



VILLAGE OF MENOMONEE FALLS, WI

Office of the Village Attorney

Memorandum

TO: Mark Fitzgerald
Village Manager

FROM: Michael J. Morse
Village Attorney

DATE: October 16, 2017

CC: Board of Trustees Chief Ruzinski Arlyn R. Johnson
Janice Moyer Ast. Chief Waters Ast. Village Manager
Village Clerk Police Department

RE: **October 2, 2017 General Government Committee and Village Board Agendas:**
Adoption of an ordinance amending or repealing various provisions of the Municipal Code to eliminate certain licenses and related fees and to create regulations related to special events.

INTRODUCTION

This matter was on the Committee's October 2 agenda for discussion. It is on the Committee's October 10 agenda for consideration and a possible recommendation to the Village Board. It is on the Village Board's agenda for possible final action if a recommendation is made by the committee.

It is on both agendas at the Village Clerk's request. If adopted by the Village Board, the proposed ordinance will update Village licensing procedures by eliminating certain obsolete permits, regulations and related fees; and consolidating several other permits and licenses into a general set of standard regulations that would apply to "special events".

In addition to this memorandum, the agenda packet contains two other documents. One is the proposed enacting ordinance. If adopted by the Village Board, Section 3 of the enacting ordinance at pages 1-8 would create a new Article II of Chapter 10 of the Municipal Code. I discuss the proposed new Article II and the other changes in the next section of this memorandum.

The other document is a copy of the current Chapter 10, regulates amusements and entertainments. I am providing it for background purposes. It is the chapter most significantly affected if the Board adopts the special event regulations set out in the proposed enacting ordinance.

The special event regulations in the new Article II will replace current Village regulations in Chapter 10 for carnivals, circuses and street fairs. The proposed regulations the regulation of block parties and parades currently contained in Chapter 106 of the Municipal Code (the Traffic

Code). The proposed enacting ordinance also eliminates the license fees for these events. Finally, the proposed enacting ordinance will eliminate some licenses, permits and related regulations that the Village Clerk's office has determined are obsolete.

OVERVIEW OF THE PROPOSED ENACTING ORDINANCE

A. Introduction

Subsection B pages 2-3 below contains a summary overview of 16 of the 17 sections comprising the proposed enacting ordinance. Section 3 of the enacting ordinance contains the new special event regulations. I review these regulations separately in Subsection C of this memorandum on pages 4-5.

B. Overview of Enacting Ordinance Sections Except Section 3

1. **Section 1** is set out on page 1 of the enacting ordinance. It repeals current Article II of Chapter 10. This section will be replaced by the new Article II, which will be created under Section 3 of the enacting ordinance.
2. **Section 2** is set out on page 1 of the enacting ordinance. It repeals Article V of Chapter 10, which contains regulations for dancehalls, teenage clubs, public dances and tavern amusements. The Village Clerk is recommending these regulations be repealed as outdated. Some of these events are also regulated under existing zoning regulations or under state or local alcohol regulations. Others no longer occur in the Village.
3. **Section 3** is set out on pages 1-8 of the enacting ordinance. It creates the new special event regulations. I provide an overview of those regulations in Subsection B of this memorandum beginning at pages 4-5 below.
4. **Section 4** is set out on page 8 of the enacting ordinance. It removes an archaic reference to the former position of Clerk-Treasurer, and replaces it with a reference to the current position of Village Clerk.
5. **Section 5** is set out on page 8 of the enacting ordinance. It also removes an archaic reference to the former position of Clerk-Treasurer, and replaces it with a reference to the current position of Village Clerk.
6. **Section 6** is set out on page 8 of the enacting ordinance. It revises the title to Chapter 10 of the Municipal Code in light of the revisions to the various regulations contained in the enacting ordinance. The current title of Chapter 10 is *Amusements and Entertainments*. The new title will be *Amusements, Entertainments and Special Events*.
7. **Section 7** is set out on page 8 of the enacting ordinance. It repeals the regulations in the Traffic Code (Chapter 106) related to neighborhood block parties. Block parties will now be regulated in Chapter 10 under the special event regulations.
8. **Section 8** is set out on page 8 of the enacting ordinance. It repeals the regulations in the Traffic Code (Chapter 106) related to parades. Parades will now be regulated in Chapter 10 under the special event regulations

