

Proposed Local Law 8-2020

A Local Law amending **Chapter 68 (Alcoholic Beverages)**, Chapter 186 (Parades), Chapter 190 (Parks and Recreation) and adopting a new Chapter 226 (Special Events, Parades and Public Gatherings) of the Village of Ossining Code.

BE IT ENACTED by the Board of Trustees of the Village of Ossining as follows:

Section 1. Chapter 226 (Special Events, Parades and Public Gatherings) is added to the Village of Ossining Code with new matter underlined.

Section 226-1 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 village 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 Village Board of Trustees establishes procedures whereby the village can be informed in advance of special events, be assured that such special events, if appropriate under the Village Code and the Constitution of the State of New York, can be accommodated without unduly burdening the community or the resources of the Village of Ossining.

Section 226-2 Definitions

Block Party

Event held by the residents of a defined section of the village to be attended by residents of that section.

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 charged or 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 299 as well as staff determination of scope of requested village support services; b) Event Level 2- anticipated attendance of participants, staff, volunteers and others between 300 and 499 as well as staff determination of scope of requested village support services; and c) Event Level 3- anticipated attendance of participants, staff, volunteers and others exceeds 500 as well as staff determination of scope of requested village support services. The Event Level will be determined by the Superintendent of Recreation and Parks or designee in consultation, where necessary, with other village departments.

Public Property

Property which is owned, operated, maintained, and/or controlled by the village which is not rental in nature. Examples of public property include, but are not limited to, parking lots, plazas, public spaces, streets, sidewalks and parks.

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 obstructs, delays, or interferes, with the normal flow of pedestrian or vehicular traffic, or does not comply with traffic laws or controls.

Special Event

Any temporary gathering, demonstration, performance, exhibition, amusement or activity that is conducted or sponsored by a person,

organization, entity or association other than the Village of Ossining, proposed to be held on public property or on private property either affecting public property or requiring village support services. Examples of special events include, but are not limited to, carnivals, circuses, fairs, bazaars, outdoor shows and concerts, parades, religious processions, walks, runs, marathons, 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 village property, roads, or rights-of-way.
3. The use of amplified sound exceeding the standards set forth in Chapter 178 (Noise) of the Village 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. The use of village 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 Department of Recreation and Parks or his/her designee.

Support Services

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

Section 226-3 Permit Required

Any person or organization desiring to conduct or sponsor a special event in the village shall obtain a special event permit from the Superintendent or the Special Events Advisory Committee as detailed herein.

Section 226-4 Permit not required.

Special event permits are not required for the following:

1. Funeral processions.
2. Regular sporting events held at facilities which are approved 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 the sponsors provide the Village Manager with written notice at least 48 hours in advance of the gathering if more than 50 persons are expected to attend. 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 village.
6. Gatherings for religious purposes held at facilities which are approved for such purposes.

7. A wedding of a property owner, a member of the property owner's family or a tenant legally occupying the property pursuant to a lease agreement establishing the tenancy, provided such tenancy is permitted by a Certificate of Occupancy issued by the Building Department.
8. A family reunion, graduation party, or a similar family gathering limited to the invited guests, in reasonable number, of a property owner, a member of the property owner's family, or a tenant legally occupying the property pursuant to a lease agreement, provided such tenancy is permitted by a Certificate of Occupancy issued by the Building Department.
9. Block parties. Applications for block parties shall be submitted to the Superintendent of Recreation and Parks for review by appropriate village departments and referral to the Special Events Advisory Committee pursuant to section 226-8. 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 village's fee schedule. The Special Events Advisory Committee shall have the authority to modify any of the proposed guidelines provided herein or set additional requirements as are appropriate to the proposed block party.

Section 226-5 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.

- B. Application Form. The special event application form shall be available through the Department of Recreation and Parks web page. The Superintendent may require additional documentation or information from the applicant.
- C. No later than fifteen days prior to the scheduled special event, the sponsor/applicant 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, et. al where applicable; proof that the food vendors possess the required license from the Westchester County Health Department; and a site 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. No refund will be issued where the event application is denied or the event canceled due to the applicant not timely providing required documents or providing incomplete documents.

