled without at least 48 hours' notice, the fee will still be assessed to cover the cost of labor and equipment. The assessed fee will not apply if inclement weather, disaster or other unforeseen circumstances occur that are not in the applicant's control result in the cancellation of the special event. In any situation where an event is cancelled a portion of the fee may be retained for costs already incurred by the Borough. In no case shall an application fee be refunded to the applicant.
- c. If damage to public property occurs as a result of the special event, the applicant shall be responsible for reimbursing the Borough for the material and labor cost to repair the damage.
- d. Within the sole discretion of the Borough Manager, the Borough may require the applicant to pay a security deposit, not to exceed \$1,000.00, to cover the cost of damage to public property which occurs as a result of the special event, the cost of cleaning up after the special event, or any other incidental costs incurred by the Borough as result of the special event. The security deposit shall be held in escrow by the Borough and returned to the applicant within thirty (30) days after the conclusion of the special event, less any amounts retained by the Borough to cover incidental costs incurred by the Borough as a result of the special event. In the event the Borough retains the security deposit, or any portion thereof, the Borough shall provide the applicant with an itemized list of the incidental costs incurred by the Borough as a result of the special event. Retention by the Borough of the security deposit, or any portion thereof, shall not relieve the applicant of applicant's obligations under this Ordinance to reimburse the Borough for any incidental costs incurred by the Borough as a result of the special event.

Section 8. Security and Emergency Medical Services.

The applicant must provide adequate security for the special event as determined by the Chief of Police. The applicant, at the Borough's discretion, may be required to reimburse the Borough for the cost of additional police services, or provide private security, that the Chief of Police determines is required to ensure public safety for the special event. In addition, depending upon the number of anticipated attendees at the special event, the applicant must provide and pay for adequate emergency medical services for the special event, as determined by the Fire Chief in accordance with the Emergency Medical Services System Act, 35 Pa.C.S.A. §8101 *et seq.*, and regulations promulgated thereunder at 28 Pa.Code Chapter 1033.

Section 9. Street closures to vehicle traffic.

- a. Closing public streets to vehicular traffic can create an inconvenience for neighboring businesses, residents, and the driving public. If the applicant intends to close any street to vehicular or pedestrian traffic, that request shall be included in the application. The applicant shall submit with the application documentation showing notice to all properties/tenants located on the segment of the street to be closed (The Borough may allow for a waiver of this requirement when obtaining support from adjoining properties would be a burden to the applicant, i.e. parade routes). It is the responsibility of the applicant to submit a detailed map of the event area and any proposed street closures and detour routes.
- b. In addition to the street closure requirements below, all street closures must be done in accordance with PennDOT and any local regulations. The applicant is responsible for any costs associated with meeting any PennDOT or local street closing regulations.
- c. All street closure requests, especially requests to close a state roadway, will be carefully evaluated to determine if the community benefit from closing the street for the proposed special event outweighs the inconvenience or impact to the neighboring businesses, residents, and general public's use of public property, services or facilities. This evaluation can be cause for denying the street closure request.
- d. If a street closure is requested, the applicant will be required to meet with Borough police and/or public works staff to discuss in detail the street closure request and to develop a traffic detour and traffic control plan.

Section 10. Alcohol sales and consumption.

For purposes of this ordinance, alcohol sales and consumption refers to beer, alcoholic cider, liquor, and wine only.

- a. Special events that include the sale of alcohol, exclusive of existing permitted permanent PLCB establishments, including but not limited to bars and restaurants, may only be considered for approval if requested for special events sponsored by a non-profit corporation or association located within the Borough of New Cumberland, or the purpose of which non-profit corporation or association is to benefit the residents of the Borough of

New Cumberland, by way of example, including but not limited to the New Cumberland Olde Towne Association and its related entities.

