

Local Law \_\_ of 2021

A Local Law adopting a new Chapter 166 (Special Events, Parades and Public Gatherings) of the Town of Ossining Code.

BE IT ENACTED by the Town Board of the Town of Ossining as follows:

**SECTION 1.** Chapter 166 (Special Events, Parades and Public Gatherings) is added to the Town of Ossining Code as follows:

**Section 166-1 Purpose**

Special events are largely beneficial to the community, however, special events which are likely to attract a large number of people can adversely affect the well-being of town residents and business owners and strain municipal resources. Special events on public and private property can disturb nearby residents in the peaceful enjoyment of their homes and property, interfere with the general public's normal use of highways and other municipal facilities, and can be harmful to the public safety and welfare. To provide for the well-being of the community, the Town Board establishes procedures whereby the town can be informed in advance of special events, be assured that such special events, if appropriate under the Town Code and the Constitution of the State of New York, can be accommodated without unduly burdening the community or the resources of the Town of Ossining.

**Section 166-2 Definitions**

Block Party

A celebration or event confined to a residential street, but shall not include a garage sale, yard sale, bazaar, rummage sale or other similar activity having the principal purpose of fundraising for an individual or organization, nor shall it include a political meeting or rally, carnival or theatrical or musical performance such as concerts or similar events. No block party shall charge a fee for any item, including but not limited to admission, food or beverage.

Expressive Activity

Any assembly or similar gathering held for the purpose of exercising free speech activity protected by either the First Amendment to the United States Constitution or Article I, Section 8 of the New York State Constitution, which shall include conduct the sole or principle purpose of which is the expression, dissemination or communication of opinions, views, or ideas and for which no fee or donation is required as a condition of participation in such assembly. It includes, by way of illustration and without limitation, press conferences, speeches, protests and demonstrations.

Event Level

There are three event levels: a) Event Level 1- anticipated attendance of participants, staff, volunteers and others not to exceed a total of 299 over the course of the entire event; b) Event Level 2- anticipated attendance of participants, staff, volunteers and others between a total of 300 and 499 over the course of the entire event; and c) Event Level 3- anticipated attendance of participants, staff, volunteers and others exceeds 500 over the course of the entire event. The Event Level will be determined by the Superintendent of Recreation and Parks or designee in consultation, where necessary, with other town and/or village departments after assessing the degree of municipal support services required for the event as

provided in Section 166-7.

### Public Property

Property that is owned, operated, maintained, and/or controlled by the town. Examples of public property include, but are not limited to, parking lots, plazas, public spaces, streets, sidewalks, parks and water.

### Parade

Any march or procession consisting of people, animals, bicycles, vehicles or a combination thereof, except funeral processions, on any public street, sidewalk, alley, or other public right-of-way, which may obstruct, delay, or interfere, with the normal flow of pedestrian or vehicular traffic, or may not comply with traffic laws or controls.

### Special Event

Any gathering, demonstration, performance, exhibition, amusement or activity that is conducted or sponsored by a person, organization, entity or association other than the Town of Ossining, proposed to be held on public property or on private property either affecting public property or requiring town support services. Special events do not include events held at legally operating restaurants or catering or event venues. Examples of special events include, but are not limited to, carnivals, circuses, fairs, bazaars, outdoor shows and concerts, block parties not on dead end streets, parades, religious processions, walks, runs, marathons, group swims or plunges, bicycle races, which may involve one or more of the following:

1. The closing of a public street.
2. The use, blocking or restriction of municipal property, roads, or rights-of-way.
3. The use of amplified sound exceeding the standards set forth in Chapter 130 (Noise) of the Town of Ossining Code.
4. The sale or service of food and/or alcohol to the public.
5. The substantial increase or disruption of the normal flow of traffic on any street or highway.
6. The placement of portable toilets.
7. The placement of temporary no-parking or directional signs or banners.
8. Construction and/or installation of temporary structures, including but not limited to a stage.
9. Installation of a tent exceeding 400 square feet.
10. If the event will take place in a Town park during hours not permitted for park operation under Chapter 138 of the Town Code.
11. The use of municipal support services that would otherwise not be necessary in the absence of such an event.

### Sponsor

Individual, group of individuals, corporation, or other entity responsible for organizing the special event.

#### Superintendent

Refers to the Superintendent of the Village of Ossining Department of Recreation and Parks or his/her designee, which also serves as the Town Department of Recreation and Parks pursuant to an Inter-municipal Agreement.

#### Support Services

Those services which can or must be provided by the town to ensure that a special event is conducted in such a manner as to protect the safety, health, property and general welfare of Town and/or Village of Ossining residents and property owners. Examples include fire protection, crowd management and control, traffic management and control, and sanitation services.

