

LOCAL LAW NO. __ OF THE YEAR 2019

**A LOCAL LAW ESTABLISHING AMENDING CHAPTER 215 (ZONING)
OF THE TOWN CODE OF
THE TOWN OF PAWLING
ENTITLED “SPECIAL EVENTS”**

BE IT ENACTED by the Town Board of the Town of Pawling, County of Dutchess, as follows:

Section 1: Chapter 215 (Zoning) of the Code of the Town of Pawling is hereby amended with the insertion of a new section 215-44.2 to read as follows

Special Events Article I. General Provisions
§ 215.44.2-1. Purpose.

It is the intent of this chapter to establish procedures and requirements for conducting special events in the Town of Pawling to preserve the public peace, good order and the integrity of the use regulations established under the Zoning Code, to properly provide for the health, safety and welfare of the general public and to provide penalties for violations of the provisions herein.

§ 215.44.2-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

PARKING CAPACITY

For the purposes of this chapter, parking capacity shall be the number of cars, limousines or buses permitted on the site according to a site plan approved by the Town of Pawling Planning Board.

SPECIAL EVENT

Any temporary gathering, demonstration, performance, exhibition, amusement or activity that is not currently a permitted use of the property in the applicable zoning district or which requires a parking area to accommodate all vehicles transporting attendees to the event that is larger than the existing parking capacity of the site that is conducted or sponsored by a person, organization, entity or association, including, but not limited to, carnivals, circuses, fairs, bazaars, outdoor shows and concerts, parades, walks, runs, marathons, bicycle races or motorcycle rallies, which may involve one or more of the following:

- A. The closing of a public street.
- B. The use, blocking or restriction of Town property, roads or rights-of-way;
- C. The use of amplified sound exceeding the standards set forth in Chapter 215 Section 215-35 Performance Standards of the Code of the Town of Pawling.
- D. The sale of merchandise that is not ordinarily sold in the normal course of the applicant's business.
- E. The sale or service of food to the public with the exception of the following:
 - (1) On land used in agricultural production, the sale or service of food products composed

primarily of ingredients produced on site; or

- (2) On land used in agricultural production that maintains a winery, brewery, or farm winery license issued by the New York State Liquor Authority, the sale or service of food items which customarily complement wine tastings and that are ordinarily consumed while standing or walking and without the need for utensils.

- F. The substantial increase or disruption of the normal flow of traffic on any street or highway.
- G. The placement of portable toilets.
- H. The placement of temporary no-parking or directional signs or banners.
- I. The use of Town services that would not be necessary in the absence of such an event.

Events Article II. Permit Required and Procedure
§ 215.44.2-3. Permit required.

- A. To preserve public peace, good order and the health, safety and welfare of the residents of the Town of Pawling, special events shall be prohibited in the Town of Pawling unless a special event permit is obtained in accordance with the requirements set forth in this chapter and as follows:
 - (1) All special events shall require the issuance of a special event permit.
- B. The provisions of this chapter shall not apply to the following events:
 - (1) Any event held on property owned by any special district that is contained on site and has adequate parking, ingress, egress, traffic control and sanitary facilities to host such an event;
 - (2) Any event held on property owned by a not-for-profit for its own fundraising that is contained on site and has adequate parking, ingress, egress, traffic control and sanitary facilities to host such an event; and
 - (3) Occasional events on private residential properties hosted by the owner thereof to celebrate family events, holidays, charitable or other not-for-profit fundraisers; however, any use of residential property for profit, such as a venue for weddings or other events, is prohibited.

If, however, the attendance at the events described in this § 215.44.2-3(B) are expected to meet or exceed 500, including, without limitation, organizers, employees, vendors, exhibitors and spectators/participants, the owner or event sponsor must confirm with the Building Inspector at least 60 days prior to such event that all local, state, and federal laws, rules and regulations are complied with.

§ 215.44.2-4. Notification to Neighbors: As a condition precedent to submitting an application for any special event where the expected attendance exceeds 125 people, the applicant must send written notification to all property owners within the following radius of the property where the event will be held of the applicant's intent to apply for a Special Event Permit, by certified mail, return receipt requested:

- (1) If a subject property is located partially or wholly within a commercial zoning district, the Highway Business, or CD-5 District, a radius of 500 feet;
- (2) If a subject property is located partially or wholly within the R-3 or R-4 Zoning District, a radius of

300 feet; or

- (3) If a subject property is located partially or wholly within the R-1 or R-2 Zoning District; a radius of 150 feet.

