

ORDINANCE #1042

AN ORDINANCE OF THE BOROUGH OF OCEANPORT AMENDING CHAPTER 279 "PARKS & RECREATION AREAS" OF THE CODE OF THE BOROUGH OF OCEANPORT

WHEREAS, an increase in demand for use of Borough facilities has initiated a review of the current ordinance structure, procedures and fees; and

WHEREAS, the current permitting process is cumbersome and requires recommendation from a Committee that meets monthly and the governing body that meets monthly and limits access to the facilities by needing a month's lead time or more to apply and receive approval; and

WHEREAS, the Borough Clerk's Office receives the applications, maintains the calendar of approvals and issues the appropriate permits upon approval; and

WHEREAS, the Borough Clerk serves as the administrative officer responsible for the acceptance of applications for licenses and permits and the issuance of licenses and permits, except where statute or municipal ordinance has delegated that responsibility to some other municipal officer.

WHEREAS, upon further review, the Recreation Coordinator and Borough Clerk have made recommendations to simply the process, keep it equitable and minimize man-hours while maximizing facility uses by reducing the approval process to Borough Clerk's oversight and updating the use types and fees to be charged,

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Oceanport, County of Monmouth and State of New Jersey that the following amendments be made as follows:

NOTE: Additions are underlined and deletions are marked by strike through.

Chapter 279 Parks and Recreation Areas

§279-6. Permits for Facility Use.

A. Facility use permit availability. Oceanport's recreational facilities are available for use by groups and individuals who make requests based upon availability. Applications are not required for the unreserved use of parks, fields, courts, playgrounds and other outdoor recreational facilities, except as required below. An individual or group that has reserved a particular park, field, court, playground or recreational facility and is in possession of a facility use permit will receive priority over an individual or group lacking such a permit.

B. Facility use permits required. A facility use permit shall be required for the use of any Oceanport-owned park, field, court, recreational facility or playground for use under any of the following circumstances:

- (1) Except as otherwise determined by resolution of the Council, when there are "organized" groups (as defined in Subsection B(4) below) of more than four participants or 50 spectators in attendance.
- (2) Any equipment is needed to be installed temporarily on the field, playground, court or facility, including, but not limited to goals, nets and lining of the field of play. No permanent installations of equipment may be made.
- (3) Any field, playground, court or facility will be used for any sport or purpose other than for which it was specifically created.
- (4) The field, playground, court or facility will be used for organized games or activities. Games and/or activities will be considered "organized" if:
 - (a) There is a referee, umpire or other official present; or
 - (b) Teams are part of a league; or
 - (c) Teams have uniforms; or
 - (d) There is a charge for any team, player or participant for participating; or
 - (e) There are trophies, medals or other prizes offered to individuals or teams; or
 - (f) Spectators are invited.
- (5) The game or event is sponsored by a business or organization.

- (6) A person or group elects to reserve a park, field, court, playground or other recreational facility for exclusive use for a specific period of time.
- (7) The field, playground, court or facility will be used for sports or other training, exercise, instruction or other activity conducted by an individual paid to provide said services.

C. Facility use permit application submission date.

- (1) All requests must be made a minimum of one month in advance to allow time for review, ~~by the Recreation Committee and the Council.~~
- (2) Fields are available March 15 thru November 30 each year.
 - (a) Requests for:
 - [1] March 15 thru ~~June 15~~ July 31 shall be submitted no earlier than February 1.
 - [2] ~~June 16~~ Aug 1 thru ~~August~~ Nov 15 shall be submitted no earlier than ~~May~~ June 1.
 - [3] ~~August 16 thru November 30~~ shall be submitted no earlier than July 1.
 - (b) Submission dates may be changed subject to Borough offices being closed for recognized Borough holidays or weekends.

D. Permit application content. The application for requesting use of a facility can be downloaded from the Borough of Oceanport's website or can be obtained from the Borough Clerk during business hours. ~~A person seeking issuance of a facility use permit hereunder shall file an application with the Recreation Committee consistent with the terms set forth on the facility use permit.~~ The application should be submitted or mailed to the Borough Clerk's Office, Attn: Field-Facility Use Request, PO Box 370, Oceanport, NJ 07757.

E. Facility use permit application standards. Standards for issuance of a facility use permit by the ~~Recreation Committee~~ Borough Clerk shall include the following findings:

- (1) That the proposed activity or use of the park will not unreasonably interfere with or detract from the general public enjoyment of the park or facility;
- (2) That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation;
- (3) That the proposed activity or uses that are reasonably anticipated will not include violence, crime or disorderly conduct;
- (4) That the proposed activity will not entail extraordinary or burdensome expense or police operation by the Borough;
- (5) That the facilities desired have not been reserved for other use at the date and hour requested in the application;
- (6) That the applicant has not had a previous permit revoked an/or has not been found to have violated this article in connection with previous usage.