9. **Section 9** is set out on page 8 of the enacting ordinance. It revises the title of Article VII of the Traffic Code (Chapter 106). This article is currently entitled *Parades, Street Closings and Block Parties*. Since block party and parade regulations are being moved to the special event regulations in Chapter 10, the only regulations remaining in Article VII of the Traffic Code are those involving street closures. Section 9 of the enacting ordinance removes the references to block parties and parades from the title of Article VII of the Traffic Code.
10. **Section 10** is set out on page 9 of the enacting ordinance. It repeals § 42.10(1) of the Municipal Code, which establishes the fees for carnival and street fair permits. Carnivals and street fairs will be regulated as special events. The Village Manager is proposing that there be no fees for special event licenses.
11. **Section 11** is set out on page 9 of the enacting ordinance. It repeals § 42.10(4) of the Municipal Code, which establishes the fees for permits public dances, dancehalls and teenage clubs. As noted above, these regulations are being repealed.
12. **Section 12** is set out on page 9 of the enacting ordinance. It repeals § 42.106(b) of the Municipal Code, which establishes the fees for neighborhood block party permits. Block parties will be regulated as special events. As noted above, the Village Manager is proposing that there be no fees for special event licenses.
13. **Section 13** is set out on page 9 of the enacting ordinance. It amends an exemption in the transient merchant regulations of Chapter 70 of the Municipal Code. The current exemption in § 70.22(12) exempts transient merchants from local regulations if they are participating in special events authorized by the Village Board. The amendment broadens the exemption to cover special event licenses issued by the Village Manager under the new regulations.
14. **Section 14** is set out on page 9 of the enacting ordinance. It revises a regulation in the Traffic Code regarding street closures. As revised, the regulation requires that a person seeking to close a street as part of a special event must obtain a special event license.
15. **Section 15** is set out on page 9 of the enacting ordinance. It is a standard section in Village enacting ordinances, and addresses possible unintended conflicts between the changes in the enacting ordinance and existing code sections.
16. **Section 16** is set out on page 9 of the enacting ordinance. It is a severability clause, which provides that if a court were to find a part of the enacting ordinance to be invalid for some reason, the rest of the enacting ordinance would still be valid. It is a standard section in Village enacting ordinances.
17. **Section 17** is set out on page 9 of the enacting ordinance. It establishes the effective date of the ordinance. It will become effective on December 31 of this year, and will apply to all events occurring on or after January 1 of 2018.

C. OVERVIEW OF PROPOSED SPECIAL EVENT REGULATIONS IN SECTION 3 OF THE ENACTING ORDINANCE.

1. **Section 10-21 [Purpose]** is set out on page 1 of the enacting ordinance. It notes the legislative purpose behind the proposed regulations.
2. **Section 10-22 [Definitions]** is set out on pages 1-2 of the enacting ordinance. It contains definitions that apply to the special event regulations. It defines a *special event* as a temporary gathering of people involved in at least one of six categories of events listed in the definition. The categories include several events currently regulated in various parts of the Municipal Code: block parties, parades, street fairs, street closures, carnivals, circuses, and theatrical performances or exhibits.
3. **Section 10-23 [Permit required; exemptions]** is set out on pages 2-3 of the enacting ordinance. Subsection (a) sets out the preliminary requirement to obtain a special event license. The Village Manager will be recommending that there be no fee for special event licenses.

Subsection (b) identifies activities that are exempt from the licensing requirements. It notes certain specific exempted activities:

- Funeral processions,
- Certain school-related activities,
- Events occurring on property owned or controlled by another governmental agency, and
- Theatrical performances at schools or churches.

Subsection (b) also exempts events that may be subject to a separate and specific agreement approved by the Village Board. This may include events that are large enough to warrant a more significant use of Village resources. Any agreement approved by the Village Board can establish fees or costs for Village-provided services.

4. **Section 10-24 [Requirements]** is set out on pages 3-4 of the enacting ordinance. It imposes certain requirements on license applicants, and sets out the application review process.
5. **Section 10-25 [Regulations]** is set out on pages 4-6 of the enacting ordinance. It contains additional regulations for special events. Some regulate parking, sanitation facilities, illumination and fire prevention and refuse removal. Others address the following activities:
 - Limitations on the duration of the event and hours of operation. The regulations require that the applicant specify the days upon which the event will occur. It also forbids special events between the hours of 10 PM and 6 AM.
 - Estimated attendance. An applicant is required to specify an estimated maximum daily peak number of people reasonably expected to attend.
 - Security. Unless waived by the Village Manager, an applicant must submit a security plan for any special event that is open to the public, or includes the sale of merchandise

or alcohol beverages. An applicant will work with the Police Department to create the security plan.

- Notification of neighbors. If the special event will require closing or partially closing one or more streets, the applicant must provide reasonable advance notice to the property owners abutting the location of the special event at least ten (10) days in advance of the event. They are also asked to supply the Village with the names and addresses of the affected neighbors.
 - Barricades. The ordinance requires that barricades be used for street closures. They also may be required as part of a security plan. The applicant may only use barricades provided by the Village. This is to ensure that the barricades used for special events meet the standards set forth in the manual on uniform traffic control devices.
 - Music or amplified sound. The ordinance imposes regulations on sound levels. In addition, it also provides that there shall be no music or amplified sound between 10 PM and 7 AM.
6. **Section 10-26 [Insurance, indemnification and hold harmless]** is set out on page 6 of the enacting ordinance. It imposes certain insurance requirements on parades or street fairs or an event where the Village Manager requires insurance. It specifies minimum insurance amounts, and requires an endorsement naming the Village as an additional insured. It requires that an event organizer hold the Village harmless and indemnify the Village for risks arising out of the event.
 7. **Section 10-27 [Application review and decision by the Village Manager]** is set out on pages 6-7 of the enacting ordinance. It sets out the procedure and standards the Village Manager is to follow in making the decision whether to approve the issuance of a license, modify and approve the issuance of the license, approve issuance with conditions, or deny the application for a license. It requires that the Village Manager notify the applicant of his decision within five days of making it.
 8. **Section 10-28 [Special event cancellation or suspension]** is set out on pages 7-8 of the enacting ordinance. It authorizes the Village Manager to suspend or cancel an event under certain conditions.
 9. **Section 10-29 [Appeals]** is set out on page 8 of the enacting ordinance. It sets out an appeal procedure to the Village Board for individuals who are aggrieved by a decision of the Village Manager relating to an application for a special event license.
 10. **Section 10-30 [Penalty]** is set out on page 8 of the enacting ordinance. It provides for the imposition of forfeitures if a special event is held in violation of the new regulations.