

Village of Menomonee Falls Ordinance No. ____-O-17

AN ORDINANCE AMENDING OR REPEALING VARIOUS PROVISIONS OF THE MUNICIPAL CODE OF THE VILLAGE OF MENOMONEE FALLS TO ELIMINATE CERTAIN LICENSES AND RELATED FEES AND TO CREATE REGULATIONS RELATED TO SPECIAL EVENTS

WHEREAS, it is deemed to be in the best interest of the Village of Menomonee Falls that the Municipal Code of the Village of Menomonee Falls be further modified and amended in the manner hereinafter more particularly set forth;

NOW, THEREFORE, the Board of Trustees of the Village of Menomonee Falls do hereby ordain as follows:

Section 1. Article II [Carnivals, Circuses and Street Fairs] of Chapter 10 [Amusements and Entertainments] of the Municipal Code is repealed.

Section 2. Article V [Dancehalls, Teenage Clubs, Public Dances and Tavern Amusements] of Chapter 10 [Amusements and Entertainments] of the Municipal Code is repealed.

Section 3. Article II [Special Events] of Chapter 10 [Amusements and Entertainments] of the Municipal Code is created to read as follows:

Article II. Special Events

Sec. 10-21. Purpose

The Village of Menomonee Falls recognizes special events organized by individuals, private organizations, and non-profits serve an important role in enhancing the village's quality of life and can provide benefits to the community as a whole.

The village will review applications for special event licenses for the purpose of assisting the applicant in complying with the applicable public safety requirements.

The purpose of this article is the regulation of special events for the safety, security, health and well-being of participants and the public, and the protection of village property.

Sec. 10-22. Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means the organizer of a special event, who applies for a permit under this Section

Parade means any parade, march, ceremony, show, exhibition, pageant or procession of

any kind, or any similar display, in or upon any street or other public property.

Private property means any property that does not fall within the definition of *Public Property* as defined in this section.

Public property means all of the following:

- (1) all rights of way identified by the Village of Menomonee Falls as such;
- (2) all public streets, sidewalks, parking lots, pedestrian paths, bicycle paths, and similar ways over which the public has a right to travel;
- (3) any village owned parks or properties;
- (4) any property under the jurisdiction of the Village of Menomonee Falls; and
- (5) any property owned by or under the jurisdiction of any other government entity.

Special event means a temporary gathering of people involving at least one of the items listed below. The village manager shall have the exclusive authority to determine whether an event meets the definition of “special event.”

- (1) A public event on public property;
- (2) A public event on private property, unless controlled by a conditional use permit per Chapter 122 of this Code;
- (3) Neighborhood block party;
- (4) Parade, street fair;
- (5) Street closure;
- (6) Carnival, circus, theatrical performance, exhibit.

Sec. 10-23. Permit required; exemptions

- (a) *Permit required.* No person or entity acting as an event organizer shall set up for, hold, or conduct a special event, within the municipal boundaries of the Village of Menomonee Falls without first obtaining a special event license. The village manager shall have the exclusive authority to determine whether or not a license is required for any particular event. Neither the village’s review of any license application nor its subsequent issuance of a license shall be construed as acceptance by the village or its representatives of any liability or responsibility for any injury or damage relating to the special event. A special event license is temporary in nature, and does not vest any permanent rights.
- (b) *Exemptions.* This article shall not apply to

- (1) Funeral processions;
- (2) Students going to and from school classes or participating in educational activities, provided that such conduct is under the immediate direction and supervision of the proper school authorities;
- (3) Events occurring on property owned or controlled by another governmental agency;
- (4) Theatrical performances at schools or churches and performed within the particular school's or church's own building;
- (5) Events that are subject to a separate and specific agreement, which is approved by the village board of trustees, to hold the event pursuant to the terms of the individual agreement. The agreement may modify the terms or requirements of this article and establish fees or costs for any village provided services under the agreement, provided the modification(s) meet the intent of this article.

