

LOCAL LAW \_\_ - 2020

A local law to amend Chapter 218 of the Code of the Village of Tarrytown, entitled "Parades"

Section 1. Be it enacted by the Board of Trustees of the Village of Tarrytown as follows (Language in **Bold and Underlined** to be added, language in ~~**Strikethrough and bold and underlined**~~ to be deleted):

Section 2. Amending Existing Chapter Heading. The title of Chapter 218 entitled "Parades" shall be amended to read as follows: "**Parades, Special Events and Demonstrations**"

Section 3. Existing Provisions Repealed. Chapter 218, Section 1 entitled "Authorization required" and Chapter 218, Section 2 entitled "Penalties for offenses" are repealed.

Section 4. Amended Existing Chapter. Chapter 218, Sections 1 and 2 shall be replaced and Chapter 218 further amended as follows:

§ 218-1 Definitions

For purposes of this Chapter, the following terms shall have the following meanings:

(a) A "parade" is any procession or race, which consists of a recognizable group of **50** or more pedestrians, vehicles, bicycles or other devices moved by human power, or ridden or herded animals or combination of the foregoing proceeding together upon any public street, roadway or public area.

(b) "Demonstration" shall mean a group activity or congregation including, but not limited to, a meeting, assembly, protest, rally or vigil, moving or otherwise, which involves the expression of views or grievances, involving more than **50** people.

(c) "Special event" shall mean "a group activity or congregation including, but not limited to, a performance, meeting, assembly, contest, exhibit, ceremony, parade, athletic competition, reading, or picnic involving more than 12 people or a group activity or congregation involving less than 12 people for which specific space is requested to be reserved by the Village for the special event **to the exclusion of the general public.**"

(d) "Applicant" shall mean the person or entity that applies for a permit under this Chapter to hold a parade, demonstration or special event. Any person or entity responsible for organizing a parade, Demonstration or special event, or any person or entity that publicizes a parade, or demonstration or special event through advertisements or other means of mass communication, including but not limited to social media, is authorized to act as the Applicant.

§ 218-2. Parades

A. Applications.

(1) Applications for parade permits must be received by the Village Clerk at least 30 days prior to the requested date for the parade.

(2) Applications must be submitted to the Village Clerk by completing the form available

4

at the Village Clerk's office and on the Village's website in writing either by mail or email and will be considered in the order in which they are received.

**B. Permits.**

A parade shall be permitted upon any street or in any public place in the Village of Tarrytown only after a written permit therefor has been obtained from the Village Administrator. The Village Administrator shall, after due investigation of such application, including but not limited to consultation with the Police Department, Fire Department and Department of Public Works, grant such permit subject to the following restrictions:

1. The Village Administrator shall not grant a permit where the Village Administrator has objective reason to believe that the proposed parade will be disorderly in character, will disturb the public peace or will be a detriment to public health, safety and welfare;
2. Except as otherwise provided herein, the Village Administrator shall not grant a permit for the use of any street or any public place, or material portion thereof, which is ordinarily subject to substantial congestion or traffic or is chiefly of a business or mercantile character, except, upon those federal holidays or when places of business along the proposed route are closed, or on other days between the hours of 6:30 and 9:00 PM, except if such street which is subject to substantial congestion or traffic is fully shut down to motor vehicles.
3. Each such permit shall designate specifically the route through which the parade shall move and include such conditions, rules and regulations as the Village Administrator deems reasonably necessary, if any;
4. Permits for parades for occasions of extraordinary public interest, not annual or customary, or not so intended to be, may be granted by the Village Administrator for any street or public place, and for any day or hour, with the written approval of the mayor;
5. The Applicant of a parade for which a permit is granted by the Village Administrator shall be responsible for the strict observance of all rules and regulations included in said permit by all participants.
6. The granting of a parade permit by the Village does not absolve the applicant from any additional permitting requirements from State or Federal agencies, including but not limited to obtaining permits from the New York State Department of Transportation.

**C. Exemptions. This section shall not apply:**

1. To the ordinary and necessary movements of the United States army, United States navy, national guard, Village or other municipal police department and Village or other municipal fire department; or
2. To funeral processions where no streets are sought to be fully or partially closed.
3. To parades which have marched annually upon the streets for more than ten years prior to the adoption of this Local Law as such parades only need approval from the Board of Trustees.

**§218-3. Special Events and Demonstrations.**

**A. Applications.**

4

(1) Applications for special event permits must be received by the Village Clerk at least 30 days prior to the requested date for the special event.

(2) Applications for demonstration permits must be received by the Village Clerk at least 15 days prior to the requested date for the demonstration. Notwithstanding this requirement, the Village Clerk will accept all applications for demonstrations involving the expression of viewpoints on topical issues whenever submitted and process such applications as soon as it is feasible to do so, considering the magnitude of the event and the resources of the Village and its police department.