### **Section 166-3 Permit Required**

Any person or organization desiring to conduct or sponsor a special event in the town or on town owned property shall obtain a special event permit in accordance with the procedure of this Chapter.

### **Section 166-4 Permit not required**

Special event permits are not required for the following:

1. Funeral processions in motor vehicles from a funeral home, place of worship or other location where a funeral service is held to a cemetery, crematorium or other location of the deceased's final resting place.
2. Regular sporting events held at facilities which are approved or authorized for such purposes.
3. A student assemblage at any school chartered by New York State.
4. A gathering for the purpose of expressive activity provided that if the gathering is expected to be attended by 50 persons or more the sponsors provide the Town Supervisor with written notice at least 48 hours in advance of the gathering. The name, address and contact information of the sponsor, the proposed location or route, and the date and time of the gathering shall be provided.
5. Events sponsored in whole or in part by the town.
6. Gatherings for religious purposes held at facilities which are approved or authorized for such purposes.
7. A wedding, birthday party, family reunion, graduation party, religious observances or a similar gathering limited to the invited guests held on private property with the consent of the property owner.
8. Block parties on dead end streets. Applications for block parties on dead end streets shall be submitted to the Superintendent of Recreation and Parks for approval and, where necessary, for review by appropriate town

departments. The organizer of the block party shall notify all property owners/residents of the street(s) to be shut down of the terms of the proposed event and shall obtain the signatures of a majority of those property owners/residents consenting to the block party taking place. A fire lane sufficient for access by emergency/police personnel shall be maintained at all times during the block party. Block parties shall conclude by 9:00 pm Sunday through Thursday and 10:00 pm on Friday and Saturday. The organizers of the block party shall pay a street closing/obstruction fee as detailed in the town's fee schedule. The applicant(s) for the block party shall agree in writing to hold the Town harmless from any and all obligations and liabilities which may arise from the temporary street closing which is the subject of the application. The applicant(s) are responsible for the removal of litter and debris resulting from the block party. The Superintendent of Recreation and Parks has the option of requiring the applicant(s) to submit proof of liability insurance for damage to property and personal injury arising out of the temporary street closing.

### **Section 166-5 Application for Permit**

- A. Time for submission. The special event permit application form shall be submitted to the Superintendent of Recreation and Parks no later than seventy-five (75) days before the scheduled event. Application forms that are untimely submitted are subject to denial by the Superintendent; provided, however, the Superintendent shall make every effort to process special event permit applications where the applicant could not reasonably comply with the 75-day requirement, including where the event had not been scheduled 75 days in advance.
- B. Application Form. The special event application form shall be available through the Village Department of Recreation and Parks web page. The Superintendent may require additional documentation or information from the applicant.
- C. Application fee. Application fees for special event permits shall be as established and amended from time to time by resolution of the Town Board and shall be published in the then-current town fee schedule. Application fees are non-refundable.
- D. Approval to conduct a special event by the process described in this chapter does not relieve the sponsor or any participant, including but not limited to food vendors and those who are selling and/or distributing alcoholic beverages, from the responsibility of applying for and obtaining any other permits or licenses or meeting any other requirements which may be applicable for the special event, including but not limited to from Westchester County Department of Health.
- E. Following receipt of the complete application, the Superintendent shall notify the sponsor in writing if the date(s) and location(s) for the special event are available (if being conducted on town property) and that the application is being processed in accordance with this Chapter. The Superintendent shall inform the sponsor that while a decision has not yet been made on the application, the sponsor may begin to advertise the special event but does so at their own risk should the special event permit be denied in accordance with this Chapter.

- F. Failure to timely provide complete and accurate information or documentation required by this Section and Section 166-6 may result in the permit being denied.

**Section 166-6 Information to be Provided in Furtherance of Application and Prior to Special Event**

**A. Insurance.**

1. All sponsors of special events must obtain general liability and automobile coverage both per occurrence and in the aggregate in amounts determined to be reasonable and necessary by the Town's insurance agent and Town counsel. The Town of Ossining shall be named as additional insured under the general liability and automobile liability policies. The insurance shall be on a primary and non-contributory basis with a waiver of subrogation. The general liability insurance shall include endorsements extending coverage to all structures constructed and/or brought to the special event, including but not limited to stages, tents, portable restroom facilities, dumpsters and generators. If alcohol is to be sold and/or charged for, additional Liquor Law Liability coverage of \$1,000,000 shall be obtained with a certificate of insurance naming the Town of Ossining as additional insured. If alcohol is being served but not sold, additional Host Liability coverage of \$1,000,000 shall be obtained with a certificate of insurance naming the Town of Ossining as an additional insured. Also, proof of statutory workers compensation and disability insurance coverage shall be provided for all employees, other than Town employees, participating in the event, where applicable.
2. The aforementioned insurance policies shall not be cancellable without at least 30 days' prior written notice to the town, such notice to be provided to the Superintendent and the Town Supervisor. All certificates of insurance along with associated insurance policies shall be provided to the Town Supervisor no later than 15 days prior to the scheduled event.
3. In addition to the aforementioned insurance requirements, should the event require the construction and/or installation of structures, including portable restrooms, dumpsters for trash, tents and/or temporary structures, the sponsor shall provide certificates of insurance from the entities supplying the portable restrooms, dumpsters, tents, generators and/or temporary structures showing general liability and, where applicable, automobile liability.