The applicant shall obtain the most current addresses for the neighboring property owner's from the assessor's office. Such notice must include:

- (1) The location, date and expected attendance at the event;
- (2) A statement whether this is a one-time event or an application for a recurring event or a series of similar events (not to exceed six in a three-month period) that are of like size and scope, and if a series, the dates of each event;
- (3) The names and contact information for all property owners and the party hosting the event, including telephone numbers and email addresses; and
- (4) A copy of the parking/event plan as detailed in item D, above.

With the application the applicant must provide a notarized affidavit affirming that the certified mailings have been sent, a list of the property owners within the specified distances and copies of any and all receipts and return receipts.

§ 215.44.2-5. Application Requirements.

The following information and materials are to be submitted with an application for a special event permit. A single application may be made for a recurring event or a series of similar events (not to exceed six in a three-month period) that are of like size and scope.

A. A completed special event application form which includes the following information:

- (1) The name, address and telephone number(s) of the person(s) who will be organizing the event and who can be contacted prior to and during the event by Town officials.
- (2) The address of the event location.
- (3) The proposed dates and hours of the special event, including setup and shutdown times.
- (4) The expected maximum number of persons intended to use the property at one time and collectively, including organizers, employees, vendors, exhibitors and spectators/participants.
- (5) Expected number of automobiles and other vehicles intended to use the property at one time and collectively.
- (6) The name, address and telephone number of the person(s) who will be engaged in the preparation and/or sale of food, alcohol, or beer and a copy of the State Liquor Authority license and County Department of health.
- (7) The name, address and cellular telephone number of any security company which will work on the premises, and a description of the duties to be performed.
- (8) The dimensions of any tents to be utilized for the event. All tents erected in connection with an event will require an application to, and the approval of, the Building Department.
- (9) Certification that the property where the event is to take place is not subject to any covenant or restriction

limiting its use, or if the use is restricted by easement or otherwise, a copy of a survey or diagram depicting the easement area and any reserved area where development rights are intact.

(10) The applicant must provide a certificate of general liability insurance and declarations page from the policy naming the Town of Pawling as an additional insured with limits of \$2,000,000 per occurrence or such other limit as may be required by the Town Board for events where expected attendance exceeds 500 attendees.

(11) Affidavit pursuant to Chapter 67 of the Town Code, entitled "Application Processing" certifying that there are no violations on the property.

B. The appropriate application fee.

(1) The fees for special event permits shall be proscribed by a resolution of the Town Board.

C. A general description of the proposed event including:

(1) The purpose of the event and description of the nature of the activities to be carried on and the admission fee to be charged, if any.

(2) The names of groups, organizations, charities or individuals who shall benefit from the proceeds of the event.

D. A parking/event plan showing:

(1) The size of the property and its location in relation to abutting streets or highways.

(2) The size and location of any existing building(s) or structure(s) that will be in operation during the course of the event and any proposed building, structure or signs to be erected temporarily for the event.

(3) The location of the stage or tents, if any.

(4) The designated areas of use for spectators, exhibitors, vendors, employees and organizers.

(5) The location of all exits.

(6) The location of all fire extinguishers and other fire safety equipment. A statement specifying the precautions to be utilized for fire protection, including a plan or drawing, to scale, specifying the location of fire lanes and water supply for fire control.

(7) The location of all temporary utilities to be installed for the event, if any.

(8) The layout of any parking area for automobiles and other vehicles and the means of ingress and egress for such parking areas. The parking spaces must allow for 10' X 20' per car, as per the code of the Town of Pawling.

(9) A traffic control plan for vehicles entering and leaving the site for the proposed event.

(10) A plan for the use of live outdoor music, loudspeakers and other sounds which will be used, if any, and the type and location of speakers and other audio equipment. A statement of the maximum noise decibels contemplated at the Special Event at the site of the nearest adjoining or contiguous property.