(3) Applications for special event and demonstration permits to take place in Pierson Park, Patriots' Park and Losee Park must be received by the Village Clerk no less than two (2) months nor more than nine (9) months before the date of the proposed event. However, applications for a demonstration permit made less than two (2) months before the proposed event where the Applicant can demonstrate exigent circumstances prevented timely application shall be accepted by the Village Clerk for review by the Village Administrator, provided that the limitation on the number of events in subsection G of this section has not already been reached

(4) Applications must be submitted to the Village Clerk by completing the form available at the Village Clerk's office and on the Village's website in writing either by mail or email and will be considered in the order in which they are received.

#### B. Permits and Timing

(1) Permits. A special event or demonstration on any street, sidewalk or in any public place in the Village of Tarrytown may only be held after a written permit has been issued by the Village Administrator, which permit may include such conditions, rules and regulations as the Village Administrator deems reasonably necessary, if any;

#### C. Denial of Permit; Alternative.

(1) The Village Administrator, after consultation with the Police Department and any other Village Departments, may deny a permit if:

(a) the location sought is not suitable because of landscaping, planting, or other environmental conditions reasonably likely to be harmed by the proposed event;

(b) the location sought is not suitable because it is a specialized area including, but not limited to, proximity to the Hudson River or other environmentally sensitive area, to public recreation areas, including but not limited to, tennis courts and a swimming pool, or because the proposed event is of such nature or duration that it cannot reasonably be accommodated in that location;

(c) the date and time requested have previously been allotted by permit;

(d) within the preceding two years, the applicant had been granted a permit and did, on that prior occasion, violate a material term or condition of the permit, or any applicable law, ordinance, statute or regulation;

(e) the event would interfere unreasonably with the enjoyment of the public space by other users;

(f) the Village Administrator has objective reason to believe that the proposed special event or demonstration will be disorderly in character, will disturb the public peace or will be a detriment to public health, safety and welfare;

(g) the limitations contained in subsection (G) of this section are not complied



4

with.

(2) If the permit has been denied pursuant to subsection (C)(1) of this section, the Village Administrator shall state the reasons for the denial in writing and, to the extent practicable, employ reasonable efforts to offer the applicant suitable alternative locations and/or times and/or dates for the proposed event.

#### D. Appeals

(1) After a permit application is denied or approved with conditions objected to by the Applicant, the applicant may appeal the determination in writing to the Village Clerk.

(2) The designated appeals officer shall be the Mayor who may reverse, affirm, or modify the original determination and provide a written explanation of his or her finding.

(3) Timing of Appeal. An appeal must be submitted in writing to the Village Clerk within ten days of the Applicant's receipt of the determination or if there is less than ten days between the date the Applicant receives the determination and the proposed special event or demonstration, at least two business days before the event.

#### E. Revocation or Suspension of Permit

(1) After notice and an opportunity for the Applicant to be heard, the Village Administrator may alter or add terms and conditions to a permit, or revoke a permit, based upon the criteria set forth in subsection (C)(1)(a) through (g) of this section.

(2) If the Village Administrator revokes or alters a permit prior to the date of the event, the permittee may appeal the revocation or alteration, subject to the time limitations set forth in subsection (D)(3) of this section.

(3) During the course of an event, the Village Administrator may suspend a permit where exigent circumstances exist in the vicinity of the location for which such permit has been issued or circumstances have changed such that the criteria set forth in subsection (C)(1)(a) through (g) of this section apply.

#### F. Limitations on Permits

(1) The granting of a permit does not give the permittee the right to sell or offer for sale any articles, tickets, or refreshments within or adjacent to any park area or to operate motor vehicle in any park areas. To do this requires a separate Peddler Permit issued by the Village.

(2) Permits are not transferable.

#### G. Pierson Park, Patriots Park and Losee Park.

(1) The following conditions apply to applications for permits for special events and demonstrations in Pierson Park:

(a) Large events. In any calendar year, there will be a maximum of **two** permits granted for large events in each of Pierson Park, Patriots Park and Losee Park. For purposes of this subsection, a large event is a special event or demonstration with anticipated attendance over **500** people.

(b) Small and Medium Events. Small events in Pierson Park are not subject to the limitation contained in paragraph (1) of this section. For purposes of this subsection, a small event is a special event or demonstration with anticipated attendance of less than **100**

4

participants. Medium events is a special event or demonstration of between 101 and 499 participants. Medium events are subject to subparagraphs (d) and (g) below.

(c) Attendance at large events may not exceed 3,000 persons.

(d) Permitted special events and demonstrations in Pierson Park, Patriots Park and Losee Park are subject to cancellation or postponement by the Village Administrator due to inclement weather and/or soil and turf conditions. Factors the Village Administrator will take into consideration in determining whether to cancel or postpone an event in Pierson Park, Patriots Park and Losee Park shall include: (i) the possibility of lightning or other extreme weather condition; (ii) rainfall (including forecasted, current, or cumulative rainfall); (iii) soil saturation levels or other risks to turf health; and (iv) any other field conditions that might lead to significant damage to Pierson Park or the surrounding landscapes or hazardous conditions for the attendees of the demonstration or special event.