- B. Indemnification and Hold Harmless.** The sponsor shall submit a fully executed hold harmless agreement, in a form satisfactory to the Town Counsel, by which the sponsor shall indemnify and save harmless the town, its agents, contractor's and employees, including elected and appointed officials, from and against all claims, damages, loss and expense (including but not limited to attorneys' fees) arising out of or resulting from the special event, sustained by any person or persons, provided that any such claims, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of property caused by the tortious or negligent act of omission of the sponsor, the sponsor's

employees, agents, subcontractors and event participants. The signed hold harmless agreement shall be provided no later than 15 days prior to the scheduled event.

- C. No later than fifteen days prior to the scheduled special event, the sponsor shall provide the Superintendent with a list of all participating food vendors with contact information; a description of methods to be used for cooking and disposal of grease, etc., where applicable; proof that the food vendors possess the required license from the Westchester County Health Department; and a sketch plan of all vendor locations with entry and exit points clearly delineated. Failure to timely provide the information in this subsection or to provide incomplete information may result in the denial or rescission of the permit to hold the special event.
- D. Security Deposit. The Superintendent and/or the Town Board, as applicable, shall require the sponsor to provide a security deposit in an amount to be determined for clean-up expenses and for compliance with permit conditions. The Security Deposit shall be provided to the Town by the sponsor no later than 15 days prior to the scheduled special event. If the sponsor fails to honor the permit conditions or to adequately clean up the property after the event, the Town may use such portion of the security deposit as is required.
- E. Notice to Property Owners. The sponsor shall notify all property owners and business owners located within fifty feet of the location of the special event. The notice shall be sent out by regular mail no later than 15 days prior to the special event using the property owners' addresses on the most recent tax roll and business owners' addresses obtained from available sources. Such notice shall include the sponsor's name, telephone number and email address, special event date, time, location and rain date and such other information as required by the Superintendent. Proof of mailing upon the property owner(s) and business owner(s) shall be provided to the Superintendent no later than 10 days prior to the scheduled special event.
- F. All banner permit applications for the special event shall be submitted at least 30 days prior to the special event to the Superintendent. Banner applications submitted fewer than 30 days prior to the special event will not be accepted. Banner display dates and locations will be granted on a first-come first-served basis.

#### **Section 166-7 Review of permit application**

- A. The Superintendent shall review the application for special event permits. No permit shall be issued where the application is found to be incomplete and/or requested information has not been provided. If the application is found to be incomplete, the Superintendent shall notify the sponsor that the application is incomplete.
- B. Upon receipt of a complete application, the Superintendent shall determine the Event Level of the proposed special event in consultation with other town/village departments where necessary.
  - 1. For Event Level 1, if support services, if any, will only be required from the Department of Recreation and Parks, or Town Parks, the Superintendent may grant the permit upon payment by the applicant of

all fees and the sponsor providing the materials required by Section 166-6.

2. For Event Levels 2 and 3 and for those proposed special events under Event Level 1 where support services from other town and/or village departments will be needed or where the Superintendent concludes that the application should be denied, the Superintendent shall promptly forward the completed application to the appropriate town/village departments for their review, comment and recommendation on whether to approve the application, and if so, subject to what reasonable terms and conditions. The town/village departments/individuals the application is referred to shall include, but not be limited to, the parks department, police department, building department, fire department, Ossining Volunteer Ambulance Corp., highway department, the Town engineer, Town counsel and the Town's consulting planner. If all of the departments/individuals recommend approving the application and/or approving the application subject to reasonable terms and conditions that the Superintendent reasonably believes can be implemented as part of the permit, the Superintendent may grant the permit subject to those reasonable terms and conditions. However, if any of the departments/individuals recommend denying the application and/or approving the application subject to terms and conditions that the Superintendent does not believe are reasonable or can be reasonably implemented as part of the permit, the application and all department responses shall be referred to the Town Board in accordance with Section 166-8.