Sec. 10-24. License Requirements

- (a) Completed applications for a special event license shall be filed with the village clerk. Applications shall be on a form provided by the village and signed by the person or an authorized representative of the entity organizing the special event. The name(s), residence(s), and age(s) of the applicant(s) must be stated on the application. The application must be filed no later than 45 days prior to the event or first day of the event unless a shorter period of time is approved by the village manager.
- (b) Special events must comply with all applicable village ordinances and requirements, including but not limited to traffic rules, street closures, park rules, state health laws, fire codes, building codes, zoning, food service, and fermented malt beverage and liquor license requirements, unless otherwise waived herein.
- (c) The applicant shall identify a designated person who can be contacted at any time by any village representative, such as police, fire or public works, regarding the event.
- (d) The Clerk shall refer the application for review and comment by the following village departments: clerk services, police, fire, public works, and parks; and may refer the application to additional village staff as the village manager believes is warranted by the specific circumstances of the event. Village departments shall notify the village manager of their review and comments on the application contingent upon changes or modifications to the original request, or take no position on the application.
- (e) The approval of any special event license application shall also be conditioned

upon the approval of all other necessary permits, licenses, and inspections when any one or more of the following conditions apply:

- (1) A temporary extension of an existing licensed premises (fermented malt beverages and/or intoxicating liquor license);
 - (2) Temporary Class “B” license for the sale of fermented malt beverages;
 - (3) Temporary “Class B” license for the sale of wine;
 - (4) Tents erected for use at the special event;
 - (5) Food peddler license;
 - (6) Park rental permit;
 - (7) Fireworks displays; and
 - (8) Any other permit or license required by ordinance of the Village of Menomonee Falls.
- (f) The applicant shall use all reasonable efforts to ensure that participants and attendees comply with all village ordinances, traffic rules, park rules, state health laws, fire codes, and other licensing requirements, unless otherwise waived herein.

Sec. 10-25. Regulations

Applicants shall also comply with and applications shall address the regulations set out in this section. Supporting material, if required, must be attached to the application. Additional information may be required upon review by village departments.

- (1) *Duration of event and hours of operation.*
 - a. Special events will not be open between the hours of 10 p.m. and 6 a.m.
 - b. The application shall specify the days upon which the event shall occur or, in the case of a seasonal or recurring events, the days within the calendar year upon which the event will occur.
 - c. The application shall also specify the hours during which pre-event set up and post event takedown operations will occur, and no such pre-event and post-event activities may be conducted other than as specified on the application and subsequently approved.
- (2) *Maximum attendance.* a special event application shall specify the maximum daily peak number of people reasonably expected to attend.
- (3) *Parking.*

- a. The applicant shall take all reasonable precautions to minimize adverse effects on the neighborhoods directly affected by parking and traffic related to the special event.
 - b. The application shall include a parking plan that identifies areas the applicant has reserved for off street parking, or which the applicant reasonably expects to be utilized by event participants and attendees for off-street parking.
- (4) *Toilets and sanitation facilities.* The applicant shall provide at the applicant's cost sufficient toilet and sanitation facilities for the estimated maximum daily peak number of expected attendees during the special event.
- (5) *Security.* Unless waived by the village manager, the applicant shall submit a security plan for the special event if the special event is open to the public, or includes the sale of merchandise or alcohol beverages. The applicant shall work with the Police Department to create a security plan if one is required.
- (6) *Illumination.* If the special event is to continue during hours of darkness, the applicant shall comply with all applicable village regulations related to illumination.
- (7) *Fire Prevention and Detection.* All fire protection applicable to the special event activities on the premises, shall be provided by the applicant as required by the Fire Prevention and Protection Code, including alarms, extinguishing devices, fire lanes, and fire escapes, if warranted by the type of special event.
- (8) *Refuse removal.* The applicant shall be responsible for all litter, refuse, and recycling generated by the special event; and shall take all reasonable efforts during the event for removing all litter, refuse, and recycling created during the event within 12 hours after the conclusion of the event, or in the case of an event over several days, each day at the end of that day's event.
- (9) *Event(s) on private property.* If the event is to take place on private property the applicant must obtain the permission of the property owner to use the property for the special event. The applicant must submit with the application the written evidence of the permission of the property owner to use the property for the special event.
- (10) *Notification to Neighbors.* If the special event will require closing or partially closing one or more streets, the applicant shall provide reasonable advance notice to property owners abutting the location of the special event at least (10) ten days in advance of the event. The names and addresses of all affected neighbors, businesses, or schools must be submitted with the application. The applicant shall include the date, time, and location/route to all parties that abut the location of the special event and any other areas required during review

by village departments.