Section 226-6 Fees, Insurance, Indemnification and Other Requirements

- A. Application fee. Application fees for special event permits shall be established and amended from time to time by resolution of the Board of Trustees and shall published in the current village fee schedule. Application fees are non-refundable.
- B. Insurance. All sponsors of special events must obtain general liability and automobile coverage with limits of \$1,000,000 per occurrence and \$3,000,000 in the aggregate. The Village 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 distributed, additional liability coverage of \$1,000,000 **for dram shop and host liability** shall be obtained with a certificate of insurance naming the Village of Ossining as additional insured. Also, proof of statutory workers compensation and disability insurance coverage shall be provided for all employees participating in the event **where applicable**. The aforementioned insurance policies shall not be cancellable without at least 30 days' prior written notice to the village, such notice to be provided to the Superintendent and the Village's Corporation Counsel. All certificates of insurance along with associated insurance policies shall be provided to the Corporation Counsel no later than 15 days prior to the scheduled event. Failure to provide the required insurance information may lead to the cancellation of the event. **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 automobile liability insurance with limits of \$1,000,000 per occurrence and \$3,000,000 in the aggregate naming the Village of Ossining as additional insured. This insurance shall be on a primary and non-contributory basis with a waiver of subrogation. The Village reserves the right to review the coverage requirements where so warranted.**

- C. Indemnification and Hold Harmless. The applicant shall submit a fully executed hold harmless agreement, in a form satisfactory to the Village Corporation Counsel, by which the applicant shall indemnify and save harmless the village, its agents and employees, including elected officials, from and against all claims, damages, loss and expense (including but not limited to attorneys' fees) arising out of or resulting from the permitted activity, 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 applicant, or the applicant's employees, agents or subcontractors. The signed hold harmless agreement shall be provided no later than 15 days prior to the scheduled event.

- D. Cost Reimbursement. Where the expected number of persons attending the event may impact the health, safety and welfare of the public, requiring the use of village support services, the applicant may be required to reimburse the village for the costs of increased police protection, public safety oversight, fire and emergency protection and public works facilitation, including any additional equipment to adequately and safely control and protect the persons attending the event. Such costs shall include all necessary staffing needed to ensure protection of those attending the event. The Superintendent shall notify the applicant of the anticipated charges for such support services **30 days prior to the scheduled event**. Those charges shall be paid to the village no later than 15 days before the scheduled event. In addition, the Superintendent and/or the Special Events Advisory Committee may require the applicant to provide a letter of credit, bond or other suitable security instrument, in an amount to be determined to secure compliance with the permit conditions and to insure adequate clean-up of the property. If the applicant fails to honor the permit conditions or to adequately clean up the property after the event, the Village may use such portion of the security as is required to remedy the situation.
- E. 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**.
- F. **Following receipt of the application, the Superintendent shall notify the applicant in writing that the date(s) for the special event has**

been tentatively approved subject to receipt of outstanding documents, possible review by the Special Events Advisory Committee and payment of fees. Upon receipt of this tentative approval, the applicant may begin to advertise the special event.

- G. 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 226-7 Review of permit application

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 applicant that the application is incomplete. Upon receipt of a complete application, the Superintendent shall determine the Event Level of the proposed special event in consultation with other village departments where necessary. For Event Level 1, if it is determined by the Superintendent that total attendance at the event will be 299 or fewer and, support services, if any, will only be required from the Department of Recreation and Parks, the Superintendent may grant the permit upon payment by the applicant of all fees, submission of certificates of insurance and security instrument, where required. The Superintendent shall notify the applicant of any additional fees which must be paid no later than 15 days prior to the event. For Event Levels 2 and 3 and for those proposed special events under Event Level 1 where support services from other village departments will be needed or where the Superintendent concludes that the application should be denied, the Superintendent shall promptly forward the application to the Special Events Advisory Committee pursuant to section 226-8. In addition to forwarding the application to the Special Events Advisory Committee, the completed application will be distributed to the appropriate village departments to provide an estimate of the additional costs that would be incurred as a result of the special event. This information may be used in

establishing terms and conditions under which an event may be conducted when the use of support services is determined to be necessary. **Estimates of additional costs shall be provided prior to the meeting of the Special Events Advisory Committee on the particular application.**

Section 226-8 Special Events Advisory Committee

A. Composition of the Special Events Advisory Committee (SEAC). The SEAC shall be composed of the following officials or their **designees:**

- 1) Village Manager, who shall serve as SEAC chairperson.
- 2) Superintendent of Recreation and Parks.
- 3) Police Chief.
- 4) Chief Engineer of the Fire Department.
- 5) Captain of the Ossining Volunteer Ambulance Corps.
- 6) Village Engineer.
- 7) Building Inspector.
- 8) Director of Planning.
- 9) Corporation Counsel.