#### **Section 166-8 Referral of Application to Town Board**

- A. In the event the application is referred to the Town Board pursuant to Section 166-7(B), the Town Board shall consider, among other things, the recommendations of the various town/village departments/individuals to which the application was referred, the number of anticipated attendees, required town/village support services, the town's ability to provide such services and potential beneficial and/or adverse impacts to the community from the event. The Town Board shall consider the application at a public meeting and shall act on the application by vote of a majority of the members of the Board.
- B. Authority of the Town Board. The Town Board may:
  - 1) Approve or disapprove an application as submitted. If the application is disapproved, the Town Board shall state in writing the reason(s) for the disapproval.
  - 2) Establish the terms and conditions for the special event. Terms and conditions may include, but are not limited to location, timing, scope and/or financial arrangements.
- C. The Town Board may deny a special event permit based upon a finding that the special event as proposed, or upon the implementation of reasonable terms and conditions, will be a detriment or hazard to the health, safety, property and/or general welfare of the public, which determination may be made based upon any of the following factors, which list is not exclusive and intended to be illustrative:

1) there are inadequate municipal resources available to protect the health, safety, property and general welfare of the nearby residents and property owners, or the safety of participants and/or attendees at the event; 2) the special event or event sponsor has been the subject of a violation or has had any objective, significant adverse impacts on the surrounding properties within the last two years; 3) the special event does not provide for sufficient services or facilities for the anticipated attendees; 4) a high probability that the special event will endanger public safety or result in significant property damage; 5) the town does not have resources available to devote to the special event because a prior application for another special event on the same date has submitted a complete application and/or received a special event permit; and/or (6) a complete application has already been submitted and/or approved for another special event in close proximity to the proposed special event such that the two special events together would be a detriment or hazard to the health, safety, property and/or general welfare of the public.

#### **Section 166-9 Amendment, modification, rescission or termination of permit.**

- A. Once a special event permit has been issued, any proposed amendment or modification to the permit shall be submitted in writing to the Superintendent promptly but no later than three business days prior to the event. Such amendment or modification may include by example, the identity of the event sponsor, date of the event, the location or route of the event, the number of attendees or the addition of tents, alcohol or food. For special event permits granted by the Superintendent, the Superintendent shall review the proposed amendment or modification and shall have the discretion to rescind, modify or take no action with respect to the permit due to changed conditions. For special event permits granted by the Town Board, the Town Supervisor shall review the proposed amendment or modification and upon consultation with staff shall have the discretion to rescind, modify or take no action with respect to the permit due to changed conditions.
- B. If, after the special event permit has been issued, the Town learns that any of the representations and/or statements contained in the application, including requested documents were materially false, the Town Supervisor or their designee, may rescind or modify such permit.
- C. If at the time of the scheduled special event it is determined that any of the permit conditions are not being complied with, the Town Supervisor or their designee, may terminate or suspend the event until such conditions are satisfied. Town staff may take all necessary actions to effectuate the Town Supervisor's determination.
- D. In addition to the authority to suspend or terminate a special event pursuant to section 166-9(C), the Town Supervisor or their designee may suspend or terminate the special event or any portion thereof that is determined to present an imminent hazard to the health, safety, property or general welfare of the nearby residents and property owners or the safety of participants and/or attendees at the special event.

#### **Section 166-10 Penalties for offenses.**



Any person who violates any provision of this chapter shall be guilty of a violation and shall, upon conviction, be subject to the imposition of a fine in accordance with the following schedule for each violation. Each day that a violation continues shall be deemed a separate offense.

- A. For the first offense, a fine of not less than \$250 nor more than \$1,000 for each offense, plus any costs incurred by the town as a result of the violation(s).
- B. For a second offense within a three year period, a fine of not less than \$1,000 nor more than \$5,000 for each offense, plus any costs incurred by the town as a result of the violation(s).
- C. For a third and subsequent offense within a three year period, a fine of not less than \$2,500 nor more than \$15,000 for each offense, plus any costs incurred by the town as a result of the violation(s).

**Section 166-11 No alterations to town property.**

The issuance of a special event permit shall not be deemed to authorize any physical alteration to land or property owned by the town, including town roads. For purposes of this section, the term “alteration” shall include, but shall not be limited to, the grading, filling or clearing of land, the cutting, felling or removal of trees or other vegetation and a change in the physical characteristics of a building or structure or the component parts thereof.

**SECTION 2.** Validity. The invalidity of any provision of this Local Law shall not affect the validity of any other portion of this Local Law which can be given effect without such invalid provision.

**SECTION 3.** Effective Date. This Local Law shall take effect immediately upon filing in the office of the Secretary of State.