(e) The permit application for large events must include a plan acceptable to the Village Administrator and Police Chief to ensure (i) the orderly flow of attendees through park landscapes on appropriately designated areas; and (ii) the attendees will not damage adjacent landscapes. In addition, in the case of large events as defined in subsection G(1)(a), the plan must ensure the maximum number of persons attending does not exceed 3,000 persons and is in compliance with all restrictions. In determining whether the Applicant's plan is acceptable such that a permit may be granted, the Village Administrator shall take into consideration, among other relevant factors, any evidence that the applicant has efficiently and safely executed event productions and audience management in the past.

(f) An applicant seeking to hold a large event shall post a cash bond in an amount sufficient to pay for any anticipated damage to Pierson Park, Patriots Park and Losee Park in connection with the scheduled event and made payable to the Village of Tarrytown. The amount of the bond will be determined by the Village Administrator based upon the following factors: (i) the length of the event; (ii) the time of year of the event; (iii) the nature of the event, including but not limited to, the type of equipment that will need to be brought into Pierson Park, Patriots Park or Losee Park, the location of such equipment, and the use of any vehicles in Pierson Park, Patriots Park or Losee Park; (iv) the number of people attending the event; (v) the Applicant's experience regarding any prior events of the same or a similar nature; and (vi) whether the event or any activities associated with the event present a high risk of property damage. In addition, for large events, the applicant must provide satisfactory proof of insurance naming the Village as an additional insured. However, the Village Administrator shall have the authority to waive the bond required by this subsection where the applicant is able to demonstrate that such bond cannot be obtained without imposing an unreasonable hardship on the applicant. Any request for a waiver of the bond required by this subsection shall be addressed in the permit application. The burden of demonstrating unreasonable hardship shall be on the applicant and may be demonstrated by a showing that the cost of obtaining the bond for the event exceeds twenty-five percent (25%) of the applicant's budget for the event. The budget for the event must include not only cash, but also the actual value of any materials and services to be used by the applicant for the event.

(g) The applicant shall provide a written acknowledgment stating, where applicable, how the applicant will comply with the foregoing provisions in this subsection G(1) no less than 10 days prior to the scheduled event. However, for an application for a demonstration that is made less than ten days before the proposed event, where exigent circumstances

4

prevented timely application, the written acknowledgment must be executed as soon as practicable.

H. Other areas. Parking lots on the west side of the train station are available for small, medium or large special events or demonstrations.

I. Passive Recreation Areas only. Wilson Park and the Tarrytown Lakes Parks and Field are reserved solely for passive recreation and the Losee Park ballfields and Wilson Park Soccer Field are reserved solely for athletic events and passive recreation. The Village Administrator shall not grant any permits for special events or demonstrations in Wilson Park, the Tarrytown Lakes Parks, Losee Park ballfields or Wilson Park Soccer Field.

#### J Funeral Demonstrations

A Permit in accordance with this section shall be required for any demonstration within one thousand feet of a funeral event and during or within one hour before or after such funeral event. For purposes of this subsection, a "funeral event" shall mean a wake, funeral, burial or memorial service conducted within thirty days after the death of the person who is the subject of such demonstration.

#### § 218-4. Permittees' Obligations

For any permit issued under the Chapter:

- (1) Permittees are subject to the rules and regulations of the Village, the specific terms and conditions of the permit, and to all applicable Village, County, State, and Federal laws.
- (2) Permittees must have the permit in their possession at the time and site of the event, as well as any other permits or documentation for the event required by the Village or any other governmental agency.
- (3) Permittees must confine their activities to the locations and times specified on their permit. The Village Administrator may establish specific guidelines for certain designated parks or park locations.
- (4) Permittees are responsible for cleaning and restoring the site after the event. The cost of any employee overtime incurred because of a permittee's failure to clean and/or restore the site following the event will be borne by the permittee.
- (5) Permittees shall be held liable for any and all damages or injuries to persons or property that may occur or be caused by the use of the permit. By accepting a permit, permittees agree to indemnify and hold harmless the Village of Tarrytown and its officers and employees from any and all claims whatsoever that may result from such use.
- (6) Permittees shall be responsible for the procurement of and payment for any electrical energy used during the event. Permit applications must indicate whether electrical energy is required for the event.

#### § 218-5 Violations and Penalties.

A, It shall be a violation of these rules to advertise any special event or demonstration requiring a permit under this Chapter via posting, print media, radio, television, or the internet prior to obtaining a permit. There shall be a rebuttable presumption that any person or organization whose name, telephone number or other identifying information appears on any advertisement and who has not obtained a permit has violated this subdivision by either (1)



illegally advertising an event or (2) directing or permitting a servant, agent, employee or other individual under such person's or organization's control to engage in such activity; provided, however, that such rebuttable presumption shall not apply with respect to criminal prosecutions brought pursuant to violations of this Chapter.

**B. Violations.**

1. Any person participating in any parade for which a permit has not been issued when required by this Chapter shall be subject to penalties as provided in Chapter 1, General Provisions, Article II.
2. Any person participating in any special event or demonstration for which a permit has not been issued when required by this Chapter shall be subject to penalties as provided in Chapter 1, General Provisions, Article II.

**Section 5: Severability**

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this local law shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this local law.

**Section 6: 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.