- (11) *Barricades.* Barricades shall be required for street closures; and may be required by a security plan. Applicant shall use only barricades provided by the village. All barricades used for a special event shall meet standards set forth in the Manual on Uniform Traffic Control Devices.
- (12) *Music or amplified sound.* Sound levels generated by the special event shall not exceed a level which unreasonably disturbs the peace and quiet of residents in the vicinity of the special event, taking all circumstances into consideration. In addition, there shall be no music or amplified sound between 10 P.M and 7 A.M.

Sec. 10-26. Insurance, indemnification and hold harmless

- (a) *Insurance.* The applicant shall file with the village clerk a certificate of insurance for a parade or street fair or for an event where the village manager requires insurance. The applicant shall obtain, at the applicant's sole expense, a policy of public liability insurance from an insurer licensed to issue policies in the State of Wisconsin, with limits of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate, with an endorsement naming the Village of Menomonee Falls as an additional insured and loss payee. When insurance is deemed necessary, a special event license will not be issued until a certificate of insurance is received by the village clerk.
- (b) *Indemnification and hold harmless.* Insofar as permitted by law and as a condition of receiving a permit under this article, an organizer of a Special Event shall be required to sign an agreement in a form acceptable to the Village in which the organizer agrees to indemnify and to hold harmless the Village of Menomonee Falls and its departments, employees and agents from any liability to any person resulting from any damage or injury to property or any person which occurs in connection with the permitted event proximately caused by any actions or inactions of the event organizer, the organizer's officers, employees, or agents, or any person under the control of the event organizer.

Sec. 10-27. Application review and decision by village manager

- (a) The village manager shall review the comments and recommendations submitted by village staff and shall approve, modify and approve, approve with conditions or deny the application. The village manager shall notify the applicant of this decision within 5 business days of making the decision.
- (b) *Standards.* To the extent permitted by law, the village manager may base the decision regarding an application for a special event permit on one or more of the following:
 - (1) A prior experience of the applicant in holding any event, or in holding the

special event which is the subject of the application, will be considered and may impact the issuance of special event permits. The village manager may deny an application for a permit if the applicant has on prior occasions made material misrepresentations regarding the nature or scope of any event or activity previously permitted, has held prior special events without proper permitting or licensing, or has violated the terms of a prior permit issued to or on behalf of the applicant.

- (2) A permit may be denied, or conditions placed thereon, based upon considerations of the health, safety, and welfare of the community, and of the anticipated costs of holding such event.
- (3) The application is not fully completed and applicant failed to include additional information as requested;
- (4) The application contains material falsehood or misrepresentations;
- (5) The applicant is not legally allowed to sign the application on behalf of an organization;
- (6) The intended special event, use or activity would present an unreasonable danger to the health and safety of individuals expected to participate in the event, the neighborhood in which the event will take place, or village property and resources required to be involved with the proposed event;
- (7) Activities expected to occur at the intended special event are prohibited by law;
- (8) The intended special event would result in a concentration of persons, vehicles, or things which cannot be supported at the requested time or location due to a lack of sufficient open areas, streets, offsite parking, or traffic controls.
- (9) Failure to provide an insurance certificate, when required.

Sec. 10-28. Special event cancellation or suspension

The village manager may suspend or cancel a special event license at any time and without prior notice if:

- (1) The applicant fails to comply with any conditions placed on the license,
- (2) The applicant violates the requirements of this article or any other applicable federal, state, local laws;
- (3) Conditions exist which would adversely affect public health or safety;
- (4) Conditions exist that would place facilities, grounds, or other natural resources at

a substantial risk of damage or destruction if the special event were permitted to take place.

Sec. 10-29. Appeals

Any person aggrieved by any decision of the village manager relating to the granting, denial, suspension or cancellation of a special event license may appeal the decision to the village board. Such appeal shall be filed with the village clerk within (30) thirty days after the action taken or the notification to the applicant of the decision regarding the special event license.