F. Insurance requirements. Proof of insurance is required with certain facility use permit applications.

- (1) Formal organizations (e.g., Boy Scouts, athletic leagues, AAU teams, travel teams, businesses, athletic camps, etc.) that wish to use municipal facilities must maintain and provide proof of adequate insurance. An original, executed certificate of insurance is required at the time of application. Informal groups, however, are free to use the facilities without insurance coverage, contingent upon the execution of an indemnification and waiver which is more particularly described below. Insurance requirements may also be waived for municipally sponsored or approved meetings or events. Determination as to whether a group is formal or informal will be made by the Recreation Committee. Factors will include, but are not limited to, incorporation status, size of membership, frequency of gatherings and existing insurance.
- (2) Those permittees required to have insurance must present satisfactory evidence (an original, executed certificate of insurance) of insurance protection for participants, spectators, coaches and the public. Satisfactory evidence of insurance shall mean commercial general liability insurance, from an insurer licensed to do business in the State of New Jersey, with limits of liability in an amount not less than \$1,000,000, per occurrence and aggregate. The policy must provide coverage for the user's activity at the approved facilities, and shall state such activities on the certificate of insurance. The certificate of insurance shall name the Borough of Oceanport as an additional insured for the duration of the use of the facility(ies).

G. Indemnification and waiver.

(1) All permittees must sign a waiver in which they agree to waive and relinquish all claims, and causes of action, of every kind which they have or may have against the Borough of Oceanport arising out of the use of the facility(ies) resulting in personal injury and/or property damage. All permittees must acknowledge that they assume all risks in connection with the use of the facility(ies).

(2) All permittees must indemnify the Borough of Oceanport of any and all liability of loss, and against all claims or actions based upon or arising out of damage or injury (including both) to persons or property caused by or sustained in connection with the applicant's use of the facility(ies), and the defense of any such claims or actions, whether the liability, loss or damage is caused by, or arises out of negligence of the Borough of Oceanport, or any of the agents, employees or otherwise. The user must further agree to reimburse the Borough of Oceanport, its agents, employees or otherwise, for any and all expenses, attorney's fees or costs incurred in the enforcement of this waiver and indemnification.

(3) The form of waiver and indemnification can be downloaded from the Borough of Oceanport's website or can be obtained from the Borough Clerk during regular business hours.

H. Returnable deposit. It shall be within the discretion of the ~~Recreation Committee~~ Borough Clerk to require that a user provide a returnable deposit of \$200 (check or money order made payable to "Borough of Oceanport"). This deposit will be used to cover any damage to Borough property or cleaning required due to the use of the facility. Permittees will be notified, in writing, by the ~~Recreation Committee~~ Borough Clerk if any such charge will be assessed against the deposit.

I. Permit application procedure.

(1) Upon receipt of application, the requested usage will be reviewed by the Borough Clerk's Office and referred to the Recreation Coordinator for any conflicts with Borough activities or events submitted to the Recreation Coordinator and Recreation Committee for consideration.

~~(2) If approved, the Recreation Coordinator will forward to the Clerk for approval by resolution at the next available Council meeting.~~

~~(3)~~ (2) The applicant will be contacted to advise if approved or not approved.

~~(4)~~ (3) If the request is approved, the applicant will also be advised of the usage fees along with payment instructions.

~~(5)~~ (4) Upon receipt of payment in full, the Borough Clerk shall issue a permit to the applicant. ~~No one will be permitted to use any field/facility without a permit.~~ Usage fees are not refundable unless deemed otherwise by the Borough.

(6) All applications shall be reviewed under the standards set forth under Subsection E of this section.

(7) ~~The Borough Council, moreover, shall consider the application under the standards set forth under Subsection E of this section and sustain or overrule the Recreation Committee's Appeals regarding the Borough Clerk's decision for approval or disapproval, when disputed, shall be decided by the Municipal Council by way of resolution. The decision of the Borough Council shall be final.~~

J. Permittee obligations and responsibilities.

(1) A permittee shall be bound by all park rules and regulations and all applicable ordinances fully as though the same were inserted in such permits.

(2) The person or persons to whom the permit is issued shall be liable for all loss, damage or injury sustained by any person whatever by reason of the negligence of the person or persons to whom such permit shall have been issued.

The person or persons to whom the permit is issued shall be responsible for:

(a) Ensuring that all participants and spectators adhere to park rules and regulations;

(b) Ensuring that the field, court or facility is in safe condition prior to allowing players or participants to proceed and to report unsafe conditions to the ~~Recreation Committee~~ Borough Clerk not later than one day after its use; and

(c) Ensuring that upon conclusion of the use, the field, court and/or facility is left in the same condition as it was found, including removal of any equipment, and cleanup and proper disposal of any litter.