B. Responsibilities of the SEAC. The SEAC is responsible for reviewing, evaluating, approving or disapproving all **applications for Event Levels 2 and 3 and those **Event Level 1 applications referred by the Superintendent.** The SEAC shall consider among other things, the number of anticipated attendees, required village support services and the village's ability to provide such services.**

C. Authority of the SEAC. The SEAC may:

- 1) Approve or disapprove an application as submitted. If the application is disapproved, the SEAC 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.

- D. SEAC Procedures. The SEAC shall be subject to the provisions of the Open Meetings Law (Public Officers Law Article 7). Meetings shall be open to the public and noticed as required by law. Five members of the SEAC shall constitute a quorum for conducting business. Decisions shall be made by a majority vote of the SEAC membership. The Superintendent shall forward applications to the SEAC chairperson within **two business** days of receipt. The SEAC chairperson shall call a meeting of the SEAC and provide the SEAC with the application and any attachments. Except for unusual circumstance, the meeting should be held no later than **five business** days after the SEAC application is forwarded to the chairperson. The SEAC shall issue its **written** decision within **two business** days of the meeting, unless additional information has been requested. The SEAC's decision shall not be issued fewer than twenty-five calendar days before the scheduled special event. If the application is denied or includes modifications not agreed to by the applicant, the applicant may appeal the SEAC decision to the Board of Trustees, which at a public meeting shall decide to affirm, **modify** or **reverse** the SEAC's **determination**.

Section 226-9 Denial, amendment, modification, rescission or termination of permit.

- A. The SEAC may deny a special permit for any of the following non-exclusive factors: 1) there are inadequate village resources available to protect the health, safety, property and general welfare of the residents and property owners of the village or the safety of participants and/or attendees at the event; 2) the special event has been the subject **of** a violation or has had any adverse impacts on the surrounding property in the village within the last two years; 3) the special event does not provide for sufficient services or facilities; 4) a high probability of disorderly conduct likely to endanger public safety or to result in significant property damage **may result from the special event**; or 5) **a prior application for another special event on the same date has received temporary**

approval or issuance of a special permit.

- B. 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, but are not limited to 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 an Event Level 1 permit granted by the Superintendent, the Superintendent shall review the proposed amendment or modification and shall have the discretion to rescind or modify the permit due to changed conditions. For Event Types 2 and 3 and Event Type 1 determined by the SEAC, the Village Manager shall review the proposed amendment or modification and upon consultation with staff shall have the discretion to rescind or modify the permit due to changed conditions.
- C. If, after the special event permit has been issued, a determination is made that any of the representations and/or statements contained in the application including requested documents were materially false, the Village Manager or designee, may rescind or modify such permit.
- D. If at the time of the scheduled special event it is determined that any of the permit conditions are not being complied with, the Village Manager or designee, may terminate or suspend the event until such conditions are satisfied. Village staff may take all necessary actions to effectuate the Village Manager's determination.
- E. In addition to the authority to suspend or terminate a special event pursuant to section 226-9(D), the Village Manager or designee may close 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 residents and property owners of the village or the safety of participants and/or attendees at the special event.

F. In the event that a special event permit is rescinded prior to the scheduled event date, the applicant may appeal such determination to the Board of Trustees in writing. Following a public meeting, the Board of Trustees may affirm or overturn the rescission.

Section 226-10 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 \$500 nor more than \$2,000 for each offense, plus any costs incurred by the village 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 village 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 village as a result of the violation(s).

Section 226-11 No alterations to village property.

The issuance of a special event permit shall not be deemed to authorize any physical alteration to land or property owned by the village, including village 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 226-12 Severability.

If any part or provision of this chapter or the application thereof to any person or circumstance is adjudged to be invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in

which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this chapter or the application thereof to any other person or circumstances.

Section 2. Chapter 190 (Parks and Recreation) section 190-4 (Alcoholic beverages in Village Parks; permit required) is amended as follows with new matter underlined and deleted matter in [brackets].

Section 190-4 Alcoholic beverages in Village parks; permit required.