- (11) A description of emergency access and facilities related to the event. A statement specifying the facilities to be available for emergency treatment of any person who may require medical or nursing attention.
- (12) Provisions to dispose of any garbage, trash, rubbish or other refuse.
- (13) The location and a description of any additional lighting to be utilized in conjunction with the event. No off-site lighting is allowed onto any adjoining property.
- (14) The location of sanitary facilities on site.
- (15) The location, method and manner that water will be supplied and distributed to those in attendance.

- E. A description of any signage to be displayed adjacent to a Town, county or state road, including size, location and dates of display. All signage must comply with all requirements of the Town of Pawling Town Code.
- F. A minimum cleanup deposit of \$250.
- G. The Building Inspector may require the applicant to send and provide certification that written notice was sent to every property owner abutting or adjacent to the property where the event is to be held, as shown on the current Town of Pawling assessment roll, and directly opposite (by extension of the lot lines through a street or right-of-way) of the property that is the subject of the application. Said notice shall include the date, time and location of the proposed special event.
- H. Notwithstanding the foregoing, the Town Board, upon request by an applicant, may waive in whole or in part any of the foregoing application requirements upon a finding that said requirements are not necessary for proper consideration of a permit application in accordance with the standards set forth in § 214.44.2-5E(1) through (15) or for the protection of health, safety and welfare. The Town Board's determination of any waiver request shall be in writing to the applicant and shall specify the reason for the grant or denial. If a waiver is granted, the Town Board may attach appropriate conditions to protect the public interest.

§ 215.44.2-6. Application Review Procedure and Standards.

- A. All applications for a special event permit must be submitted at least 60 days prior to a proposed event to the Town Building Department.
- B. Upon receipt of an application, the Building Inspector shall review the application, in conjunction with the Town Fire Marshall, and make a determination as to completeness. Upon making a determination that the application is complete, the Building Inspector shall cause the application and related documentation to be distributed to any Town, county or state agencies that may have jurisdiction over the event for their review and comment on any of the criteria set forth in § 215.44.2-5E of this article. Such referrals may include the Police Department, the Planning Department, the Building Department, the Office of the Zoning Board of Appeals, the Dutchess County Planning and Development, the Land Preservation Department, the Code Enforcement Department, the Fire Marshal, the Assessors' Office and/or the Town Attorney.

- C. Upon receipt of comments, the Building Inspector shall review the complete application and determine whether to grant the application, deny the application, or grant the application with conditions. In considering whether to recommend approval or denial of the application, the Building Inspector shall consider the following:
- (1) The size and capacity of the site to accommodate the proposed event.
 - (2) The facilities available.
 - (3) The availability of highways and other means of transportation to and from the site.
 - (4) The impact of the event on the safe and orderly movement of traffic within and contiguous to the event.
 - (5) The need for security/law enforcement at the event.
 - (6) The impact of the event on fire and police protection and ambulance service to the areas contiguous to the event and to the Town in general.
 - (7) The impact of the event on the movement of firefighting equipment or ambulance service to the Town or to areas contiguous to the event.
 - (8) Whether the owner, applicant or event sponsor has violated a previously issued special event permit.
 - (9) Verification that there are no outstanding violations on the property at which the event will be held or any outstanding or unsatisfied conditions of a Town agency approval, including, but not limited to, those of the Planning Board or the Zoning Board of Appeals.
 - (10) Verification that the granting of the permit will not violate any existing covenants or easements on the property.
 - (11) Whether a permit has been granted for a prior event that was the same or substantially similar in size and scope to the event applied for and/or resulted in the impacts defined in Subsection E(4), (5), (6), (7) and (8) above.
 - (12) Whether the frequency of prior or proposed special events on the site constitutes a change or intensification of the permitted use of the property necessitating a use variance or further site plan review.
 - (13) If an applicant is requesting a special event permit that was held the previous year, the verification must be submitted from those charities listed on the previous application.
 - (14) Any other matters that relate to the health, safety and welfare of the general public.
 - (15) At any event where attendance is expected to exceed 500, including, without limitation, organizers, employees, vendors, exhibitors and spectators/participants, the Building Inspector shall ensure that all local, state and federal law, rule and regulation is complied with.
- D. A deposit shall be made in an amount to be determined prior to issuance of the permit based upon the estimated direct costs attributable to additional police/sheriffs and highway costs associated with the event. After the event, the deposit will be used to cover such costs, and any monies remaining will be returned to

the applicant.