Sec. 10-30. Penalty

In addition to any other penalty, any person convicted of violating any of the provisions of this article or any of the conditions of the license issued in accordance with this article shall be subject to a forfeiture as provided by Section 1-7 of the Menomonee Falls Municipal Code.

Section 4. Section 10-107 [Application and investigation] of Division 2 [Arcade License and Device Permit] of Article IV [Amusement Devices and Arcades] of Chapter 10 [Amusements and Entertainments] of the Municipal Code is amended by deleting the term *clerk-treasurer* where it appears in subsections (a) and (b) of Section 10-107 and replacing it with the term *clerk*.

Section 5. Section 10-108 [Issuance] of Division 2 [Arcade License and Device Permit] of Article IV [Amusement Devices and Arcades] of Chapter 10 [Amusements and Entertainments] of the Municipal Code is amended by deleting the term *clerk-treasurer* where it appears in subsections (a) and (b) of Section 10-108 and replacing it with the term *clerk*.

Section 6. The title of Chapter 10 of the Municipal Code is amended to read as follows by adding the double underlined language (addition) and deleting the language highlighted with the strikethrough feature (~~delete~~):

Amusements, ~~and~~ Entertainments and Special Events

Section 7. Sec. 106-257 [Neighborhood block parties] of Division I [Generally] of Article VII [Parades, Street Closings and Block Parties] of Chapter 106 [Traffic and Vehicles] of the Municipal Code is repealed.

Section 8. Division 2 [Parades] of Article VII [Parades, Street Closings and Block Parties] of Chapter 106 [Traffic and Vehicles] of the Municipal Code is repealed.

Section 9. The title of Article VII of Chapter 106 [Traffic and Vehicles] of the Municipal Code amended to read as follows by deleting the language highlighted by the strikethrough feature (~~delete~~):

~~Parades, Street Closings and Block Parties~~

Section 10. Subsection (1) [Carnival and street fairs permits] of Section 42-10 [Amusements and entertainments] of Article I [In general] of Chapter 42 [Fees] of the Municipal Code is repealed.

Section 11. Subsection (4) [Public dances and dancehalls and teenage clubs] of Section 42-10 [Amusements and entertainments] of Article I [In general] of Chapter 42 [Fees] of the Municipal Code is repealed.

Section 12. Subsection (b) [Neighborhood Block Parties] of Section 42-106 [Traffic and Vehicles] of Article I [In general] of Chapter 42 [Fees] of the Municipal Code is repealed.

Section 13. Subsection 12 of Section 70-22 [Exemptions] of Division 1 [Generally] of Article II [Peddlers, Solicitors and Transient Merchants] of Chapter 70 [Peddlers, Solicitors and Transient Merchants] of the Municipal Code is hereby amended to read as follows by adding the double underlined language:

Sec. 70-22. Exemptions.

...

- (12) This article does not apply to transient merchants while doing business at special events authorized by the village board or the village manager under Chapter 10 of the Municipal Code.

Section 14. Paragraph (2) of Section 106-256 [Street Closing] of Division 1 [Generally] of Article VII [Parades, Street Closings and Block Parties] of Chapter 106 [Traffic and Vehicles] is repealed and recreated to read as follows:

Sec. 106-256. Street closing.

...

- (2) The person, firm, corporation, organization or group obtains a special event license under Chapter 10 of the Municipal Code.

Section 15. Except as specifically modified and amended by this ordinance, the Municipal Code of the Village of Menomonee Falls shall remain in force and effect exactly as originally adopted and previously amended. All ordinances or parts of ordinances inconsistent with or in contravention of the provisions of this ordinance are hereby repealed.

Section 16. SEVERABILITY. If a court of competent jurisdiction adjudges any section, clause, provision or portion of this ordinance unconstitutional or invalid, the remainder of this ordinance shall not be affected thereby.

Section 17. EFFECTIVE DATE. This ordinance shall take effect on December 31, 2017; and will apply to all events on or after January 1, 2018.

Adopted by the Board of Trustees of the Village of Menomonee Falls on the _____ day of October 2017.

By: _____
Joseph Helm, Village President

Date Published/Posted:

Attest: _____
Janice Moyer Village Clerk