[A.] The sale, gift or consumption of alcoholic beverages, as the same are defined in the Alcoholic Beverage Control Law of the state, is prohibited within the area of any [Village park] **village-owned property including parks, streets, sidewalks, parking areas, public spaces** except upon the issuance of a [special] permit by the [Village Board of Trustees] **New York State Liquor Authority (SLA) in accord with the SLA's rules and regulations.**

[B. A permit for the sale, gift or consumption of alcoholic beverages, as the same are defined in the Alcoholic Beverage Control Law of the state, as required by Subsection **A**, shall be issued by the Village Board of Trustees only after written application has been made to the Village Clerk. Such application must be made to the Village Clerk at least 30 days prior to the date for which the permit is requested. The application shall state:

- (1) The name and address of the applicant and, if the applicant is a corporation, the names and addresses of the officers of the corporation.
- (2) The place, date and hours for which the application is requested.
- (3) The name and address of the person who will be in charge of the sale or gift of such alcoholic beverages.]

[C. Application fee. Each applicant for a permit required by Subsection **A** shall pay a filing fee set from time to time by resolution of the Village Board of Trustees with each application.]

Section 3. Chapter 186 (Parades) is deleted in its entirety with such deletion in [brackets].

[Section 186-1 Permit required.

It shall be unlawful for any person to cause a congregation of people at any public place within the Village or to participate in, conduct or accompany any organized parade or procession, other than a funeral procession, on the public streets, sidewalks or other public property in the Village unless an application has been previously filed and a permit granted therefor.]

[Section 186-2 Application; contents; filing.

An application for the permit required in § **186-1** shall be filed with the Chief of Police to the extent practicable not less than seven days before the event for which a permit is sought. The application shall be in writing and shall contain the following information, to be furnished by the person in official charge thereof:

- A. The names of all organizations or persons organizing or sponsoring the parade, procession or gathering.
- B. The purpose of the parade, procession or gathering.
- C. The date and hour of the parade, procession or gathering.
- D. If a parade or procession, the proposed route thereof and its beginning and terminating points; and if an assembly or gathering, the location thereof.
- E. The number and type of vehicles, if any, marching units and floats.
- F. The approximate number of persons participating.]

[Section 186-3 Action on application.

The Chief of Police shall investigate all applications for permits required in § **186-1**, and, where the information specified in § **186-2** has been furnished, provided that the proposed parade, procession or gathering can be held without undue interference with vehicular and pedestrian traffic within the Village, shall make an affirmative recommendation to the Village Manager, who shall issue the permit.]

[Section 186-4 Unlawful assemblies.

When any two or more persons are assembled and any one or more of them shall be engaged in violent or tumultuous conduct or shall threaten violence,

injury or intimidation against another, upon failure to disperse when ordered to do so by a police officer, all such persons so assembled shall be guilty of an offense and shall be punished as provided in § 186-5 of this chapter.]

[Section 186-5 Penalties for offenses.

Any person violating any of the provisions of this chapter shall, upon conviction thereof, be subject to the penalties as provided in Article III, General Penalty, of Chapter 1, General Provisions.]

Section 4. Chapter 68 (Alcoholic Beverages), section 68-3 (General Provisions), is amended with new matter underlined and deleted matter in **[brackets]**.

§ 68-3 General provisions.

- A. It shall be unlawful for any person to carry, deliver or transport, except in a closed and sealed container, or serve, drink or consume any alcoholic beverage, as such term is defined in the Alcoholic Beverage Control Law of the State of New York, upon any public sidewalk, street, alley, highway, park, playground, parking lot or other open public ground within the Village of Ossining, New York.
- B. This prohibition shall not apply to any person, group or organization granted a special event permit pursuant to the provisions of Chapter **[190] 226, [Parks and Recreation] Special Events, Parades and Public Gatherings**, or to persons serving, possessing or consuming alcoholic beverages in compliance with the terms, conditions and mandates of a lawfully issued license by the State of New York and/or in a sidewalk cafe which is operating in compliance with a duly issued permit and waiver, if applicable, in accordance with the provisions of Chapter **216, Sidewalk Cafes**. In the event that the said serving, possessing or consuming of alcoholic beverages is not in compliance with the Village or the State of New York laws, rules and regulations, then the serving, possessing and consuming of alcoholic beverages shall be prohibited.

Section 5. Effective date.

This local law shall become effective upon filing with the Secretary of State in accord with the Municipal Home Rule Law.

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