- E. Where the Building Inspector determines that there is no specific Town benefit from the event or that the event is conducted for profit, an additional deposit shall be made in an amount to be determined prior to issuance of the permit based upon the estimated direct costs attributable to additional police, highway and cleanup costs associated with the event. After the event, the deposit will be used to cover such costs, and any monies remaining will be returned to the applicant. If the costs incurred by the Town exceeds the amount deposited, the applicant shall be responsible for the additional costs incurred by the Town as a result of the special event.
- F. A special event permit is not transferable and shall expire at the close of the event(s) for which it is issued.
- G. The special event permit issued hereunder shall be displayed on the premises during the special event and shall be available for inspection.
- H. Applications for tent permits required for any event must be submitted directly to the Building Department.
- I. At the sole discretion of the Building Inspector, applications that are submitted less than 60 days prior to the proposed event may be rejected or be considered subject to the applicant paying a late processing fee.

§ 215.44.2-7. Appeal from denial of a special event permit.

An applicant who is denied a permit by the Building Inspector may apply to the Town Board for reconsideration of the application by filing an appeal with the Town Clerk within 10 days of the date of the denial. A complete copy of the application shall accompany the request for reconsideration. The Town Board may, following a public hearing, affirm, amend or reverse the determination of the Building Inspector's prior decision subject to any conditions deemed appropriate under the circumstances.

Article III. Special Events Requiring Town Board Approval

§ 215.44.2-8. Events held on Town lands or events exceeding 1,000 attendees.

A. Any event held on property owned or controlled by the Town or any event where the expected attendance exceeds 1,000 people shall be subject to approval by resolution of a majority of the Town Board. All applications for such an event shall be submitted to the Building Inspector no less than 60 days prior to the proposed event. After review of the application, the Building Inspector shall forward the application to the Town Board with a recommendation to grant the application, deny the application, or grant the application with conditions. In reviewing applications for such events, the Town Board may consider the following criteria in addition to the criteria set forth in § 215.44.2-5C above:

- (1) The size of the premises in relation to the number of people attending the event.
- (2) The sufficiency of arrangements made to control traffic, parking, noise, lighting and refuse.
- (3) The frequency of events proposed or approved for the premises and whether the frequency is so great that the events constitute a persistent usage of the property incompatible with its character or with that of the surrounding area.
- (4) Conflicts with ordinary public use of the land, roads or facilities involved.
- (5) Whether the applicant has been convicted for failure to comply with the terms of this chapter within the past three years.

- (6) Adherence to the Town Board policy of discouraging events at Town beaches and parks from the Friday before the observance of Memorial Day until Labor Day.
- (7) If two or more events with an expected attendance of more than 1,000 people are scheduled for the same date and are within a half-mile radius of each other, the Town Board will determine if there are adequate resources for the events. If there are not sufficient resources to ensure public health and safety, the Town Board shall deny one or more permits if the impacts of the events cannot be mitigated. When deciding which event to deny, the Town Board shall consider the following:
 - (a) Whether the event is recurring.
 - (b) Whether the site has been subject to a violation within the last three years.
 - (c) The date the permit application was submitted.
 - (d) If events occurred the prior calendar year, the Town Board shall consider what their impact was on that area of the Town.
 - (e) Whether the event will yield a donation to one or more local charities.

B. For any special event that is to be held on land owned, leased or controlled by the Town of Pawling, the application shall include the following:

- (1) A completed special event application form which contains the following information:
 - (a) The name, mailing address, e-mail address and telephone number(s) of the person(s) who will be organizing the event and who can be contacted prior to and during the event by Town officials.
 - (b) The proposed event location and type of event.
 - (c) The proposed dates and hours of the special event, including setup and shutdown times.
 - (d) The expected maximum number of persons intended to use the property at one time and collectively, including organizers, employees, vendors, exhibitors and spectators/participants.
 - (e) If there are any special requirements needed for the event, including, but not limited to, police presence or road closures.
- (2) An application fee as set by the Town Board by separate resolution.
- (3) A certificate of insurance and declarations page of each policy for not less than \$2,000,000 naming the Town of Pawling as an additional insured.
- (4) A minimum cleanup deposit of \$250.
- (5) Where the Town determines that there is a specific benefit for the event or that the event is conducted for profit, an additional deposit shall be made in an amount to be determined prior to issuance of the permit based upon the estimated direct costs attributable to additional police, highway and cleanup costs associated with the event. After the event, the deposit will be used to cover such costs, and any monies remaining will be returned to the applicant.

