

# LUZERNE COUNTY FLOOD PROTECTION AUTHORITY

**Policy No. 6**  
**Public Recreational Usage on Authority Lands**  
**Effective Date: 4/16/2024**

## **Section 1. General.**

1.1. The Luzerne County Flood Protection Authority (“Authority”) is responsible for the maintenance and operation of the 16-mile long Wyoming Valley Flood Risk Management Project, which includes the levee system through Kirby Park, Nesbitt Park, and the Forty Fort Recreation Complex. The right-of-way of this flood protection system is owned by the Authority.

## **Section 2. Background.**

2.1 The Authority recognizes the recreation features of the levee system are in an urban environment and generally allow safe and responsible public recreational usage along certain portions of its right-of-way.

The levee crest and access ramps are paved to facilitate Authority maintenance, contractor, and emergency vehicles without damaging the levee surface. The road is 8'-0" wide, consists of a bituminous asphalt surface, and is commonly referred to as the “levee trail” by the public. The levee trail is generally open to the public from sunrise to sunset.

## **Section 3. Policy.**

3.1 Activities that are allowed along the levee trail include, but are not limited to, the following: walking, running, traditional bikes or “pedalcycles”, baby strollers, dog walking (see Section 4.3) and other uses. Pedestrians always have the right-of-way to all other modes of travel. A “pedalcycle” is a vehicle propelled solely by human-powered pedals. The term does not mean a three-wheeled human powered pedal-driven vehicle with a main driving wheel 20 inches in diameter or under and primarily designed for children six (6) years of age or younger.

Title 75 of the Pennsylvania Consolidated Statutes contains the laws which govern the operation of vehicles on Pennsylvania roads. In Pennsylvania, a pedalcycle is considered a vehicle and, as such, is governed by a general set of rules (common to all vehicles) and

a specific set of rules (designed for pedalcycles). Nothing contained in this Policy shall be considered and/or interpreted as an abridgment of the laws of the Commonwealth of Pennsylvania governing vehicles in general, and pedalcycles in particular. All individuals who operate pedalcycles on the levee trail are expected to know the laws governing the proper use of same.

3.2 All pedalcycle riders and other users must maintain safe speeds at all times, slow down in congested areas, consider trail and weather conditions, and always be cognizant of other users along the trail.

3.3 All pedalcycle and other users of the levee trail are to stay to the right and pass other trail users on the left. Pedalcycle riders shall yield to pedestrians at all times.

3.4 Pennsylvania law requires helmets be worn by any person operating a pedalcycle who is under the age of 12. Helmets must meet the standards of the *American Standards Institute, the American Society for Testing and Materials, the Snell Memorial Foundation's Standards for Protective Headgear for Use in Bicycling*, or any other nationally recognized standard for pedalcycle helmet approval. This subsection shall also apply to a person who rides: (1) upon a pedalcycle while in a restraining seat attached to a pedalcycle; or (2) in a trailer towed by a pedalcycle. The Authority encourages that pedalcyclists of all ages wear helmets as they are the most effective way to reduce incidents of injury and/or death in biking accidents.

3.5 The Authority encourages users of the levee trail to remain aware of trail conditions and not impair their hearing through the wearing of headphones or ear buds.

3.6 The Authority frequently receives requests from outside entities to use the levees as part of a route for 5K, 10K, and other road racing events and activities. In such circumstances the Authority has established a formal "*Special Events Procedure*" to manage these larger activities. The event organizer must submit a completed application, indemnity and hold harmless agreement, and certificate of insurance as part of the approval process. See "*Attachment No. 1*".

3.7 The Authority reserves the right to limit public usage within all Authority owned property if deemed necessary for public safety, or other operational considerations. The Authority's Executive Director, in consultation with staff, municipalities, and other sources may advise the Authority Board if usage should be restricted on specific sections of the levee trail if it is determined that such use would significantly and adversely impact public safety or hinder the ability to effectively manage the flood protection system.

#### **Section 4. Prohibited Usages on Authority Land**

4.1 Activities that are prohibited include, but are not limited to, the following: skateboarding, illegal drugs, alcohol consumption, intoxication, indecent language, disorderly conduct; littering or dumping, camping, open fires, golfing, and overnight parking in Authority-owned lots.

4.2 The Authority will provide an exception on limited overnight parking at its Church Street and Rutter Avenue, Kingston, parking lot for the adjacent residential property owners located across Church Street.

4.3 All animals are to be strictly controlled on a leash. No free roaming animals allowed. All animal waste must be collected and removed. No horses are allowed on the levee trail.

4.4 Unauthorized motor and battery powered modes of transportation that are prohibited includes, but are not limited to, the following: Class 2, 3 and 4 electric bikes (e-bikes), golf carts, mopeds, scooters, unicycles, all-terrain vehicles (ATVs), dirt bikes, motorcycles, and snowmobiles. Electric bike usage is limited to human power or pedal-assist power at a safe speed (electric assist while pedaling).