- b. Special events that include the sale of alcohol may be held only within the following locations:
 - (1) Any designated public park within the Borough of New Cumberland with sufficient capacity to accommodate the special event (any ordinance provisions prohibiting the possession or consumption of alcohol within public parks of the Borough of New Cumberland shall be temporarily suspended for the special event, subject to the terms and conditions set forth herein); or
 - (2) Any other Public Property determined to be appropriate by Borough Council
- c. For Council to consider a request for the sale and consumption of alcohol, the applicant shall provide the following with the special event application:
 - (1) Location, hours of sales, site diagram, security procedures (volunteer and uniform staffing, ID checking, and dispensing operations), physical enclosure measures, parking locations for beer trucks, etc.
 - (2) The service of and consumption of alcoholic beverages must comply with all applicable federal, state, and local laws or regulations, including but not limited to the Pennsylvania Liquor Control Board (PLCB) licensing and other PLCB regulations. Before a permit is approved, documentation shall be provided to the Borough showing that the proposed alcohol sales complies with all PLCB licensing and other PLCB regulations.
 - (3) The service of alcohol to consumers in glass containers is prohibited on Borough property or streets.
- d. The Borough reserves the right to revoke the permit or require the applicant to discontinue alcohol sales and consumption whenever Borough police determine the consumption of alcohol by participants becomes excessive, or whenever Borough police determines participants are demonstrating unruly, loud, abusive, or other inappropriate behavior during the special event.
- e. If Council approves the sale and consumption of alcohol for a special event, the following shall apply:
 - (1) The applicant must post signs stating that alcoholic beverages are prohibited beyond the approved permitted area and that underage drinking is prohibited. Signs must be posted adequately designating the approved permitted area.

- (2) At least one person at each alcohol serving station shall be trained and certified through the Responsible Alcohol Management Program (RAMP) server/seller training.
- (3) All participants consuming alcohol must be provided and wear a designating item to identify that they are of legal drinking age. The specific type of item the applicant proposes to issue is subject to approval by the Borough. At a minimum, the item issued shall be so designed that it would prevent a person from transferring the identifier to another person.
- (4) All alcohol sales must end at least 45 minutes before the scheduled ending time of the special event.
- (5) The applicant must also provide a nonalcoholic beverage option.
- (6) Any other requirements determined by Council shall be followed.

Section 11. Prohibited conduct.

- a. No person shall unreasonably hamper, obstruct, impede or interfere with any special event, or with any person, vehicle or animal participating or used in any special event.
- b. The Borough shall have the authority to prohibit or restrict the parking of vehicles along a street or area properly designated or posted for an approved special event, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.

Section 12. Termination and revocation of permit.

- a. A special event permit issued under this ordinance for a special event in progress may be terminated by the Chief of Police or his/ her designee, if termination is a reasonable and necessary response to imminent danger or threat to public safety.
- b. A special event permit may be revoked by the Borough for failing to comply with the conditions for the issuance of the permit, violating any provision of this ordinance or other applicable ordinances and state law.

Section 13. Violations and penalties.

- a. Failure to obey or violation of any provision(s) of this ordinance, or any order, requirement, or condition imposed as part of the permit approval, shall be a violation of this ordinance by the applicant and may result in the termination of the special event, revocation of the special event permit, and/or subject the violator to a fine as listed in Subsection b below. A future special event permit request may be denied based on a past violation of this ordinance.
- b. Any person failing to obey or who violates any provision of this ordinance, or any order, requirement, or condition imposed as part of the permit approval, can be subject to a fine of not less than \$300 nor more than \$1,000 plus cost of prosecution.

Section 14. Severability.

If any part, provision or section of this ordinance is held to be void or unconstitutional, all other parts not expressly so held shall continue in full force and effect.

Section 15. Repealer.

Any Ordinances or parts of Ordinances in conflict herewith are hereby repealed. Ordinance #707 is specifically repealed in its entirety.

Section 16. Effective Date.

This Ordinance shall become effective immediately as provided by law.

ORDAINED AND ENACTED into an Ordinance this 8th day of May, 2024.

Borough Council of the Borough of
New Cumberland

BY: _____
Donald Kibler, President

ATTEST: _____
Nathaniel J. Dysard, Secretary

APPROVED by the Mayor this day of May, 2024.

BY: _____
Joan Erney, Mayor