(6) Any additional information, licensing and permits required by the Town Clerk and/or Building Department.

(7) The Town Board may require the applicant to engage the services of licensed security guards for the event. In such case, the applicant must provide the Town Board with a copy of the contract to provide security evidencing that the guards are licensed.

C. For any special event where the expected attendance exceeds 1,000 attendees, the application shall include all information required under § 215.44-4A, C, D and E, as well as the following:

(1) An application fee of as set by the Town Board by separate resolution.

(2) A certificate of insurance and declarations page from each policy of not less than \$2,000,000 naming the Town of Pawling as an additional insured.

(3) The Town Board may require the applicant to send and provide certification that written notice was sent to every property owner abutting or adjacent to the property where the event is to be held, as shown on the current Town of Pawling assessment roll, and directly opposite (by extension of the lot lines through a street or right-of-way) of the property that is the subject of the application. Said notice shall include the date, time and location of the proposed special event.

(4) The Town Board may require the applicant to engage the services of licensed security guards for the event. In such case, the applicant must provide the Town Board with a copy of the contract to provide security evidencing that the guards are licensed.

D. Notwithstanding the foregoing, the Town Board, upon request by an applicant, may waive in whole or in part any of the foregoing application requirements upon a finding that said requirements are not necessary for proper consideration of a permit application or for the protection of health, safety and welfare. The Town Board resolution shall specify the reason for the grant or denial. If a waiver is granted, the Town Board may attach appropriate conditions to protect the public interests.

Article IV. Enforcement

§ 215.44.2-9. Modification or rescission of permit.

If, after a permit is issued, the Town Board determines that any of the representations and/or statements contained in the application are materially inaccurate or any of the conditions of the permit have not been complied with, the Town may serve the permittee's agent a notice of rescission of special permit specifying the manner in which the permittee has not complied with the terms of its permit and/or identifying the incorrect information supplied in the application. The Town Board may, for good cause, modify or rescind such permit, absolutely or upon conditions.

§ 215.44.2-10. Penalties for offenses.

A. It shall be unlawful for any owner, occupant or his/her agent or any other person to fail to comply with any provisions of this chapter or to fail in any manner to comply with a written notice, directive or order of the Director of Code Enforcement, Zoning Inspector or the Police/Sheriff Department, or to conduct any special event in a manner not in compliance with a permit issued pursuant to this chapter and with the provisions of

this Code.

- B. For each offense against any of the provisions of this chapter or failure to comply with a written notice, directive or order of the Director of Code Enforcement, Zoning Inspector or the Police/Sheriff Department within the time fixed for compliance therewith, the owner, occupant or his/her agent or any other person who commits, takes part or assists in the commission of any such offense or who shall fail to comply with a written order of the Director of Code Enforcement, Zoning Inspector or the Police/Sheriff Department shall be a misdemeanor and shall be subject to the following:
 - (1) Failure to obtain a permit. Any person conducting a special event that is regulated under this chapter without first obtaining a permit according to the procedures outlined herein shall be subject to a fine of not less than \$1000 and not more than \$3000.
 - (2) Failure to comply with any terms of a permit. Any person failing to comply with the terms of a permit shall be subject to a fine of not less than \$1000 and not more than \$3000.
 - (3) For each subsequent offense of§ 215.44.2-9B(1) or (2), violators shall be guilty of a misdemeanor and/or subject to a fine of not less than \$3,000 nor more than \$5,000.
- C. No new special event permits will be issued to any property owner, occupant or his/her agent if such person is a named defendant in an outstanding or unresolved violation of this chapter.
- D. The Town may also maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this chapter.

Section 2. Severability.

If any part or provision of this local law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or 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 local law or the application thereof to other persons or circumstance, and the Town Board of the Town of Pawling hereby declares that it would have passed this local law or the remainder thereof had such invalid application or invalid provision been apparent.

Section 3: Effective Date.

This local law shall take effect immediately upon filing in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

Dated: _____, 2019

BY THE ORDER OF THE TOWN BOARD
TOWN OF PAWLING