4.5 The Authority will provide an exception for motorized or battery powered wheelchairs or other transportation devices specifically designed for use by persons with medically confirmed disabilities.

#### **Section 5. Enforcement and Education.**

5.1 The Authority will work with the respective municipal police agencies to cite users who are creating unsafe conditions or possibly causing unwarranted damage to the flood protection system.

5.2 The Authority will educate and inform the public regarding the implementation of this policy, safety protocols, and proper trail etiquette through its traditional channels (e.g., website, signage, printed materials, etc.). See "*Attachment No. 2*" for the levee trail code of conduct that will be posted inside message boards and other locations along the system.

Approved at the April 16 , 2024 Luzerne County Flood Protection Authority Board regular meeting.

Dominic J. Yannuzzi, PE, Chairman: *Dominic J. Yannuzzi P.E.*

Date: *April 16, 2024*

**LUZERNE COUNTY FLOOD PROTECTION  
AUTHORITY**

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**ATTACHMENT NO. 1**

**Luzerne County Flood Protection Authority  
Special Events Procedure  
For  
Use of Authority Property**

**I. Step 1**

The event organizer must submit a formal request in writing, signed by the president of the entity, or other authorized person having authority to make such request on behalf of the entity. The written request shall be either mailed, or issued electronically, to the Authority and shall not be postmarked less than 30 calendar days from the date of the actual event or use of Authority property. The written request shall include a completed application that is attached to this procedure as "Exhibit A".

**II. Step 2**

The Authority will notify the requesting entity of the tentative approval or denial to use Authority property for the event. The Authority reserves the right to approve or deny any event request for any reason, without giving an explanation for the decision. In addition, the Authority reserves the right to rescind approval of any event request at any time and for any reason, without giving an explanation for the decision. If tentative approval is granted, the requesting entity can proceed to step 3.

**III. Step 3**

The Authority must be in receipt of the following documents, at least 48 hours before the event begins setup:

- An original signature copy (in triplicate) of the Authority's Indemnification and Hold Harmless Agreement. This agreement must be signed by the president of requesting entity or his/her duly authorized representative. The requesting entity name indicated on this agreement must match exactly to the name indicated on the insurance policy. A copy of the official Indemnification and Hold Harmless Agreement is indicated in attachment "Exhibit B".

- A copy of the valid insurance policy that covers the event. Types and coverage amounts shall be at least equal to the minimum required by the Authority as indicated in the attachment "Exhibit C". The policy must be in the name of the requesting entity and must also cover all subcontractors for the event. The policy shall indicate the Luzerne County Flood Protection Authority and the County of Luzerne as additional insured. The policy must be issued from an authorized insurer and in compliance with all federal, state and local laws. The policy must begin before the commencement of the event's setup and must not expire or be allowed to terminate prior to the complete takedown and removal of the event.
- Attached as "Exhibit D" is a template ACORD Certificate Of Insurance. The submitted insurance policy must be presented in this form or other similar form that is acceptable to the Authority.

#### IV. Step 4

The requesting entity shall completely remove all event equipment and debris from Authority property within 24 hours of the established event termination. All trash must be properly disposed of by the requesting entity. A closeout report of all incidents/accidents/damage for the event shall be submitted to the Authority within 48 hours of the established termination of the event.

**Under no circumstances will marking of Authority property be allowed in support of the event. The past practice by event directors of using spray paint or other permanent markings to provide direction to the participants will not be tolerated. Only traffic cones or other similar, temporary and removable, objects may be used. The Authority will regard any failure by the requesting entity to follow this requirement as an act of vandalism and will take the appropriate actions to resolve the situation.**

Any questions on the Authority's Special Events Procedure may be directed to the following individual:

Deana Prochaska, LCFPA Administrative Assistant  
Phone: 570.714.4310, ext. 2  
Fax: 570.714.4313  
E-Mail: [dprochaska@lcfpa.org](mailto:dprochaska@lcfpa.org)

**Exhibit A**

**Application For Use of  
Luzerne County Flood Protection Authority  
Property**

Applicants must complete the following and submit this application to the Luzerne County Flood Protection Authority, P.O. Box 1909, Kingston, PA 18704. Applications also may also be submitted electronically to the Authority's Administrative Assistant, Deana Prochaska, at [dprochaska@lcfpa.org](mailto:dprochaska@lcfpa.org) . This application must be accompanied by an original signature letter of request, on entity letterhead, signed by the president of the entity or his/her authorized representative.

Organization Name: \_\_\_\_\_

Legal Description of the Organization: \_\_\_\_\_  
Agency, 501c(3), Individual, etc.