K. Revocation of issued permit. The ~~Recreation Committee~~ Borough Administrator, Borough Clerk and/or the Borough Council shall have the authority to revoke a permit upon a finding of violation of any rule or ordinance or upon good cause shown. The ~~Recreation Committee~~ Borough Administrator, Borough Clerk and/or the Borough Council may also revoke a permit which has been issued upon discovery of a material misrepresentation of fact on the application.

L. Priorities of use. Applications for the use of facilities will be scheduled on a first-come-first-served basis. In all instances, priority is given to Oceanport residents. When more than one application is received for the same date(s), the following order of priority shall apply:

- (1) Meetings or events directly sponsored by the Borough Council for municipal purposes, inclusive of the Borough's recreational sports programs via the Borough-approved recreational sports associations.
- (2) Meetings or events directly sponsored by municipal advisory boards and committees.
- (3) Meetings or events directly sponsored by Borough departments for municipal purposes.
- (4) Meetings or events held for the discussion of municipal issues.
- (5) Resident youth recreation activities, leagues or service organizations
- (6) Resident adult recreation activities, leagues or service organizations.
- (7) Board of Education related activities.
- (8) Nonresident youth recreation activities, leagues or service organizations.
- (9) Nonresident adult recreation activities, leagues or service organizations.
- (10) All other uses.

§ 279-7 Fee schedule.

A. Other than those who qualify as exempt or partially exempt as set forth ~~below~~ in Section 7(B), all groups, organizations, teams, leagues shall be required to pay a fee to use municipal facilities as follow:

(1) Facility Use Fee: ~~Games.~~

(a) Youth fee:

[1] Resident fee: ~~\$25 per game.~~ \$35 per activity (2-hour minimum increments)

[2] Nonresident fee: ~~\$50 per game.~~ \$70 per activity (2-hour minimum increments)

(b) Non-youth fee:

[1] Resident fee: ~~\$35 per game.~~

[2] Nonresident fee: ~~\$70 per game.~~

(2) Practices.

(a) Residents: ~~\$100 per team/one two-hour practice per week for 12 weeks.~~

(b) Nonresident: ~~\$200 per team/one two-hour practice per week for 12 weeks.~~

(3) For profit camps: ~~\$500 (no more than five days).~~

(4) For profit tennis lessons: ~~\$500 for the period of May 1 to September 30 with a maximum usage of 10 hours per week with a two-hour per one-court maximum per day.~~

(5) Resident team rosters shall consist of 75% majority Oceanport residents.

(6) All other teams are to be considered nonresident teams. The determination of whether a team is a resident or nonresident team, when disputed, shall be decided by the Municipal Council and confirmed by way of resolution.

B. Borough-approved recreation sports associations.

(1) Notwithstanding anything to the contrary set forth within the ordinances of the Borough of Oceanport, the Borough of Oceanport hereby recognizes the following entities as "Borough-approved recreation sports associations" and further recognizes that these entities are charged with the responsibility of planning, promoting, organizing and operating specific recreation sports programs on behalf of the Borough, for the benefit of the Borough, its residents and, in certain instances, the residents of neighboring communities:

(a) Oceanport Soccer Association.

(b) Oceanport Basketball Association.

(c) Oceanport Roller Hockey Association.

~~(d) Oceanport Baseball Association.~~

(e) Oceanport Adult Athletic Association.

(f) Oceanport Old Timers Softball Association (teams playing in the Two Rivers Softball League).

(g) Shore Youth Lacrosse Association.

(h) Shore Regional Little League Baseball and Softball.

(2) Insofar as these entities operate the Borough of Oceanport's recreation sports programs with the consent and under the aegis of the Borough of Oceanport, these entities and their teams shall be exempt from all fees.

C. Sports camps sponsored or operated by a Borough-approved recreation sports association shall not be required to pay a fee.

§279-9. Enforcement.

A. The ~~Recreation Committee~~, Recreation Coordinator and the Borough Clerk and/or their designees shall, in connection with their duties imposed by law, diligently enforce the provisions of this article.

B. The ~~Recreation Committee~~, Recreation Coordinator and the Borough Clerk and/or their designees shall have the authority to eject from the park area any person or persons acting in violation of this article.

C. The ~~Recreation Committee~~, Recreation Coordinator and the Borough Clerk and/or their designees shall have the authority to seize and confiscate any property, thing or device in the park or used in violation of this article.

D. This article shall also be enforced by the Police Department and Code Enforcement Officer of the Borough.

SECTION 2. All ordinances and resolutions or parts of ordinances and resolutions, inconsistent with this amending ordinance be and the same are hereby repealed.

SECTION 3. This amending ordinance shall become effective upon due passage and publication according to law.

APPROVED ON FIRST READING

DATED: August 19, 2021

JEANNE SMITH
Clerk of the Borough of Oceanport

ADOPTED ON SECOND READING

DATED: September 16, 2021

JEANNE SMITH
Clerk of the Borough of Oceanport

APPROVAL BY THE MAYOR ON THIS _____ DAY OF _____.

JOHN F. COFFEY, II
Mayor