Organization Address (No P.O. Boxes): \_\_\_\_\_

\_\_\_\_\_  
Event Coordinator: \_\_\_\_\_

Daytime Phone: \_\_\_\_\_

After Hours Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

Emergency Contact(s): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Description of Event (Use additional pages if necessary):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



Date and Time of Event Setup: \_\_\_\_\_

Date and Time of Event Termination: \_\_\_\_\_

Property Locations Requested  
for Use: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Number of Attendees: \_\_\_\_\_

Indicate all equipment/material to be used for the event:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Type of food and/or beverages to be distributed at the event:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Indicate all  
subcontractors: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Indicate what provisions will be requested to meet the needs of disabled individuals:  
\_\_\_\_\_

**Exhibit B**

**Indemnity and Hold Harmless Agreement**

The undersigned \_\_\_\_\_  
Hereinafter "Indemnitor" does hereby grant to the Luzerne County Flood Protection Authority,  
hereinafter called the "Authority", on the \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_, the following:

**WHEREAS**, Indemnitor agrees to Indemnify and hold harmless the Authority, its agents,  
servants and employees from any claims and liability which may be made against the Authority.

**NOW THEREFORE**, in consideration of the Authority permitting the Indemnitor to hold  
the \_\_\_\_\_ on the \_\_\_\_\_, the Indemnitor hereby agrees:

- Indemnitor undertakes to indemnify the Authority from any and all liability, loss or damage the Authority may suffer as a result of the claims, demands, costs, or judgments against and arising from the activities of the Indemnitor.
- Indemnitor agrees to defend, at its own expense against any claims brought or actions filed against the Authority, its officers, agents and employees with respect to the subject of the indemnity contained herein whether such claims or actions are rightfully or wrongfully brought or filed.
- Indemnitor agrees to reimburse the Authority for any necessary expenses, attorney fees or costs incurred in the enforcement of this Indemnity Agreement.

\_\_\_\_\_  
Authority (Name)

\_\_\_\_\_  
Indemnitor (Name)

**STATE OF PENNSYLVANIA  
COUNTY OF LUZERNE**

I, \_\_\_\_\_ Notary Public in and for said County in said  
State, hereby certify that \_\_\_\_\_ whose  
Name(s) is/are signed to the foregoing instrument and who is known to me, acknowledged before  
me on this day that being informed of the contents of this Agreement, has/have executed the same  
on the day the same bears date. Given under my hand and official seal on this the \_\_\_  
\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

## Exhibit C

### Luzerne County Flood Protection Authority Insurance Requirements

All applicants shall be responsible for furnishing and maintaining insurance for areas of the Wyoming Valley Flood Risk Mitigation System, including parking areas, accesses and other areas as applicable, in accordance with the specifications indicated as follows:

#### Comprehensive General Liability:

- Combined Single Limit for Bodily Injury Property Damage
  - o Each Occurrence \$1,000,000
  - o Personal & Advertising Injury \$1,000,000
  - o Damage to Rented Properties \$1,000,000
  - o General Aggregate \$2,000,000
  - o Products & Completed Operations Aggregate \$2,000,000

#### Automobile Liability Including Hired Car and Non-owned Automobile Liability:

- Combined Single Limit for Bodily Injury Property Damage
  - o Each Occurrence \$1,000,000

#### Workers Compensation:

- Statutory Benefits as mandated by Pennsylvania State Law
- Employers Liability Limits at \$500,000 each accident / \$500,000 per policy limit / \$500,000 per disease

#### Umbrella:

- \$1,000,000 Each Occurrence
- \$1,000,000 Aggregate

The above insurance shall be provided at no cost to the Luzerne County Flood Protection Authority. The Luzerne County Flood Protection Authority shall be listed on all “**liability**” insurance policies listed above as an “**Additional Insured**” cancelable only on thirty (30) days prior written notice.

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**ATTACHMENT NO. 2**

# LEVEE RULES

The levee trail was built as a maintenance and emergency access road that is open to the public for safe and responsible recreation. Please be mindful that maintenance and emergency response activities take precedence over recreation at all times. Please be courteous and respectful to other users and keep the trail clean.

- No illegal drugs or alcohol. Intoxication, indecent language, and disorderly conduct are prohibited.
- No unauthorized motorized vehicles, motorcycles, dirt bikes, ATVs, golf carts, scooters, unicycles, and other motorized transportation modes.
- Traditional pedal powered bicycles allowed.
- E-bike usage limited to human power or pedal-assist power at a safe speed (electric assist while pedaling).
- All bikes to maintain safe speeds at all times, consider trail and weather conditions, and be aware of other users.
- All users to stay to the right and pass on the left at a safe speed.
- Pedestrians have the Right-of-Way to all other modes of travel.
- No littering or dumping.
- All animals are to be strictly controlled on a leash. Waste must be removed.
- No horses or other large animals.
- Damage to trail amenities such as landscape plantings, benches, trash receptacles, and other signage is not permitted.

*Any person violating the above rules and code of conduct will be prosecuted to the full extent of the law.*

## Trail Hours Are Dusk to Dawn



**US Army Corps  
of Engineers**  
Baltimore District



